

NEEDHAM PLANNING BOARD

Monday, March 28, 2022

7:00 p.m.

Virtual Meeting using Zoom

Meeting ID: **880 4672 5264**

(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **880 4672 5264**

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Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **880 4672 5264**

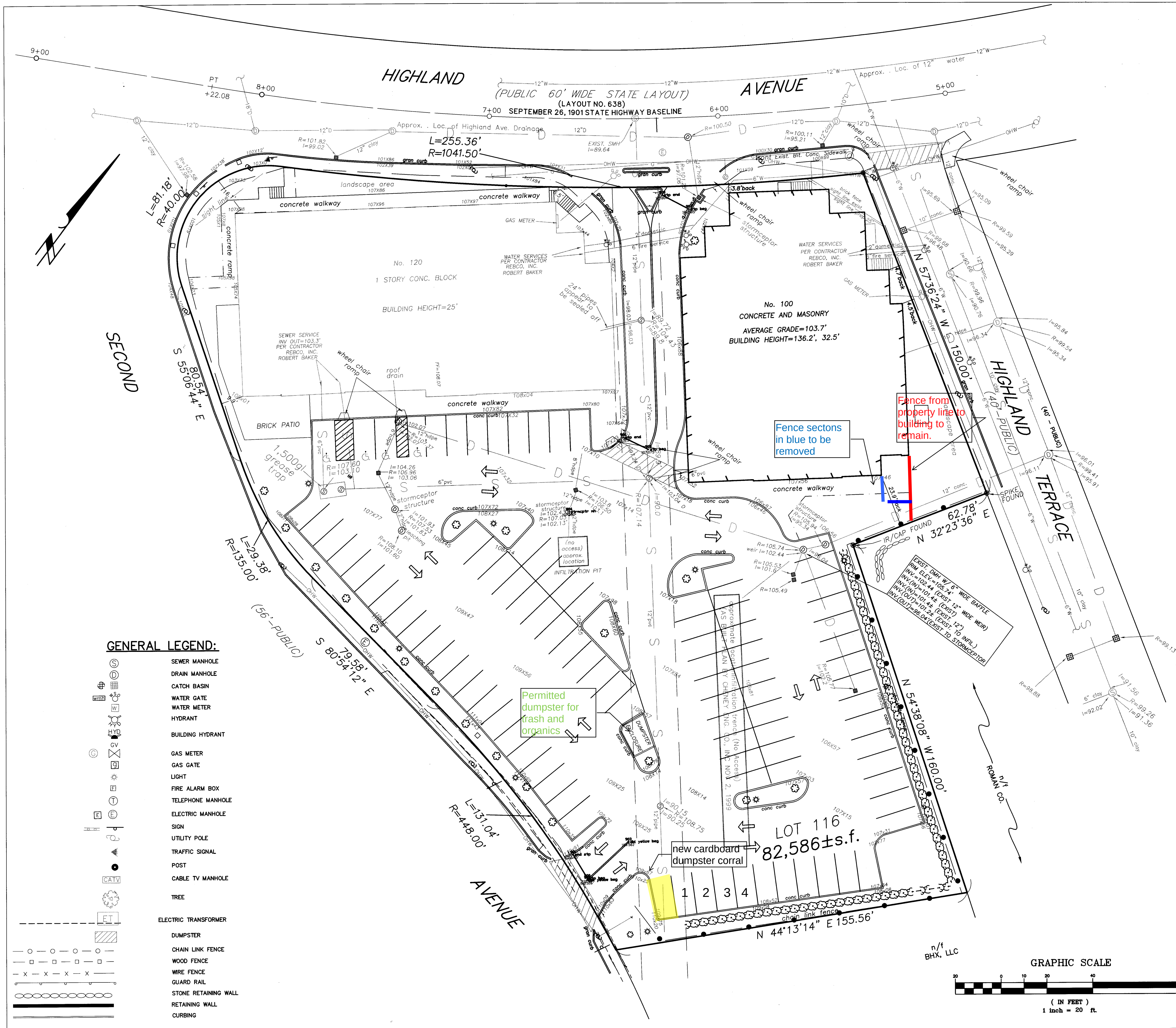
Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. Public hearings:

- | | |
|-----------|---|
| 7:00 p.m. | Amendment to Major Project Site Plan Special Permit No. 2005-07: Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioner. (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts). Regarding request for the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters for cardboard to be located within the parking lot. <i>Please note: This hearing has been continued from the March 15, 2022 meeting.</i> |
| 7:15 p.m. | Amendment to Major Project Site Plan Special Permit No. 2015-07: LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar, Petitioner. (Property located at 30 Dedham Avenue, Needham, Massachusetts). Regarding request to permit up to 28 outdoor seats by Latina Kitchen and Bar. |
| 7:30 p.m. | Amendment to Major Project Site Plan Special Permit No. 2007-04: Dora Tavel-Sanchez Luz, Manager of Eat Farmhouse LLC, Petitioner. (Property located at 970 Great Plain Avenue, Needham, Massachusetts). Regarding request to permit up to 58 outdoor seats by the Farmhouse Restaurant. |
| 7:45 p.m. | Amendment to Major Project Site Plan Special Permit No. No. 2015-06: Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, Petitioner, (Property located at Existing Municipal Chapel Street Parking Lot, Needham, Massachusetts). |
| 8:00 p.m. | Article 1PB: Amend Zoning By-Law – Schedule of Use Regulations Brew Pub and Microbrewery |

2. Decision: Major Project Site Plan Special Permit No. 2022-01: Needham Farmer's Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA 02494 and Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioners. (Property located at Greene's Field, Needham, Massachusetts, shown on Assessors Plan No. 50 as Parcel 31-02 containing 108,278). Regarding request to operate a farmers market on a portion of Greene's Field on Sundays during the renovation of the Town Common.
3. ANR Plan – Gordon C. Russell, Petitioner, (Property located at 18 and 62 Brookside Road, Needham, MA).
4. Minutes.
5. Report from Planning Director and Board members.
6. Correspondence.
7. Executive session pursuant to M.G.L. c.30A, §21(a)(3) to pending litigation—Appeal of Planning Board decision on 1688 Central Avenue.

(Items for which a specific time has not been assigned may be taken out of order.)



Civil Engineer Certification:

I hereby certify that 100 Highland Avenue and related improvements shown are located on the ground and are in compliance with the design plan prepared by McKenzie Engineering Group, Inc., as endorsed by the Needham Planning Board except as follows:

100 Highland Ave.

The following as-built conditions are at variance with McKenzie Engineering Group Inc.'s Site Layout Drawing C-1 dated March 24, 2006:

1. The southernmost corner of the northeast façade is set back 3.8' from the Highland Avenue right of way versus 5.6' as shown;
2. One building corner fronting Highland Terrace is set back 4.5' from the Highland Terrace right of way versus 5.5' as shown;
3. One building corner fronting Highland Terrace is set back 4.7' from the Highland Terrace right of way versus 5' setback requirement;
4. The northernmost corner of the southeast façade is set back 23.9' from the property line running in a northerly direction towards Highland Terrace versus 24' as shown.
5. The above-noted variances cause building façades fronting Highland Avenue and Highland Terrace to encroach into the 5' required front setback identified in the Dimensional Regulations table.

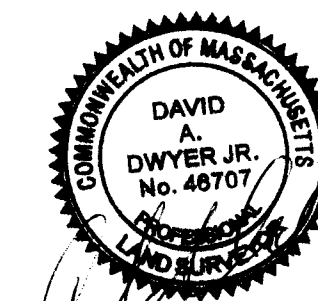
This certification does not indicate compliance with proposed construction methods or materials not visible at the time of the survey.

1/29/07
Professional Engineer for McKenzie Engineering Group, Inc.

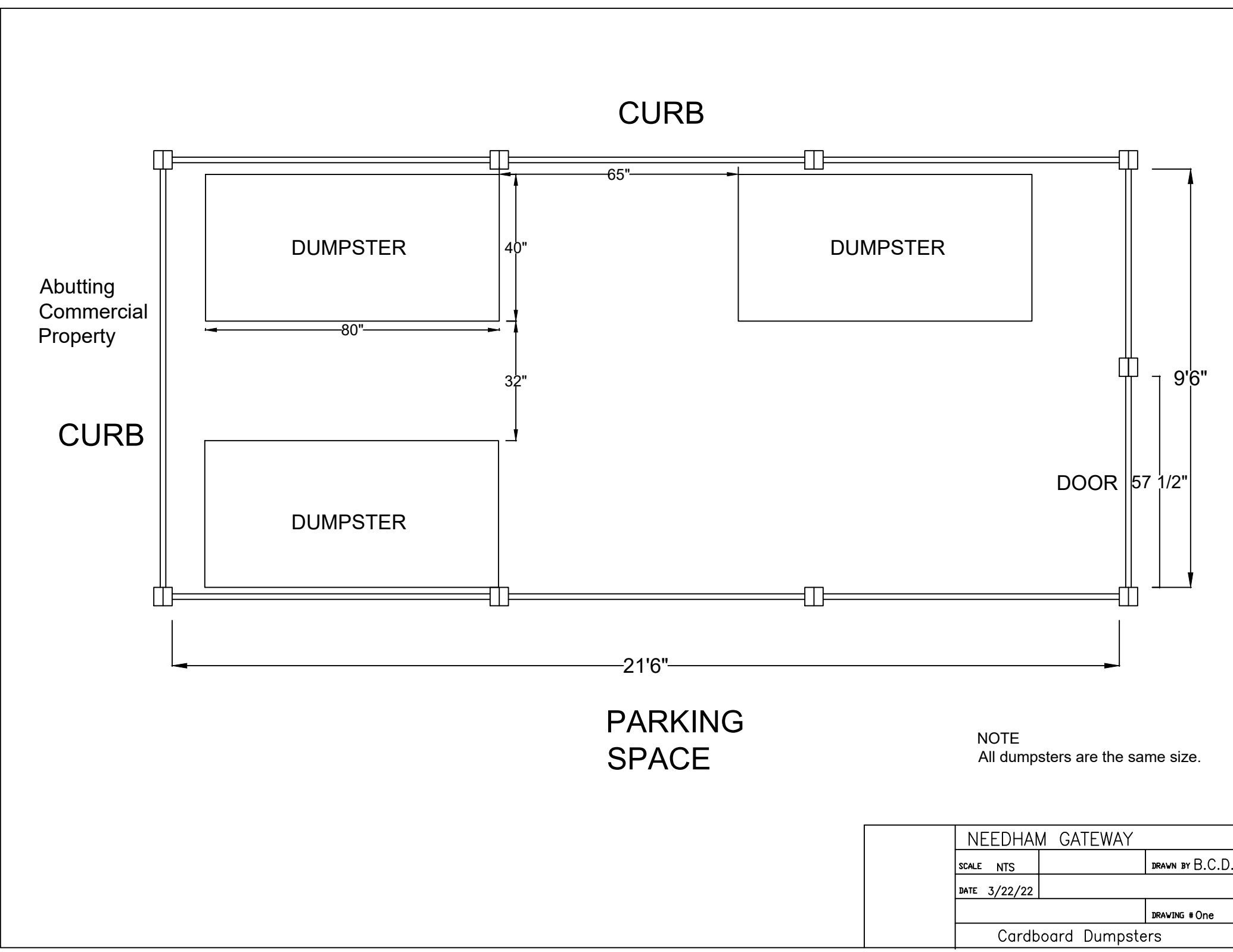
Surveyor Certification:

I hereby certify that these are the existing conditions as of January 12, 2006 located by an actual field survey by Otte & Dwyer, Inc.

1-79-07
Professional Land Surveyor for Otte & Dwyer, Inc.



REVISION	DATE	DESCRIPTION	BY	APPR
APPLICANT:				
NEEDHAM GATEWAY, LLC BOX 920757 NEEDHAM, MA 02492				
PROJECT:				
100 HIGHLAND AVENUE IN NEEDHAM, MASSACHUSETTS 02492				
PROJECT NO.: 25-140/ 10292 O&D		DATE: JANUARY 12, 2007		
SCALE: AS NOTED		DWG FILE NAME: 10292 ASBUILT		
DRAFTED BY: MICHAEL DWYER		CHECKED BY: DAVID A. DWYER PLS		
PREPARED BY:				
Otte & Dwyer, Inc. LAND SURVEYORS 59 APPLETON STREET PHONE: (781) 233-8155 SAUGUS, MASSACHUSETTS 01906 FACSIMILE: (781) 231 2515				
DRAWING TITLE:			DWG. NO.	
ASBUILT PLAN			AB 2	



Abutting
Commercial
Property

CURB

CURB

DOOR

65"

DUMPSTER

DUMPSTER

DUMPSTER

40"

80"

32"

9'6"

57 1/2"

21'6"

PARKING
SPACE

NOTE
All dumpsters are the same size.

	NEEDHAM GATEWAY		
	SCALE	NTS	DRAWN BY B.C.D.
	DATE	3/22/22	
			DRAWING # One
	Cardboard Dumpsters		

3/21/22

1. The truck will enter from Second Ave
 2. The truck dimensions are 25' 3" long and 9.5' wide
 3. The back of the truck will be approximately on the line between space 2 and 3 as shown on the attached plan.
 4. The truck will block 5-6 spaces for approximately ten minutes.
 5. The driver will wheel the dumpsters out of the corral and to the back of the truck. The dumpster is hoisted with a cable and contents are deposited in the back of the truck.
-
1. The section of fence of the former cardboard corral that runs from the property line to the corner of the building will remain (shown as red line on the attached plan).

View of the fence from Highland Terrace



The balance of the fencing for the dumpster corral will be removed – (shown as blue line on the attached plan)

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

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SUITE 501
NEWTON, MA 02460

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TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

March 25, 2022

Lee Newman, Director
Planning Department
Town of Needham
500 Dedham Avenue
Needham, MA 02492

Re: Needham Gateway-100-120 Highland Avenue-Revised Parking Evaluation

Dear Lee:

Attached for filing in both pending matters involving the above property (i.e. Carbon Health and the Additional Dumpsters applications) is a revised Parking Evaluation prepared by BSC Group. This revised evaluation was requested by Needham Gateway, LLC in order to account for the changes in circumstances since the original Evaluation dated November 19, 2021, including the elimination of the X-Golf use at 100 Highland Avenue and the assumed reduction in the number of parking spaces resulting from the provision of the additional dumpsters requested by Needham Gateway, LLC.

Very truly yours,



Richard S. Mann, Esq.
Attorney for Needham Gateway, LLC

To:	Mike Moskowitz Needham Gateway LLC PO Box 920757 Needham, Massachusetts 02492	Date:	March 24, 2022
From:	Wayne Keefner, PE, PTOE, LEED AP	Proj. No.	28454.00
Re:	Parking Evaluation 100 Highland Avenue – Needham, Massachusetts		

BSC Group, Inc. has conducted an evaluation of the changes in parking demand related to changes in use of retail spaces located at the commercial plaza at 100 and 120 Highland Avenue (the “Project”) in Needham, Massachusetts. The parking evaluation consists of 48-hour traffic counts at the driveways that serve the site, parking occupancy observations on the site, parking demand estimates related to the changes in use, and an analysis of the impacts of the changes in use. This evaluation indicates that the existing parking supply will accommodate the proposed changes in use, which are described in the following section.

Project Description

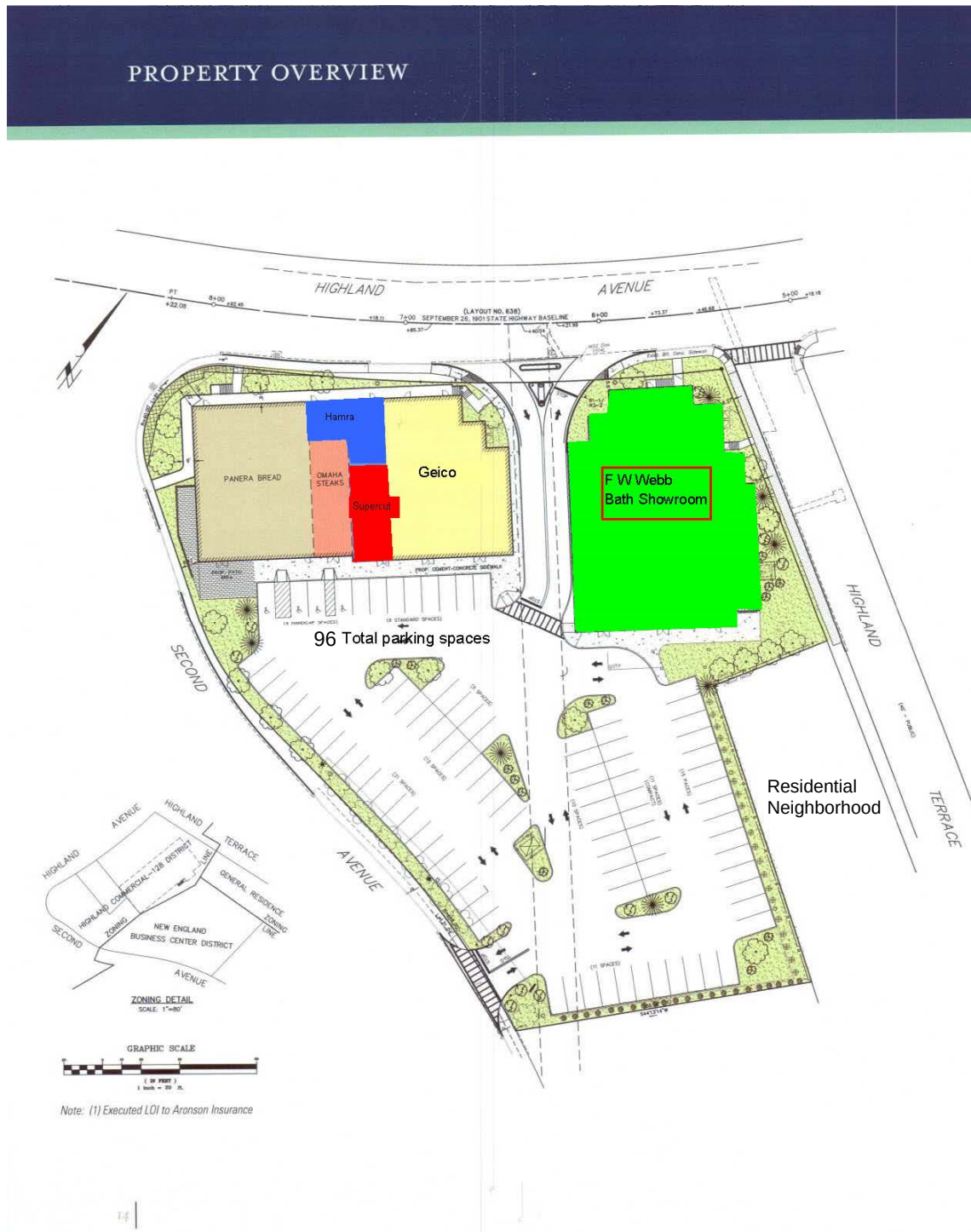
The Project site is located at 100 and 120 Highland Avenue at the intersection of Highland Avenue and Second Avenue in Needham, Massachusetts. The site is currently served by a two-way driveway on Highland Avenue and a two-way driveway along Second Avenue. The uses on the site consist of two buildings: a 10,628 square foot (sf) building that contains a Frank Webb’s Bath Center and a 12,820 sf building that contains several uses including a Panera Bread, Omaha Steaks, SuperCuts, Hamra, and a Geico office. At the time of this study, the SuperCuts was not in operation.

The Project will replace the Omaha Steaks, SuperCuts, and Hamra with a Carbon Health urgent care facility consisting of approximately 3,275 sf of space. Panera Bread and Geico will remain as tenants. The site plan is shown in **Figure 1**. The details of the new uses are provided in the Appendix.

The proposed uses on the site are expected to have different parking needs and trends than the existing uses that they are replacing. This evaluation was prepared to document how the changes in use impact the existing parking supply by collecting existing parking data, estimating anticipated parking demand for the new uses, and developing expected future parking demand for the entire site with the new uses.

The following sections describe the evaluation.

Figure 1 Site Plan



Existing Traffic Volumes

Existing traffic counts were conducted at the two driveways that serve the site to estimate the level of activity at the site over the course of a Friday and Saturday. The counts were collected through automatic traffic recorders (ATRs) on Friday October 29 and Saturday October 30, 2021. The count data is presented in **Figure 2** for the Friday counts and **Figure 3** for the Saturday counts and the detailed data is provided in the Appendix.

Figure 2
Weekday Traffic Counts

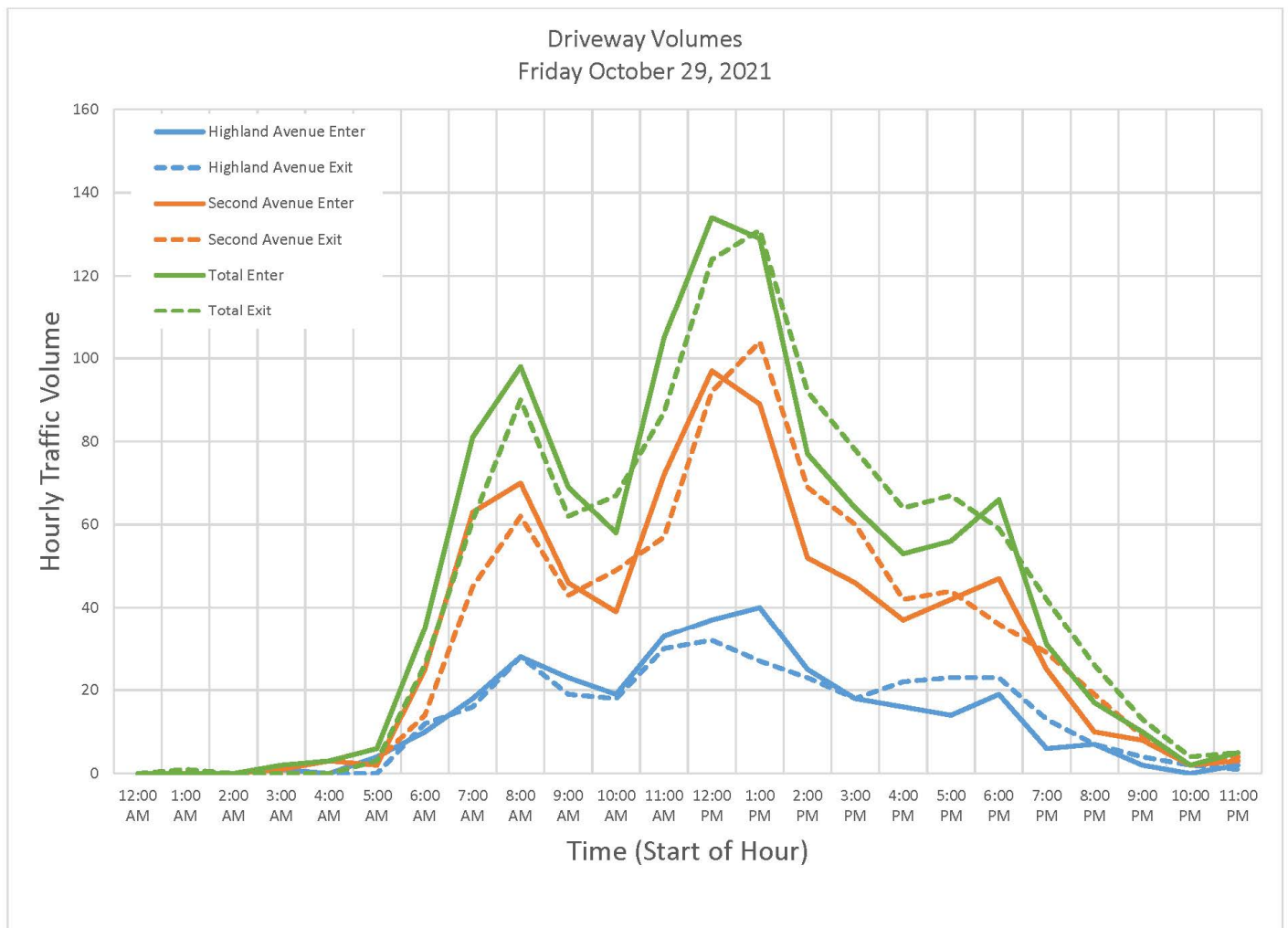


Figure 2 indicates that on a weekday the activity peaks during the afternoon around noon, with minor peaks at 8:00 AM and again at 6:00 PM. A total of 98 vehicles entered and 90 exited between 8:00 – 9:00 AM; 134 vehicles entered and 124 exited between 12:00 – 1:00 PM; and 66 vehicles entered and 59 exited between 6:00 – 7:00 PM. Entering and exiting vehicles follow similar patterns at both driveways throughout the day, indicating that the uses on the site experience quick parking turnover and that most vehicles do not remain

parked for the entire day. The counts indicate that a total of 1,101 vehicles entered the site and 1,102 vehicles exited the site over the course of the Friday. Approximately 71 percent of the activity occurred at the Second Avenue driveway, with the remaining 29 percent occurring at the Highland Avenue driveway.

Figure 3
Saturday Traffic Counts

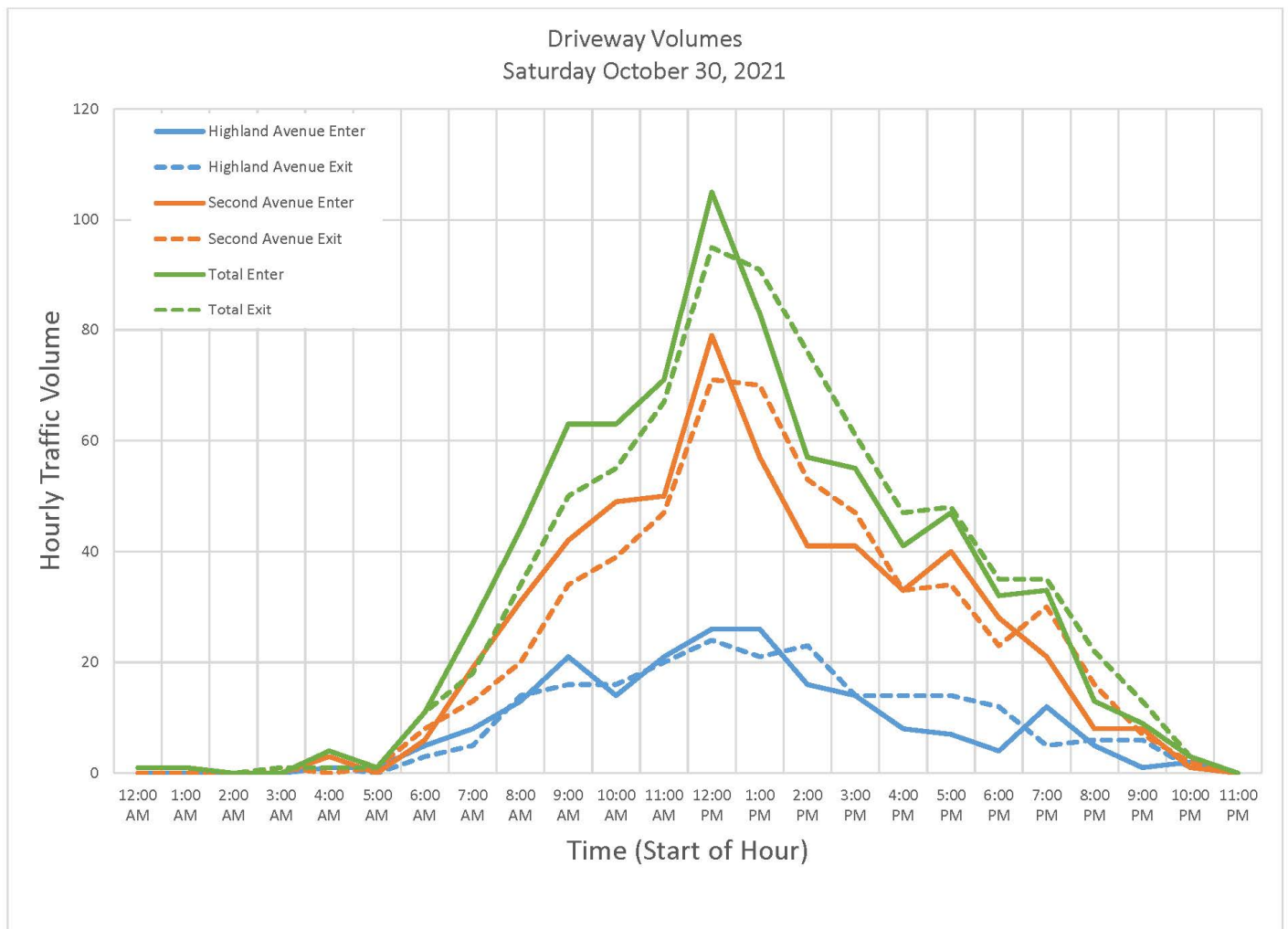


Figure 3 indicates that the activity on a Saturday has one primary peak during the afternoon around noon. A total of 105 vehicles entered and 95 exited between 12:00 – 1:00 PM during the count period. Similar to the weekday traffic counts, entering and exiting vehicles follow similar patterns at both driveways throughout the day, indicating that the uses on the site experience quick parking turnover and that most vehicles do not remain parked for the entire day. The counts indicate that a total of 764 vehicles entered the site and 766 vehicles exited the site over the course of the Saturday. Approximately 72 percent of the activity occurred at the Second Avenue driveway, with the remaining 28 percent occurring at the Highland Avenue driveway.

Parking Evaluation

An evaluation of the existing and future parking demand was conducted to determine the impacts by the change in use to the parking supply. The evaluation used a three-step process to estimate the future parking demand with the new uses in place. The three steps include the following:

- Conduct a parking occupancy study to determine the existing parking demand on the site
- Collect customer/pedestrian data for the uses to be replaced
- Estimate parking demand for the new uses based on available industry data and anticipated operational information

The following sections describes each step of the process.

Parking Occupancy and Availability Study

The existing parking lot contains a total of 96¹ spaces and will not be modified as part of the change in use on the site. Parking occupancy counts were conducted at the 100 and 120 Highland Avenue parking lot over the course of 12 hours on Friday October 29 (between 8:00 AM and 8:00 PM) and Saturday October 30, 2021 (between 10:00 AM and 10:00 PM) to determine the existing utilization of the parking spaces on the site. The counts were conducted by camera in 15-minute intervals. These time periods were selected for evaluation to overlap with the peak activity related to the medical facility during normal business hours on weekdays.

The data from the parking occupancy and availability study is presented in **Figure 4** for Friday **Figure 5** for Saturday the two days on which data was collected. The detailed data is provided in the Appendix.

¹ The current parking area has 97 parking spaces. This is anticipated to be reduced to 96 spaces as a result of a dumpster relocation.

Figure 4
Existing Parking Occupancy and Availability - Friday

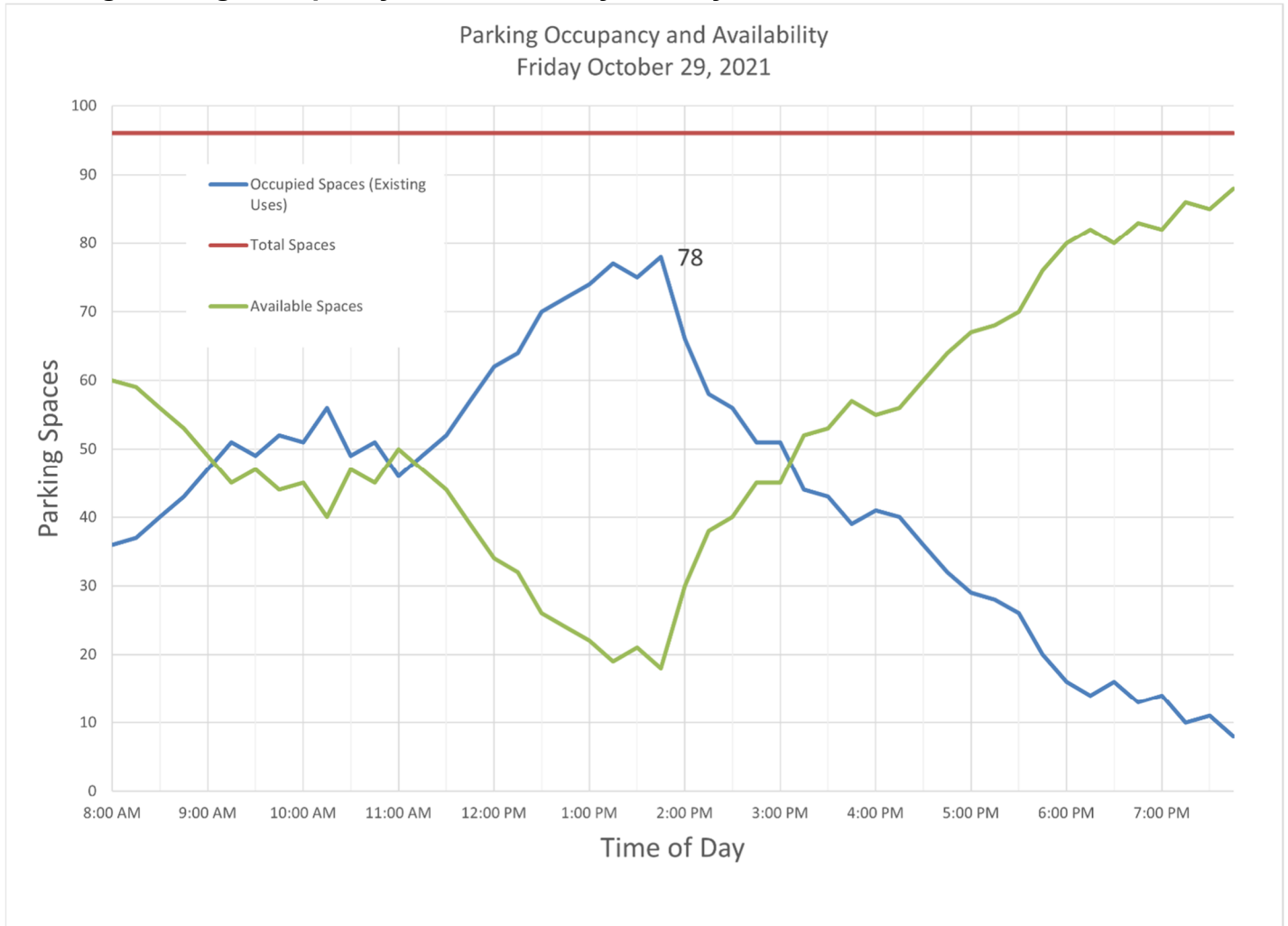


Figure 4 presents the overall parking supply (96 vehicles shown by the red horizontal line), the number of occupied spaces, and the number of available spaces between 8:00 AM and 8:00 PM on Friday October 29, 2021. Based on this evaluation, parking demand peaks between 1:00 – 2:00 PM on Friday, with a maximum of 78 parked vehicles occurring at 1:45 PM. A total of 18 parking spaces remain available during the busiest time of the day under the existing conditions.

Figure 5
Existing Parking Occupancy and Availability – Saturday

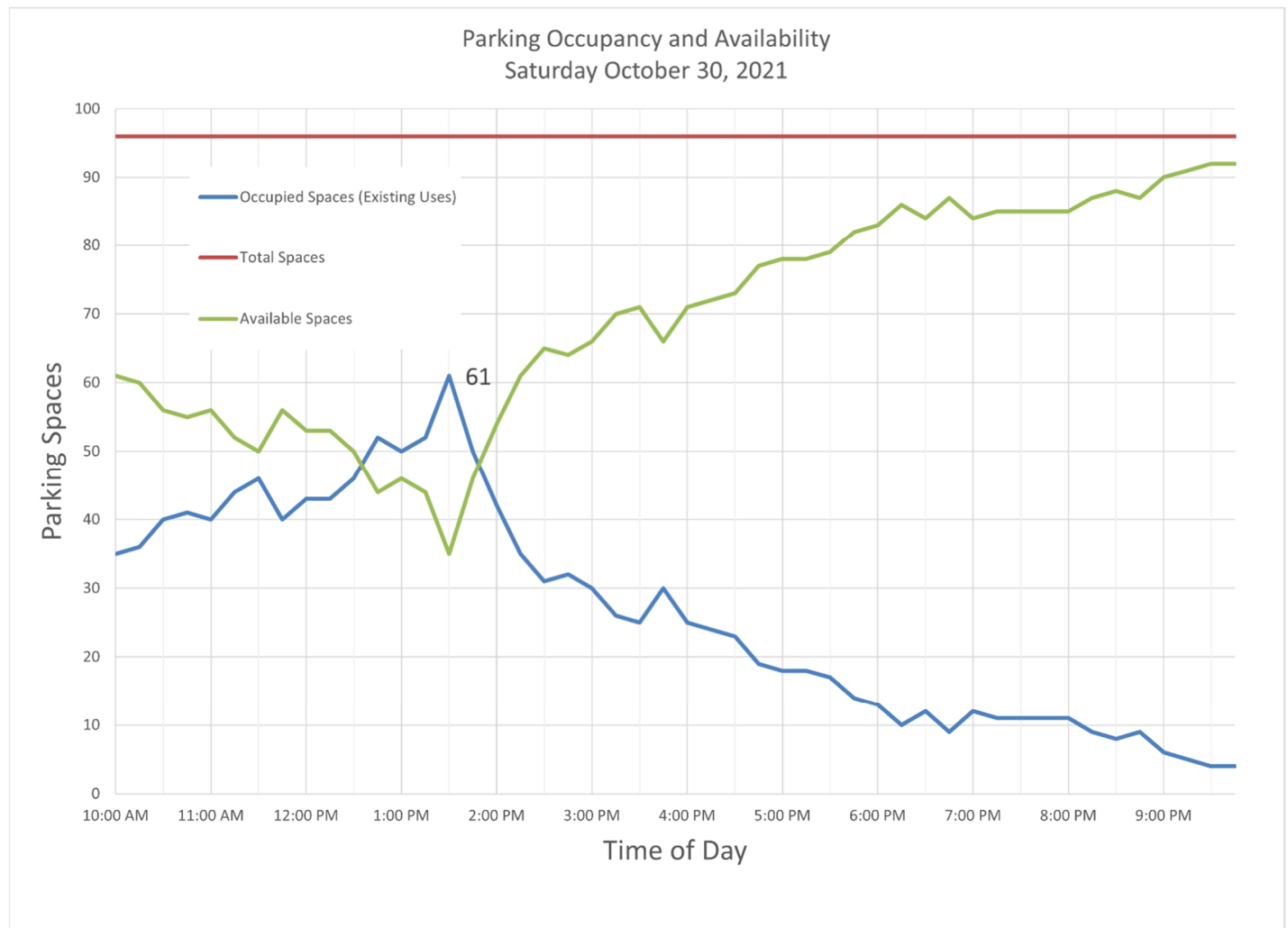


Figure 5 presents the overall parking supply (96 vehicles shown by the red horizontal line), the number of occupied spaces, and the number of available spaces between 10:00 AM and 10:00 PM on Saturday October 30, 2021. Based on this evaluation, parking demand peaks between 1:00 – 2:00 PM on Saturday, with a maximum of 61 parked vehicles occurring at 1:30 PM. A total of 35 parking spaces remain available during the busiest time of the day under the existing conditions. During the mid-afternoon through early evening, parking demand decreases steadily.

Pedestrian Counts

Concurrent with the parking occupancy study, pedestrian and customer counts were conducted using cameras to determine the activity at the existing Omaha Steaks and Frank Webb uses on the site. Only customers entering from the parking lot were counted to ensure that people arriving using other modes of transportation were not accounted for, since the goal of this study is to provide an evaluation of vehicle parking demand. The customer counts were then used to determine the parking demand for both uses that will be replaced. Customer counts were not conducted at Hamra or at Supercuts. Both of these uses were not expected to generate significant customer activity that would have any impact on this evaluation. In order to estimate the

parking demand for the Omaha Steaks and the Frank Webb uses, the customers were counted in clusters to account for multiple people arriving in a single vehicle. The detailed pedestrian counts are provided in the Appendix. A graphical representation of the pedestrian counts is provided in the next section.

The pedestrian observations indicate that on Friday, the maximum parking demand for Omaha Steaks and F.W. Webb is 4 vehicles and occurs between 11:00 AM – 12:00 PM. On Saturday, the maximum parking demand for the same uses is 8 vehicles and occurs between 1:00 – 2:00 PM. These values are indicated on **Figure 6** for the Friday and on **Figure 7** for the Saturday as negative numbers, since this demand is being removed from the site. The parking demand to be removed by the existing uses are shown by the dashed line on these figures.

Future Parking Demand

Parking demand for the future conditions on the site with the changes of use in place was estimated to determine how the new uses impact the parking supply on the site. Parking demand estimates were calculated for the proposed Carbon Health urgent care facility using data provided in the Institute of Transportation Engineers *Parking Generation Manual*¹ using Land Use Code 630 – Clinic. The *Parking Generation Manual* provides a range of parking demands for this use based on data collected from similar uses throughout the country. The manual provides two different criteria to estimate the parking demand; gross square footage of the use and per employee. This evaluation uses the gross square footage criteria as it is more conservative. The manual also provides a time-of-day distribution for the parking demand. Based on this evaluation, the peak parking demand for the facility on the site is expected to be 16 vehicles, which will occur between 10:00 AM and 11:45 AM on weekdays.

Figure 6 and **Figure 7** show the parking demand for the Carbon Health facility, the existing uses to be removed, and the overall change in parking demand throughout the course of the day on Friday and Saturday, respectively.

¹ *Parking Generation Manual, 5th Edition*; Institute of Transportation Engineers; Washington, DC; 2019.

Figure 6
Change in Parking Demand with Change in Use – Weekday

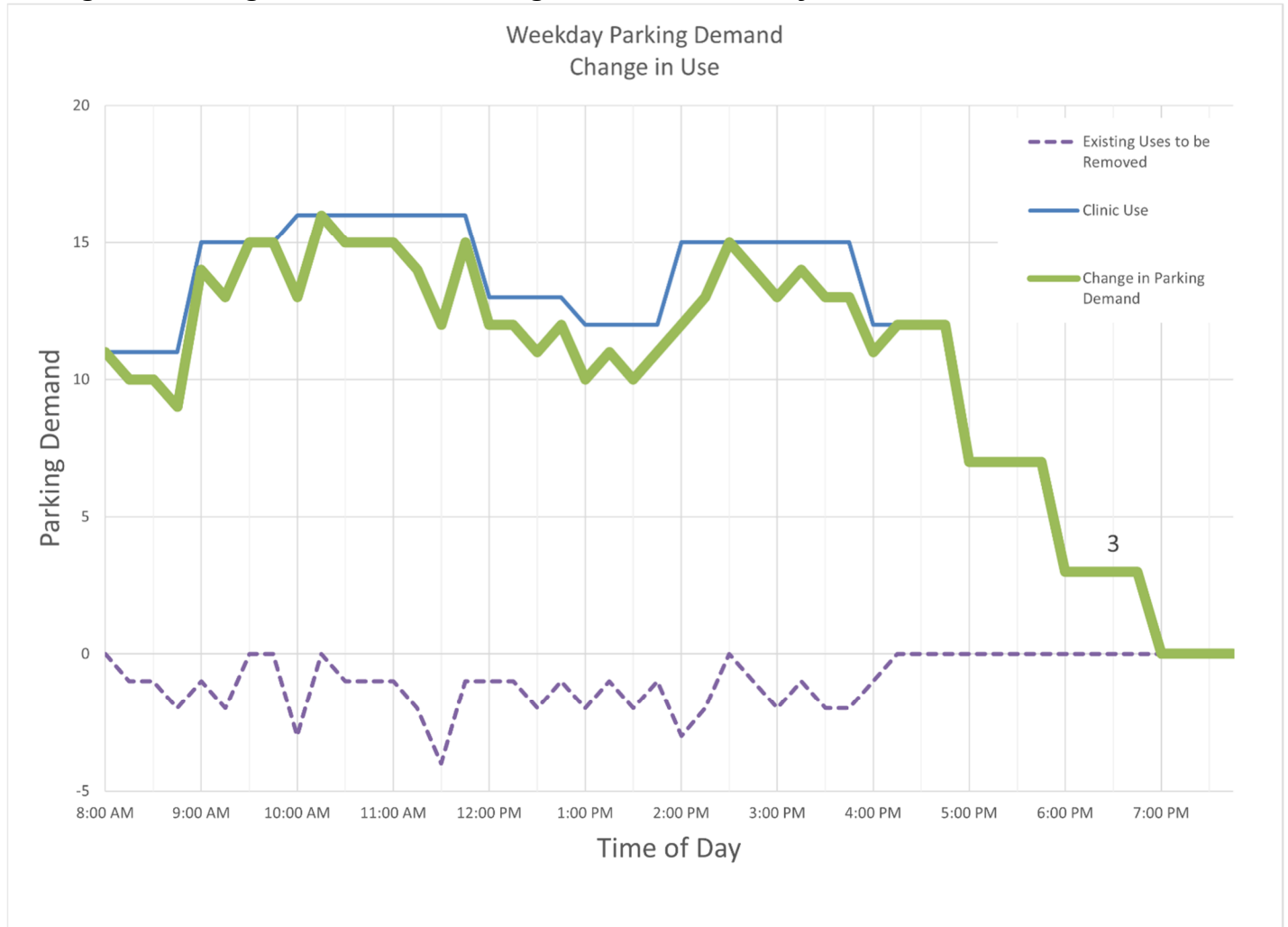


Figure 6 shows the parking demand for the Carbon Health facility (blue line) and the existing uses that will be replaced (dashed line). The changes in the parking demand resulting from the changes in use are shown by the green line. The overall increase in parking demand is around 16 vehicles between 10:00 AM and 11:45 AM.

Figure 7
Change in Parking Demand with Change in Use – Saturday

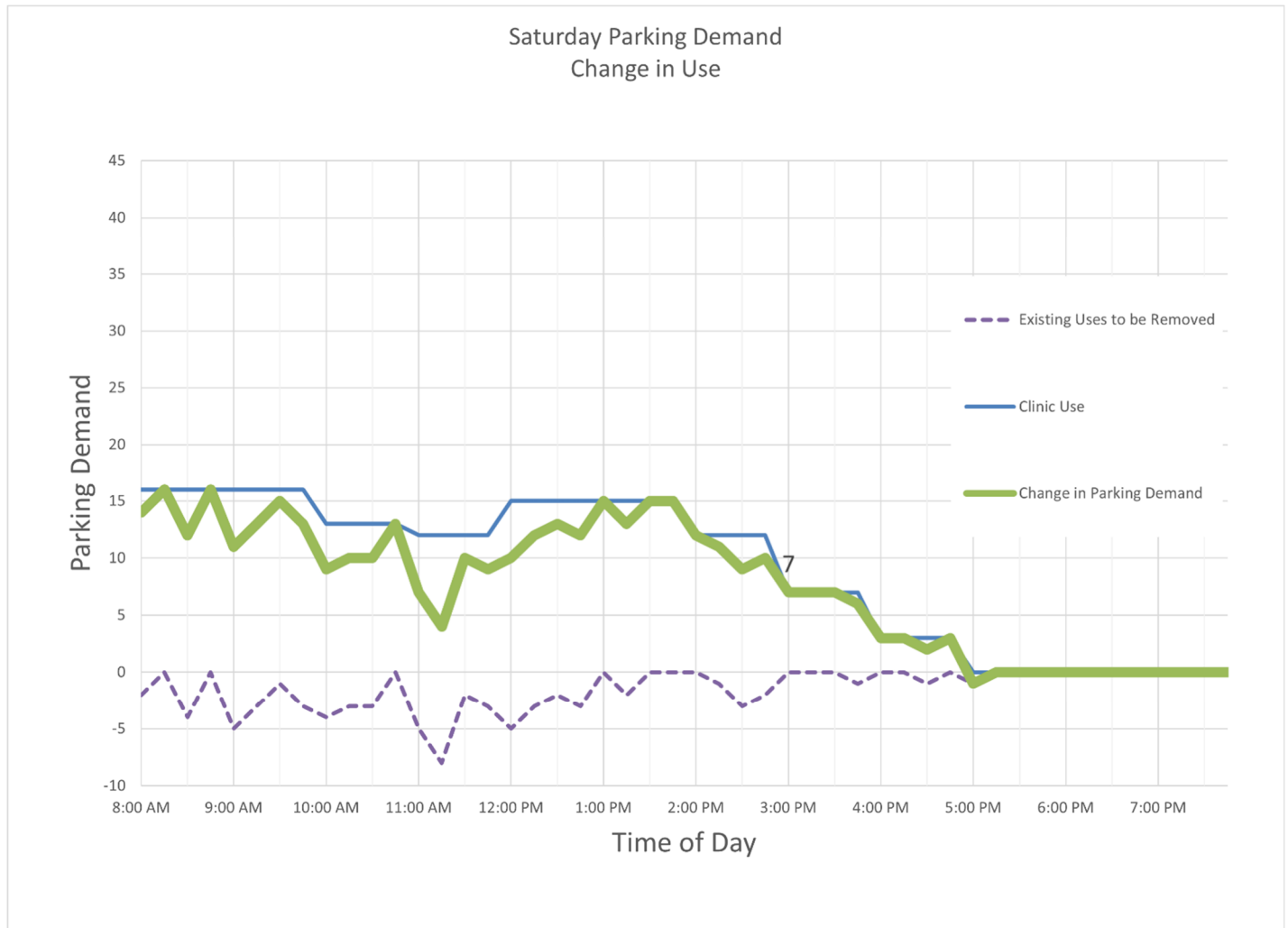


Figure 7 shows the parking demand for the Carbon Health facility (blue line), and the existing uses that will be replaced (dashed line). The changes in the parking demand resulting from the changes in use are shown by the green line. The overall increase in parking demand is around 16 vehicles between 8:15 AM and 8:45 AM.

The changes in parking demand were then compared to the available amount of parking observed during the parking occupancy evaluation. The changes shown in the green lines in Figures 6 and 7 were added to the existing parking demand on the site to develop the total future parking demand with the changes in use on the site. The new parking demand is shown on **Figure 8** for the weekday and **Figure 9** for Saturday.

Figure 8
Change in Parking Demand with Change in Use – Weekday

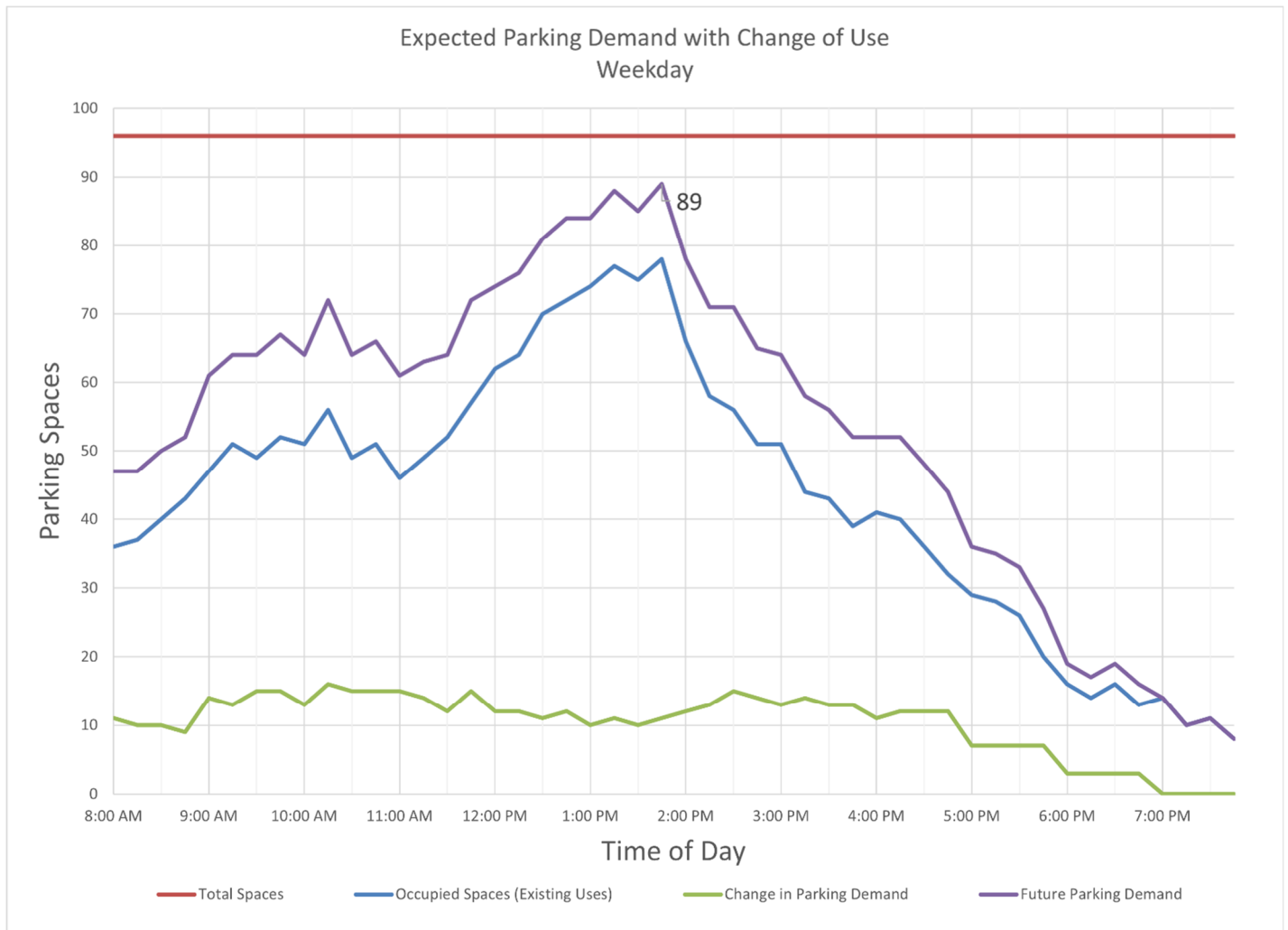


Figure 8 shows the existing parking demand based on the observations (blue line), the expected change in parking demand from the change in uses (green line), and the expected future parking demand for the entire site (purple line). The parking supply is also shown as a horizontal line and remains consistent with the existing conditions (96 total parking spaces). As shown on Figure 8, the future parking demand during the weekday will peak (89 vehicles) around 1:45 PM when the Carbon Health facility is open but not at full capacity. This specific time period also coincides with the latter portion of the lunch time rush that is experienced at the Panera Bread on the site. Based on this evaluation, there is sufficient parking on the site to accommodate the changes in use during on a Friday.

Figure 9
Change in Parking Demand with Change in Use – Saturday

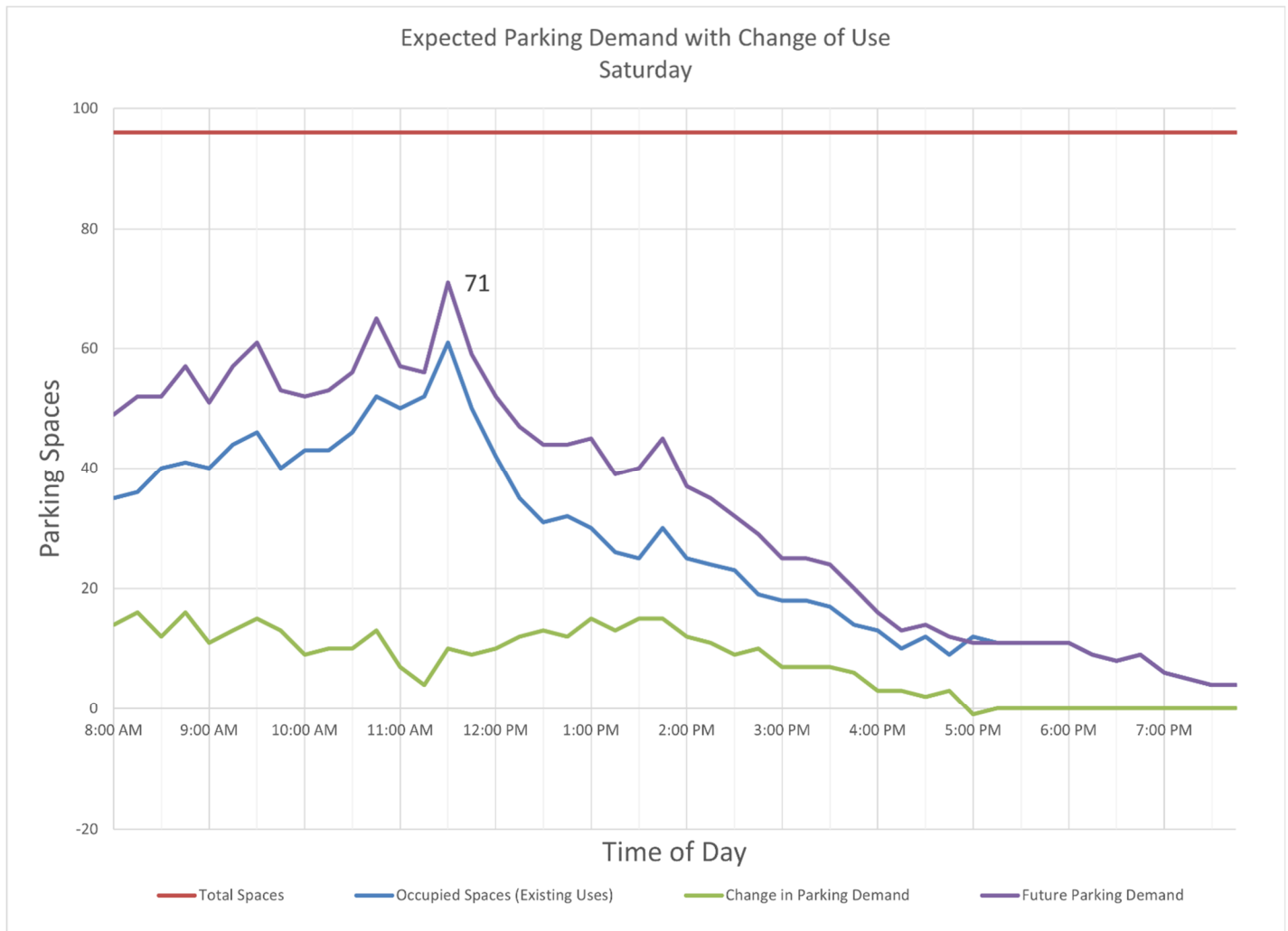


Figure 9 shows the existing parking demand based on the observations (blue line), the expected change in parking demand from the change in uses (green line), and the expected future parking demand for the entire site (purple line). The parking supply is also shown as a horizontal line and remains consistent with the existing conditions (96 total parking spaces). As shown on Figure 9, the future parking demand on a Saturday will peak (71 vehicles) around 11:30 AM when the Carbon Health facility is open. This specific time period also coincides with the Saturday peak of the Panera Bread on the site. Based on this evaluation, it is expected that there will continue to be plenty of available parking on the site to accommodate the changes in use throughout the majority of the day and that there is sufficient parking on the site to accommodate the changes in use during on a Saturday.

Conclusions

The Project site is located at 100 and 120 Highland Avenue in Needham, Massachusetts. The Project proposes to change some uses on the site, which require a parking occupancy and demand evaluation. The Site consists of two buildings: a 10,628 sf building that currently houses a Frank Webb's Bath Center and an 12,820 sf building that contains a Panera Bread, Omaha Steaks, SuperCuts, Hamra, and a Geico office. The Project will replace the Omaha Steaks, SuperCuts, and Hamra uses with a Carbon Health urgent care facility (approximately 3,275 sf).

This evaluation included traffic counts at the driveways to understand general daily traffic trends of the site, parking occupancy counts on a Friday and Saturday to understand the parking demands of the existing uses, pedestrian counts at the Omaha Steaks and the Frank Webb spaces to understand activity specific to these uses that will be replaced, and parking demand estimates for the new uses that will be located on the site. The parking demand estimates are based on gross square footage of the Carbon Health facility, which is more conservative than basing the estimates on the number of employees.

Based on this evaluation, the existing parking supply will accommodate the Carbon Health urgent care facility. This conclusion is not altered if an additional parking space is taken for the purpose of a dumpster relocation (which would bring the total parking count to 95). The Carbon Health facility will have a peak parking demand of 16 vehicles, which will typically occur on weekday mornings. The peak parking demand for the Carbon Health facility will not overlap with the peak demand for the existing uses on the site, of which Panera Bread has the most intense parking needs.

APPENDIX**SITE INFORMATION****EXISTING DRIVEWAY COUNTS****PARKING OCCUPANCY DATA AND CALCULATIONS**

SITE INFORMATION

PROPERTY OVERVIEW



Note: (1) Executed LOI to Aranson Insurance

EXISTING DRIVEWAY COUNTS

Volume Report

Job 807_010_BSC_ATR A

Area Needham, MA

Location Driveway, south of Highland Ave

Friday, October 29, 2021



Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0345	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0445	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0530	0	0	0	0	0	0	0	0	1	0	0	0	0	1
0545	0	0	0	0	0	0	0	0	0	3	0	0	0	3
0600	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0615	0	0	3	0	0	0	3	0	0	6	0	0	0	6
0630	0	0	5	0	0	0	5	0	0	2	0	0	0	2
0645	0	0	3	0	0	0	3	0	0	2	0	0	0	2
0700	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0715	0	0	4	0	0	0	4	0	0	2	0	0	0	2
0730	0	0	4	0	0	0	4	0	0	7	0	0	0	7
0745	0	0	7	0	0	0	7	0	0	9	0	0	0	9
0800	0	0	8	0	0	0	8	0	0	7	0	0	0	7
0815	0	0	3	0	0	0	3	1	0	5	0	0	0	6
0830	0	0	8	0	0	0	8	0	0	6	0	0	0	6
0845	0	0	9	0	0	0	9	0	0	7	0	2	0	9
0900	0	0	5	0	0	0	5	0	0	6	0	0	0	6
0915	0	0	3	0	0	0	3	0	0	7	0	0	0	7
0930	0	0	5	0	0	0	5	0	0	7	0	0	0	7
0945	1	0	4	0	1	0	6	0	0	3	0	0	0	3
1000	0	0	3	0	0	0	3	0	0	5	0	0	0	5
1015	0	0	4	0	0	0	4	0	0	2	0	0	0	2
1030	0	0	3	0	0	0	3	0	0	8	0	0	0	8
1045	1	0	7	0	0	0	8	0	0	4	0	0	0	4
1100	0	0	6	0	0	0	6	0	0	5	0	0	0	5
1115	0	0	5	0	0	0	5	0	0	12	0	0	0	12
1130	0	0	12	0	0	0	12	0	0	5	0	0	0	5
1145	0	0	7	0	0	0	7	0	0	11	0	0	0	11
1200	0	0	8	0	0	0	8	0	0	7	0	0	0	7
1215	0	0	5	0	0	0	5	0	0	7	0	0	0	7
1230	0	0	11	0	0	0	11	1	0	14	0	0	0	15
1245	1	0	7	0	0	0	8	0	0	8	0	0	0	8
1300	0	0	5	0	0	0	5	0	0	10	0	1	0	11
1315	0	0	10	0	0	0	10	0	0	9	0	0	0	9
1330	0	0	5	0	0	0	5	0	0	8	0	0	0	8
1345	0	0	7	0	0	0	7	0	0	11	0	1	0	12
1400	0	0	5	0	1	0	6	0	0	8	0	0	0	8
1415	0	0	8	0	0	0	8	0	0	5	0	0	0	5
1430	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1445	0	0	4	0	0	0	4	0	0	8	0	0	0	8
1500	0	0	5	0	0	0	5	0	0	2	0	0	0	2
1515	0	0	4	0	0	0	4	0	0	5	0	0	0	5
1530	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1545	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1600	0	0	3	0	0	0	3	0	0	2	0	0	0	2
1615	0	0	7	0	0	0	7	0	0	4	0	0	0	4
1630	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1645	0	0	8	0	0	0	8	0	0	3	0	0	0	3
1700	0	0	3	0	0	0	3	0	0	3	0	0	0	3
1715	0	0	7	0	0	0	7	0	0	6	0	0	0	6
1730	1	0	7	0	0	0	8	0	0	3	0	0	0	3
1745	0	0	5	0	0	0	5	0	0	2	0	0	0	2
1800	0	0	7	0	0	0	7	0	0	8	0	0	0	8
1815	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1830	0	0	8	0	0	0	8	0	0	0	0	0	0	0
1845	0	0	3	0	0	0	3	0	0	6	0	1	0	7
1900	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1915	0	0	2	0	0	0	2	0	0	0	0	0	0	0
1930	0	0	5	0	0	0	5	0	0	2	0	1	0	3
1945	0	0	2	0	0	0	2	0	0	2	0	0	0	2
2000	0	0	2	0	0	0	2	0	0	3	0	0	0	3
2015	0	0	2	0	0	0	2	0	0	2	0	0	0	2
2030	0	0	1	0	0	0	1	0	0	2	0	0	0	2
2045	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2100	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2115	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2130	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2245	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2300	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2315	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	1	0	0	0	1	0	0	0	0	0	0	0
Total	4	0	313	0	2	0	319	2	1	313	0	6	0	322

Volume Report

Job 807_010_BSC_ATR A

Area Needham, MA

Location Driveway, south of Highland Ave

BOSTON
TRAFFIC DATA
PO BOX 1723, Framingham, MA 01701
Office: 978-746-1259
DataRequest@BostonTrafficData.com
www.BostonTrafficData.com

Saturday, October 30, 2021

Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0445	0	0	0	0	1	0	1	0	0	0	0	1	0	1
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0530	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0545	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0600	0	0	1	0	0	0	1	0	0	1	0	1	0	2
0615	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0630	0	0	1	0	0	0	1	0	0	2	0	0	0	2
0645	0	0	1	0	0	0	1	0	0	1	0	0	0	1
0700	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0715	0	0	2	0	0	0	2	0	0	3	0	0	0	3
0730	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0745	0	0	3	0	0	0	3	0	0	4	0	0	0	4
0800	0	0	1	0	0	0	1	0	0	2	0	0	0	2
0815	0	0	4	0	0	0	4	0	0	4	0	0	0	4
0830	0	0	5	0	0	0	5	0	0	5	0	0	0	5
0845	0	0	4	0	0	0	4	0	0	2	0	0	0	2
0900	0	0	2	0	0	0	2	0	0	5	0	0	0	5
0915	0	0	6	0	0	0	6	0	0	3	0	1	0	4
0930	0	0	3	0	0	0	3	0	0	5	0	0	0	5
0945	0	0	5	0	0	0	5	0	0	7	0	0	0	7
1000	0	0	5	0	0	0	5	0	0	5	0	0	0	5
1015	0	0	2	0	1	0	3	0	0	2	0	0	0	2
1030	0	0	3	0	1	0	4	0	0	5	0	0	0	5
1045	0	0	4	0	0	0	4	0	0	2	0	0	0	2
1100	0	0	8	0	0	0	8	0	0	4	0	0	0	4
1115	0	0	2	0	0	0	2	0	0	4	0	0	0	4
1130	0	0	5	0	0	0	5	0	0	3	0	0	0	3
1145	0	0	5	0	0	0	5	0	0	10	0	0	0	10
1200	0	0	10	0	0	0	10	0	0	12	0	0	0	12
1215	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1230	0	0	3	0	0	0	3	0	0	4	0	0	0	4
1245	0	0	7	0	0	0	7	0	0	3	0	0	0	3
1300	0	0	3	0	0	0	3	0	0	8	0	0	0	8
1315	0	0	3	0	0	0	3	0	0	11	0	0	0	11
1330	0	0	8	0	0	0	8	0	0	2	0	0	0	2
1345	0	0	7	0	0	0	7	0	0	5	0	0	0	5
1400	0	0	11	0	0	0	11	0	0	4	0	0	0	4
1415	0	0	2	0	0	0	2	0	0	2	0	0	0	2
1430	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1445	0	0	6	0	0	0	6	0	0	3	0	0	0	3
1500	0	0	5	0	0	0	5	0	0	6	0	0	0	6
1515	0	0	5	0	0	0	5	0	0	1	0	0	0	1
1530	0	0	0	0	0	0	0	0	0	6	0	0	0	6
1545	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1600	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1615	0	0	2	0	0	0	2	0	0	1	0	0	0	1
1630	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1645	0	0	3	0	0	0	3	0	0	2	0	0	0	2
1700	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1715	0	0	3	0	0	0	3	0	0	3	0	0	0	3
1730	0	0	5	0	0	0	5	0	0	2	0	0	0	2
1745	0	0	2	0	0	0	2	0	0	1	0	0	0	1
1800	0	0	5	0	0	0	5	0	0	1	0	0	0	1
1815	0	0	2	0	0	0	2	0	0	2	0	0	0	2
1830	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1845	0	0	1	0	0	0	1	0	0	0	0	0	0	0
1900	0	0	2	0	0	0	2	0	0	2	0	0	0	2
1915	0	0	1	0	0	0	1	0	0	1	0	0	0	1
1930	0	0	1	0	0	0	1	0	0	4	0	0	0	4
1945	0	0	1	0	0	0	1	0	0	5	0	0	0	5
2000	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2015	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2030	0	0	1	0	0	0	1	0	0	3	0	0	0	3
2045	0	0	4	0	0	0	4	0	0	0	0	0	0	0
2100	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2115	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2130	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2145	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2200	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	214	0	3	0	217	0	0	202	0	3	0	205

Volume Report

Job 807_010_BSC_ATR B
Area Needham, MA
Location Driveway, north of 2nd Ave

Friday, October 29, 2021



Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0345	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	2	0	0	0	2	0	0	0	0	0	0	0
0445	0	0	0	0	0	1	1	0	0	0	0	0	0	0
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	1	0	0	0	1	0	0	1	0	0	1	2
0530	0	0	0	0	0	0	0	0	1	0	0	0	0	1
0545	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0600	0	0	2	0	0	0	2	0	0	1	0	0	0	1
0615	0	0	3	0	1	0	4	0	0	0	0	0	0	0
0630	0	0	11	0	0	0	11	0	0	5	0	2	0	7
0645	0	0	8	0	0	0	8	0	0	6	0	0	0	6
0700	0	0	12	0	0	0	12	0	0	4	0	0	0	4
0715	0	0	12	0	0	0	12	0	0	9	0	1	0	10
0730	0	0	22	0	0	0	22	0	0	10	0	0	0	10
0745	0	0	17	0	0	0	17	0	0	21	0	0	0	21
0800	0	0	18	0	0	0	18	0	0	16	0	0	0	16
0815	0	0	15	0	1	0	16	1	0	12	0	0	0	13
0830	0	0	19	0	1	0	20	0	0	13	0	1	0	14
0845	1	0	15	0	0	0	16	1	0	16	0	2	0	19
0900	0	0	9	0	0	0	9	0	0	5	0	1	0	6
0915	0	0	11	0	0	0	11	0	0	14	0	0	0	14
0930	0	0	16	0	0	0	16	0	0	16	0	0	0	16
0945	1	0	8	0	1	0	10	0	0	7	0	0	0	7
1000	0	0	11	0	0	0	11	0	0	10	0	0	0	10
1015	0	0	7	0	0	0	7	0	0	13	0	0	0	13
1030	0	0	10	0	0	0	10	0	0	13	0	0	0	13
1045	0	0	11	0	0	0	11	0	0	13	0	0	0	13
1100	0	0	18	0	0	0	18	0	0	14	0	0	0	14
1115	0	0	11	0	0	0	11	0	0	11	0	0	0	11
1130	0	0	19	0	0	0	19	0	0	9	0	0	0	9
1145	0	0	24	0	0	0	24	0	0	23	0	0	0	23
1200	0	0	18	0	0	0	18	0	0	16	0	0	0	16
1215	0	0	25	0	0	0	25	0	0	21	0	0	0	21
1230	0	0	25	0	1	0	26	1	0	25	0	1	0	27
1245	1	0	27	0	0	0	28	0	0	28	0	0	0	28
1300	0	0	24	0	0	0	24	0	0	30	0	0	0	30
1315	0	0	22	0	1	0	23	0	0	21	0	0	0	21
1330	0	0	17	0	0	0	17	0	0	22	0	1	0	23
1345	0	0	25	0	0	0	25	0	0	29	0	1	0	30
1400	0	0	16	0	0	0	16	0	0	24	0	0	0	24
1415	0	0	14	0	0	0	14	0	0	13	0	0	0	13
1430	0	0	10	0	0	0	10	0	0	17	0	0	0	17
1445	0	0	12	0	0	0	12	0	0	15	0	0	0	15
1500	0	0	17	0	0	0	17	0	0	21	0	0	0	21
1515	0	0	9	0	0	0	9	0	0	11	0	0	0	11
1530	0	0	7	0	0	0	7	0	0	17	0	0	0	17
1545	0	0	13	0	0	0	13	0	0	11	0	0	0	11
1600	0	0	10	0	0	0	10	0	0	7	0	0	0	7
1615	0	0	12	0	0	0	12	0	0	12	0	0	0	12
1630	0	0	6	0	0	0	6	0	0	15	0	0	0	15
1645	0	0	9	0	0	0	9	0	0	8	0	0	0	8
1700	0	0	10	0	0	0	10	0	0	11	0	0	0	11
1715	0	0	12	0	0	0	12	0	0	13	0	0	0	13
1730	1	0	8	0	0	0	9	0	0	10	0	0	0	10
1745	0	0	11	0	0	0	11	0	0	10	0	0	0	10
1800	0	0	9	0	0	0	9	0	0	9	0	0	0	9
1815	0	0	13	0	1	0	14	0	0	6	0	0	0	6
1830	0	0	13	0	0	0	13	0	0	10	0	1	0	11
1845	0	0	11	0	0	0	11	0	0	9	0	1	0	10
1900	0	0	5	0	0	0	5	0	0	12	0	0	0	12
1915	0	0	8	0	0	0	8	0	0	5	0	0	0	5
1930	0	0	6	0	1	0	7	0	0	8	0	0	0	8
1945	0	0	5	0	0	0	5	0	0	4	0	0	0	4
2000	0	0	4	0	0	0	4	0	0	5	0	0	0	5
2015	0	0	5	0	0	0	5	0	0	7	0	0	0	7
2030	0	0	1	0	0	0	1	0	0	5	0	0	0	5
2045	0	0	0	0	0	0	0	0	0	2	0	0	0	2
2100	0	0	2	0	0	0	2	0	0	3	0	0	0	3
2115	0	0	3	0	0	0	3	0	0	5	0	0	0	5
2130	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2145	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2200	0	0	0	0	0	0	0	0	0	2	0	0	0	2
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2245	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2315	0	0	2	0	0	0	2	0	0	3	0	0	0	3
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	1	0	0	0	1	0	0	1	0	0	0	1
Total	4	0	766	0	8	1	779	3	1	766	0	12	1	783

Volume Report

Job 807_010_BSC_ATR B
Area Needham, MA
Location Driveway, north of 2nd Ave



Saturday, October 30, 2021

Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	2	0	0	0	2	0	0	0	0	0	0	0
0445	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0530	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0545	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0600	0	0	1	0	0	1	2	0	0	1	0	1	0	2
0615	0	0	0	0	0	0	0	0	0	0	0	0	1	1
0630	0	0	3	0	0	0	3	0	0	3	0	0	0	3
0645	0	0	1	0	0	0	1	0	0	2	0	0	0	2
0700	0	0	4	0	0	0	4	0	0	0	0	0	0	0
0715	0	0	4	0	0	0	4	0	0	3	0	0	0	3
0730	0	0	5	0	0	0	5	0	0	7	0	0	0	7
0745	0	0	6	0	0	0	6	0	0	3	0	0	0	3
0800	0	0	6	0	0	0	6	0	0	2	0	0	0	2
0815	0	0	6	0	0	0	6	0	0	5	0	0	0	5
0830	0	0	7	0	0	0	7	0	0	6	0	0	0	6
0845	0	0	12	0	0	0	12	0	0	7	0	0	0	7
0900	0	0	11	0	0	0	11	0	0	6	0	0	0	6
0915	0	0	11	0	0	0	11	0	0	6	0	1	0	7
0930	0	0	7	0	0	0	7	0	0	10	0	0	0	10
0945	0	0	13	0	0	0	13	0	0	11	0	0	0	11
1000	0	0	15	0	0	0	15	0	0	8	0	0	0	8
1015	0	0	11	0	1	0	12	0	0	9	0	0	0	9
1030	0	0	9	0	1	0	10	0	0	11	0	0	0	11
1045	0	0	12	0	0	0	12	0	0	11	0	0	0	11
1100	0	0	23	0	1	0	24	0	0	11	0	0	0	11
1115	0	0	8	0	0	0	8	0	0	11	0	0	0	11
1130	0	0	11	0	0	0	11	0	0	11	0	1	0	12
1145	0	0	7	0	0	0	7	0	0	13	0	0	0	13
1200	0	0	20	0	0	0	20	0	0	15	0	0	0	15
1215	0	0	19	0	0	0	19	0	0	25	0	0	0	25
1230	0	0	17	0	0	0	17	0	0	9	0	0	0	9
1245	0	0	23	0	0	0	23	0	0	22	0	0	0	22
1300	0	0	16	0	0	0	16	0	0	18	0	0	0	18
1315	0	0	18	0	0	0	18	0	0	19	0	0	0	19
1330	0	0	8	0	0	0	8	0	0	15	0	0	0	15
1345	0	0	15	0	0	0	15	0	0	18	0	0	0	18
1400	0	0	12	0	0	0	12	0	0	19	0	0	0	19
1415	0	0	5	0	0	0	5	0	0	8	0	0	0	8
1430	0	0	9	0	0	0	9	0	0	10	0	0	0	10
1445	0	0	15	0	0	0	15	0	0	16	0	0	0	16
1500	0	0	7	0	0	0	7	0	0	14	0	0	0	14
1515	0	0	15	0	0	0	15	0	0	8	0	0	0	8
1530	0	0	8	0	0	0	8	0	0	13	0	0	0	13
1545	0	0	11	0	0	0	11	0	0	12	0	0	0	12
1600	0	0	12	0	0	0	12	0	0	9	0	0	0	9
1615	0	0	7	0	1	0	8	0	0	11	0	1	0	12
1630	0	0	8	0	0	0	8	0	0	6	0	0	0	6
1645	0	0	5	0	0	0	5	0	0	6	0	0	0	6
1700	0	0	13	0	0	0	13	0	0	11	0	0	0	11
1715	0	0	8	0	0	0	8	0	0	9	0	0	0	9
1730	0	0	9	0	0	0	9	0	0	7	0	0	0	7
1745	0	0	10	0	0	0	10	0	0	7	0	0	0	7
1800	0	0	7	0	0	0	7	0	0	5	0	0	0	5
1815	0	0	7	0	0	0	7	0	0	3	0	0	0	3
1830	0	0	6	0	0	0	6	0	0	6	0	0	0	6
1845	0	0	8	0	0	0	8	0	0	9	0	0	0	9
1900	0	0	3	0	0	0	3	0	0	5	0	0	0	5
1915	0	0	5	0	0	0	5	0	0	3	0	0	0	3
1930	0	0	5	0	0	0	5	0	0	13	0	0	0	13
1945	0	0	8	0	0	0	8	0	0	9	0	0	0	9
2000	0	0	4	0	0	0	4	0	0	7	0	0	0	7
2015	0	0	1	0	0	0	1	0	0	5	0	0	0	5
2030	0	0	2	0	0	0	2	0	0	2	0	0	0	2
2045	0	0	1	0	0	0	1	0	0	2	0	0	0	2
2100	0	0	2	0	0	0	2	0	0	1	0	0	0	1
2115	0	0	2	0	0	0	2	0	0	1	0	0	0	1
2130	0	0	2	0	0	0	2	0	0	1	0	0	0	1
2145	0	0	2	0	0	0	2	0	0	4	0	0	0	4
2200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2245	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	554	0	4	1	559	0	0	544	0	4	1	549

PARKING OCCUPANCY DATA AND CALCULATIONS

Client: Michael Santos, PE, PTOE
Project #: 807_010_BSC
BTD #: Location 1
Location: Needham, MA
Street 1: Parking Lot
Street 2: 100 Highland Ave
Count Date: 10/29/2021
Day of Week: Friday
Weather: Cloudy, 60°F



PARKING COUNT				access		access		and FW Webb Removed				Clinic Use			New Parking Demand			Future Parking Demand	
Start Time	Occupied Spaces (Existing Uses)	Total Spaces	Available Spaces	Walk In	Walk Out	Walk In	Walk Out	Walk In	Walk Out	Occupied Spaces (Remaining Existing Uses)	Total Spaces	Available Spaces	Percent of Peak Demand	Spaces Needed	Needed Spaces	Existing Uses to be Removed	Change in Parking Demand		
8:00 AM	36	96	60	0	0	0	0	0	0	36	96	60	0.63	11	11	0	11	47	
8:15 AM	37	96	59	0	0	1	0	1	0	36	96	60	0.63	11	11	-1	10	47	
8:30 AM	40	96	56	1	1	0	0	1	1	39	96	57	0.63	11	11	-1	10	50	
8:45 AM	43	96	53	0	0	2	1	2	1	41	96	55	0.63	11	11	-2	9	52	
9:00 AM	47	96	49	0	0	1	0	1	0	46	96	50	0.93	15	15	-1	14	61	
9:15 AM	51	96	45	0	0	2	2	2	2	49	96	47	0.93	15	15	-2	13	64	
9:30 AM	49	96	47	0	0	0	0	0	0	49	96	47	0.93	15	15	0	15	64	
9:45 AM	52	96	44	0	0	0	0	0	0	52	96	44	0.93	15	15	0	15	67	
10:00 AM	51	96	45	0	0	3	1	3	1	48	96	48	0.96	16	16	-3	13	64	
10:15 AM	56	96	40	0	0	0	2	0	2	56	96	40	0.96	16	16	0	16	72	
10:30 AM	49	96	47	0	0	1	1	1	1	48	96	48	0.96	16	16	-1	15	64	
10:45 AM	51	96	45	1	0	0	0	1	0	50	96	46	0.96	16	16	-1	15	66	
11:00 AM	46	96	50	0	1	1	0	1	1	45	96	51	1	16	16	-1	15	61	
11:15 AM	49	96	47	0	0	2	3	2	3	47	96	49	1	16	16	-2	14	63	
11:30 AM	52	96	44	2	0	2	1	4	1	48	96	48	1	16	16	-4	12	64	
11:45 AM	57	96	39	0	1	1	1	1	2	56	96	40	1	16	16	-1	15	72	
12:00 PM	62	96	34	0	0	1	0	1	0	61	96	35	0.8	13	13	-1	12	74	
12:15 PM	64	96	32	0	0	1	2	1	2	63	96	33	0.8	13	13	-1	12	76	
12:30 PM	70	96	26	0	1	2	2	2	3	68	96	28	0.8	13	13	-2	11	81	
12:45 PM	72	96	24	0	0	1	1	1	1	71	96	25	0.8	13	13	-1	12	84	
1:00 PM	74	96	22	0	0	2	1	2	1	72	96	24	0.75	12	12	-2	10	84	
1:15 PM	77	96	19	0	0	1	2	1	2	76	96	20	0.75	12	12	-1	11	88	
1:30 PM	75	96	21	0	0	2	0	2	0	73	96	23	0.75	12	12	-2	10	85	
1:45 PM	78	96	18	1	1	0	1	1	2	77	96	19	0.75	12	12	-1	11	89	
2:00 PM	66	96	30	1	0	2	2	3	2	63	96	33	0.9	15	15	-3	12	78	
2:15 PM	58	96	38	1	1	1	0	2	1	56	96	40	0.9	15	15	-2	13	71	
2:30 PM	56	96	40	0	0	0	0	0	0	56	96	40	0.9	15	15	0	15	71	
2:45 PM	51	96	45	1	0	0	2	1	2	50	96	46	0.9	15	15	-1	14	65	
3:00 PM	51	96	45	2	1	0	0	2	1	49	96	47	0.89	15	15	-2	13	64	
3:15 PM	44	96	52	0	1	1	1	1	2	43	96	53	0.89	15	15	-1	14	58	
3:30 PM	43	96	53	0	1	2	1	2	2	41	96	55	0.89	15	15	-2	13	56	
3:45 PM	39	96	57	1	1	1	1	2	2	37	96	59	0.89	15	15	-2	13	52	
4:00 PM	41	96	55	0	0	1	2	1	2	40	96	56	0.74	12	12	-1	11	52	
4:15 PM	40	96	56	0	1	0	1	0	2	40	96	56	0.74	12	12	0	12	52	
4:30 PM	36	96	60	0	0	0	3	0	3	36	96	60	0.74	12	12	0	12	48	
4:45 PM	32	96	64	0	0	0	0	0	0	32	96	64	0.74	12	12	0	12	44	
5:00 PM	29	96	67	0	0	0	0	0	0	29	96	67	0.41	7	7	0	7	36	
5:15 PM	28	96	68	0	0	0	0	0	0	28	96	68	0.41	7	7	0	7	35	
5:30 PM	26	96	70	0	0	0	0	0	0	26	96	70	0.41	7	7	0	7	33	
5:45 PM	20	96	76	0	0	0	0	0	0	20	96	76	0.41	7	7	0	7	27	
6:00 PM	16	96	80	0	0	0	0	0	0	16	96	80	0.15	3	3	0	3	19	
6:15 PM	14	96	82	0	1	0	0	0	1	14	96	82	0.15	3	3	0	3	17	
6:30 PM	16	96	80	0	0	0	0	0	0	16	96	80	0.15	3	3	0	3	19	
6:45 PM	13	96	83	0	0	0	0	0	0	13	96	83	0.15	3	3	0	3	16	
7:00 PM	14	96	82	0	0	0	0	0	0	14	96	82		0	0	0	0	14	
7:15 PM	10	96	86	0	0	0	0	0	0	10	96	86		0	0	0	0	10	
7:30 PM	11	96	85	0	0	0	0	0	0	11	96	85		0	0	0	0	11	
7:45 PM	8	96	88	0	0	0	0	0	0	8	96	88		0	0	0	0	8	
													Size: 3275						
													ITE Rate per 1,000 sf: 4.77						
													Spaces Needed: 16						
													Square feet per space: 200						
													Spaces Needed per Zoning: 17						

BOSTON
TRAFFIC DATA
PO BOX 1723, Framingham, MA 01701
Office: 978-746-1259
DataRequest@BostonTrafficData.com
www.BostonTrafficData.com

	Occupied Spaces (Existing Uses)	Total Spaces	Available Spaces
Start Time			
10:00 AM	35	96	61
10:15 AM	36	96	60
10:30 AM	40	96	56
10:45 AM	41	96	55
11:00 AM	40	96	56
11:15 AM	44	96	52
11:30 AM	46	96	50
11:45 AM	40	96	56
12:00 PM	43	96	53
12:15 PM	43	96	53
12:30 PM	46	96	50
12:45 PM	52	96	44
1:00 PM	50	96	46
1:15 PM	52	96	44
1:30 PM	61	96	35
1:45 PM	50	96	46
2:00 PM	42	96	54
2:15 PM	35	96	61
2:30 PM	31	96	65
2:45 PM	32	96	64
3:00 PM	30	96	66
3:15 PM	26	96	70
3:30 PM	25	96	71
3:45 PM	30	96	66
4:00 PM	25	96	71
4:15 PM	24	96	72
4:30 PM	23	96	73
4:45 PM	19	96	77
5:00 PM	18	96	78
5:15 PM	18	96	78
5:30 PM	17	96	79
5:45 PM	14	96	82
6:00 PM	13	96	83
6:15 PM	10	96	86
6:30 PM	12	96	84
6:45 PM	9	96	87
7:00 PM	12	96	84
7:15 PM	11	96	85
7:30 PM	11	96	85
7:45 PM	11	96	85
8:00 PM	11	96	85
8:15 PM	9	96	87
8:30 PM	8	96	88
8:45 PM	9	96	87
9:00 PM	6	96	90
9:15 PM	5	96	91
9:30 PM	4	96	92
9:45 PM	4	96	92

**Future
Parking
Demand**

							Occupied Spaces (Remaining Existing Uses)	Total Spaces	Available Spaces	Percent of Peak Demand	Spaces Needed				Needed Spaces	Existing Uses to be Removed	Change in Parking Demand	Future Parking Demand
Walk In	Walk Out	Walk In	Walk Out	Walk In	Walk Out													
0	0	2	3	2	3		33	96	63	0.96	16				16	-2	14	49
0	0	0	1	0	1		36	96	60	0.96	16				16	0	16	52
1	1	3	5	4	6		36	96	60	0.96	16				16	-4	12	52
0	0	0	0	0	0		41	96	55	0.96	16				16	0	16	57
1	0	4	4	5	4		35	96	61	1	16				16	-5	11	51
1	1	2	0	3	1		41	96	55	1	16				16	-3	13	57
1	1	0	0	1	1		45	96	51	1	16				16	-1	15	61
2	2	1	3	3	5		37	96	59	1	16				16	-3	13	53
0	0	4	1	4	1		39	96	57	0.8	13				13	-4	9	52
0	0	3	3	3	3		40	96	56	0.8	13				13	-3	10	53
1	1	2	1	3	2		43	96	53	0.8	13				13	-3	10	56
0	0	0	3	0	3		52	96	44	0.8	13				13	0	13	65
1	1	4	0	5	1		45	96	51	0.75	12				12	-5	7	57
1	1	7	1	8	2		44	96	52	0.75	12				12	-8	4	56
0	0	2	4	2	4		59	96	37	0.75	12				12	-2	10	71
2	0	1	1	3	1		47	96	49	0.75	12				12	-3	9	59
2	3	3	4	5	7		37	96	59	0.9	15				15	-5	10	52
0	2	3	2	3	4		32	96	64	0.9	15				15	-3	12	47
1	0	1	3	2	3		29	96	67	0.9	15				15	-2	13	44
0	1	3	4	3	5		29	96	67	0.9	15				15	-3	12	44
0	0	0	4	0	4		30	96	66	0.89	15				15	0	15	45
2	1	0	0	2	4		24	96	72	0.89	15				15	-2	13	39
0	1	0	0	0	1		25	96	71	0.89	15				15	0	15	40
0	0	0	0	0	0		30	96	66	0.89	15				15	0	15	45
0	0	0	0	0	0		25	96	71	0.74	12				12	0	12	37
1	0	0	0	1	0		23	96	73	0.74	12				12	-1	11	35
3	3	0	0	3	3		20	96	76	0.74	12				12	-3	9	32
2	1	0	0	2	1		17	96	79	0.74	12				12	-2	10	29
0	0	0	0	0	0		18	96	78	0.41	7				7	0	7	25
0	1	0	0	0	1		18	96	78	0.41	7				7	0	7	25
0	0	0	0	0	0		17	96	79	0.41	7				7	0	7	24
1	1	0	0	1	1		13	96	83	0.41	7				7	-1	6	20
0	2	0	0	0	2		13	96	83	0.15	3				3	0	3	16
0	0	0	0	0	0		10	96	86	0.15	3				3	0	3	13
1	0	0	0	1	0		11	96	85	0.15	3				3	-1	2	14
0	0	0	0	0	0		9	96	87	0.15	3				3	0	3	12
1	0	0	0	1	0		11	96	85						0	-1	-1	11
0	0	0	0	0	0		11	96	85						0	0	0	11
0	0	0	0	0	0		11	96	85						0	0	0	11
0	0	0	0	0	0		11	96	85						0	0	0	11
0	0	0	0	0	0		9	96	87						0	0	0	11
0	0	0	0	0	0		8	96	88						0	0	0	9
0	0	0	0	0	0		9	96	87						0	0	0	8
0	0	0	0	0	0		6	96	90						0	0	0	9
0	0	0	0	0	0		5	96	91						0	0	0	6
0	0	0	0	0	0		4	96	92						0	0	0	5
0	0	0	0	0	0		4	96	92						0	0	0	4
0	0	0	0	0	0		4	96	92						0	0	0	4

3275
4.77
16
200
17

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: PB Meeting 3-28 Re: Dumpsters Panera Plaza
Date: Monday, March 28, 2022 11:09:04 AM

From: Elizabeth Kaponya <liz.kaponya@gmail.com>
Sent: Sunday, March 27, 2022 9:08 PM
To: Lee Newman <LNewman@needhamma.gov>
Subject: PB Meeting 3-28 Re: Dumpsters Panera Plaza

Hi Lee,

After checking out the layout of the parking lot, it appears to me that the most sensible place to locate the 3 small recycling dumpsters would be right next to the main dumpster. I will email you a picture of this spot separately. The alternate location proposed at the entry of the parking lot will create issues with cars entering and exiting - with possible backups onto 2nd Avenue. Believe me, the car and delivery vehicle traffic there is non stop!

I would also request that ALL Demolition/Construction Dumpsters, and Recycling Dumpsters be placed away from the Property Line of the Residences - and adhere to the same hours of operation for servicing as the Regular Dumpster in the Center Isle of the parking lot. And also that throwing in industrial debris into the Demolition/Construction Dumpsters be limited to normal construction hours. In the past we have had severe noise issues with industrial waste being tossed into a dumpster at 5am next to the homes...

Thank You for your consideration,
Elizabeth Kaponya
27 Highland Terrace
TMM "J"

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: Panera Plaza center isle dumpster
Date: Monday, March 28, 2022 11:09:32 AM

From: Elizabeth Kaponya <liz.kaponya@gmail.com>
Sent: Sunday, March 27, 2022 9:27 PM
To: Lee Newman <LNewman@needhamma.gov>; Janice Epstein <janiceeps@comcast.net>; John Negoshian <astroman396@hotmail.com>; Patricia Baker <patriciabaker100@gmail.com>
Subject: Panera Plaza center isle dumpster

This photo shows that there is plenty of space to house the Recycling  Dumpsters there.

Liz Kaponya

TMM J



AMENDMENT TO DECISION

March 28, 2022

Major Project Site Plan Special Permit

SPMP No. 2005-07

Needham Gateway, LLC

100, 120 Highland Avenue

Application 2005-07

(Original Decision dated January 24, 2006,
amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011,
March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Needham Gateway LLC, 66 Cranberry Lane, Needham, MA (hereinafter the Petitioner), for property located at 100 and 120 Highland Avenue, Needham, Massachusetts, shown on Assessor's Map No. 73 as Parcel 18 containing 82,582 square feet and partially located in the New England Business Center Zoning District and partially located in the Highland-Commercial 128 Zoning District.

This Decision is in response to an application submitted to the Board on February 24, 2022, by the Petitioner for an amendment to a Major Project Site Plan Review Special Permit issued by the Needham Planning Board on January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021, under Section 7.4 of the Needham Zoning By-Law and Major Project Site Plan Review Special Permit No. 2005-07, Section 4.2.

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to allow the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters therein to be located within the parking lot of the subject premises as shown on a plan submitted to the Planning Board, to be used exclusively for disposal of cardboard materials.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, March 15, 2022 at 7:20 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, Martin Jacobs and Natasha Espada were present throughout the March 15, 2022 proceedings. The hearing was continued to Monday, March 28, 2022 at 7:00 p.m. by Zoom ID Number 880 4672 5264. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, Martin Jacobs and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

Exhibit 1 - Two transmittal letters from Attorney Rick Mann, dated February 17, 2022 and February 28, 2022.

- Exhibit 2 - Application Form for Further Site Plan Review completed by the applicant dated February 24, 2022.
- Exhibit 3 - Rider A to application.
- Exhibit 4 - As-Built plan of the site entitled “100 Highland Avenue, Needham, MA”, prepared by Otte & Dwyer, Inc., 59 Appleton Street, Saugus, MA, dated January 12, 2007 and showing the requested dumpster location.
- Exhibit 5 - Parking evaluation letter from the BSc Group to Richard Mann, Esq., dated February 28, 2022 and attached satellite photo of site.
- Exhibit 6 - Email from David Roche, Building Commissioner, February 18, 2022.
- Exhibit 7 - Email from Derek Wade, 41 Riverside Street, dated February 23, 2022.
- Exhibit 8 - Email from Mike Moskowitz, Eclipse Management, dated March 9, 2022, with attached photo of paint on dumpster enclosure.
- Exhibit 9 - Email from Elizabeth Kaponya, dated March 14, 2022, with picture attachment.
- Exhibit 10 - As-Built plan of the site entitled “100 Highland Avenue, Needham, MA”, prepared by Otte & Dwyer, Inc., 59 Appleton Street, Saugus, MA, dated January 12, 2007 and showing the requested dumpster location, fence that will be removed, fence that will remain, and existing dumpster.
- Exhibit 11 - Plan showing the parking space proposed to contain the new cardboard dumpsters and their placement within the dumpster enclosure, dated March 22, 2022.
- Exhibit 12 - Information regarding the dumpster loading/unloading prepared by the applicant, dated March 21, 2022.
- Exhibit 13- Parking Memorandum from the BSC Group to Mike Moskowitz, Eclipse Management, dated March 24, 2022.
- Exhibit 14- Letter from Richard S. Mann, Esq. to Lee Newman, Director of Planning and Community Development, dated March 25, 2022.
- Exhibit 15 - Interdepartmental Communication (IDC) to the Board from Chief John Schlittler, Needham Police Department, dated March 10, 2022; IDC from Thomas Ryder, Assistant Town Engineer, dated March 10, 2022; IDC to the Board from Chief Dennis Condon, Needham Fire Department, dated March 10, 2022; and IDC to the Planning Department from Tara Gurge, Needham Health Department, dated March 11, 2022.

Exhibits 2, 3, 10, 11 and 12 are hereby referred to as The Plan.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board confirmed its findings and conclusions as contained in its original Decision dated January 24, 2006, amended August 15, 2006,

December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 except as modified herein.

- 1.1 The Petitioner is seeking the modification to the Decision 2005-07 to allow the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters therein to be located within the parking lot of the subject premises as shown on a plan submitted to the Planning Board, to be used exclusively for disposal of cardboard materials.
- 1.2 The Original Special Permit 2005-07 approved the installation of a single six-foot high outdoor dumpster enclosure near the center of the parking lot serving the Shopping Center as shown on the approved Site Plan. Over time it has become apparent that the volume of trash (both non-organics and organics) has overwhelmed the single dumpster requiring an inordinate number of visits by the trash disposal contractor. As a result, the Petitioner has made the request to install an enclosure measuring approximately 9' x 21' with a height of 6' (the "Enclosure") to contain up to three additional dumpsters (the "Additional Dumpsters") for cardboard products only (i.e. no organics), located along the rear of the Shopping Center parking lot in the location shown on the Site Plan submitted with this application. The addition of the Additional Dumpsters will result in fewer required visits by the trash contractor and will facilitate the maintenance of a clean, vermin free and environmentally responsible shopping center operation.
- 1.2 To ensure proper utilization of the Additional Dumpsters, the Petitioner has adopted a regulation applicable to all tenants of the Shopping Center prohibiting the use of the Additional Dumpsters for anything except the disposal of cardboard products. Additionally, the contract with the trash disposal contractor prohibits the use of the Additional Dumpsters for anything except the disposal of cardboard products.
- 1.3 The Enclosure is proposed to be comprised of the same PVC materials as previously approved for the fence that abuts the property behind the Highland Terrace parcels.
- 1.4 The addition of the Enclosure will eliminate one of the existing parking spaces, thereby reducing the total parking spaces for the Shopping Center from 97 to 96. As a result of this reduction the Petitioner has requested that the Major Project Site Plan Review Special Permit No. 2005-07, dated January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 be further amended by the issuance of a special permit pursuant to Section 5.1.1.5 of the Zoning By-Law modifying the existing parking waiver to allow only 96 parking spaces for the Center and confirming the existing waiver in the Special Permit as to the requirements of Section 5.1.3 of the Zoning By-Law as to said spaces.
- 1.5 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted in the New England Business Center Zoning District and the Highland-Commercial 128 Zoning District, if the Board finds that the proposed Project complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and criteria, the Board finds that the Project Plan, as conditioned and limited herein, for Site Plan Review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable by-law requirements, to have minimal adverse impact and to have proposed a development which is harmonious with the surrounding area.
- 1.6 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special

circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2005-07, Section 4.2; subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Inspector shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.0 The Plan shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
 - (a) The Plan shall be modified to include a detail of the dumpster enclosure and gate with such enclosure comprised of the same PVC materials as previously approved for the fence that abuts the property behind the Highland Terrace parcels and having a height of 6 feet.

CONDITIONS

The conditions contained in Major Project Site Plan Special Permit No. 2005-07, dated January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021, are ratified and confirmed except as modified herein.

- 3.1 The Board approves the dumpster enclosure for cardboard dumpsters as shown on the Plan in Exhibits 10 and 11.
- 3.2 No change to hours of dumpster pick up is hereby approved.
- 3.3 Pick up of the cardboard from the dumpsters in the new enclosure shall be done in accordance with the details provided in Exhibit 12.

- 3.4 The fence that surrounded the prior location of the cardboard dumpsters (that was never approved by the Board) shall be uninstalled, as shown on the plan in Exhibit 10. The rear portion of the fence shall remain and shall be kept in good condition.
- 3.5 The dumpster enclosure shall not be installed for the Project in the pursuance of the Approval until:
- (a) The final plans shall be in conformity with those previously approved by the Board, which approval has been incorporated herein by reference, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.
 - (b) The Plan shall have been approved by the Design Review Board with a certification of said approval filed with the Board.
 - (e) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.6 The dumpster enclosure shall not be utilized in the pursuance of the Approval until there shall be filed with the Board documentation of a satisfactory inspection by the Building Commissioner of the as-built condition and the Commissioner certification of the project's compliance with the terms of this Decision.
- 3.7 No other changes were requested nor are permitted through this amendment.
- 3.8 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 28, 2024. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, for Property located at 100 and 120 Highland Avenue, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Inspector
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
Rick Mann, Attorney

AMENDMENT TO DECISION

March 28, 2022

Major Project Site Plan Special Permit

SPMP No. 2005-07

Needham Gateway, LLC

100, 120 Highland Avenue

Application 2005-07

(Original Decision dated January 24, 2006,
amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011,
March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Needham Gateway LLC, 66 Cranberry Lane, Needham, MA (hereinafter the Petitioner), for property located at 100 and 120 Highland Avenue, Needham, Massachusetts, shown on Assessor's Map No. 73 as Parcel 18 containing 82,582 square feet and partially located in the New England Business Center Zoning District and partially located in the Highland-Commercial 128 Zoning District.

This Decision is in response to an application submitted to the Board on February 24, 2022, by the Petitioner for an amendment to a Major Project Site Plan Review Special Permit issued by the Needham Planning Board on January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021, under Section 7.4 of the Needham Zoning By-Law; (2) a ~~and~~ Major Project Site Plan Review Special Permit No. 2005-07, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to allow the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters therein to be located within the parking lot of the subject premises as shown on a plan submitted to the Planning Board, to be used exclusively for disposal of cardboard materials.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, March 15, 2022 at 7:20 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, Martin Jacobs and Natasha Espada were present throughout the March 15, 2022 proceedings. The hearing was continued to Monday, March 28, 2022 at 7:00 p.m. by Zoom ID Number 880 4672 5264. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, Martin Jacobs and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1 - Two transmittal letters from Attorney Rick Mann, dated February 17, 2022 and February 28, 2022.
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Exhibits 2, 3, 10, 11 and 12 are hereby referred to as The Project Plan.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board confirmed its findings and conclusions as contained in its original Decision dated January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 except as modified herein.

- 1.1 The Petitioner is seeking the modification to the Decision 2005-07 to allow the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters therein to be located within the parking lot of the subject premises as shown on a plan submitted to the Planning Board, to be used exclusively for disposal of cardboard materials.
- 1.2 The Original Special Permit 2005-07 approved the installation of a single six-foot high outdoor dumpster enclosure near the center of the parking lot serving the Shopping Center as shown on the approved Site Plan. Over time it has become apparent that the volume of trash (both non-organics and organics) has overwhelmed the single dumpster requiring an inordinate number of visits by the trash disposal contractor. As a result, the Petitioner has made the request to ~~install~~ an enclosure measuring approximately 9' x 21' with a height of 6' (the "Enclosure") to contain up to three additional dumpsters (the "Additional Dumpsters") for cardboard products only (i.e. no organics), located along the rear of the Shopping Center parking lot in the location shown on the Site Plan submitted with this application. The addition of the Additional Dumpsters will result in fewer required visits by the trash contractor and will facilitate the maintenance of a clean, vermin free and environmentally responsible shopping center operation.
- 1.2 To ensure proper utilization of the Additional Dumpsters, the Petitioner has adopted a regulation applicable to all tenants of the Shopping Center prohibiting the use of the Additional Dumpsters for anything except the disposal of cardboard products. Additionally, the contract with the trash disposal contractor prohibits the use of the Additional Dumpsters for anything except the disposal of cardboard products.
- 1.3 The Enclosure is proposed to be comprised of the same PVC materials as previously approved for the fence that abuts the property behind the Highland Terrace parcels.
- 1.4 The addition of the Enclosure will eliminate one of the existing parking spaces, thereby reducing the total parking spaces for the Shopping Center from 97 to 96. As a result of this reduction the Petitioner has requested that the Major Project Site Plan Review Special Permit No. 2005-07, dated January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 be further amended by the issuance of a special permit pursuant to Section 5.1.1.5 of the Zoning By-Law modifying the existing parking waiver to allow only 96 parking spaces for the Center and confirming the existing waiver in the Special Permit as to the requirements of Section 5.1.3 of the Zoning By-Law as to said spaces.
- 1.5 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted in the New England Business Center Zoning District and the Highland-Commercial 128 Zoning District, if the Board finds that the proposed Project complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and criteria, the Board finds that the Project Plan, as conditioned and limited herein, for Site Plan Review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable by-law requirements, to have minimal adverse impact and to have proposed a development which is harmonious with the surrounding area.
- 1.6 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the

requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012, and July 20, 2021-, under Section 7.4 of the Needham Zoning By-Law; ~~(2) a and~~ Special Permit 2005-07, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively); subject to the following plan modifications, conditions and limitations.

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PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction of the Additional Dumpsters enclosure on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Inspector shall not issue any building permit, nor shall he permit any of such construction activity on the site to begin on the site until and unless he finds that the Project Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Project Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.0 The Project Plan shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
- (a) The Plan shall be modified to include a detail of the dumpster enclosure and gate with such enclosure shall be comprised of the same PVC materials as previously approved for the fence that abuts the property behind the Highland Terrace parcels and having a height of 6 feet.

CONDITIONS

The conditions contained in Major Project Site Plan Special Permit No. 2005-07, dated January 24, 2006, amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021, are ratified and confirmed except as modified herein.

- 3.1 The Board approves the dumpster enclosure for cardboard dumpsters as shown on the Plan in Exhibits 10 and 11.
- 3.2 No change to hours of dumpster pick up is hereby approved.

- 3.3 Pick up of the cardboard from the dumpsters in the new enclosure shall be done in accordance with the details provided in Exhibit 12.
- 3.4 The fence that surrounded the prior location of the cardboard dumpsters (that was never approved by the Board) shall be uninstalled, as shown on the plan in Exhibit 10. The rear portion of the fence shall remain and shall be kept in good condition.
- 3.5 The dumpster enclosure shall not be installed for the Project in the pursuance of the Approval until:
- (a) The final plans shall be in conformity with those previously approved by the Board, which approval has been incorporated herein by reference, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.
 - (b) The Plan shall have been approved by the Design Review Board with a certification of said approval filed with the Board.
 - (e) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.6 The dumpster enclosure shall not be utilized in the pursuance of the Approval until there shall be filed with the Board documentation of a satisfactory inspection by the Building Commissioner of the as-built condition and the Commissioner certification of the ~~P~~roject's compliance with the terms of this Decision.

~~3.7~~ 3.7 The number of parking spaces required at the property is reduced from 97 parking spaces to 96 parking spaces.

~~3.7.3.8~~ No other changes were requested nor are permitted through this amendment.

~~3.8~~ 3.9 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 28, 2024. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

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Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, for Property located at 100 and 120 Highland Avenue, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk

Board of Selectmen
Engineering

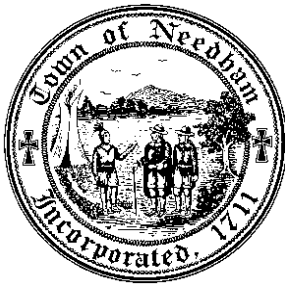
Board of Health
Director, PWD

*Needham Planning Board Decision – Needham Gateway LLC, 100, 120 Highland Ave
March 28, 2022*

Building Inspector
Conservation Commission
Parties in Interest

Fire Department
Police Department

Design Review Board
Rick Mann, Attorney



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, 5.1.1.6, 5.1.2 and 5.1.3, the Needham Planning Board will hold a public hearing on Monday, March 28, 2022 at 7:15 p.m. by Zoom Web ID Number 880 4672 5264 (further instructions for accessing are below), regarding the application of the LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar, 30 Dedham Avenue, Needham, MA, for a Special Permit under Site Plan Review, Section 7.4 of the Needham Zoning By-Law.

The subject property is located at 30 Dedham Avenue, Needham, Massachusetts, shown on Assessor's Map No. 47 as Parcel 4 containing a total of 10,867 square feet in the Center Business District. The requested Major Project Site Plan Special Permit would, if granted, permit an amendment of Major Project Site Plan Special Permit No. 2015-07 dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019. The requested amendment would permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building. Additionally, the petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.

In accordance with the Zoning By-Law, Section 5.1.1.6, a Special Permit is required to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement) of the Zoning By-Law. In accordance with the Zoning By-Law, Section 7.4, a Major Project Site Plan Review Amendment is required.

To view and participate in this virtual meeting on your phone, download the "Zoom Cloud Meetings" app in any app store or at www.zoom.us. At the above date and time, click on "Join a Meeting" and enter the following Meeting ID: 880 4672 5264

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click "Join a Meeting" and enter the following ID: 880 4672 5264

Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: 880 4672 5264

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

The application may be viewed at this link:

<https://www.needhamma.gov/Archive.aspx?AMID=146&Type=&ADID=> . Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at (<http://masspublicnotices.org/>).

NEEDHAM PLANNING BOARD

Needham Times, March 10, 2022 and March 17, 2022.

2022 FEB 15 PM 2:29

TOWN OF NEEDHAM MASSACHUSETTS



500 Dedham Avenue
Needham, MA 02492
781-455-7550

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one)

Amendment
Major Project

Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 30 Dedham Ave
Name of Applicant Antonio De Trizio
Applicant's Address 218 Hillside Ave
Phone Number 781 654 6049

Applicant is: Owner _____ Tenant X
Agent/Attorney _____ Purchaser _____

Property Owner's Name First Cambridge Realty Corporation
Property Owner's Address 907 Massachusetts Ave #2, Cambridge, MA 02139
Telephone Number 617 547 6559

Characteristics of Property: Lot Area _____ Present Use _____
Map # _____ Parcel # _____ Zoning District _____

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

Requesting to amend special permit to allow 10 tables/ 28 outdoor seats.
Requesting all deliveries to be by the street (Dedham Ave) instead of the back of building.

Signature of Applicant (or representative)

Antonio De Trizio

Antonio De Trizio

Address if not applicant _____

Telephone # _____

Stuart Rothman

2/8/2022

Owner's permission if other than applicant _____

as manager 934 948 Great Plain Ave LLC

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board cf. [signature] Date 2/10/22

Hearing Date _____ Parties of Interest Notified of Public Hearing _____

Decision Required by _____ Decision/Notices of Decision sent _____

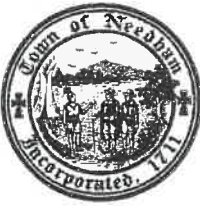
Granted _____

Denied _____

Fee Paid _____ Fee Waived _____

Withdrawn _____

NOTE: Reports on Minor Projects must be issues within 35 days of filing date.



2022 FEB 15 PM 2:29

**TOWN of NEEDHAM
MASSACHUSETTS
APPLICATION FOR OUTDOOR SEATING
UNDER SECTION 6.9 OF THE ZONING BY-LAW**

LOCATION:

Property Address: 30 Dedham Ave
Name of Establishment: Latina Kitchen and Bar

APPLICANT:

Name (must be business owner, manager, or lessee): Antonio De Trizio
Address: 218 Hillside Ave

Telephone Number: 781 654 6049
Email Address: sdtrizio@gmail.com

Do you own or rent property?

PROPERTY OWNER:

Complete this section if applicant is not the property owner

Name (must be owner): First Cambridge Realty Corporation
Address: 907 Massachusetts Ave #2, Cambridge, MA 02139

Telephone Number: (617) 547 6559
Email Address: _____

APPLICATION REQUEST:

Are you requesting to have outdoor dining on PRIVATE parking spaces? Yes * No

If yes, how many private parking spaces? Alley

Are you requesting to have outdoor dining on PUBLIC parking spaces (on-street or in a public parking lot)? Yes No

If yes, how many public parking spaces do you intend to use in each category? *Note: there is a maximum of 3 parking spaces allowed per applicant.*

_____ # on-street public parking spots. Please note, required concrete barriers will take up 1 parking spot and should be added to the total number of spots you are applying to use.

_____ # of off-street public parking spots (in a public parking lot)

Are any of the spaces you are requesting to use designated for handicap parking?
Are you requesting to have outdoor dining on a sidewalk?

SEATING: FACILITIES/EQUIPMENT:

Total number of seats approved under existing Special Permit 99
Total number of seats existing inside 99 (may be same as above or fewer)
Number of restrooms provided 4
Total number of seats proposed outside 29 Size of Grease Trap 2 x 450 G each
Number of chairs 29 Air Curtains (if opening is off kitchen) Text
Number of tables 10 Screens (if opening is off kitchen) _____
Outdoor Seating Area dimensions 14' x 50' = 700 sq feet
Type of Barrier or Enclosure to Define Seating Area
(mandatory if alcohol is proposed to be served):
Jersey barriers provided by Town

DATES AND HOURS OF OPERATION

The standard outdoor dining season in the Town of Needham is April 1 - November 30. The Town will consider applications that extend beyond that timeframe on an individual basis.

Are you requesting to serve food & beverage outdoors earlier than April 1 or later than November 30? Yes no

If yes, what are your proposed opening and closing dates?

What days of the week and hours do you plan to serve food & beverage outdoors?

Monday - Sunday 11am - 10pm

BRIEF DESCRIPTION OF:

Seating Arrangement, Type of Furniture, Type of Barrier or Enclosure to Define Seating Area (mandatory if alcohol is proposed to be served), Ingress/Egress from the Inside to the Outside, Location of Outdoor Exit Area in the case of an emergency, Written Description of Colors and Materials Used

Low top tables / Aluminum dining outdoor commercial grade

Orange Jersey barriers provided by Needham Town

Area is enclosed by red brick wall (30 Dedham Ave), Jersey barriers and planters along carport at 50 Dedham Ave.

Access to patio from Dedham Ave or walking through the restaurant

Exit to sidewalk at Dedham Ave or walking inside the restaurant

PLAN REQUIREMENTS

Submit a Plan of the Outside Seating Area, showing precise dimensions and locations of:

- (1) Seating arrangement, including the arrangement of the furniture
 - (2) Enclosure of dining area (this is required if service of alcohol is proposed)
 - (3) Location of ingress/egress from inside to outside
 - (4) Location of outside emergency exit(s)
 - (5) Separation distances to building, curbing, sidewalks, streets, trees, planters, rubbish containers, equipment, and any other obstacles in pedestrian walkway or access aisles
- Said Plan must be certified by a Registered Architect or Engineer with certifications that the restaurant with the outdoor seating complies with egress and access requirements, that the seating configuration complies with safety requirements, and that the restaurant has adequate restroom facilities for the number of seats. (If the total indoor and outdoor seating exceeds the number allowed for the existing restroom facilities, you may reduce the number of indoor seats being used, so that the total number of restaurant seats does not trigger additional restroom facilities.)
- (6) For parking spaces located on a parking lot (public or private), provide a site plan showing parking areas to be utilized for outdoor seating. Said plan can be an existing approved Site Plan, in which applicant delineates proposed seating location.

FURNITURE SPECIFICATIONS SHEET

A detailed specifications sheet illustrating the appearance, materials, colors, and size of selected outdoor seating furniture and equipment including chairs, benches, tables, umbrellas, fences, and other items. Photographs of furniture and equipment may be substituted for specification sheets as along as a sheet listing the dimensions of the furniture and equipment accompanies the photographs.

Are you proposing to have: (please check all that apply)?

- A tent or canopy? A permit from the Building Department may be required ([link](#)).
- Outdoor lighting? An electrical permit is required ([link](#)).

Outdoor Heating? A permit from the Fire Department is required ([link](#)).

PHOTOGRAPHS

Submit photographs of the proposed outdoor dining location (front and side views) if available.

ALCOHOL SERVICE

___ NO

* YES

If you are seeking permission to serve alcohol outside (i.e., to extend your existing license to a patio or other outdoor seating areas), you must get approval from the Select Board by filing an Alteration of Licensed Premises, which is available on the Alcoholic Beverages Control Commission (ABCC) website at <https://www.mass.gov/how-to/amend-your-alcoholic-beverages-retail-license-alteration-of-premises-or-location-change-abcc>.

Please select one. Expansion area must be either:

1. Contiguous to the licensee's premise with a clear view of the area from inside the premises; or
2. The Licensee may commit to providing management personnel dedicated to the area.

FEES AND TERM

Outdoor seating licenses are issued for a term of one year, unless stated otherwise, and can be renewed annually. The annual application fee is \$25, which will be credited toward the annual licensing fee if the application is approved

For outdoor dining approved on public property, there is an annual licensing fee for the sole use of public space for outdoor dining at the rate of \$250 per public parking space and \$100 for the use of the sidewalk. If an applicant is approved for the use of public parking space(s) and the sidewalk, the \$100 sidewalk licensing fee will be waived.

CERTIFICATION

I/we the undersigned certify that I am the owner of record of the named property or that the owner of record authorizes the proposed work and that the above information which I/we provided is correct.

I/we have read and fully understand the procedures as established by the Town of Needham and further understand that failure to comply with said procedures may result in revocation of this permit.

Signature of Applicant(s): Antonio D T Date: 11/13/2021

THIS SECTION BELOW IS FOR OFFICIAL USE ONLY

Major Project Site Plan Review Special Permit (Planning Board) yes ___ no ___

Zoning Board of Appeals Special Permit yes ___ no ___

Select Board Licensing Approval _____

Certificate of Insurance covering outdoor area: _____

Departmental Approval (Health _____ Building _____ Fire _____ Police _____ Public Works _____)

License Agreement (if seating is on sidewalk or other public property): _____

Alteration of Licensed Premises (for alcohol service in outdoor area): _____

Comments: _____



TABLES:
 (4) at 32"w x 48"l x 30"h
 (6) at 32"w x 24"l x 30"h

CHAIRS
 (28) at 16"w x 17"l x 32.5"h



OUTDOOR SEATING PLAN



LATINA KITCHEN + BAR / 30 DEDHAM AVE, NEEDHAM MA

32" X 48" TABLE

30 DEDHAM AVE

30" X 48" CLEAR
FLOOR SPACE

14' - 0"

PATIO
AREA
700 SF+/-

3' - 0"
CLR

DEDHAM AVE.

32" X 24" TABLE

PATIO HEATER

50 DEDHAM AVE

EXISTING
PLANTERS

ACCESSIBLE
ROUTE

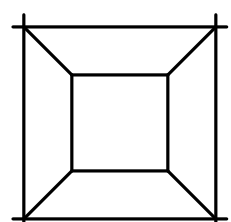
JERSEY
BARRIERS

0' 2' 4' 8'



2/10/2022

reMake
Design



47 Naples Road
Brookline, MA 02446
617-733-6733

🔍 Search 340,000+ products

Search

◀ Brown Outdoor Restaurant Tables and Sets

Lancaster Table & Seating 32" x 48" Brown Powder-Coated Aluminum Dining Height Outdoor Table with Umbrella Hole and 4 Arm Chairs

Item #: 4273248DUA4N



Note: Support cross bar shown lower

You last purchased this on
Jun 16 2021 at 03:14PM EST



Only

\$649.00/Each

Discounted shipping with

1

Add to Cart



Earn up to **\$19.47 back** (1,947 points)
with a [Webstaurant Rewards Visa® Credit Card](#)

Wish List ▼

Rapid Reorder

Other Available Colors:



- ✓ Made for use on outdoor patios and bar areas
- ✓ Powder-coated aluminum construction is lightweight, durable, and resistant to corrosion
- ✓ Smooth surface with brown color creates a bright and lively outdoor atmosphere
- ✓ UV-resistant finished so that color will not fade over time
- ✓ Chair has a seating capacity of 300 lb.



Quick Shipping

Usually ships in **1 business day** ⓘ



[View all Lancaster Table & Seating Outdoor Restaurant Tables and Sets](#)



You May Also Need



Lancaster Table & Seating
Replacement Glide
\$3.19 / Pack

1 Add to Cart



Lancaster Table & Seating Brown Powder Coated
\$94.99 / Each

1 Add to Cart

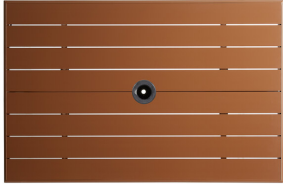


Lancaster Table & Seating Brown Powder Coated
\$104.99 / Each

1 Add to Cart

Allow your guests to enjoy the breezy summer weather with this Lancaster Table & Seating 32" x 48" brown powder-coated aluminum dining height outdoor table with umbrella hole and 4 arm chairs

Designed specifically for outdoor use, this combo makes an excellent addition to restaurants, bar patios, and other outdoor entertainment areas such as banquets and luaus. Its lightweight construction allows you to easily move it around your outdoor setting for the best possible view. The 30" dining height allows guests to sit comfortably during their meal, while the chair's armrests provide additional support. Your guests will love the



opportunity to enjoy the temperate weather with the convenience and comfort of this table set!



Seating Capacity: 4

Four people can comfortably sit at this table.

UV-Resistant Finish

The smooth surfaces of the table and chairs feature a brown color that's sure to induce a lively atmosphere and complement the warm summer sky. Thanks to its UV-resistant finish, the color won't fade over time when left in the sun for longer periods.



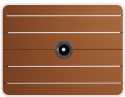
Durable Construction

Both this table and its chairs are made of powder-coated aluminum, which is tough enough to resist weather and corrosion. The chairs also feature a durable 300 lb. capacity. Place them on your patio and let your guests enjoy!



Sturdy Pedestal Base

This table features a pedestal base that allows it to stand firm on your patio. Its black glides make it easy to maneuver and protect the surface it stands on from scratching.



Built-In Umbrella Hole

A built-in umbrella hole allows the table to be paired with a compatible umbrella (sold separately) to add shade at your restaurant or cafe.



Slotted Design

The slotted design of the chair allows for excellent airflow to keep guests cool while they dine and prevents the table from overheating.

Compare to Other Products

own ght d 4			
	ITEM #: 4273232DUS4N	ITEM #: 4273232DUA4N	ITEM #: 4273636DUA4N
	Lancaster Table & Seating 32" x 32" Brown Powder-Coated Aluminum Dining Height Outdoor Table with Umbrella Hole and 4 Side Chairs	Lancaster Table & Seating 32" x 32" Brown Powder-Coated Aluminum Dining Height Outdoor Table with Umbrella Hole and 4 Arm Chairs	Lancaster Table & Seating 36" x 36" Brown Powder-Coated Aluminum Dining Height Outdoor Table with Umbrella Hole and 4 Arm Chairs
	PRICE \$539.00 /Each	PRICE \$569.00 /Each	PRICE \$599.00 /Each
	LENGTH 32 Inches	LENGTH 32 Inches	LENGTH 36 Inches
	WIDTH 32 Inches	WIDTH 32 Inches	WIDTH 36 Inches
	HEIGHT 30 Inches	HEIGHT 30 Inches	HEIGHT 30 Inches
	CAPACITY 300 lb., 4 Chairs	CAPACITY 300 lb., 4 Chairs	CAPACITY 300 lb., 4 Chairs
	COLOR Brown	COLOR Brown	COLOR Brown
	WITH ARMS -	WITH ARMS Yes	WITH ARMS Yes

Table Dimensions:

Length:	48 Inches
Width:	32 Inches
Height:	30 Inches

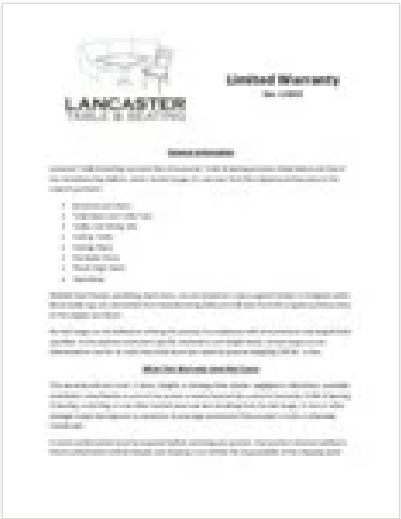
Chair Dimensions:

Length:	17 Inches
Width:	16 Inches
Height:	32 1/2 Inches
Seat Height:	19 Inches
Capacity:	300 lb.

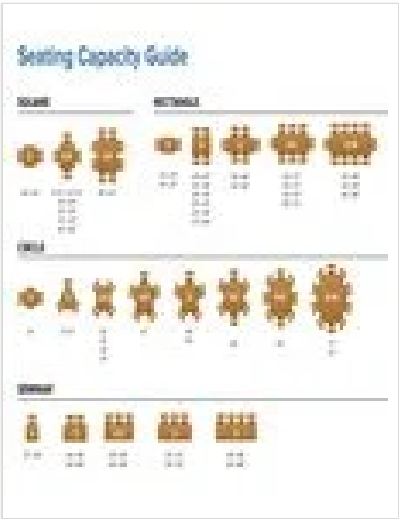
Due to manufacturer production variations, check the Compatibility resource to ensure this part is suitable for your application.

Need Parts & Accessories?

Resources and Downloads



Warranty



Seating Capacity Guide



Compatibility

A PDF viewer is required to view this product's information. [Download Adobe Acrobat software](#)

SPECS	
Length	48 Inches
Width	32 Inches
Height	30 Inches
Seat Length	17 Inches
Seat Width	16 Inches
Height Style	Standard Height
Seat Height	19 Inches
Umbrella Hole Diameter	2 Inches
Capacity	300 lb. 4 Chairs
Color	Brown
Features	Umbrella Hole
Finish	UV-finished
Frame Material	Aluminum

SPECS	
Shape	Rectangle
Tabletop Material	Aluminum
Type	Table / Chair Sets
Usage	Outdoor
With Arms	Yes

Related Items

 Table Tops 1726 Products	 Outdoor Table Bases 289 Products	 Outdoor Restaurant Chairs 363 Products	 Outdoor Table Umbrellas and Bases 318 Products	 Fire Pit 14 Products
---	---	---	---	---

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BROOKLINE DEVELOPMENT CORP LLC

PO Box 576, Medford, MA 02155
617-733-4488

January 7, 2022

Dear Marianne,

Thank you for the opportunity for us to provide input regarding that plan for outdoor dining for Latina in the alley between Latina and 50 Dedham.

As you know, Latina outdoor dining was in place over the spring, summer and fall of 2021. Despite our earlier concern, the arrangement worked well, and we appreciated the effort that Latina put into maintaining the cleanliness of the area and the beautification of the area so that outdoor dining was attractive. The hours that were offered did not prove to be too intrusive for residents.

The initial work so that all deliveries, for the businesses from Latina around the corner and down Great Plain Avenue, are conducted on Great Plain Avenue is important to our approval. Making that change means that we have not seen the building damage from delivery trucks that we saw in the prior two years. We expect that practice to continue. The trash pickup will continue to occur through our driveway as that services 50 Dedham as well as the other businesses.

With the caveat about deliveries continuing from the street, we grant permission for outdoor dining to continue for Latina in the alleyway during the town-approved outdoor dining season.

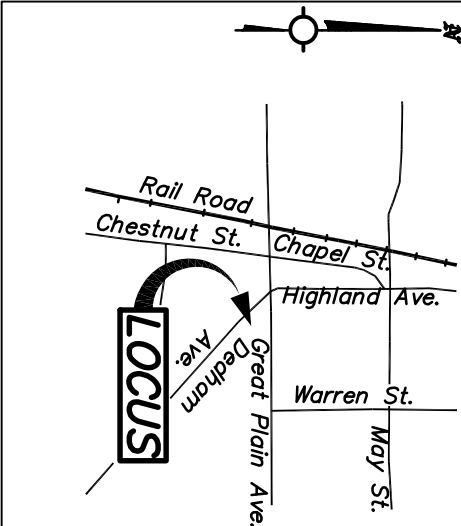
Best,

Sincerely,



Jeffrey Feuerman
Brookline Development Corp LLC





LOCUS MAP:
NOT TO SCALE

REV.	DATE	DESCRIPTION
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
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PREPARED FOR:

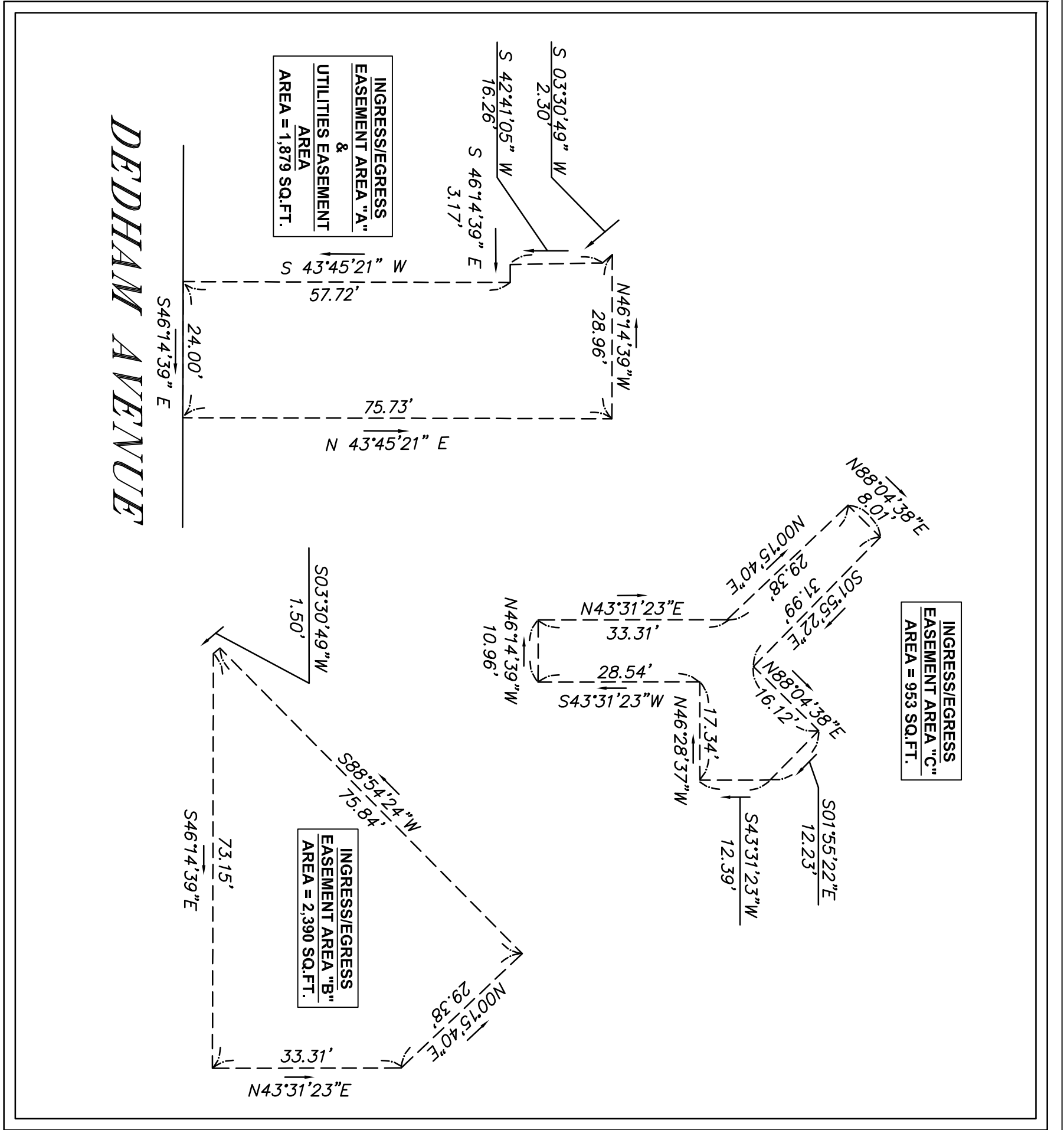
MMM PROPERTY, LLC c/o
THE MACKIN GROUP, INC.

7 Harvard Street
Brookline, Massachusetts 02445

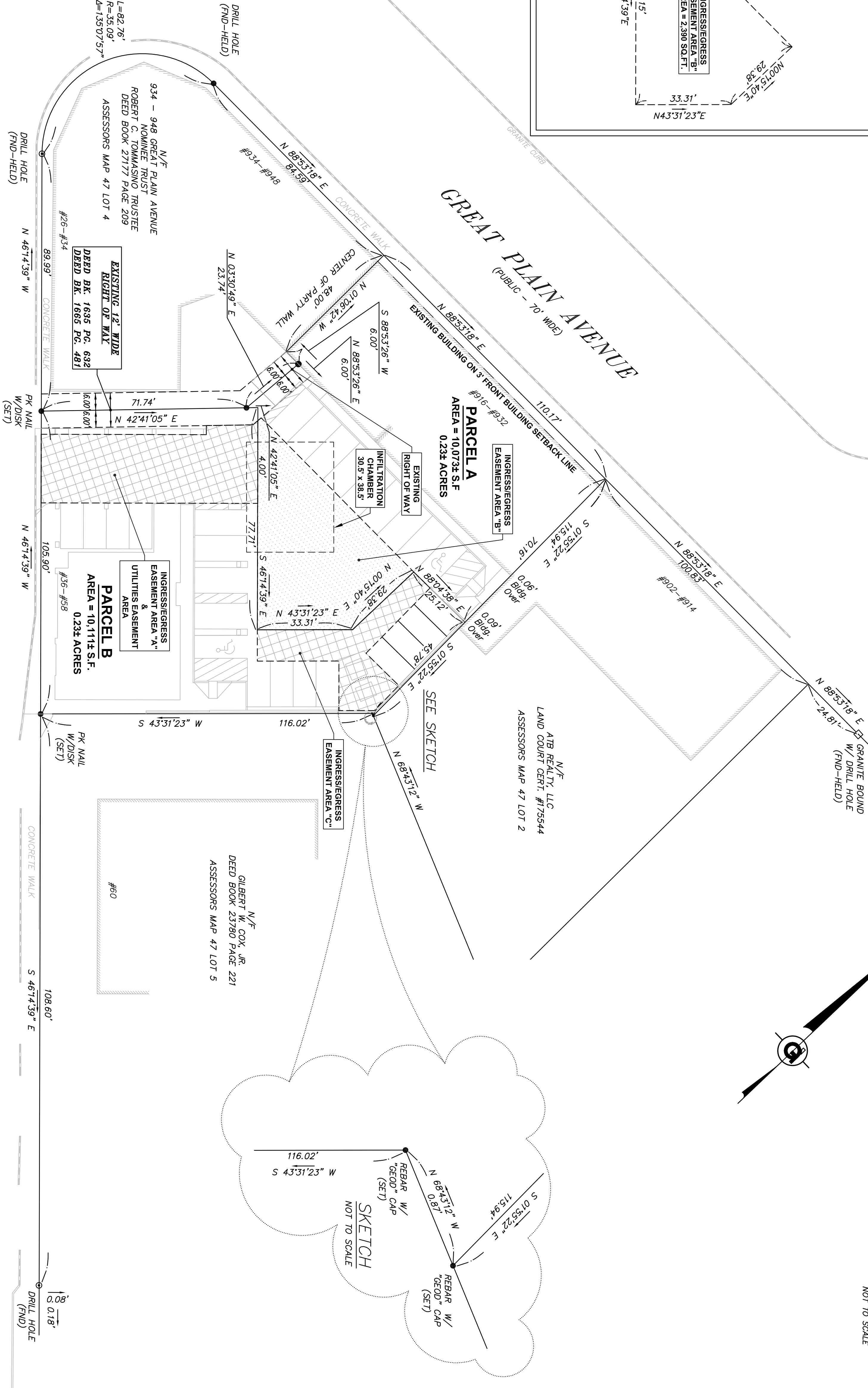
PREPARED BY:
GEOD CONSULTING
ENGINEERING SITE DEVELOPMENT TRANSPORTATION
24 Ray Avenue, Burlington, MA 01803
Phone (781) 273-3434 Fax (781) 273-3430

PLAN OF EASEMENTS
916-932 Great Plain Avenue
36-58 Dedham Avenue
Needham, Massachusetts

DESIGNED BY: JTL	SCALE: 1"=20'
DRAWN BY: FLS	DATE: 11/15/12
CHECKED BY: FLS	CONTRACT NO. 10552M



EASEMENT DETAIL
SCALE: 1" = 20'



I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE EASEMENTS SHOWN WAYS SHOWING THE PUBLIC OR PRIVATE RIGHTS OF THE PARTIES TO THE EASEMENTS, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

I CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

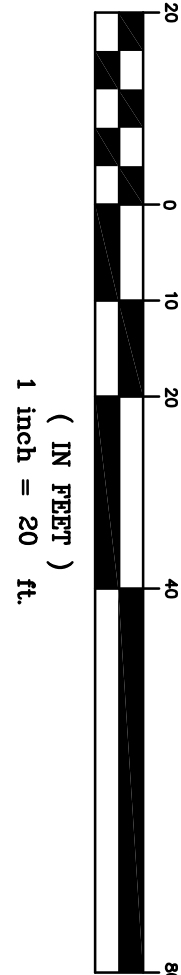
FOR GEOD CONSULTING, INC. DATE

FOR REGISTRY USE ONLY.

NOTES:

- BOUNDARY INFORMATION SHOWN HEREON WAS OBTAINED FROM AN ACTUAL FIELD SURVEY CONDUCTED ON JANUARY 9, 2007 AND MAY 15, 2010 BY GEOD CONSULTING, INC.
- BOUNDARY LINES SHOWN ARE BASED ON AN ANR PLAN PREPARED BY GEOD CONSULTING, INC.

GRAPHIC SCALE



LOCUS & RECORD OWNER:

916 - 932 GREAT PLAIN AVENUE
MMM PROPERTY, LLC
BOOK 24522 PAGE 219
ASSESSORS MAP 47 LOT 3

LOCUS & RECORD OWNER:

36 - 58 DEDHAM AVENUE
NEEDHAM PLAGE, LLC
BOOK 30514 PAGE 532
ASSESSORS MAP 47 LOT 3

Alexandra Clee

From: David Roche
Sent: Wednesday, February 23, 2022 1:39 PM
To: Alexandra Clee; Thomas Ryder; John Schlittler; Dennis Condon; Tara Gurge; Timothy McDonald; Carys Lustig
Cc: Elisa Litchman; Lee Newman
Subject: RE: Request for comment - Latina Outdoor dining

Alex,

One issue I see is that the door that enters into the area from the main building is for deliveries only, this door does not meet Access or Building Code requirements, because of the step. All access to the outdoor space and bathrooms should be through the Dedham Ave. entry door only, the rear door should be clearly marked NOT FOR PUBLIC USE.

Dave

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Wednesday, February 23, 2022 8:00 AM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: RE: Request for comment - Latina Outdoor dining

Apologies, the application is now attached.

(Dave, to save you time in reviewing, this is the same plan I already sent to you).

THanks!

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: David Roche <droche@needhamma.gov>
Sent: Wednesday, February 23, 2022 7:23 AM
To: Alexandra Clee <aclee@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Re: Request for comment - Latina Outdoor dining

Do you have a plan?

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From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, February 22, 2022 4:47:48 PM
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Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Latina Outdoor dining

Dear all,

We have received the attached application materials for the proposal to for Latina Restaurant to utilize the driveway next to the building at 30 Dedham, Avenue for 10 tables with 28 seats of outdoor dining, seasonally. Additionally, deliveries will be made from the Dedham Avenue, and brought by dollie to the rear of the building. More information can be found in the attachments.

The Planning Board has scheduled this matter for March 28, 2022. Please send your comments by Wednesday March 23, 2022 at the latest. **However, to the extend possible, if Public Safety and DPW could review the request for deliveries to be made from Dedham Avenue sooner rather than later, that would assist us in making sure this is a smooth process.**

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Deliveries to Latina:

Baldor - from Wednesday - Saturday around noon.

Captains Mardens - from Wednesday - Saturday around 2pm. This vendor also delivers to Sweet Basil at the same time every day but Sunday.

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JW Lopes - Wednesday - around 8:30 am

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Katsiroubas - everyday but Sunday around 9am

Sysco - Thursdays - around 2pm

Trimark - Fridays - around 2:30 pm

Paul Marks - Tuesdays around 3pm

Captains Mardens -

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2015-07, and an application under Section 6.9 of the Zoning by-Law for outdoor dining.
2. Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.

3. Specifications of outdoor furniture.

4. Photographs.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Cc: [Lee Newman](#)
Subject: RE: Request for comment - Latina Outdoor dining
Date: Monday, February 28, 2022 3:15:09 PM
Attachments: [image002.png](#)
[image003.png](#)

Alex –

The Public Health Division conducted its review for the proposal for Latina Kitchen and Bar Restaurant, located at 30 Dedham Ave., to utilize the driveway next to the building for seasonal outdoor dining specifically to allow 10 tables with 28 seats for outdoor dining. After looking over the application, we concur with the Building Depts.' comments, and have no additional comments to share at this time.

Please let me know if you need any additional information from us on that.

Thanks,



TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health



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[Follow Needham Public Health on Twitter!](#)

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Sent: Wednesday, February 23, 2022 8:00 AM
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<TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>

Subject: RE: Request for comment - Latina Outdoor dining

Apologies, the application is now attached.

(Dave, to save you time in reviewing, this is the same plan I already sent to you).

THanks!

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

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Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>

Subject: Re: Request for comment - Latina Outdoor dining

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Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>

Subject: Request for comment - Latina Outdoor dining

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Captains Mardens -

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2015-07, and an application under Section 6.9 of the Zoning by-Law for outdoor dining.
2. Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.
3. Specifications of outdoor furniture.
4. Photographs.

Thank you, alex.

Alexandra Clee

Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Dennis Condon](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - Latina Outdoor dining
Date: Thursday, February 24, 2022 4:21:12 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Alex,
We are okay with this.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



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THanks!

Alexandra Clee

Assistant Town Planner
Needham, MA
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Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
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Katsiroubas - everyday but Sunday around 9am

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2. Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.
3. Specifications of outdoor furniture.
4. Photographs.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [John Schlittler](#)
To: [Alexandra Clee](#); [Thomas Ryder](#)
Cc: [Lee Newman](#)
Subject: RE: Request for comment - Latina Outdoor dining
Date: Thursday, March 24, 2022 1:16:21 PM

The police department does not have an issue with this.

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, March 17, 2022 4:04 PM
To: John Schlittler <JSchlittler@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>
Subject: FW: Request for comment - Latina Outdoor dining

Hi Chief, Hi Tom,

I want to make sure you have time to review this, as it is regarding deliveries made from Dedham Avenue (to allow for the outdoor dining). It has been happening this way through Covid as I understand it. But your comments (by next Wednesday) will be especially helpful.

Thanks, Alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: Alexandra Clee
Sent: Wednesday, February 23, 2022 8:00 AM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
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Subject: RE: Request for comment - Latina Outdoor dining

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Needham, MA

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Subject: Re: Request for comment - Latina Outdoor dining

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Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
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Kinnealy Meats - Wednesday - around 9:30am

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Katsiroubas - everyday but Sunday around 9am

Sysco - Thursdays - around 2pm

Trimark - Fridays - around 2:30 pm

Paul Marks - Tuesdays around 3pm

Captains Mardens -

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2015-07, and an application under Section 6.9 of the Zoning by-Law for outdoor dining.
2. Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.
3. Specifications of outdoor furniture.
4. Photographs.

Thank you, alex.

Alexandra Clee

Assistant Town Planner

Needham, MA

781-455-7550 ext. 271

www.needhamma.gov



**TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023**

March 24, 2022

Needham Planning Board
Needham Public Service Administration Building
Needham, MA 02492

RE: Amendment to Major Project Special Permit No. 2015-07
30 Dedham Avenue- Latina Outdoor Dining

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced request to amendment to a Special Permit. The applicant request permission for 10 tables/28 outdoor seating year-round; and request for deliveries to be by the street along Dedham Avenue.

The review was conducted in accordance with the Planning Board's regulations and standard engineering practice. The documents submitted for review are as follows:

1. Application for the Amendment to 2015-07 and application under Section 6.9 of the Zoning By-Law.
2. Plan consisting of 1 sheet prepared by reMake Design, showing Outdoor seating plan dated February 10, 2022
3. Plan consisting of 1 sheet prepared by GEOD Consulting, "Plan of Easements" dated November 15, 2012.
4. Letter dated January 7, 2022 from Brookline Development Corp LLC to town representatives expressing support of the project.

Our comments and recommendations are as follows:

- We have no general objection to the proposed plans.

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas Ryder
Acting Town Engineer

From: [Antonio De Trizio](#)
To: [Alexandra Clee](#)
Subject: Deliveries to 30 Dedham Ave
Date: Friday, March 18, 2022 3:43:18 PM

Deliveries to Restaurants 946-948 Great Plain Ave. (Latina, Sweet Basil)

Here a list of vendors and delivery times:

Deliveries to Latina:

Baldor - from Wednesday - Saturday around noon.

Captains Mardens - from Wednesday - Saturday around 2pm. This vendor also delivers to Sweet Basil at the same time every day but Sunday.

US Foods - Fridays around noon - each other week.

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Katsiroubas - everyday but Sunday around 9am

Sysco - Thursdays - around 2pm

Trimark - Fridays - around 2:30 pm

Paul Marks - Tuesdays around 3pm

Captains Mardens -

Deliveries to Little Spoon:

Katsiroubas - everyday but Sunday around 9am

The rest of their deliveries is made in small vans (owners)

Antonio De Trizio

Latina Kitchen + Bar

30 Dedham Ave, Needham, MA 02492

email sdtrizio@latinakitchenbar.com

website www.latinakitchenbar.com

From: [Antonio De Trizio](#)
To: [Alexandra Clee](#)
Subject: Re: season for outdoor dining at Latina?
Date: Tuesday, March 22, 2022 2:41:34 PM

Hi Alex,
I would say yes. Propose time/days would be the same as regular April-November season.
Let me know if you need me to update and resend.
Thank you!

Antonio De Trizio
Latina Kitchen + Bar
30 Dedham Ave, Needham, MA 02492
email sdtrizio@latinakitchenbar.com
website www.latinakitchenbar.com
Sent from my iPhone

On Mar 22, 2022, at 14:08, Alexandra Clee <aclee@needhamma.gov> wrote:

Hi Antonio,

Your application (attached) did not answer the question of if you are only looking for seasonal approval or longer. See question on Page 3 – screen shot below.

Let me know, thanks!

SEATING: FACILITIES/EQUIPMENT:

Total number of seats approved under existing Special Permit 99
Total number of seats existing inside 99 (may be same as above or fewer)
Number of restrooms provided 4
Total number of seats proposed outside 29 Size of Grease Trap 2 x 450 G each
Number of chairs 29 Air Curtains (if opening is off kitchen) Text
Number of tables 10 Screens (if opening is off kitchen) _____
Outdoor Seating Area dimensions 14' x 50' = 700 sq feet
Type of Barrier or Enclosure to Define Seating Area
(mandatory if alcohol is proposed to be served):
Jersey barriers provided by Town

DATES AND HOURS OF OPERATION

The standard outdoor dining season in the Town of Needham is April 1 - November 30. The Town will consider applications that extend beyond that timeframe on an individual basis.

Are you requesting to serve food & beverage outdoors earlier than April 1 or later than November 30? Yes no

If yes, what are your proposed opening and closing dates?

What days of the week and hours do you plan to serve food & beverage outdoors?

Monday - Sunday 11am - 10pm

BRIEF DESCRIPTION OF:

Seating Arrangement, Type of Furniture, Type of Barrier or Enclosure to Define Seating Area (mandatory if alcohol is proposed to be served), Ingress/Egress from the Inside to the Outside, Location of Outdoor Exit Area in the case of an emergency, Written Description of Colors and Materials Used

Low top tables / Aluminum dining outdoor commercial grade

Orange Jersey barriers provided by Needham Town

Area is enclosed by red brick wall (30 Dedham Ave). Jersey barriers and planters along carport at 50 Dedham Ave.

Access to patio from Dedham Ave or walking through the restaurant

Exit to sidewalk at Dedham Ave or walking inside the restaurant

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov/planning

Alexandra Clee

From: David Roche
Sent: Wednesday, March 23, 2022 12:09 PM
To: Lee Newman
Cc: Alexandra Clee
Subject: RE: Request for comment - Farmhouse Outdoor dining

Lee,

We would limit that occupancy to 135 based on the fixture count. I spoke with Latina this morning and the actually removed tables and chairs inside and there occupancy will remain at 99 total.

Dave

From: Lee Newman <LNewman@needhamma.gov>
Sent: Wednesday, March 23, 2022 10:13 AM
To: David Roche <droche@needhamma.gov>
Cc: Alexandra Clee <aclee@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

Dave,

I have attached the outdoor seating plan which also shows the bathroom configuration. The plan shows 1 fixture in the men's room and 2 fixtures in the women's bathroom.
Does this meet the plumbing code for a facility with 158 seats?

Lee

From: David Roche <droche@needhamma.gov>
Sent: Wednesday, March 23, 2022 9:04 AM
To: Lee Newman <LNewman@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

They really need the architect to check the Plumbing fixture counts based on the new occupancy, most of these small restaurants have small bathrooms.

Dave

From: Lee Newman <LNewman@needhamma.gov>
Sent: Tuesday, March 22, 2022 5:57 PM
To: Alexandra Clee <aclee@needhamma.gov>; David Roche <droche@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

Just a quick follow-up. The outdoor seating plan shows 58 seats and the application states 64 seats. I think the ask is 58 seats plus the 100 in the restaurant for a total of 158. Not sure if 6 seats makes a difference.

Lee

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, March 22, 2022 4:00 PM
To: David Roche <droche@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>
Subject: FW: Request for comment - Farmhouse Outdoor dining

Dave,

Regarding the application on farmhouse for outdoor dining, can you reply and let us know if there is any bathroom trigger with this application. The restaurant is permitted to have 100 seats indoors and requests 64 outdoor dining seats.

This is on our Planning Board agenda for Tuesday night, so we would appreciate a reply by tomorrow, if possible.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: Alexandra Clee
Sent: Tuesday, March 1, 2022 5:11 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Farmhouse Outdoor dining

Dear all,

We have received the attached application materials for the proposal to for Farmhouse Restaurant to utilize the parking lot behind the building for seasonal outdoor dining. More information can be found in the attachments.

The Planning Board has scheduled this matter for March 28, 2022. Please send your comments by Wednesday March 23, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2007-04, and an application under Section 6.9 of the Zoning by-Law for outdoor dining.
2. Photographs
3. Plan entitled "Proposed Patio Layout Plan," prepared by Spalding Tougias Architects, Inc., dated February 8, 2022, and a second Sheet entitled "Rendering" dated February 8, 2022. (please note, the same two pages repeat in the attachment).

Thank you, alex.

Alexandra Clee

From: Antonio De Trizio <sdtrizio@latinakitchenbar.com>
Sent: Wednesday, March 23, 2022 1:07 PM
To: Alexandra Clee
Cc: Lee Newman; Myles Tucker
Subject: Re: Latina total number of seats

Hi Alex,

I made a mistake on the application. We do have 4 restrooms but 2 of them are for the staff, they are located in the basement. Being said that I am limiting the interior capacity to 70 instead of 99 to meet the requirements. We have been working with that capacity since last year, I do not have staff to take 99 people at the same time.

Does that make sense?

Thank you,

Antonio De Trizio
Latina Kitchen + Bar
30 Dedham Ave, Needham, MA 02492
email sdtrizio@latinakitchenbar.com
website www.latinakitchenbar.com

On Mar 23, 2022, at 12:40 PM, Alexandra Clee <aclee@needhamma.gov> wrote:

Hi Antonio, me again 😊

I understand from the Building Commissioner that due to your bathroom configuration, your total number of seats will need to be limited to meet the plumbing code requirement. I understand that you two spoke about that. Could you confirm how many seats you will decrease to indoors? We are working on your decision now and need this information.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

Alexandra Clee

From: Antonio De Trizio <sdtrizio@latinakitchenbar.com>
Sent: Thursday, March 24, 2022 11:29 AM
To: David Roche
Cc: Lee Newman; Alexandra Clee
Subject: Re: Bathrooms

Hi David,

I consulted with my our attorney regarding our conversation yesterday about the restrooms. We do have 4 restrooms at Latina, 2 in the main floor (one of them is handicap accessible), and 2 in the basement. I want to keep my indoor capacity to 99 people (as it is approved right now) and add the 29 outdoor seats. We will make one of the restrooms downstairs accessible to our customers. It makes a lot of sense 4 restrooms total for guest and staff. Please let me know if you have any concerns or questions,
Antonio De Trizio

On Wed, Mar 23, 2022 at 9:11 AM David Roche <droche@needhamma.gov> wrote:

In reviewing your application you are stating that you have 4 bathrooms I am assuming that this is two men's and two ladies rooms. Could you give me a call when you get this email.

David A Roche

Building Commissioner

Town of Needham

781-455-7550 x 308

From: [David Roche](#)
To: [Antonio De Trizio](#)
Cc: [Alexandra Clee](#)
Subject: RE: Bathrooms
Date: Thursday, March 24, 2022 2:48:01 PM

So the bottom line is that you can not exceed 99, how you arrange your seating it is up to you, maybe you should have two plans one with the outdoor seating and one (during the winter) without outdoor seating.

Dave

From: Antonio De Trizio <sdtrizio@latinakitchenbar.com>
Sent: Thursday, March 24, 2022 1:46 PM
To: David Roche <droche@needhamma.gov>
Subject: Re: Bathrooms

I see. My concern now is I do not want to loose my indoor capacity. Can we say that we have a limited capacity to 71 when patio is open?
Is this something considerable?

Antonio De Trizio
Latina Kitchen + Bar
30 Dedham Ave, Needham, MA 02492
email sdtrizio@latinakitchenbar.com
website www.latinakitchenbar.com

On Mar 24, 2022, at 1:41 PM, David Roche <droche@needhamma.gov> wrote:

I don't think you would be able to make the downstairs bathrooms open to the public, as I remember we allowed certain existing conditions in the basement because it was staff only. One very important code issue is it only has one exit, ceiling heights are lower than code, mechanical piping is encroaching on headroom. This is what I recall but there could be other issues.

Dave Roche

From: Antonio De Trizio <sdtrizio@latinakitchenbar.com>
Sent: Thursday, March 24, 2022 11:29 AM
To: David Roche <droche@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>; Alexandra Clee

<aclee@needhamma.gov>

Subject: Re: Bathrooms

Hi David,

I consulted with my our attorney regarding our conversation yesterday about the restrooms. We do have 4 restrooms at Latina, 2 in the main floor (one of them is handicap accessible), and 2 in the basement. I want to keep my indoor capacity to 99 people (as it is approved right now) and add the 29 outdoor seats. We will make one of the restrooms downstairs accessible to our customers. It makes a lot of sense 4 restrooms total for guest and staff.

Please let me know if you have any concerns or questions,

Antonio De Trizio

On Wed, Mar 23, 2022 at 9:11 AM David Roche <droche@needhamma.gov> wrote:

In reviewing your application you are stating that you have 4 bathrooms I am assuming that this is two men's and two ladies rooms. Could you give me a call when you get this email.

David A Roche
Building Commissioner
Town of Needham

781-455-7550 x 308

BROOKLINE DEVELOPMENT CORP LLC

PO Box 576, Medford, MA 02155
617-733-4488

January 7, 2022

Dear Marianne,

Thank you for the opportunity for us to provide input regarding that plan for outdoor dining for Latina in the alley between Latina and 50 Dedham.

As you know, Latina outdoor dining was in place over the spring, summer and fall of 2021. Despite our earlier concern, the arrangement worked well, and we appreciated the effort that Latina put into maintaining the cleanliness of the area and the beautification of the area so that outdoor dining was attractive. The hours that were offered did not prove to be too intrusive for residents.

The initial work so that all deliveries, for the businesses from Latina around the corner and down Great Plain Avenue, are conducted on Great Plain Avenue is important to our approval. Making that change means that we have not seen the building damage from delivery trucks that we saw in the prior two years. We expect that practice to continue. The trash pickup will continue to occur through our driveway as that services 50 Dedham as well as the other businesses.

With the caveat about deliveries continuing from the street, we grant permission for outdoor dining to continue for Latina in the alleyway during the town-approved outdoor dining season.

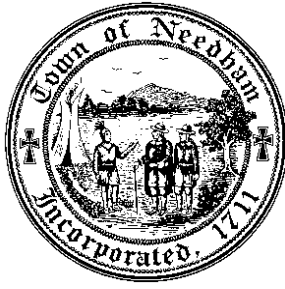
Best,

Sincerely,



Jeffrey Feuerman
Brookline Development Corp LLC





PLANNING DIVISION
Planning & Community Development

AMENDMENT TO DECISION
March 28, 2022

MAJOR PROJECT SITE PLAN SPECIAL PERMIT
LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar 30 Dedham Avenue, Needham, MA 02492
Application No. 2015-07

(Original Decision dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar, (hereinafter referred to as the Petitioner) for property located at 30 Dedham Avenue, Needham, MA. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 4 containing 10,867 square feet in the Center Business District.

This decision is in response to an application submitted to the Board on February 15, 2022, by the Petitioner to amend the decision by the Board dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law), (2) a Special Permit Amendment to Major Project Site Plan Review Special Permit No. 2015-07, Section 4.2., and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building and further to reduce the number of indoor seats provided at the restaurant. The original permit for the restaurant at this location permitted a one hundred (100) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The Petitioner is now proposing a seventy-one (71) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. With this modification a total of ninety-nine (99) seats would be available distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining both on a year-round schedule. Additionally, the Petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Monday, March 28, 2022 at 7:15 p.m. by Zoom Web ID Number 880 4672 5264. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

EVIDENCE

Submitted for the Board's review were the following exhibits:

- Exhibit 1 - Application for the Amendment to 2006-04 and application under Section 6.9 of the Zoning By-Law, dated February 15, 2022.
- Exhibit 2 - Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.
- Exhibit 3 - Specifications of outdoor furniture.
- Exhibit 4 - Photographs.
- Exhibit 5 - Letter from Jeffrey Feuerman, Brookline Development Corp LLC, dated January 7, 2022.
- Exhibit 6 - Plan of Easements, 916-932 Great Plain Avenue, 36-58 Dedham Ave, prepared by Geod Consulting, 24 Ray Ave, Burlington, MA, dated November 15, 2012.
- Exhibit 7 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated February 28, 2022; IDC to the Board from Tom Ryder dated March xx, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated February 24, 2022; IDC to the Board from Chief John Schlittler, dated March xx, 2022; IDC to the Board from David Roche, Building Commissioner, dated February 23, 2022.

Exhibits 1, 2, and 3 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Review Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019 be amended to permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building and further to reduce the number of indoor seats provided at the restaurant. The original permit for the restaurant at this location permitted a one hundred (100) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The Petitioner is now proposing a seventy-one (71) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. With this modification at total of ninety-nine (99) seats would be available distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining both on a year-round schedule. Additionally, the Petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.
- 1.2 The driveway located beside 30 Dedham Avenue is shown on the Plan of Easements described in Exhibit 6 and is owned in part by 30 Dedham Avenue and in part by 50 Dedham Avenue.
- 1.3 The Petitioner has provided a letter from Jeffrey Feuerman, Brookline Development Corp LLC (owner of 50 Dedham Avenue), dated January 7, 2022 (Exhibit 5) stating his approval of the placement of the outdoor dining seating within the driveway easement area subject to the following conditions. Deliveries from Latina Kitchen and Bar and other business within the subject building

are to be conducted from Dedham Avenue and Great Plain Avenue and no deliveries to such business are to be made to the rear parking lot through the 50 Dedham Avenue driveway. Notwithstanding the above, trash-pick from Latina Kitchen and Bar and other business within the subject building through the 50 Dedham Avenue driveway is permissible.

- 1.4 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for a 71-seat restaurant with one take-out station is 34 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority and the provision of additional parking. 30% of 71 seats is 22 seats. As the Petitioner is requesting 28 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. Twenty-two (22) seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 6 seats, which is a waiver of 2 additional parking spaces. Accordingly, a waiver of 36 parking spaces has been requested. No parking is provided on-site.
- 1.5 Pursuant to Section 5.1.1.3 of the By-Law no change or conversion of a use in a mixed-use structure to a use which requires additional parking shall be permitted unless off-street parking is provided in accordance with Section 5.1.3 for the entire structure or a waiver is granted pursuant to the provisions of Section 5.1.1.6. As there is no parking associated with the property, a waiver under the provisions of Section 5.1.1.6 is required.
- 1.6 The Petitioner has requested to revise Section 3.2 of the Original decision, from the previous: “The restaurant shall contain no more than 100 seats for on-site food consumption and one take-out station.” to now say “The restaurant shall contain no more than 99 seats for on-site food consumption and one take-out station with said seating distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining both on a year-round schedule.
- 1.7 The Petitioner has requested to revise Section 3.11 of the Original decision, from the previous: “All loading and deliveries shall occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. Loading, deliveries and trash pick-up shall be restricted to the rear parking area of the subject site and shall not occur on the public way.” to now say “All loading and deliveries shall occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. Loading and deliveries shall be permitted to occur from the public way. Trash pick-up shall be restricted to the rear parking area of the subject site.”
- 1.8 The Petitioner appeared before the Design Review Board on March 28, 2022 and obtained approval for the project.
- 1.9 No changes to the interior of the restaurant are proposed by this application.
- 1.10 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Business Center District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to

have promoted a development which is harmonious with the surrounding area.

- 1.11 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2015-07, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, are ratified and confirmed except as modified herein.

- 3.1 A total of 28 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use year-round each year, within the driveway as shown in Exhibit 6.
- 3.2 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.3 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of "Jersey barriers" as provided by the Town. If said barriers are no longer available, the

Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.

- 3.4 Exercise of the rights under this permit for outdoor seating are subject to continued approval by the abutter at 50 Dedham Avenue to use the entire driveway right of way for outdoor dining by the Petitioner and continued approval by 50 Dedham Avenue to use its driveway for trash pick-up. See Exhibit 5 above.
- 3.5 Section 3.2 of the Original decision is revised to say: “The restaurant shall contain no more than 99 seats for on-site food consumption and one take-out station with said seating distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining both on a year-round schedule.
- 3.6 Section 3.11 of the Original decision is revised to say: “All loading and deliveries shall occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. Loading and deliveries shall be permitted to occur from the public way. Trash pick-up shall be restricted to the rear parking area of the subject site.”
- 3.7 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions or other agencies, including, but not limited to, the Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.8 No portion of the outdoor dining area, subject to this Amendment, shall be occupied and utilized by the Petitioner until there shall be filed with the Board documentation of a satisfactory inspection by the Building Commissioner of the as-built condition and the Commissioner certification of the project’s compliance with the terms of this Decision.
- 3.9 No other changes were requested nor are permitted through this amendment.
- 3.10 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 28, 2024. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by LATIN-A GROUP LLC, for Property located at 30 Dedham Avenue, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

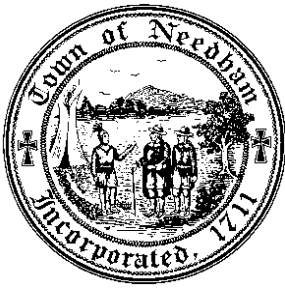
Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Inspector
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Antonio De Trizio, Manager, LATIN-A GROUP LLC
Board of Health
Director, PWD
Design Review Board



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, 5.1.1.6, 5.1.2 and 5.1.3, the Needham Planning Board will hold a public hearing on Monday, March 28, 2022 at 7:30 p.m. by Zoom Web ID Number 880 4672 5264 (further instructions for accessing are below), regarding the application of the Eat Farmhouse LLC, 970 Great Plain Avenue, Needham, MA, for a Special Permit under Site Plan Review, Section 7.4 of the Needham Zoning By-Law.

The subject property is located at 970 Great Plain Avenue, Needham, Massachusetts, shown on Assessor's Map No. 47, Parcel 63 containing 19,575 square feet in the Center Business District. The requested Major Project Site Plan Special Permit would, if granted, permit an amendment of Major Project Site Plan Special Permit No. 2007-04 May 7, 2007, transferred on November 5, 2012 and amended June 4, 2019. The requested amendment would permit up to 64 outdoor seats by the Farmhouse Restaurant abutting the municipal parking lot and within the parking spaces of the private parking lot.

In accordance with the Zoning By-Law, Section 5.1.1.6, a Special Permit is required to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement) of the Zoning By-Law. In accordance with the Zoning By-Law, Section 7.4, a Major Project Site Plan Review Amendment is required.

To view and participate in this virtual meeting on your phone, download the "Zoom Cloud Meetings" app in any app store or at www.zoom.us. At the above date and time, click on "Join a Meeting" and enter the following Meeting ID: 880 4672 5264

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click "Join a Meeting" and enter the following ID: 880 4672 5264

Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: 880 4672 5264

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

The application may be viewed at this link:

<https://www.needhamma.gov/Archive.aspx?AMID=146&Type=&ADID=> . Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at (<http://masspublicnotices.org/>).

NEEDHAM PLANNING BOARD

Needham Times, March 10, 2022 and March 17, 2022.

2022 FEB 15 PM 2:30

**TOWN OF NEEDHAM
MASSACHUSETTS**



500 Dedham Avenue
Needham, MA 02492
781-455-7550

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one)

Major Project

Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 970 Great Plain Ave Needham
Name of Applicant Eat Farmhouse, LLC
Applicant's Address Same As Above
Phone Number 617 360 1797

Applicant is: Owner _____ Tenant ☒
Agent/Attorney _____ Purchaser _____

Property Owner's Name Simon II Associates LLC
Property Owner's Address 10 Newbury Street Boston MA 02116
Telephone Number 617 267 6828

Characteristics of Property: Lot Area _____ Present Use Commercial
Map # _____ Parcel # _____ Zoning District _____
047-063-000

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

Private parking area behind restaurant becomes patio. The same as we had during Covid.

Signature of Applicant (or representative) _____
Address if not applicant _____
Telephone # 617 360 1797
Owner's permission if other than applicant Matthew Simon 1/26/2022

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board Matthew Simon Date 2/10/22
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issues within 35 days of filing date.

2022 FEB 15 PM 2:30



TOWN of NEEDHAM
MASSACHUSETTS
APPLICATION FOR OUTDOOR SEATING
UNDER SECTION 6.9 OF THE ZONING BY-LAW

LOCATION:

Property Address: 970 Great Plain Ave
Name of Establishment: The Farmhouse

APPLICANT:

Name (must be business owner, manager, or lessee): Dana Tavel-Sanchez LLC
Address: _____

Telephone Number: 917 612 4680
Email Address: CATfarmhouse@gmail.com

Do you own or rent property?

PROPERTY OWNER:

Complete this section if applicant is not the property owner Math Simon
Name (must be owner): ~~Dana Tavel-Sanchez LLC~~
Address: _____

Telephone Number: 781-449-6200
Email Address: CATFARMHOUSE@GMAIL.COM

APPLICATION REQUEST:

Are you requesting to have outdoor dining on PRIVATE parking spaces? Yes ☒ No ☒

If yes, how many private parking spaces? currently four N/A

Are you requesting to have outdoor dining on PUBLIC parking spaces (on-street or in a public parking lot)? Yes ☒ No ☐

If yes, how many public parking spaces do you intend to use in each category? Note: there is a maximum of 3 parking spaces allowed per applicant.

_____ # on-street public parking spots. Please note, required concrete barriers will take up 1 parking spot and should be added to the total number of spots you are applying to use.

2 # of off-street public parking spots (in a public parking lot)

Are any of the spaces you are requesting to use designated for handicap parking?
Are you requesting to have outdoor dining on a sidewalk? NO, N/A

SEATING: FACILITIES/EQUIPMENT:

Total number of seats approved under existing Special Permit 64
Total number of seats existing inside 100 (may be same as above or fewer)
Number of restrooms provided 3
Total number of seats proposed outside 64 Size of Grease Trap _____
Number of chairs 64 Air Curtains (if opening is off kitchen) _____
Number of tables 32 Screens (if opening is off kitchen) _____
Outdoor Seating Area dimensions _____
Type of Barrier or Enclosure to Define Seating Area
(mandatory if alcohol is proposed to be served):
metal fencing +
concrete barrier

DATES AND HOURS OF OPERATION

The standard outdoor dining season in the Town of Needham is April 1 - November 30. The Town will consider applications that extend beyond that timeframe on an individual basis.

Are you requesting to serve food & beverage outdoors earlier than April 1 or later than November 30? Yes no
If yes, what are your proposed opening and closing dates?

What days of the week and hours do you plan to serve food & beverage outdoors?

Tues thru Saturday 12-2, 4³⁰-10

BRIEF DESCRIPTION OF:

Seating Arrangement, Type of Furniture, Type of Barrier or Enclosure to Define Seating Area (mandatory if alcohol is proposed to be served), Ingress/Egress from the Inside to the Outside, Location of Outdoor Exit Area in the case of an emergency, Written Description of Colors and Materials Used

ALCOHOL SERVICE

☐ NO
☒ YES

If you are seeking permission to serve alcohol outside (i.e., to extend your existing license to a patio or other outdoor seating areas), you must get approval from the Select Board by filing an Alteration of Licensed Premises, which is available on the Alcoholic Beverages Control Commission (ABCC) website at <https://www.mass.gov/how-to/amend-your-alcoholic-beverages-retail-license-alteration-of-premises-or-location-change-abcc>.

Please select one. Expansion area must be either:

1. Contiguous to the licensee's premise with a clear view of the area from inside the premises; or
2. ☒ The Licensee may commit to providing management personnel dedicated to the area.

FEES AND TERM

Outdoor seating licenses are issued for a term of one year, unless stated otherwise, and can be renewed annually. The annual application fee is \$25, which will be credited toward the annual licensing fee if the application is approved

For outdoor dining approved on public property, there is an annual licensing fee for the sole use of public space for outdoor dining at the rate of \$250 per public parking space and \$100 for the use of the sidewalk. If an applicant is approved for the use of public parking space(s) and the sidewalk, the \$100 sidewalk licensing fee will be waived.

CERTIFICATION

I/we the undersigned certify that I am the owner of record of the named property or that the owner of record authorizes the proposed work and that the above information which I/we provided is correct.

I/we have read and fully understand the procedures as established by the Town of Needham and further understand that failure to comply with said procedures may result in revocation of this permit.

Signature of Applicant(s): [Signature] Date: 1/18/22

Date: _____

THIS SECTION BELOW IS FOR OFFICIAL USE ONLY

Major Project Site Plan Review Special Permit (Planning Board) yes _____ no _____

Zoning Board of Appeals Special Permit yes _____ no _____

Select Board Licensing Approval _____

Certificate of Insurance covering outdoor area: _____

Departmental Approval (Health _____ Building _____ Fire _____ Police _____ Public Works _____)

License Agreement (if seating is on sidewalk or other public property): _____

Alteration of Licensed Premises (for alcohol service in outdoor area): _____

Comments: _____

PLAN REQUIREMENTS

Submit a Plan of the Outside Seating Area, showing precise dimensions and locations of:

- (1) Seating arrangement, including the arrangement of the furniture
- (2) Enclosure of dining area (this is required if service of alcohol is proposed)
- (3) Location of ingress/egress from inside to outside
- (4) Location of outside emergency exit(s)
- (5) Separation distances to building, curbing, sidewalks, streets, trees, planters, rubbish containers, equipment, and any other obstacles in pedestrian walkway or access aisles
Said Plan must be certified by a Registered Architect or Engineer with certifications that the restaurant with the outdoor seating complies with egress and access requirements, that the seating configuration complies with safety requirements, and that the restaurant has adequate restroom facilities for the number of seats. (If the total indoor and outdoor seating exceeds the number allowed for the existing restroom facilities, you may reduce the number of indoor seats being used, so that the total number of restaurant seats does not trigger additional restroom facilities.)
- (6) For parking spaces located on a parking lot (public or private), provide a site plan showing parking areas to be utilized for outdoor seating. Said plan can be an existing approved Site Plan, in which applicant delineates proposed seating location.

FURNITURE SPECIFICATIONS SHEET

A detailed specifications sheet illustrating the appearance, materials, colors, and size of selected outdoor seating furniture and equipment including chairs, benches, tables, umbrellas, fences, and other items. Photographs of furniture and equipment may be substituted for specification sheets as long as a sheet listing the dimensions of the furniture and equipment accompanies the photographs.

Are you proposing to have: (please check all that apply)?

- A tent or canopy? A permit from the Building Department may be required (link).
- ✓ Outdoor lighting? An electrical permit is required (link).
- ✓ Outdoor Heating? A permit from the Fire Department is required (link).

yes, already
done so
and approved.

PHOTOGRAPHS

Submit photographs of the proposed outdoor dining location (front and side views) if available.

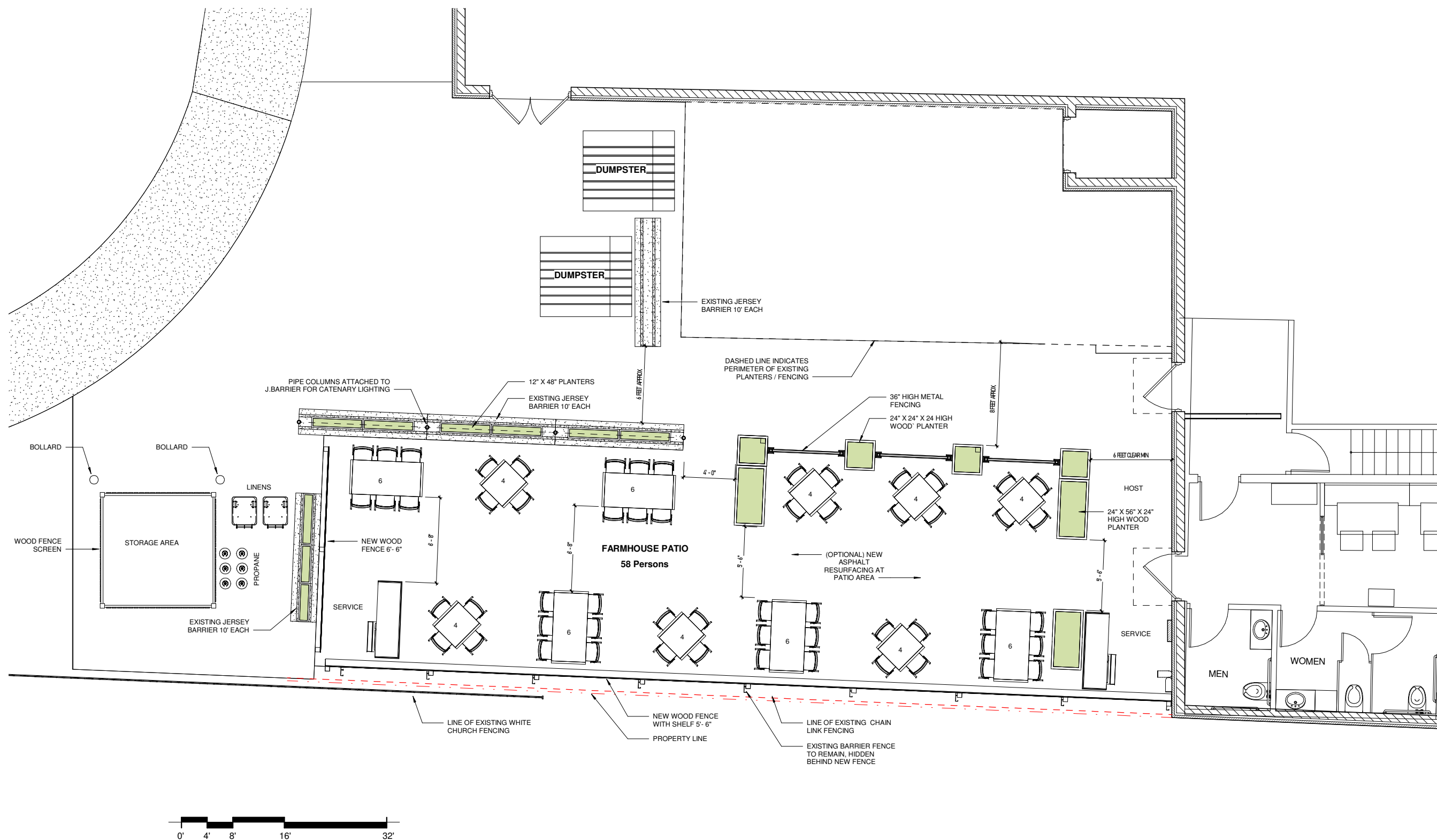
Gabriel / Dora
FARMHOUSE
PATIO

970 Great Plain Road
Needham, MA



CONSULTANTS:

David Miller Landscape
Architecture + Planning



PROPOSED PATIO PLAN

No.	Date	Revision

Seal

02.08.2022

Drawing Title

PROPOSED
PATIO LAYOUT
PLAN

Project No.
Project Number
Date
Scale
1/4" = 1'-0"
Drawn By
Author

Drawing No.
A100
Checked By
Checker



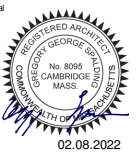
Gabriel / Dora
FARMHOUSE
PATIO
970 Great Plain Road
Needham, MA



CONSULTANTS:

David Miller Landscape
Architecture + Planning

No. Date Revision



Drawing Title

RENDERING

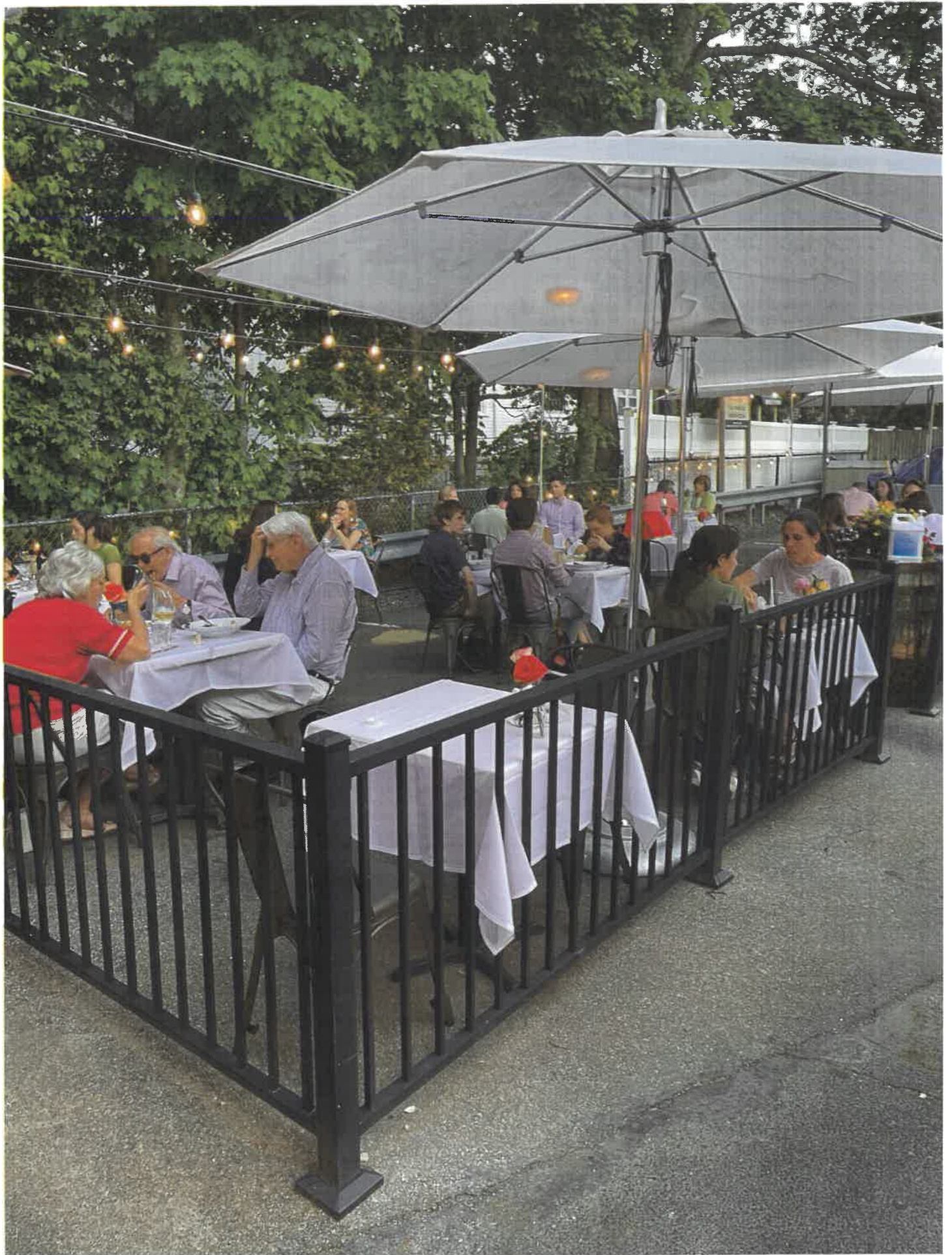
Project No.
Project Number
Date
Scale
Drawn By
Author
Checked By
Checker

Drawing No.
A101

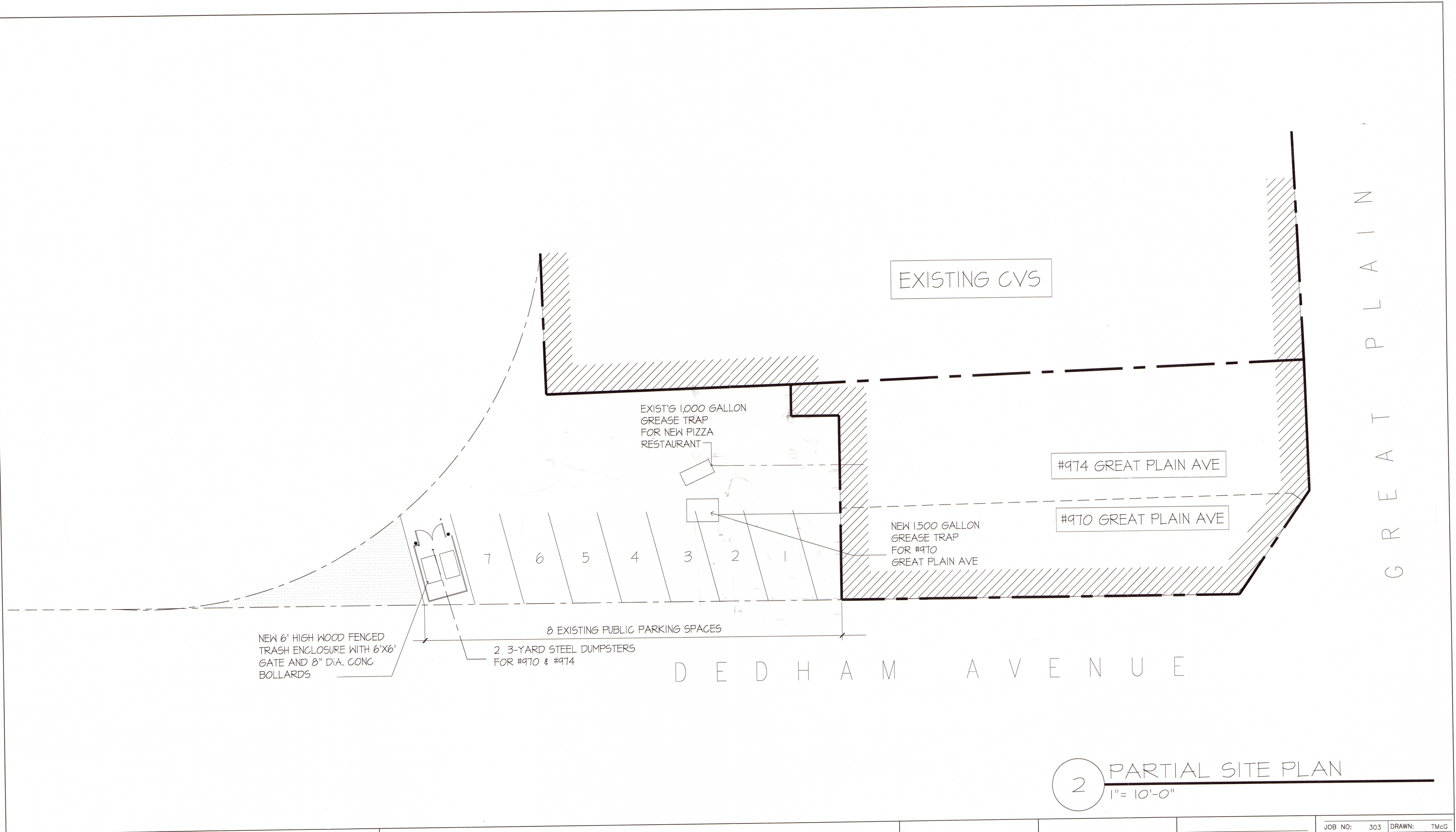




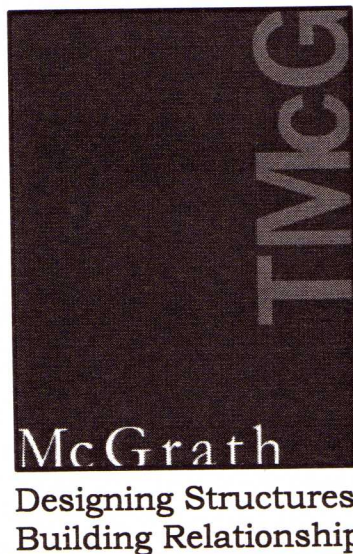






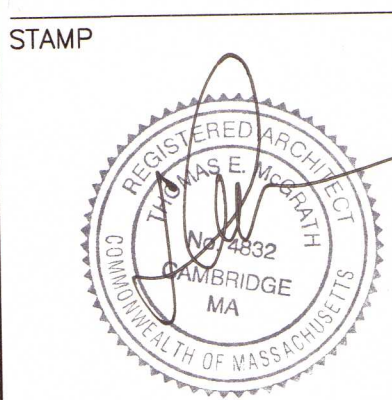


2 PARTIAL SITE PLAN
1" = 10'-0"



Thomas McGrath Architects, Inc.
180 Franklin Street
Cambridge, Ma. 02139
(p) 617.868.8999
(f) 617.497.6988
(e) mail@TMcGarchitects.com

As-Built Plan of
NEEDHAM VILLAGE FISH
970 Great Plain Avenue Needham, Ma.
for Greg Jacobs



NO.	REVISION	DATE

DRAWING TITLE
**AS-BUILT
SITE
PLAN**

JOB NO: 303	DRAWN: TMcG
FILE:	CHECKED:
DATE: 11.15.07	SCALE: NOTED
SHEET NO.	
S-1	
COPYRIGHT© THOMAS McGRATH ARCHITECTS INC. 2003	

Alexandra Clee

From: DORA FARMHOUSE <eatfarmhouse@gmail.com>
Sent: Thursday, March 24, 2022 10:45 AM
To: Alexandra Clee
Subject: Re: Request for comment - Farmhouse Outdoor dining

Yes

Dora Tavel-Sanchez Luz
Proprietress of the farmhouse and buttercup

On Mar 24, 2022, at 10:44 AM, Alexandra Clee <aclee@needhamma.gov> wrote:

Thanks. To be clear, do you intend to use all your indoor seats during the winter seats and revert to the 76 inside / 58 outside during the outdoor dining seating?

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: DORA FARMHOUSE <eatfarmhouse@gmail.com>
Sent: Wednesday, March 23, 2022 4:45 PM
To: Alexandra Clee <aclee@needhamma.gov>
Subject: Re: Request for comment - Farmhouse Outdoor dining

We will have 76 seats inside and 58 outdoors

Dora Tavel-Sanchez Luz
Proprietress of the farmhouse and buttercup

On Mar 23, 2022, at 2:49 PM, Alexandra Clee <aclee@needhamma.gov> wrote:

Thanks so much.

Also, did you get my email about the Design Review Board Monday?

Thanks!

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
[//www.needhamma.gov/planning](http://www.needhamma.gov/planning)

From: DORA FARMHOUSE <eatfarmhouse@gmail.com>
Sent: Wednesday, March 23, 2022 2:46:51 PM
To: Kimberly Duhaime <kimmie.eatfarmhouse@gmail.com>; gabriel sanchez <115gabrielsanchez@gmail.com>; Alexandra Clee <aclee@needhamma.gov>
Subject: Re: Request for comment - Farmhouse Outdoor dining

58 is correct

Im meeting w gabriel at 4 to discuss the other matter

Dora Tavel-Sanchez Luz
Proprietress of the farmhouse and buttercup

On Mar 23, 2022, at 2:38 PM, DORA FARMHOUSE
<eatfarmhouse@gmail.com> wrote:

Handle please 911

Dora Tavel-Sanchez Luz
Proprietress of the farmhouse and buttercup

Begin forwarded message:

From: Alexandra Clee <aclee@needhamma.gov>
Date: March 23, 2022 at 12:26:18 PM EDT
To: eatfarmhouse@gmail.com
Cc: Lee Newman <LNewman@needhamma.gov>, Myles Tucker <mtucker@needhamma.gov>
Subject: Fwd: Request for comment - Farmhouse Outdoor dining

Hi Dora, I'm reaching out to let you know that the building commissioner found an issue regarding the number of seats you are proposing to have total with respect to the number/type of bathrooms. Given the bathroom fixture configuration, comma your total number of seats would have to be 135.. You could Request to reduce the number of indoor seats during the outdoor dining season if you would like. Please send

some sort of communication either by email or letter that lets us know how you propose to manage this.

Also, your outdoor dining plan and your application state 2 different numbers of indoor seats, specifically 58 and 64. Please confirm which is the correction number. We were assuming 58 since that's what the seating plan shows.

Thank you!

Alex

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
[//www.needhamma.gov/planning](http://www.needhamma.gov/planning)

From: David Roche <droche@needhamma.gov>
Sent: Wednesday, March 23, 2022, 12:08 PM
To: Lee Newman <LNewman@needhamma.gov>
Cc: Alexandra Clee <aclee@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

Lee,

We would limit that occupancy to 135 based on the fixture count. I spoke with Latina this morning and the actually removed tables and chairs inside and there occupancy will remain at 99 total.

Dave

From: Lee Newman <LNewman@needhamma.gov>
Sent: Wednesday, March 23, 2022 10:13 AM
To: David Roche <droche@needhamma.gov>
Cc: Alexandra Clee <aclee@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

Dave,

I have attached the outdoor seating plan which also shows the bathroom configuration. The plan shows 1 fixture in the men's room and 2 fixtures in the women's bathroom.
Does this meet the plumbing code for a facility with 158 seats?

Lee

From: David Roche <droche@needhamma.gov>
Sent: Wednesday, March 23, 2022 9:04 AM
To: Lee Newman <LNewman@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

They really need the architect to check the Plumbing fixture counts based on the new occupancy, most of these small restaurants have small bathrooms.

Dave

From: Lee Newman <LNewman@needhamma.gov>
Sent: Tuesday, March 22, 2022 5:57 PM
To: Alexandra Clee <aclee@needhamma.gov>; David Roche <droche@needhamma.gov>
Subject: RE: Request for comment - Farmhouse Outdoor dining

Just a quick follow-up. The outdoor seating plan shows 58 seats and the application states 64 seats. I think the ask is 58 seats plus the 100 in the restaurant for a total of 158. Not sure if 6 seats makes a difference.

Lee

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, March 22, 2022 4:00 PM
To: David Roche <droche@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>
Subject: FW: Request for comment - Farmhouse Outdoor dining

Dave,

Regarding the application on farmhouse for outdoor dining, can you reply and let us know if there is any bathroom trigger with this application. The restaurant is permitted to have 100 seats indoors and requests 64 outdoor dining seats.

This is on our Planning Board agenda for Tuesday night, so we would appreciate a reply by tomorrow, if possible.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: Alexandra Clee
Sent: Tuesday, March 1, 2022 5:11 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Farmhouse Outdoor dining

Dear all,

We have received the attached application materials for the proposal to for Farmhouse Restaurant to utilize the parking lot behind the building for seasonal outdoor dining. More information can be found in the attachments.

The Planning Board has scheduled this matter for March 28, 2022. Please send your comments by Wednesday March 23, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2007-04, and an application under Section 6.9 of the Zoning by-Law for outdoor dining.
2. Photographs
3. Plan entitled "Proposed Patio Layout Plan," prepared by Spalding Tougias Architects, Inc., dated February 8, 2022, and a second Sheet entitled "Rendering" dated February 8, 2022. (please note, the same two pages repeat in the attachment).

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Dennis Condon](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - Farmhouse Outdoor dining
Date: Friday, March 4, 2022 10:10:50 AM
Attachments: [image001.png](#)
[image002.png](#)

Hi Alex,
The Fire Dept. is okay with this proposal.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, March 1, 2022 5:11 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Farmhouse Outdoor dining

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Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Cc: [Lee Newman](#)
Subject: RE: Request for comment - Farmhouse Outdoor dining
Date: Wednesday, March 23, 2022 11:08:08 AM
Attachments: [image002.png](#)
[image003.png](#)

Alex –

The Public Health Division reviewed the request for this increase in outdoor seating for Farmhouse Restaurant. Here are our comments noted below -

- Do to the fact that this restaurant currently has 100 seats, according to our food permit records, and they are planning on permanently add an additional 64 outdoor seats, this will bump them up to a higher annual food permit fee. Here is our current fee list - https://needhamma.gov/DocumentCenter/View/22280/BOH-COVID-Fee-list_OCT-9-2020_as-enacted. So they will be bumped up to the >150 seats, which puts them at a higher food permit fee rate.
- They must continue to maintain the exterior area in a clean and sanitary condition, as not to attract the risk of pests. They must also continue to maintain clean and sanitary dumpsters (both trash and recycling) and compost areas, and maintain their routine pick-up/service schedules, and increase those schedules if any overflow issues are observed.
- They must continue to have a routine interior and exterior pest control service schedule, and be willing to increase this pest service if any increase in pest issues arise.

Please let me know if you need any additional information from us on that.

Thanks,



TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health



please consider the environment before printing this email

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[Follow Needham Public Health on Twitter!](#)

From: Alexandra Clee <aclee@needhamma.gov>

Sent: Tuesday, March 1, 2022 5:11 PM

To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>

Subject: Request for comment - Farmhouse Outdoor dining

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The Planning Board has scheduled this matter for March 28, 2022. Please send your comments by Wednesday March 23, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2007-04, and an application under Section 6.9 of the Zoning by-Law for outdoor dining.
2. Photographs
3. Plan entitled "Proposed Patio Layout Plan," prepared by Spalding Tougias Architects, Inc., dated February 8, 2022, and a second Sheet entitled "Rendering" dated February 8, 2022. (please note, the same two pages repeat in the attachment).

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov



PLANNING DIVISION
Planning & Community Development

AMENDMENT TO DECISION
March 28, 2022

MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Eat Farmhouse LLC 970 Great Plain Avenue, Needham, MA 02492
Application No. 2007-04

(Original Decision dated May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Dora Tavel-Sanchez Luz, Manager of Eat Farmhouse LLC, (hereinafter referred to as the Petitioner) for property located at 970 Great Plain Avenue, Needham, Massachusetts, 02492. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 63 containing .45 acres in the Center Business Zoning District and the Needham Center Overlay District, Sub-District A.

This decision is in response to an application submitted to the Board on February 15, 2022, by the Petitioner to amend the decision by the Board dated May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law), (2) a Special Permit Amendment to Major Project Site Plan Review Special Permit No. 2007-04, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to permit up to 58 outdoor seats by the Farmhouse Restaurant abutting the municipal parking lot and within the parking spaces of the private parking lot and to further reduce the number of indoor seats provided at the restaurant during the outdoor dining season from 100 seats to 76 seats running from April 1 through October 31. The original permit for the restaurant at this location permitted a one hundred (100) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter where the service was provided solely indoors. The original permit further limited the restaurants operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 40 of the 100 seats allocated for table dining. At all other times, the Petitioner was able to utilize all of the 100 seats allocated for table dining.

The outdoor dining proposed is seasonal running from April 1 through October 31. The private parking lot (7 parking spaces located behind the subject restaurant at 970 Great Plain Avenue) upon which the seating is to be located is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes. The Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, required that the 7 parking spaces located on the private lot be available to service all uses within the commercial building located at 970-986 Great Plain Avenue, Needham.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be

published, posted, and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, March 28, 2022, at 7:30 p.m. by Zoom Web ID Number 880 4672 5264. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

EVIDENCE

Submitted for the Board's review were the following exhibits:

- Exhibit 1 - Application for the Amendment to 2007-04 and application under Section 6.9 of the Zoning By-Law, dated February 15, 2022.
- Exhibit 2 - Plan entitled "Proposed Patio Layout Plan," prepared by Spalding Tougias Architects, Inc., dated February 8, 2022, and a second Sheet entitled "Rendering" dated February 8, 2022.
- Exhibit 3 - Plan entitled "Plan of Land, Chestnut Street", prepared by BSC Group, 425 Summer Street, Boston, MA, dated January 15, 1999, recorded in the Norfolk County Registry of Deeds as Plan No. 517 of 1999, Plan Book 467.
- Exhibit 4 - Architectural/As-Built Site Plan entitled "Plan of Village Fish, Great Plain Avenue, Needham, MA", prepared for Greg Jacobs, prepared by Thomas McGrath Architects, Inc., 180 Franklin Street, Cambridge, Mass, 02139, dated November 15, 2007.
- Exhibit 5 - "Easement Deed," Simon II Associates Limited Partnership grants to the Town of Needham, dated May 22, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 222.
- Exhibit 6 - "Easement Deed," Town of Needham grants to Simon II Associates Limited Partnership, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 226.
- Exhibit 7 - "Easement Deed," William Barrett grants to the Town of Needham, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13776, Page 555.
- Exhibit 8 - Photographs.
- Exhibit 9 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated March 23, 2022; IDC to the Board from Tom Ryder dated March xx, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated March 4, 2022; IDC to the Board from Chief John Schlittler, dated March xx, 2022.

Exhibits 1, 2, 3, 4, 5, and 7 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2007-04, dated May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Special Permit No. 2007-04, dated May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019, be amended to permit up to 58 outdoor seats by the Farmhouse Restaurant abutting the municipal parking lot and within the

parking spaces of the private parking lot (within the easement area shown as Easement B on Plan A recorded with Exhibit 4). The Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, 2007, required that the 7 parking spaces located on the private lot be available to service all uses within the commercial building located at 970-986 Great Plain Avenue, Needham, MA. The Petitioner requests permission to locate outdoor dining seating on the 7 private parking spaces seasonally from April 1 through October 31.

- 1.2 The parking lot (located behind 970 Great Plain Avenue) is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes. The Town has independently sought an amendment to the permit on the Chestnut Street parking lot to allow for outdoor dining to occur on parking spaces previously dedicated to municipal parking.
- 1.3 The Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, 2007 for the restaurant at this location permitted a one hundred (100) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The original permit further limited the restaurants operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 40 of the 100 seats allocated for table dining. At all other times, the Petitioner was able to utilize all of the 100 seats allocated for table dining.
- 1.4 The Petitioner is now requesting at this location a one-hundred thirty-four (134) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter during the outdoor dining season running from April 1 through October 31 distributed as follows: Seventy-six (76) seats are to be available for indoor table dining and fifty-eight (58) seats are to be available for outdoor table dining. The Petitioner further proposes to limit the restaurants indoor table operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 40 of the 76 seats allocated for table dining. At all other times, the Petitioner would utilize all of the 76 seats allocated for indoor table dining. The restaurant would return to the seating plan contained within the original permit decision from November 1 through March 31 as described in Section 1.3 above.
- 1.5 Under the By-Law, the parking requirement for a 100-seat restaurant with one take-out station is 44 parking spaces (1 parking space per 3 seats plus 10 parking spaces per takeout station). The Petitioner secured a waiver to reduce the number of required on-site parking spaces for the 100-seat restaurant use from 44 spaces to 0 spaces under the Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, 2007.
- 1.6 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) Required Parking for the seating plan proposed during the outdoor dining season running from April 1 through October 31. Under the By-Law, the parking requirement for a 76-seat restaurant with one take-out station is 36 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority and the provision of additional parking. 30% of 76 seats is 23 seats. As the Petitioner is requesting 58 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. Twenty-three (23) seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 35 seats, which is a waiver of 12 additional parking spaces. Accordingly, a waiver of 48 parking spaces has been requested during the outdoor dining season running from April 1 through October 31. No parking is provided on-site.
- 1.7 Pursuant to Section 5.1.1.3 of the By-Law no change or conversion of a use in a mixed-use structure to a use which requires additional parking shall be permitted unless off-street parking is provided in accordance with Section 5.1.3 for the entire structure or a waiver is granted pursuant to the provisions

of Section 5.1.1.6. As there is no parking associated with the property, a waiver under the provisions of Section 5.1.1.6 is required.

- 1.8 The Petitioner has requested to revise Section 3.1 of the Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, 2007, from the previous: “The use of the subject property shall be of a full-service restaurant of no more than one hundred (100) seats serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The preparation and packaging of food for take-out as an accessory use to a full-service restaurant shall be permitted.” to now say “From November 1 through March 31 the use of the subject property shall be of a full-service restaurant of no more than one hundred (100) seats serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The preparation and packaging of food for take-out as an accessory use to a full-service restaurant shall be permitted. Notwithstanding the above, from April 1 through October 31 a total of one-hundred thirty-four seats (134) are permitted as follows: Seventy-six (76) seats are to be available for indoor dining and fifty-eight (58) seats are to be available for outdoor dining.”
- 1.9 The Petitioner has requested to revise Section 3.2 of the Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, from the previous: “The restaurant shall contain no more than one hundred seats for on-site food consumption and one take-out station. The Petitioner shall limit the restaurant operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 40 of the 100 seats allocated for table dining. At all other times, the Petitioner may utilize all of the 100 seats allocated for table dining.” to now say “The Petitioner shall limit the restaurant operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 40 of the 100 seats allocated for indoor table dining from November 1 through March 31 and to 40 of the 76 allocated to indoor table dining from April 1 through October 31. At all other times from November 1 through March 31, the Petitioner may utilize all of the 100 seats allocated for indoor table dining. At all other times from April 1 through October 31, the Petitioner may utilize all of the 76 seats allocated for indoor table dining.”
- 1.10 No changes to the interior of the restaurant are proposed by this application.
- 1.11 The Petitioner appeared before the Design Review Board on March 28, 2022 and obtained approval for the project.
- 1.12 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Center Business District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.13 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit No. 2007-04, issued by the Needham Planning Board on May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2007-4, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2007-04, dated May 7, 2007, transferred on November 5, 2012, further amended June 4, 2019, are ratified, and confirmed except as modified herein.

- 3.1 A total of 58 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use from April 1 through October 31, within the easement area shown as Easement B on Plan A recorded with Exhibit 4.
- 3.2 The 7 parking spaces located on the private lot upon which the outdoor dining seating is to be located shall be available to service all uses within the commercial building located at 970-986 Great Plain Avenue, Needham, MA, during the off-season months of November 1 through March 31.
- 3.3 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.4 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of “Jersey barriers” as provided by the Town. If said barriers are no longer available, the Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.
- 3.5 Exercise of the rights under this permit are subject to approval by the Select Board as the holder of the parking lot easement at the affected property. See Exhibits 5-7 above.
- 3.6 Section 3.1 of the Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, 2007 is revised to say: “From November 1 through March 31 the use of the subject property shall be of a full-service restaurant of no more than one hundred (100) seats serving meals for consumption on the premises and at tables with service provided by waitress or waiter. The preparation and packaging of food for take-out as an accessory use to a full-service restaurant shall be permitted. Notwithstanding the above, from April 1 through October 31 a total of one-hundred thirty-four seats

are permitted as follows: Seventy-six (76) seats are to be available for indoor dining and fifty-eight (58) seats are to be available for outdoor dining.”

- 3.7 Section 3.2 the Original Major Project Site Plan Special Permit Decision No. 2007-04, dated May 7, 2007 is revised to say: “The Petitioner shall limit the restaurant operation during the weekday lunchtime period (11:00 a.m. - 2:30 p.m.) to 40 of the 100 seats allocated for indoor table dining from November 1 through March 31 and to 40 of the 76 allocated to indoor table dining from April 1 through October 31. At all other times from November 1 through March 31, the Petitioner may utilize all of the 100 seats allocated for indoor table dining. At all other times from April 1 through October 31, the Petitioner may utilize all of the 76 seats allocated for indoor table dining.”
- 3.8 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions, or other agencies, including, but not limited to, the Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.9 No portion of the outdoor dining area, subject to this Amendment, shall be occupied and utilized by the Petitioner until there shall be filed with the Board documentation of a satisfactory inspection by the Building Commissioner of the as-built condition and the Commissioner certification of the project’s compliance with the terms of this Decision.
- 3.10 No other changes were requested nor are permitted through this amendment.
- 3.11 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 28, 2024. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Dora Tavel-Sanchez Luz, Manager of Eat Farmhouse LLC, for Property located at 970 Great Plain Avenue, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

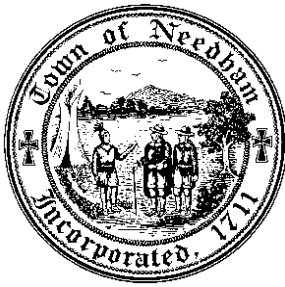
Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Dora Tavel-Sanchez Luz, Manager, Eat Farmhouse LLC
Board of Health
Director, PWD
Design Review Board



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, 5.1.1.6, 5.1.2 and 5.1.3, and Section 4.2 of the Major Project Site Plan Special permit No. 2015-06, the Needham Planning Board will hold a public hearing on Monday, March 28, 2022 at 7:45 p.m. by Zoom Web ID Number 880 4672 5264 (further instructions for accessing are below), regarding the application of the Town of Needham, 1471 Highland Avenue, Needham, MA, for a Special Permit Amendment under Site Plan Review, Section 7.4 of the Needham Zoning By-Law.

The subject property is the Existing Municipal Chapel Street Parking Lot, shown on Assessor's Map No. 51 as Parcel 8 containing .79 acres in the Center Business zoning district. The requested Major Project Site Plan Special Permit would, if granted, permit an amendment of Major Project Site Plan Special Permit No. 2015-06, dated September 8, 2015.

The current permit does not, presently contemplate or authorize the use of parking spaces within the municipal parking lot for seasonal outdoor seating. The requested amendment would allow seasonal outdoor dining to occur within the Municipal Chapel Street Parking Lot, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the Zoning Bylaw from either the Planning Board or the Select Board, as jurisdictionally appropriate.

In accordance with the Zoning By-Law, Section 5.1.1.6, a Special Permit is required to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement) of the Zoning By-Law. In accordance with the Zoning By-Law, Section 7.4, a Major Project Site Plan Review is required.

To view and participate in this virtual meeting on your phone, download the "Zoom Cloud Meetings" app in any app store or at www.zoom.us. At the above date and time, click on "Join a Meeting" and enter the following Meeting ID: 880 4672 5264

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click "Join a Meeting" and enter the following ID: 880 4672 5264

Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: 880 4672 5264

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

The application may be viewed at this link:

<https://www.needhamma.gov/Archive.aspx?AMID=146&Type=&ADID=> . Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at (<http://masspublicnotices.org/>).

NEEDHAM PLANNING BOARD

Needham Times, March 10, 2022 and March 17, 2022.

TOWN OF NEEDHAM
MASSACHUSETTS



500 Dedham Avenue
Needham, MA 02492
781-455-7550

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one)

Major Project

Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property Chapel Street Municipal Parking Lot
Name of Applicant Town of Needham Select Board
Applicant's Address 1471 Highland Avenue
Phone Number (781) 455-7500

Applicant is: Owner _____ Tenant _____
 Agent/Attorney X Purchaser _____

Property Owner's Name Town of Needham
Property Owner's Address 1471 Highland Avenue
Telephone Number (781) 455-7500

Characteristics of Property: Lot Area .79 acres Present Use Municipal Parking Lot
 Map #51 Parcel #8 Zoning District Center Business

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

The Applicant seeks an amendment of Major Project Site Plan Special Permit No. 2015-06, which affects the Chapel Street Municipal Parking Lot, to allow for seasonal outdoor seating within existing parking spaces by restaurants that directly abut the parking lot, provided those restaurants separately apply for and obtain authorization for outdoor seating in accordance with Section 6.9.2 of the Zoning Bylaw.

Signature of Applicant (or representative) _____

Address if not applicant 40 Grove Street Suite 190, Wellesley MA 02482

Telephone # (617) 804-2422

Owner's permission if other than applicant _____

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board _____ Date _____

Hearing Date _____ Parties of Interest Notified of Public Hearing _____

Decision Required by _____ Decision/Notices of Decision sent _____

Granted _____

Denied _____

Fee Paid _____

Fee Waived _____

Withdrawn _____

NOTE: Reports on Minor Projects must be issues within 35 days of filing date.



J. Raymond Miyares Thomas J. Harrington Christopher H. Heep Donna M. Brewer Jennie M. Merrill
Bryan Bertram Ivria Glass Fried Alexandra B. Rubin Ethan B. Dively Maurica D. Miller Rian Rossetti

February 25, 2022

BY EMAIL (lnewman@needhamma.gov)

Planning Board
Town of Needham
500 Dedham Avenue
Needham, MA 02492

**Re: Request to Amend Major Project Site Plan Special Permit No. 2015-06
Seasonal Outdoor Dining in Chapel Street Municipal Parking Lot**

Dear Planning Board members:

The Town of Needham Select Board (the “Petitioner”) respectfully requests an amendment of Major Project Site Plan Special Permit No. 2015-06 (the “Permit”), which covers the Chapel Street Municipal Parking Lot. As the Board members may be aware, three restaurants that abut the Chapel Street Lot—The James, Cook and Bagel’s Best—are expected to pursue permits and licenses necessary to allow seasonal outdoor dining within existing parking spaces in the parking lot pursuant to Section 6.9.2 of the Zoning Bylaw.

The Town of Needham is the owner and/or licensee of the parking spaces that these three restaurants intend to use for seasonal outdoor dining. In recognition of the ongoing COVID-19 pandemic, and the need for our existing restaurants to find additional outdoor spaces for patrons to dine comfortably, the Town is generally supportive of the seasonal outdoor dining that these three restaurants are proposing. The Permit does not, however, presently contemplate or authorize the use of the municipal parking spaces in this lot for seasonal outdoor seating.

Accordingly, the Petitioner respectfully requests that the Planning Board approve an amendment of the Permit to allow seasonal outdoor seating to occur within the Chapel Street Municipal Parking Lot, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board (which may, in its discretion, withdraw such permission and return all parking spaces to their previously-approved state) and (b) all affected restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the Zoning Bylaw from either the Planning Board or the Select Board, as jurisdictionally appropriate.

Planning Board
February 25, 2022
Page 2 of 2

Thank you very much for your attention to this matter, and please let me know if I can provide any additional information.

Sincerely,



Christopher H. Heep

cc: K. Fitzpatrick
M. Tucker

GREAT PLAIN

(County Layout-1925)

AVENUE

FOR REGISTRY USE ONLY

CHAPEL

(Public 50' Wide - Town 1884)

(Public 50' Wide - Town 1928)

STREET

PLAN REFERENCES

1. PLAN OF LAND TITLED: "NEW YORK, NEW HAVEN AND HARTFORD RAILROAD, OFFICE ENGINEER-REAL ESTATE SURVEYS, LAND IN NEEDHAM, MA" AND DATED: MAY 1951 AND RECORDED IN NORFOLK REGISTRY OF DEEDS ON: MAY 12, 1952 FILE-490, BK-3082 PG-19.
2. PLAN OF LAND TITLED: "NEW YORK, NEW HAVEN AND HARTFORD RAILROAD, OFFICE ENGINEER-RIGHT OF WAY DEPARTMENT LAND IN NEEDHAM, MA" AND DATED: DECEMBER 1949 AND RECORDED IN NORFOLK REGISTRY OF DEEDS ON: MAY 29, 1952 FILE-585, BK-3087 PG-275.
3. PLAN OF LAND TITLED: "PLAN OF LAND" BY: BRUNDAGE ENGINEERING SERVICE AND DATED: DECEMBER 1953 AND RECORDED IN NORFOLK REGISTRY OF DEEDS ON: OCTOBER 26, 1954 FILE-1550, BK-3320 PG-547.
4. PLAN TITLED: "PLAN OF LAND IN NEEDHAM" BY ROWLAND H. BARNES & CO. CIVIL ENGINEERS AND DATED: MARCH 30, 1950 AND RECORDED ON JUNE 27, 1950 PLAN NO. 224444A. TITLE NO. 45437
5. PLAN TITLED: "PLAN OF LAND IN NEEDHAM" BY ROWLAND H. BARNES & CO. CIVIL ENGINEERS AND DATED: FEBRUARY 1974 AND RECORDED ON MARCH 1, 1974 PLAN NO. 224444B. TITLE NO. 97453
6. PLAN TITLED: "SUBDIVISION PLAN OF LAND IN NEEDHAM" BY CULLINAN ENGINEERING CO., INC. SURVEYORS AND DATED: SEPTEMBER 30, 1991 AND RECORDED ON MARCH 27, 1992 LAND COURT PLAN NO. 224444C. AND RECORDED IN NORFOLK REGISTRY OF DEEDS ON: DECEMBER 22, 1995 CERT. NO. 145138 BK-726, PG-138.

APPROVED PLANNING BOARD

Approved By: *Alan*
Board On: 9/1/2015

TOWN OF NEEDHAM PLANNING
BOARD DATED: 14/6/2015
DATED

CHAPTER 380 ACTS OF 1966

I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR NEW WAYS ARE SHOWN.

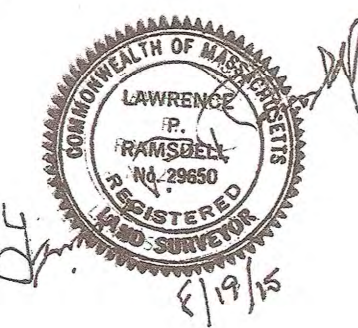
James P. Ramsdell
SIGNED

8/19/15
DATED

I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

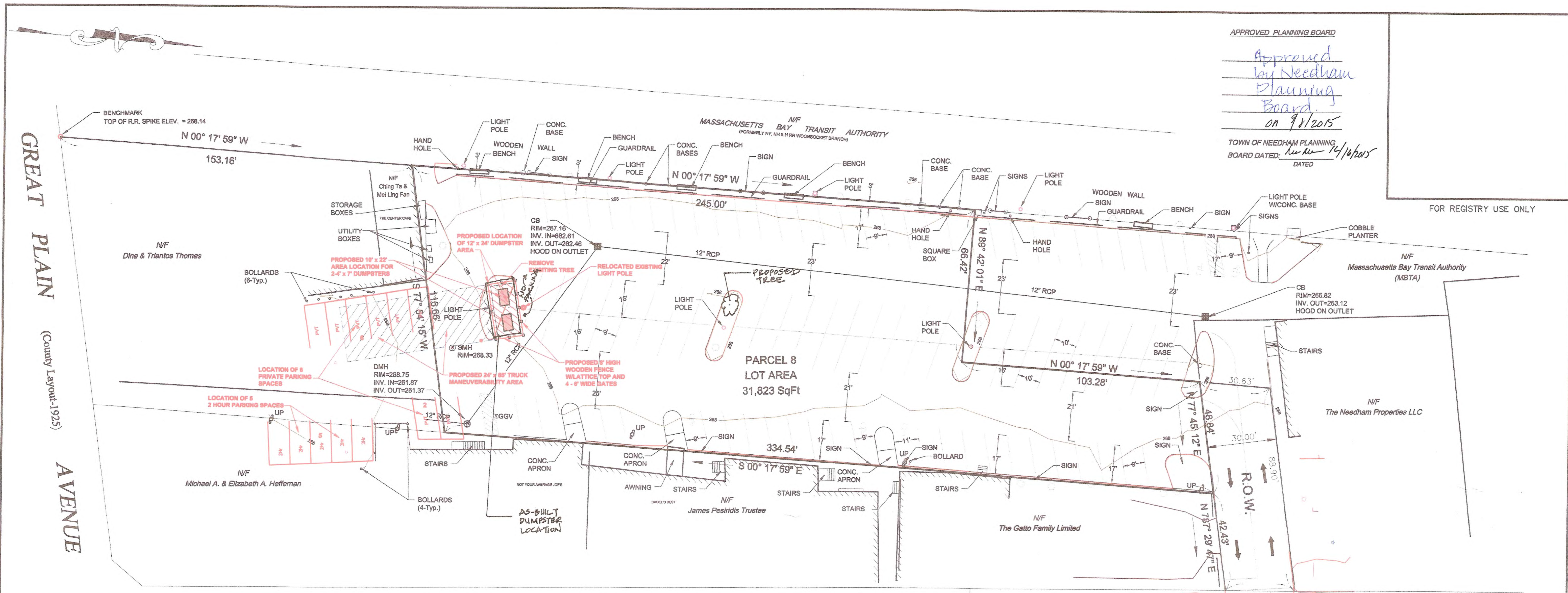
James P. Ramsdell
SIGNED

8/19/15
DATED



Scale 1" = 20' FEET
0 20 40 60 FEET

EXISTING CONDITIONS PLAN CHAPEL STREET PUBLIC PARKING LOT			Survey PAL/DFK
SCALE: 1" = 20' DATE: AUGUST 14, 2015			Draft
PICKERING STREET AND GREAT PLAIN AVENUE NEEDHAM, MA			TGS
Prepared for: ENGINEERING DIVISION DEPARTMENT OF PUBLIC WORKS NEEDHAM, MA 02492			Check ALD/TAR
NEEDHAM DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION			Job. No. CHAPL STREET
500 Dedham Avenue, Needham, MA 02492 (781) 455-7550			Sheet 1 of 1 Dwg. No.



APPROVED PLANNING BOARD

Approved
by Needham
Planning
Board
on 9/1/2015

TOWN OF NEEDHAM PLANNING
BOARD DATED: 11/14/2015
DATED

FOR REGISTRY USE ONLY

ZONING TABLE CHARTS			
ZONING CRITERIA	REQUIRED	EXISTING	PROPOSED
ZONING DISTRICT		CENTER BUSINESS (CB)	CENTER BUSINESS (CB)
MINIMUM LOT AREA	10,000 Sq. Ft.	34,525 Sq. Ft.	34,525 Sq. Ft.
MINIMUM FRONTAGE	90'	CHAPEL ST = 48.84'	48.84'
MINIMUM FRONT YARD SETBACK	0-3'	N/A	N/A
MINIMUM SIDE YARD SETBACK	0	N/A	N/A
MINIMUM REAR YARD SETBACK	0	N/A	N/A
MAXIMUM HEIGHT	35'	N/A	N/A
MAXIMUM FLOOR AREA RATIO	1"	N/A	N/A

* - PRE EXISTING NON-CONFORMING RELATIVE TO FRONTAGE

ZONING TABLE - SECTION 5.1.3				
ITEM	REQUIREMENTS	EXISTING SITE	PROPOSED SITE	COMPLIANT
PARKING LOT ILLUMINATION	AVERAGE 1 FOOT CANDLE WITH CUTOFF FIXTURES	NO	NO	SEEKING WAIVER
LOADING REQUIREMENTS	ADEQUATE OFF STREET LOADING FACILITIES	N/A	N/A	YES
HANDICAPPED PARKING	PARKING SPACES FOR HANDICAPPED INDIVIDUALS AS REQUIRED BY AAB	5	5	SEEKING WAIVER
DRIVEWAY OPENINGS	INGRESS EGRESS LOCATED TO MINIMIZE CONFLICT WITH TRAFFIC ON STREETS	NO	NO	N/A
COMPACT CARS	OFF-STREET PARKING MAY BE DESIGNED FOR MAXIMUM 50% COMPACT CARS	N/A	NONE PROVIDED	SEEKING WAIVER
PARKING SPACE SIZE	EACH SPACE MUST REMAIN 9x18.5' (A1' BUMPER OVERHANG MAY BE INCLUDED)	NO	NO	SEEKING WAIVER
BUMPER OVERHANG	PARKING SPACE SIZE MAY INCLUDE 1' AREA BEYOND THE CURB IN FRONT OR REAR OF SPACE	N/A	N/A	N/A
PARKING SPACE LAYOUT	SPACE SHALL BE DESIGNED TO ALLOW MOVEMENT TO AND FROM SPACE WITHOUT REQUIRING MOVEMENT OF ANOTHER VEHICLE OR BACKING OUT	YES	YES	YES
WIDTH OF MANEUVERING ISLE	90 DEGREE PARKING SHOULD HAVE A MINIMUM OF 24' AISLE WIDTH	NO	21 TO 25	SEEKING WAIVER
PARKING SETBACKS	10' MINIMUM FROM THE STREET LOT LINE OR STREET ROW AND 4 FT. MINIMUM FROM REAR AND SIDE YARD	NO	NO	SEEKING WAIVER
LANDSCAPED AREAS	SETBACKS SHALL BE MAINTAINED AS LANDSCAPED AREAS	NO	NO	SEEKING WAIVER
TREES	1 TREE EVERY 10 SPACES, 1 REQUIRED	YES	2 REQUIRED / 4 PROVIDED *	SEEKING WAIVER
LOCATION	OFF-STREET PARKING ON SAME LOT AS PRINCIPAL USE	N/A	N/A	N/A
BICYCLE RACKS	ACCOMMODATE 1 BICYCLE PER 20 SPACES	0	0	SEEKING WAIVER

* - 10 TREES PROVIDED AT PROPERTY LINE AND MBTA PARKING LOT

PROPOSED PROJECT BOUNDARY - PARKING			
PARKING SPACES	EXISTING	PROPOSED SITE	CHANGE
OFF STREET	115 PRE-EXISTING NONCONFORMING PARTIALLY ON SITE	113 - DELINEATED	-2
HANDICAPPED	5	5	0
TOTAL	120	118	-2

PROPOSED PROJECT BOUNDARY - LANDSCAPING AREA FOR PARKING				
PARKING SPACES	EXISTING IMPERVIOUS	PROPOSED IMPERVIOUS	EXISTING LANDSCAPED	PROPOSED LANDSCAPED
TOTAL PROJECT BOUNDARY AREA= 31,823 SqFt	30,872 SqFt IN PARCEL LOT	30,872 SqFt IN PARCEL LOT	1,151 SqFt IN PARCEL LOT	884 SqFt IN PARCEL LOT
	30,295 SqFt IN PARKING LOT	30,562 SqFt IN PARKING LOT	1,528 SqFt IN PARKING LOT	1,261 SqFt IN PARKING LOT
	EXISTING PERVIOUS	PROPOSED PERVIOUS		
TOTAL PERVIOUS PAVED AREA	1,151 SqFt IN PARCEL LOT	884 SqFt IN PARCEL LOT		
	1,528 SqFt IN PARKING LOT	1,261 SqFt IN PARKING LOT		

NOTE: REMOVING TREES AND GRASS AND REPLACING WITH PERVIOUS PARKING AREA TO MEET STORMWATER INFILTRATION REQUIREMENTS.

CHAPEL

(Public 50' Wide - Town 1884)

(Public 50' Wide - Town 1928)

STREET

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- PLAN TITLED: "EXISTING CONDITIONS PLAN - CHAPEL STREET PUBLIC PARKING LOT", BY NEEDHAM ENGINEERING DIVISION AND DATED: AUGUST 14, 2015

CHAPTER 380 ACTS OF 1966

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Anthony J. DelGaudio
SIGNED
8/14/15
DATED

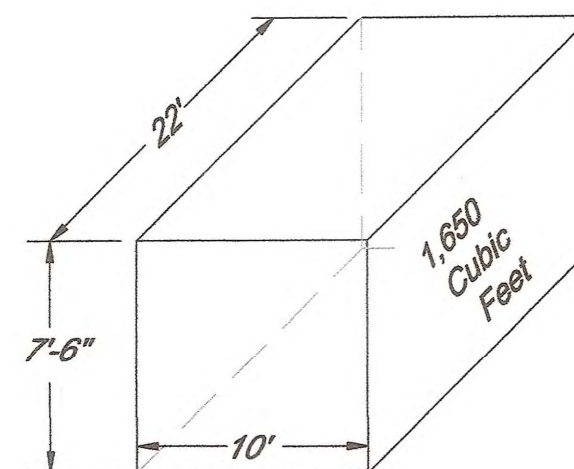
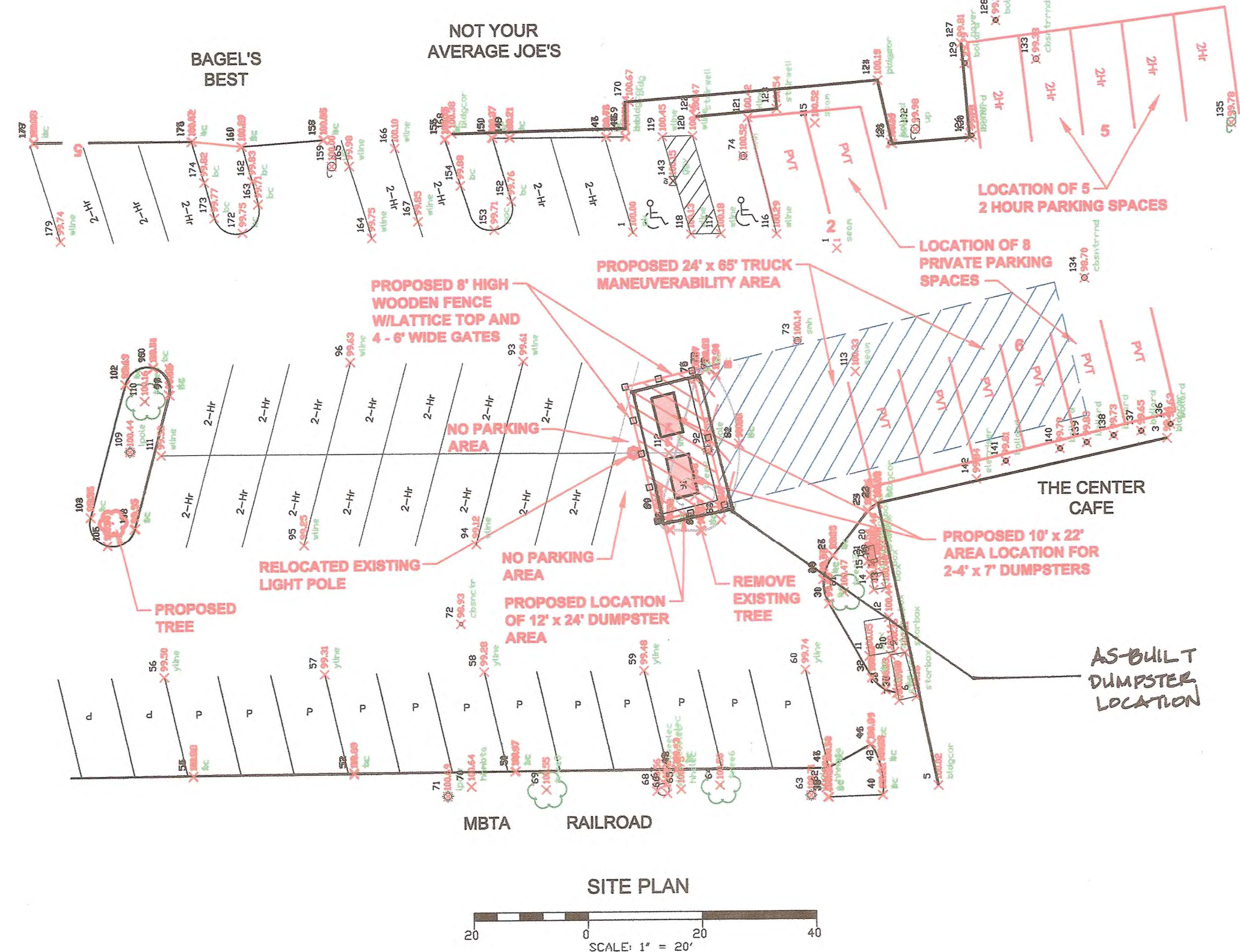
I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

Anthony J. DelGaudio
SIGNED
8/14/15
DATED

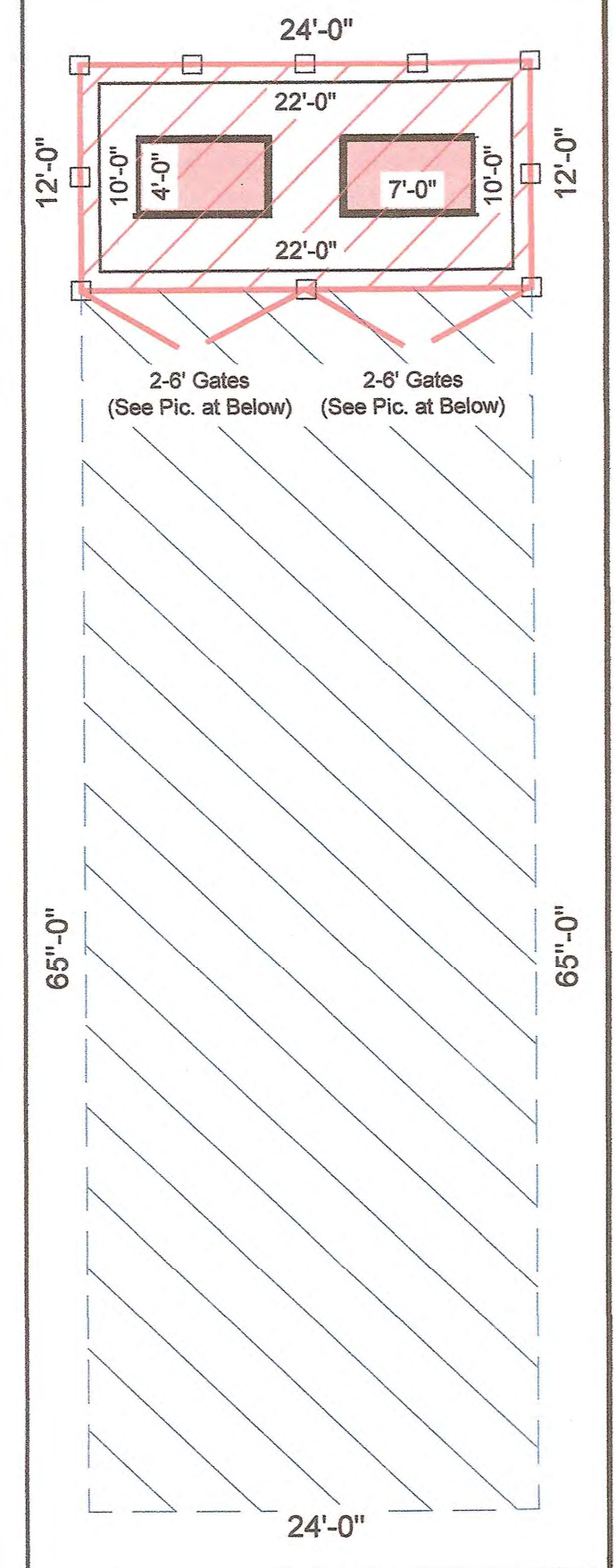


Scale 1" = 20' FEET
20 0 20 40 60 FEET

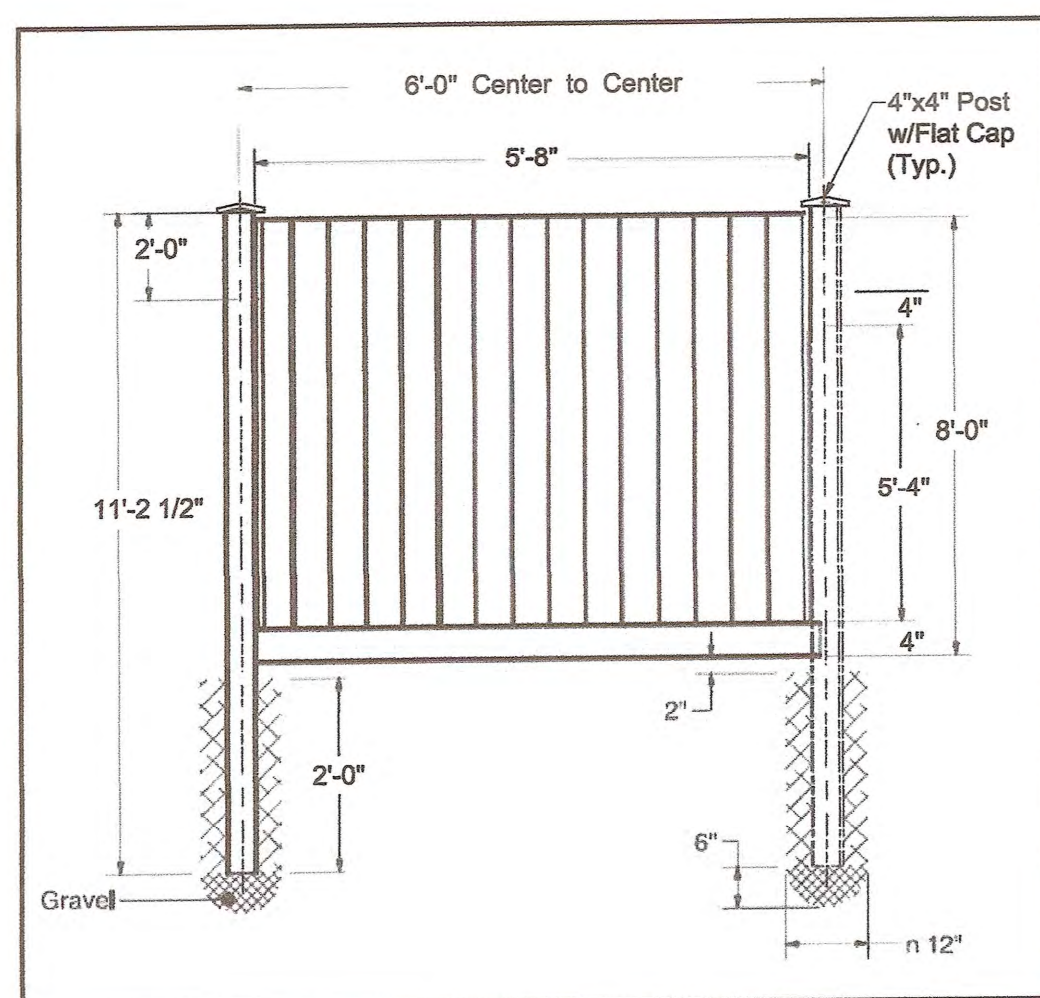
PROPOSED DUMPSTER LOCATION CHAPEL STREET PUBLIC PARKING LOT			Survey PAL/DFK Draft TGS
SCALE: 1" = 20' DATE: AUGUST 14, 2015			Check ALD/TAR
PICKERING STREET AND GREAT PLAIN AVENUE NEEDHAM, MA			Job. No. CHAPEL STREET
Prepared for: ENGINEERING DIVISION DEPARTMENT OF PUBLIC WORKS NEEDHAM, MA 02492			Sheet 1 of 1 Dwg. No.
NEEDHAM DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION 500 Dedham Avenue, Needham, MA 02492 (781) 455-7550			



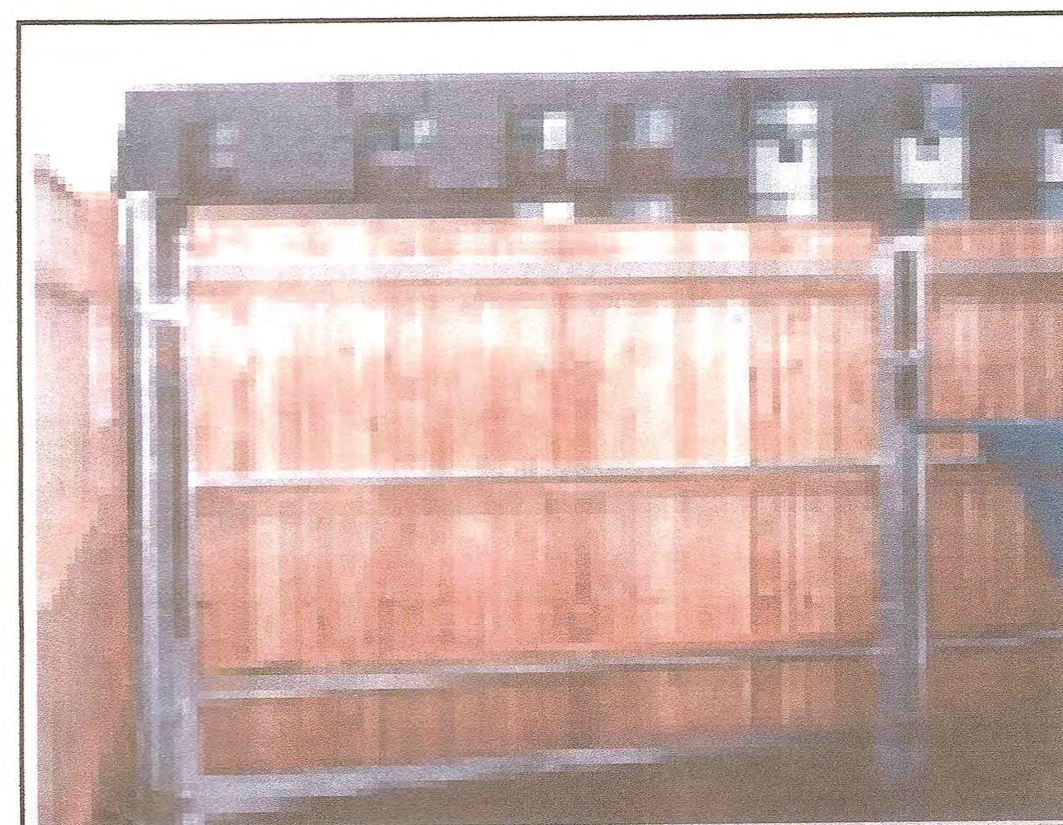
CUBIC FEET
OF
DUMPSTER AREA
NOT TO SCALE



DUMPSTER AND MANEUVERABILITY
AREA DETAIL
NOT TO SCALE



CEDAR STOCKADE FENCE
NOT TO SCALE

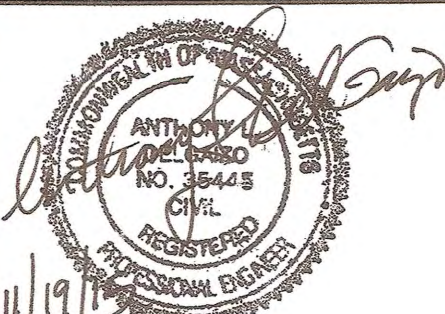


CEDAR GATE with STEEL FRAME
NOT TO SCALE

APPROVED BY NEEDHAM
PLANNING BOARD

Approved
by Needham
Planning
Board
on 9/8/2015

DATE: 12/16/2015

			PROPOSED DUMPSTER LOCATION CHAPEL STREET MUNICIPAL PARKING LOT SCALE: 1"=20 DATE: AUGUST 14, 2015	Survey DFK/PDC Draft TGS Check TAR/ALD Job. No. CHAPEL STREET
11/19/15	ADDED PROPOSED TREE LOCATION CALLED OUT NO PARKING AREAS	TGS		
8/6/15	Added Fence Details	TGS		
DATE	REVISION	BY	Prepared for: NEEDHAM ENGINEERING DEPARTMENT PSA BUILDING NEEDHAM, MA 02492	Sheet 1 OF 1 Dwg. No.
				
NEEDHAM DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION 500 Dedham Avenue, Needham, MA 02492 (781) 455-7550				

SECOND LICENSE AND MEMORANDUM OF UNDERSTANDING

WHEREAS Elizabeth Heffernan, Trustee of the Heffernan Associates Nominee Trust (hereinafter "Heffernan"), are the owners of 1013 Great Plain Avenue, Needham, MA; and

WHEREAS Triantos and Dina Thomas (hereinafter "Thomas") are the owners of 1027 Great Plain Avenue, Needham, MA; and

WHEREAS Heffernan, Thomas and the Town of Needham, a municipal corporation with a principal place of business at 1471 Highland Avenue, Needham, MA (hereinafter referred to as "the Town") previously entered into a License and Memorandum of Understanding dated October 6, 2015; and

WHEREAS this License and Memorandum of Understanding established, among other things, that the Town would make space available within the Chapel Street parking lot for a consolidated dumpster enclosure available for use by Heffernan and Thomas' restaurant tenants, and that in return Thomas would allow use of five (5) private parking spaces located on 1027 Great Plain Avenue by the Town and the general public as part of the Chapel Street parking lot; and

WHEREAS Henry Hospitality, Inc. d/b/a The James ("The James") operates the restaurant located at 1027 Great Plain Avenue, Needham, MA; and

WHEREAS this License and Memorandum of Understanding provided that it would be effective for a term of five (5) years commencing on the date of its execution by all parties; and

WHEREAS notwithstanding the foregoing, the parties wish to continue the arrangement memorialized in the License and Memorandum of Understanding, whereby the Town makes space available to Heffernan, Thomas, and their respective tenants for use as a consolidated dumpster, and Thomas grants to the Town a license to use the five (5) spaces behind The James located at 1027 Great Plain Avenue as part of the Chapel Street parking lot, except as otherwise expressly provided for herein.

NOW THEREFORE, this Second License and Memorandum of Understanding sets forth the respective rights and responsibilities of the parties.

1. The Town grants a license to Heffernan and Thomas to maintain and use the existing consolidated dumpster enclosure, in its existing location within the Chapel Street Parking Lot, as shown on Exhibit A.
2. Heffernan and Thomas will have their tenants commit to using the consolidated dumpster enclosure exclusively, rather than using separate dumpsters of their own.
3. Heffernan and Thomas will be responsible for maintaining the enclosure. Heffernan and Thomas further agree to remove any snow and/or ice in front of the dumpster enclosure so as to assure access.

4. The dumpsters will be two 8-yard containers. One will be for cardboard and the other one for mixed trash.
5. Heffernan, Thomas, and The James will continue to contact businesses in other buildings abutting the Chapel Street lot to encourage their participation in the consolidation project.
6. In exchange for this second license to use public parking spaces for the consolidated dumpster enclosure, Thomas agrees that the owners of two of his tenants, The James and the Rice Barn, or succeeding tenants in their space, will park up to six cars buddy-style between the two businesses—the dumpsters of the restaurants having been removed from the area under the dumpster consolidation arranged for under the initial License and Memorandum of Understanding.
7. Thomas grants to the Town a license that the five (5) spaces behind The James may be used by the public and marked for two-hour public parking in a manner agreeable to the parties for so long as this agreement is in effect.
8. The Town may, in its discretion, authorize The James to use the five (5) licensed parking spaces for seasonal outdoor seating for such period or periods of time as the Town may specify. Such use shall be subject to all necessary permitting and licensing requirements from the Town and the Commonwealth, and shall be subject to payment of the Town's standard licensing fees for use of public parking spaces. Such authorization, if granted, shall not waive or otherwise affect the Town's license to use the five (5) parking spaces, and the Town may reinstate its use of those spaces pursuant to this license at any time that it has not authorized seasonal outdoor seating to occur.
9. The James will work with other restaurants to try to consolidate the pickup of recycled oil.
10. The term of this license shall be for five (5) years commencing on the day of its execution by all parties, and it shall automatically renew for successive five (5) year terms unless a party provides written notice of non-renewal prior to the expiration of the current term.
11. Heffernan and Thomas, either directly or through their participating tenants, shall procure and maintain, during the term of this License Agreement, comprehensive general liability insurance naming the other and the Town as additional named insureds, subject to limits of at least \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and \$1,000,000 property damage. The Town shall procure and maintain, during the term of this License Agreement, comprehensive general liability coverage of \$100,000 each occurrence and \$200,000 in the aggregate for bodily injury and \$100,000 for property damage. The parties shall provide the other with a certificate of insurance.
12. This License is subject to termination by the parties to this agreement for a breach of the terms of this license that has not been corrected within ninety (90) days of written notice of the breach and demand to remedy it, delivered to the Licensee. Notice is delivered by leaving a copy thereof with the Town Manager, 1471 Highland Avenue, Needham MA

and to Thomas at 198 Curve Street, Dedham MA and to Heffernan at 99 Whitman Road, Needham MA.

13. Upon termination of this agreement, Heffernan and Thomas shall remove the dumpsters and enclosure from the licensed premises if requested to do so by the Town.

14. It is agreed that the licensed areas are and shall remain the property of the licensor and the licensee shall not make any improvements on, alter or remove any part of the premises without the licensors express prior written consent.

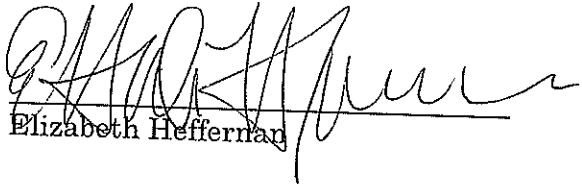
15. The parties shall not assign the License Agreement or any rights hereunder without the prior written consent of the others.

16. This document forms the entire agreement between the parties and there are no other agreements between the parties. Any amendment or modification to this License Agreement must be in writing and signed by a person with the authority to bind the party.

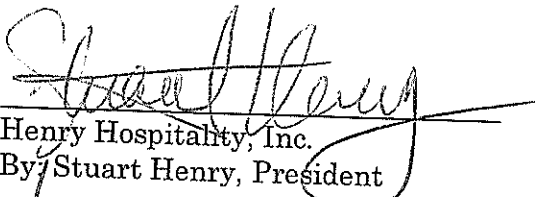
17. The parties agree that any action or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the District Court of Northern Norfolk or Norfolk Division or the Superior Court Department of the Massachusetts Trial Court and no other court or forum, subject to appeals to the Massachusetts Appeals Court and the Massachusetts Supreme Judicial Court. It is further agreed that the parties to this contract hereby waive their rights to a jury trial.

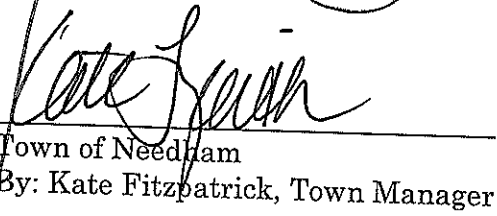
18. LICENSE ONLY: The parties acknowledge that this is a License Agreement and the rights to use of the Parking Area hereunder shall be deemed to be a license only and shall not be construed to be a lease, joint venture, partnership or as evidencing any relationship between the parties other than as Licensee and Licensor. No interest in real property is hereby conveyed by the parties.

WITNESS OUR HANDS AND SEALS THIS 2 DAY OF ^{March}~~FEBRUARY~~, 2022:


Elizabeth Heffernan 3-10-22


Triantos and Dina Thomas 3-11-22


Henry Hospitality, Inc.
By: Stuart Henry, President


Town of Needham
By: Kate Fitzpatrick, Town Manager

From: [Dennis Condon](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - amendment to Chapel Street parking lot - outdoor dining
Date: Friday, March 4, 2022 10:10:00 AM
Attachments: [image001.png](#)
[image002.png](#)

Hi Alex,
The Fire Dept. is okay with this amendment.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, March 1, 2022 5:14 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - amendment to Chapel Street parking lot - outdoor dining

Dear all,

I have received the attached application materials for a proposed Amendment to the existing Special Permit on the municipal parking lot on Chapel Street.

The current permit does not, presently contemplate or authorize the use of parking spaces within the municipal parking lot for seasonal outdoor seating. The requested amendment would allow

seasonal outdoor dining to occur within the Municipal Chapel Street Parking Lot, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the Zoning Bylaw from either the Planning Board or the Select Board, as jurisdictionally appropriate. (Please note – we just did something similar at the Chestnut Street lot; this is not a duplicate. :)).

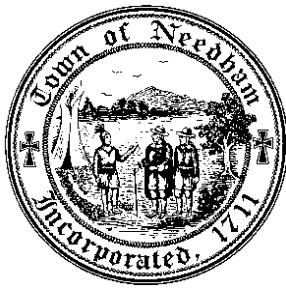
The Planning Board hearing on this matter has been scheduled for March 28, 2022. Please send your comments by Wednesday March 23, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for the Amendment to 2015-06 to seasonal outdoor dining to occur within the Chapel Street municipal parking lot.
2. Memorandum from Attorney Christopher Heep, dated February 25, 2021.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov



PLANNING DIVISION
Planning & Community Development

DECISION AMENDMENT

March 28, 2022

(Original Decision dated September 8, 2015)

**Major Project Site Plan Special Permit No. 2015-06
Town of Needham
Existing Municipal Parking Lot on Chapel Street**

DECISION of the Planning Board of the Town of Needham, Massachusetts, (hereinafter together with any entity succeeding the powers of said Planning Board referred to as the “Board”) on the petition of the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, (to be referred to hereinafter as the “Petitioner”), for property at the location of the Existing Municipal Chapel Street Parking Lot, shown on Assessor’s Map No. 51 as Parcel 8 containing .79 acres in the Center Business zoning district.

This decision is in response to an application submitted to the Board on February 15, 2022, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); and a Special Permit under Section 5.1.1.6, of the By-Law to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement).

The requested Major Project Site Plan Review Special Permit would, if granted, permit an amendment of Major Project Site Plan Special Permit No. 2015-06 dated September 8, 2015. The decision concerns the Town of Needham’s municipal parking lot located on Chapel Street.

The current permit does not, presently contemplate or authorize the use of parking spaces within the municipal parking lot for seasonal or year-round outdoor seating. The requested amendment would allow seasonal or year-round outdoor dining to occur within the Chapel Street municipal parking lot, provided that (a) such seasonal or year-round outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert, on Monday, March 28, 2022 at 7:45 p.m. by Zoom Web ID Number 880 4672 5264. Board members Paul S. Alpert, Adam Block, Martin Jacobs, Jeanne S. McKnight, and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submissions upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board’s deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1 - Application for the Amendment to 2015-06 to seasonal outdoor dining to occur within the Chapel Street municipal parking lot., dated December 21, 2021.
- Exhibit 2 - Letter to Planning Board Members from Attorney Christopher H. Heep, dated February 25, 2021.
- Exhibit 3 - Detail Plan entitled “Proposed Dumpster Location, Chapel Street, Municipal Parking Lot”, prepared by the Needham Engineering Department, PSAB Building, 500 Dedham Avenue, Needham, MA, dated August 14, 2015.
- Exhibit 4 - Proposed Site Plan entitled “Proposed Dumpster Location, Chapel Street, Public Parking Lot”, prepared by the Needham Engineering Department, PSAB Building, 500 Dedham Avenue, Needham, MA, dated August 14, 2015.
- Exhibit 5 - Second License and Memorandum of Understanding between Elizabeth Heffernan, Trustee of the Heffernan Associates Nominee Trust (owner of 1013 Great Plain Avenue), Triantos and Dina Thomas (owners of 1027 Great Plain Avenue), and the Town of Needham dated March 2, 2022.
- Exhibit 6 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated March xx, 2022; IDC to the Board from Tom Ryder dated March xx, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated March 4, 2022.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board found and concluded that:

- 1.1 The subject property is located in the Center Business zoning district and is the location of the Existing Municipal Chapel Street Parking Lot, shown on Assessor’s Map No. 51 as Parcel 8 containing .79 acres. The property is owned by the Petitioner.
- 1.2 The subject property is currently occupied by a municipal parking lot, pursuant to the approval of an Amendment to the Major Project Site Plan Special Permit No. 2015-06, dated September 8, 2015. Section 3.3 of said amendment states, in part, “A total of 118 parking spaces shall be provided at all times.”
- 1.3 The Petitioner is proposing to amend the prior decision to allow seasonal or year-round outdoor dining to occur within the Chapel Street municipal parking lot, provided that (a) such seasonal or year-round outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate. The Petitioner notes that the total number of available spaces available in the municipal parking lot will be reduced to accommodate such seasonal or year-round outdoor seating.
- 1.4 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the

application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhoods inherent use.

- 1.5 The Board finds that all its findings and conclusions contained in Major Project Site Plan Special Permit No. 2015-06, dated September 8, 2015, is applicable to this Amendment, except as specifically set forth in this Amendment.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law; and a Special Permit under Section 5.1.1.6, of the By-Law to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement); subject to and with the benefit of the following Plan modifications, conditions, and limitations.

CONDITIONS AND LIMITATIONS

- 2.1 Major Project Site Plan Special Permit No. 2015-0-6, issued to the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated September 8, 2015, is hereby incorporated by reference, and all plans, conditions, and limitations therein approved remain in full force and effect except as further modified by this decision.
- 2.2 Outdoor dining (whether seasonally or year-round, at the discretion of the Select Board) is hereby permitted within the Chapel Street municipal parking lot, provided that (a) such seasonal or year-round outdoor seating is conducted with the permission of the Select Board and (b) the restaurants wishing to provide such seasonal or year-round outdoor seating obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.
- 2.3 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to March 28, 2024. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham. Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this decision with the Needham Town Clerk.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Major Site Plan Special Permit Amendment Decision shall not take effect until the Applicant has delivered written evidence of recording to the Board.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, for Property at the location of the Existing Municipal Parking Lot on Chapel Streets, shown on Assessor's Map No. 51 as Parcel 8, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

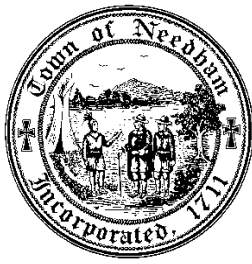
Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Christopher Heep, Attorney

Board of Health
Director, PWD
Design Review Board



PLANNING & COMMUNITY
DEVELOPMENT
PLANNING DIVISION

LEGAL NOTICE
Planning Board,
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.5, the Needham Planning Board will hold a public hearing on Monday, March 28, 2022 at 8:00 p.m. by Zoom Web ID Number 880 4672 5264 (further instructions for accessing are below), regarding a certain proposed amendment to the Needham Zoning By-Law to be considered by the Spring 2022 Special Town Meeting.

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: 880 4672 5264

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click “Join a Meeting” and enter the following ID: 880 4672 5264

**Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or
+1 253 215 8782 Then enter ID: 880 4672 5264**

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

Members of the public attending this meeting virtually will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment through Zoom or through calling in.

Persons interested are encouraged to call the Planning Board office (781-455-7550) for more information. A copy of the complete text of the proposed article is detailed below. The article designation given has been assigned by the Planning Board for identification purposes only. An article number will subsequently be established by the Select Board for the Warrant.

Article 1 1PB: Amend Zoning By-Law – Schedule of Use Regulations Brew Pub and Microbrewery

To see if the Town will vote to amend the Zoning By-Law as follows:

1. In Section 1.3 Definitions, by adding the following after the existing definition of “Basement” and before the existing definition of “Building (or part or parts thereof)”:

Brew Pub – Eat-in restaurant, licensed under relevant local, state and federal statutes to produce and sell malt beverages at the location, whose primary business is the preparation and sale of food to be consumed on the premises, and whose accessory business is the production of malt beverages, including beer, ales and hard ciders, which may include packaging of such beverages and on-premises sale of such beverages for consumption on or off the premises. Malt beverages produced on the premises, may be sold to other establishments in compliance with relevant state and federal statutes and regulations, but such sales shall not exceed 40 percent of the establishment’s production capacity. Accessory outdoor dining and live indoor entertainment is allowed if otherwise permitted in the zoning district in which the brew pub is located, if and as permitted by its license.

2. In Section 1.3 Definitions, by adding the following after the existing definition of “Medical Services Building,” and before the existing definition of “Mixed-Use Building”:

Microbrewery - A facility, licensed under relevant local, state and federal statutes, for the production and packaging of malt, wine, or hard cider beverages for retail sale and for consumption on or off the premises or wholesale distribution, with a capacity of not more than fifteen thousand (15,000) barrels per year, (a barrel being equivalent to thirty (31) gallons) and which may include as an accessory use preparation and/or sale of food for on premises consumption or for take-out. A tasting room, not to exceed 25 percent of the building's gross square footage, is permitted as an accessory use. Any such facility may provide samples at no charge and limited in size, provided that such sampling is allowed under relevant local, state, and federal statutes, regulations and licenses issued thereunder. The facility may host marketing events, special events, and/or factory tours. The facility may include as an accessory use an eat-in or take-out restaurant, including outdoor dining, which may occupy more than half of the area of the facility, and live indoor entertainment if otherwise permitted in the zoning district in which the microbrewery is located, if and as permitted by its license.

3. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately below the row that reads "medical clinic" a new entry, which shall read as follows:

<u>"USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Brew Pub	SP	SP	SP	SP	N"

4. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial, and Industrial-1 Districts, by inserting immediately below the row that reads "medical clinic" a new entry, which shall read as follows:

<u>"USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u> <u>&3</u>	<u>A-1,2</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
Brew Pub	N	N	N	N	N	SP*	N
Microbrewery	N	N	N	N	N	N	SP"

*Applies only to the Industrial District any portion of which is located within 150 feet of the Arbor Street boundary, otherwise N.

5. In Section 3.2.4 Uses in the New England Business Center District, Subsection 3.2.4.2 Uses Permitted by Special Permit, by adding a new paragraph (k) that states "Microbrewery" and new paragraph (l) that states "Brew Pub".
6. In Section 3.2.5, Uses in the Highland Commercial-128 District, Subsection 3.2.5.2, Uses Permitted by Special Permit, by adding a new paragraph (q) that states "Microbrewery" and a new paragraph (r) that states "Brew Pub" and by renumbering former paragraphs (q), (r) and (s) as paragraphs (s), (t) and (u) respectively.
7. In Section 3.2.6, Uses in the Mixed Use-128 District, Subsection 3.2.6.2, Uses Permitted by Special Permit, by adding a new paragraph (k) that states "Microbrewery" and a new paragraph (l) that states "Brew Pub" and by renumbering former paragraphs (k), (l) as paragraphs (m) and (n) respectively.
8. In Section 3.2.7 Uses in the Highway Commercial 1 District, Subsection 3.2.7.2 Uses Permitted by Special Permit, by adding a new paragraph (m) that states "Microbrewery" and a new paragraph (n) that states "Brew Pub" and by renumbering former paragraphs (m) and (n) as paragraphs (o) and (p).

Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at (<http://masspublicnotices.org/>).

From: [John Rufo](#)
To: [Planning](#)
Subject: Brew Pubs
Date: Friday, March 25, 2022 7:58:26 AM

I'm all for it. It would be a great addition to Needham's dining and socializing culture.

John M. Rufo AIA
33 Emerson Place

Sent from my iPhone

From: [Glenn Mulno](#)
To: [Planning](#)
Subject: Brew Pub zoning
Date: Friday, March 25, 2022 8:13:05 AM

Hi Planning Board

I just wanted to voice my support for the allowance of brew pubs in Needham. My only question is around locations. I could not determine from the online proposal where in town the zoning is being proposed to change. I assume though you have a solution around this that makes sense.

Having an option like this in town would add to the character of the town and would help in making Needham a destination. It could help drive other business to our other small businesses. Overall, I think the idea is splendid.

Best wishes,

Glenn Mulno
40 Morton Street
Needham, MA 02494
Precinct I Town Meeting Member (formally Precinct J)

From: [Bill Eicholz](#)
To: [Planning](#)
Subject: BREW PUB, MICROBEWERY AND NANOBREWERY
Date: Friday, March 25, 2022 12:56:01 PM

I am writing in support of the amendment to allow Brew pub microbrewery and nano brewery in Needham. I am resident for 30 years and welcome the addition of a brew pew pub, etc.

Thank You

William Eichhold

From: [Louis Wolfson](#)
To: [Lee Newman](#); [Alexandra Clee](#)
Subject: Brewery Zoning
Date: Friday, March 25, 2022 11:04:35 AM
Attachments: [FROM BREWPUB TO MICROBREWERY.doc](#)
[allowed uses 3-24.pdf](#)

Lee,

I understand there is a public hearing on Brewery Zoning. Allowed uses in the Industrial area of Crescent Road already allows for manufacturing, bottling, craft operations as well as food and entertainment. All of which are consistent with Brewery, Brewpubs and Craft Operations.

I suggest and hope any zoning changes, if implemented, will include this existing area of our community. It will add more options for business seeking to open in Needham that want or need to close to the train and the heights.

Sincerely

Louis

Louis Wolfson
Crescent Road Realty
29 Cimino Road
Needham, MA 02494

617-799-3326

FROM BREWPUB TO MICROBREWERY: CRAFT BEER MARKET SEGMENTS

State laws are a big reason for the different market segments within the craft beer industry. Most breweries go through a **three-tiered** selling process (brewer to wholesaler, wholesaler to retailer, retailer to consumer). That's because most states don't allow breweries to sell directly to the consumer.

Some more lenient states have allowed some breweries to act as a wholesaler, and in some cases to even sell directly to the consumer (the retailer role). This has created different types of breweries:

- **Nanobrewery**
- **Microbrewery**
- **Brewpub**
- **Regional Craft Brewery**
- **Regional Brewery**
- **Large Brewery**

Although some of these are delineated by state laws, they are also categorized by the amount of annual beer production, and percentage of beer sold on-site.

WHAT IS A MICROBREWERY OR NANOBREWERY?

Officially, a microbrewery is any facility that produces fewer than **15,000** barrels of beer annually, with 75% or more of its beer served off-site. Unofficially, it's the word most people use when they're referring to a business that brews craft beer. Since they are much smaller than a regular brewery, microbreweries have ample time to "craft" **different flavors of beer**. This is in contrast to a larger facility, which might prioritize production value over perfection.

A nanobrewery is an even smaller version of a microbrewery. There is no accepted production volume for a nanobrewery, but it's typically quite small, as most are run by one brewer. Depending on the state, nano and microbreweries can sell in a traditional three-tier system, two-tier system (wholesaler to retailer), or directly to the customer through on-site taprooms, carry-outs, or brewpubs.

[FREE E-COURSE] CRAFT BEER BOOTCAMP

WHAT IS A BREWPUB?

If a brewery is located in a state that allows them to sell directly to consumers (including [California, New York and Texas](#)), then they can open what is known as a “brewpub.” A brewpub is a bar that is owned by a brewery and serves their beer directly to consumers. By law, an establishment can only be called a brewpub if it sells [25% or more](#) of its beer on-site.

Brewpubs have a unique appeal for many consumer because they often dispense their beer directly from the brewery’s storage tanks. Not only do the storage tanks look cool, but they also lend authenticity and legitimacy. Customers can see exactly where their beer is coming from and can appreciate the impressive technical skill that goes into crafting a good brew.

Depending on state law, some brewpubs can even sell their products “to-go,” and/or distribute to smaller off-site locations. There are several brewpubs throughout the country, and you can easily [check](#) to see which ones are closest to you.

WHAT IS A BREWERY?

There are many ways to classify what most of us know as a “brewery.” A regional brewery (or a regional craft brewery) is defined as a beer producer that produces [15,000 – 6,000,000](#) barrels per year. Any brewery producing more than six million barrels (think Budweiser) is considered a “large” brewery.

WHAT IS A CONTRACT BREWING COMPANY?

As if the beer industry wasn’t confusing enough, you could also be dealing with a contract brewing company. When a brewer has a recipe or excessive volume they need help with, they may hire a different brewery to craft their beer. Under this arrangement, the contract brewery handles all of the marketing and sales for the original recipe but leaves the brewing and packaging to the producer.

Once you feel you’ve grasped this knowledge, and are ready to start serving some new brews, Evergreen is a great application to help you get the word out. Through their [easy-to-use dashboard](#), you can set up a beautiful [digital beer menu](#) or [print menu](#). You can even [get listed on the TapHunter app](#)!

Understanding the type of facility your craft beer was produced in is important for sales. Today’s consumers (especially the younger ones) love craft beer and understanding how

the industry works helps you sell more. Remember, craft beer is not only about selling the taste, it's about selling the story.

<u>USE</u>	<u>KRC</u> <u>SRA</u>	<u>SRD</u>	<u>SR</u>	<u>A-1.1.2</u> <u>& 3</u>	<u>1</u>	<u>END</u> <u>1</u>	<u>END</u> <u>1</u>
Boarding house with no arrangements of any description for private cooking or housekeeping	N	N	SP	SP	N	Y	Y
<u>INSTITUTIONAL</u>							
Dormitory for a school with no provisions for private cooking or housekeeping	N	N	N	N	Y	Y	Y
<u>BUSINESS</u>							
Retail establishments serving the general public containing 5750 or more gross square feet of floor area	N	N	N	N	N	SP	SP
Retail establishments serving the general public containing less than 5750 gross square feet of floor area or incidental retail sales which are accessory to a permitted principal use which does not involve 50% of the total floor area or 5750 square feet of the principal use, whichever is lesser. In multi-tenanted structures the provisions of this section will individually apply to each tenant or use and not to the aggregate total of the structure	N	N	N	N	N	Y	Y

	<u>SRA</u>			<u>& 3</u>			<u>1</u>
Retail trade or shop for custom work or the making of articles to be sold at retail on the premises	N	N	N	N	N	Y	Y
Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises	N	N	N	N	N	Y	Y
Offices and banks	N	N	N	N	N	Y	Y
Craft, consumer, professional or commercial service established dealing directly with the general public and not enumerated elsewhere in this section	N	N	N	N	N	Y	Y
Theaters, indoor moving picture shows, bowling alleys, skating rinks, billiard rooms, and similar commercial amusement or entertainment places	N	N	N	N	N	Y	Y
Personal fitness service establishment; provided, all required off-street parking is provided on-site for all land uses located on the subject site and in adherence with the requirements of Section 5.1.2, Required Parking, absent any waivers from the provisions of Subsections 5.1.1.5 and 5.1.1.6	N	N	N	N	N	Y	Y

	<u>SRA</u>	<u>SRA</u>	<u>SRA</u>	<u>& 3</u>	<u>1</u>	<u>SP</u>	<u>1</u>
Lumber or fuel establishment; contractor's, stone mason's, junk or salvage yard	N	N	N	N	N	SP	SP
Airport, heliport, landing strip or area for any type of air-craft	N	N	N	N	N	N	N
Hotel or motel	N	N	N	N	N	SP	SP
Eat-in or take-out restaurant or other eating establishment except a lunch counter incidental to a primary use	N	N	N	N	N	SP	SP
Veterinary office and/or treatment facility	N	N	N	N	N	SP	SP
Medical Clinic	N	N	N	N	N	SP	SP
Medical Marijuana Treatment Center	N	N	N	N	N	N	SPP
Outdoor parking in conjunction with the sale or leasing of new or used vehicles on applications filed after September 28, 1978	N	N	N	N	N	SP	SP
<u>MANUFACTURING</u>							
Wholesale distribution facilities or storage in an enclosed structure, excluding the storage of flammable liquids, gas or explosives	N	N	N	N	N	Y	Y

	<u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
Lumber or fuel establishment; contractor's, stone mason's, junk or salvage yard	N	N	N	N	N	SP	SP
Airport, heliport, landing strip or area for any type of air-craft	N	N	N	N	N	N	N
Hotel or motel	N	N	N	N	N	SP	SP
Eat-in or take-out restaurant or other eating establishment except a lunch counter incidental to a primary use	N	N	N	N	N	SP	SP
Veterinary office and/or	N	N	N	N	N	SP	SP

<u>USE</u>	<u>RRC SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
Industrial services, for example, machine shop, plumbing, electrical or carpentry shop or similar service	N	N	N	N	N	Y	Y
Welding shop	N	N	N	N	N	SP	SP
Stone cutting, shaping, or finishing in an enclosed building	N	N	N	N	N	SP	SP
Autobody or auto paint shop, provided that all work is carried out inside the building	N	N	N	N	N	SP	SP
Outside truck service or repair for others including body work	N	N	N	N	N	SP	SP
Food processing primarily for wholesale use	N	N	N	N	N	SP	SP
Bottling plant	N	N	N	N	N	Y	Y
Equipment rental service	N	N	N	N	N	Y	Y
Garment manufacturing	N	N	N	N	N	Y	Y
Laboratory or place where scientific experimental research is conducted not including genetic or biological research laboratory	N	N	N	N	SP	Y	Y
Genetic biological research	N	N	N	N	N	SP	SP
Radio or television studio	N	N	N	N	N	Y	Y

	<u>SRA</u>			<u>& 3</u>			<u>1</u>
Medical reference laboratories other than accessory to a medical office	N	N	N	N	N	SP	SP
Dental prosthesis laboratories other than accessory to a dental office	N	N	N	N	N	Y	Y
Light non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed in a manner so as not to create a nuisance or hazard to safety or health	N	N	N	N	N	Y	Y
Any lawful purpose or special use not enumerated elsewhere in this By-Law	N	N	N	N	N	SP	SP
More than one non-residential building or use on a lot where such buildings or uses are not detrimental to each other and are in compliance with all other requirements of this By-Law	N	N	N	N	SP	SP	SP
More than one municipal building and/or municipal use on a lot	Y	Y	Y	Y	Y	Y	Y

From: [Diane Abbott](#)
To: [Planning](#)
Date: Sunday, March 27, 2022 5:00:38 PM

Good afternoon,

I've learned there is a proposal to add language into Needham's zoning to accommodate Brew Pubs and Microbreweries. As a resident of Highland Terrace an abutter to the New England Business District, I would like to request that you protect my neighborhood and other residences and add in language ensuring that these businesses would not be allowed within 500 ft of the residential houses.

This, I hope, would protect the neighbors somewhat from sound, traffic, light spill over, smell, and trash.

Regards,
Diane Abbott
69 Highland Terrace

From: [Robert Deutsch](#)
To: [Planning](#)
Cc: [Alexandra Clee](#); [Lee Newman](#); [Janice Epstein](#); [Ryan McKee](#); [Tonya](#); [Elizabeth Kaponya](#); [EJ Manning](#)
Subject: Against the Brewery
Date: Monday, March 28, 2022 8:58:05 AM

Dear Needham Planning Board:

Writing this email recalls an exchange I had about 15 years ago when I wrote to Selectman John Bulian and asked “who is in charge of bringing new and exciting stores to Needham?” He wrote back a one word answer: “You!”

Judging by our current situation, I must still be in charge!. I understand that COVID, and prior to that, the Internet, hit the retail world hard and that today filling retail spaces is not just a matter of picking from the most appealing and viable choices.

It must be said that from my perspective, there does seem to be a somewhat **desperate** and **careless** approach taken to the space in the Panera plaza.

It is not just that a porous layer between that plaza and the Riverside Park neighborhood exists, it's that whatever goes in that spot has the potential to directly affect the quality of the life of the neighbors through that porous layer. For years, a collection of unpleasant realities has affected us: Panera garbage has been rolling into the neighborhood, customers parking on Highland Terrace, the noisy dumpster collection disturbing sleep at all hours.

Collectively, we understand that with every good new store, there may be some growing pains. Only recently we found ourselves fending off the possibilities of wandering party golfers and perhaps improperly disposed of medical waste. While we can be honestly glad we are not zoned for Pornography or Marijuana like nearby Wexford Street, we still need to make our concerns known, as the planning board, using its authority is our best last hope.

To be clear: I am against a brewery in that Panera Plaza (but for a brewery in the town). I don't know what the planning and licensing implications of it are, but I strongly suggest that a brewery be better served by occupying the empty Acapulco spot just down the road? There you have a restaurant structure, easy truck access and parking away from any neighbors.

For the current and future planning board, and anyone who reads or hears this letter, I ask that the brilliant hive mind brought together to for Needham Nexus, and/or the folks who found the innovative combination of tax incentives, highway restructuring and long-term town building vision that secured TripAdvisor for the town be recalled to solve the Panera Plaza (and the spaces on Highland).

Not just to protect the sanctity and value of the Riverside Park neighborhood in the short-term, but as part of a more *global* view that suggests once the Godzilla-sized Northland (<https://www.northlandnewtondevelopment.com>) project in Newton is finished, what on earth will there be to lure shoppers and spenders down Highland avenue to Needham?

A tall order, but just so I am not seen as someone who complains and brings no new ideas to the table, I'll throw out four of them, especially since Mr. Bulian previously deputized to me to do so:

1. **Offer Needham Entrepreneurs a spot:** Rather than just picking 'winning' retail stores, we can see Needham residents who are creating value and perhaps working out of their houses, or making their way at Farmers Markets or other pop-up opportunities. Take **Choc-Allure** (<https://choc-allure.com>) by a Needham native has been lighting up the town with her innovative bon-bons. I'm sure Liron would look positively at an inexpensive, tax-reduced spot to take over the chocolate world. (*Perhaps Mr. Bulian would like to expand his **Boston Blinds** shop from Newton to Needham, too*)
2. **Barber Shops** seems to be an explosion everywhere I go except on this side of Needham. Another case of 'promoting' the entrepreneurs. No nice town has every been guilty of having too many hair places.
3. **Book Store/Restore the New England Mobile Book Fair.** When I think of competing with Northland, I can't think of a better salve for overwhelmed Northland shoppers, or alternative destination idea/winning combination than putting a book store next to the Panera.Coffee and Books? Come on! Bookstores, with their declining revenues and uphill battle against Amazon need some kind of 'sweetheart deal' to make retail work but when you think about the value it would bring to the town, the neighborhood and the emerging new Needham/Nexus it really, really makes sense. Perhaps Mr. Moscovitz can think of something exciting in that realm.
4. **Compounding Pharmacy** these seem to be popping up, and perhaps a sign of the times?

In any case, I want to restate that I believe as a town and a collective community, we should be trying to imagine what can be done in 2022 for the amount of real estate we have. We should be thinking far-forward to ensure Needham's gateway beckons other

communities, not that it is simply a parking ground for the least unpleasant ideas in retail. Had the community not rallied in 2008, the Gateway to Needham would have been lined with Automotive stores. Sure, we all need them, but not exactly the brilliant countermeasure to the “21st Century Green Neighborhood that focuses on sustainability, wellness, connectivity and permeability in a vibrant, live work and play Newton.” (source: Northland).

Is it?

Thanks,

Robert Deutsch
Needham Resident
Town Meeting Member Precinct J

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: Brew Pubs
Date: Monday, March 28, 2022 11:10:32 AM

From: Elizabeth Kaponya <liz.kaponya@gmail.com>
Sent: Sunday, March 27, 2022 10:37 PM
To: Lee Newman <LNewman@needhamma.gov>
Subject: Brew Pubs

Hi Lee,
Brew Pubs is not what we really need here at Panera Plaza right next to Residences. Late night activity, Live Entertainment, Outdoor Dining, and even later Dumpster tosses...

If a Brew Pub wants to come here - then the vacant location of former Acapulcos at the Rt. 128 Exit is perfect.

When our neighborhood was battling a Marijuana Shop a few years ago - a 1,000ft buffer is what protected us. Please accord us the same respect.

Elizabeth Kaponya
27 Highland Terrace
TMM "J"

From: [McKee, Ryan](#)
To: [Planning](#)
Subject: Brewery Zoning
Date: Monday, March 28, 2022 3:05:07 PM
Attachments: [image001.png](#)
[image002.png](#)

Planning Board,

I understand that you will be discussing zoning for new breweries/brew pubs in the 128 commercial/industrial/business areas of Needham this evening. My understanding is that you're pursuing a somewhat blanket approval without consideration for neighboring residential areas and similar. I would like to add my concerns to this. When we moved to Needham 9 years ago, I never expected to be under a constant development onslaught by your own town, but this is what it has felt like in the Riverside Park Neighborhood throughout. I think that a Brewery in Needham would be a great and fun idea, but I can't think of any successful Brewery or Town in the area that has decided that it would be a productive or mutually beneficial to develop near/abutting residential neighborhoods. Trillium (Canton), Jack's Abbey (Framingham), Harpoon (Seaport), etc. – they have all thrived by selecting an area far away from residential neighborhoods that afford them the ability to have parking, music, Biergartens, etc. Approving the ability to have a brewery potentially in Needham could be fun and exciting, but the zoning needs to be more nuanced, separate from all residential areas (not somewhere like the Panera/Gateway shopping center), and consider all of the residents of Needham. As Town Officials, we hope that you take extra pride and responsibility in standing up for the rights of those of us who are often overlooked, neglected, or forced to accept the businesses that Needham would prefer to hide (Advanced Auto, Marijuana dispensaries, etc.) and I really hope that you will do that again here.

Thank you for your consideration,
Ryan McKee

18 Highview Street
Needham, MA 02494

<https://mail-nam.mclld.fmrcloud.com/owa/calendar/FidelityInstitutional150@fmronline.onmicrosoft.com/bookings/> o:button="t">

[To schedule a Call or Zoom with Me, click here](#)

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Regional Director
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j.kevin.williams@fmr.com

For immediate assistance with scheduling please contact Renee Dashner at [419.517.3026](#) or
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**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
DECISION**

Application No. 2022-01

**Needham Farmers Market, Inc.
Town of Needham
March 28, 2022**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Needham Farmers Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA 02494 and Town of Needham, 1471 Highland Avenue, Needham, MA, (hereinafter referred to as the Petitioner) for property located at Greene's Field, a Needham Park Facility, at Great Plain Avenue and Pickering Street, Needham, Massachusetts. Said property is shown on Assessors Plan No. 50 as Parcel 31-02 containing 108,278 square feet in the Single Residence B zoning district.

This Decision is in response to an application submitted to the Board on January 25, 2022 by the Petitioner for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit under Section 3.2.1 of the By-Law for a farmers market in the Single Residence B zoning district; and (3) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Sections 5.1.2 and 5.1.3 of the By-Law (Off-Street Parking Requirements).

The requested Major Project Site Plan Review Special Permit would permit the operation of a farmers market on the southern portion of Greene's Field on Sundays. Needham Farmers Market, Inc. (NFM) has been successfully operating on the Town Common and Garrity's Way since 2017; however, NFM must relocate due to a planned renovation of the Town Common in 2022, with Garrity's Way planned to be used for staging materials. The farmers market proposes to operate at Greene's Field on Sundays beginning on June 12, 2022 through November 20, 2022, inclusive, from 11:00 a.m. to 3:00 p.m. with setup time for the vendors three hours before business hours and breakdown time two hours after the close of business. The farmers market proposes to have a maximum of 18 vendors, who will use booths, canopies, or other temporary structures on site. In addition to the vendors, the Market will have tables, booths, or canopies for Needham nonprofit organizations; up to a maximum of six artists, musicians, and NFM's Market Manager.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters, and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, March 1, 2022, at 7:15 p.m. by Zoom Web ID Number 880 4672 5264. The hearing was further continued to Tuesday, March 15, 2022, at 8:00 p.m. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the March 1, 2022 and March 15, 2022 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1- Application for a Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law and for Special Permits under Sections 3.2.1 and 5.1.1.5 of the By-Law, dated January 25, 2022.
- Exhibit 2- Two letters from Jeffrey Friedman, President, Needham Farmers Market, Inc., to the Needham Planning Board dated January 21, 2022.
- Exhibit 3- Site Plan entitled “Greene’s Field Site Plan”, prepared by Needham Department of Public Works, Engineering Division, dated May 22, 2013, revised June 4, 2013.
- Exhibit 4- License Agreement between the Needham Farmers Market, Inc., and the Town of Needham, dated January 18, 2022.
- Exhibit 5- Exhibit A”, which consists of a portion of a plan highlighted to depict the specific location to be utilized by the NFM at Greene’s Field.
- Exhibit 6 - Plan entitled “Proposed Placement of Tents/Spaces on Greene’s Field”, prepared for NFM, dated March 7, 2022.
- Exhibit 7- Email from Jeffrey Friedman, President, Needham Farmers Market, Inc, to Lee Newman, Director of Planning and Community Development and Alex Clee, Assistant Town Planner, dated March 14, 2022.
- Exhibit 8- Two emails from Georgina Arrieta-Ruetenik to the Needham Planning Board, dated February 8, 2022 and March 1, 2022.
- Exhibit 9- Email from Rochelle Goldin to the Needham Planning Board, dated February 28, 2022.
- Exhibit 10- Email from George and Si Si Nyunt Goneconto to the Needham Planning Board, dated February 28, 2022.
- Exhibit 11- Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated February 23, 2022; IDC to the Board from Stacey Mulroy, Director, Needham Park and Recreation Department, dated February 8, 2022; IDC to the Board from Tom Ryder dated February 24, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated January 31, 2022; IDC to the Board from Chief John Schlittler, dated February 8, 2022.

EXHIBITS 1, 2, 3, 4, 5, 6, and 7 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

- 1.1 The subject property is located in the Single Residence B zoning district at Greene’s Field (Intersection of Great Plain Avenue and Pickering Street), Needham, Massachusetts. The property is owned by the Town of Needham and is shown on Assessors Plan No. 50 as Parcel 31-02 containing 108,278 square feet.
- 1.2 The Needham Farmers Market, Inc. is a nonprofit corporation and civic organization based in Needham with the purpose of operating a farmers market in Needham and advancing community goals of healthy food and diet, especially for children, as well as providing a meeting place for Needham residents.

- 1.3 The Town of Needham has agreed to allow the Needham Farmers Market, Inc., to use the southern portion of Green's Field, a Needham Park Facility, at Pickering Street and Great Plain Avenue, for the operation of a farmers market from June 12, 2022 through November 20, 2022. This is pursuant to a License Agreement dated January 18, 2022, detailed under Exhibit 4 of this Decision. The application for Special Permit is for a one-year period as described under Section 4.6 of this Decision.
- 1.4 The Needham Farmers Market proposes to operate a farmers market on the southern portion of Green's Field adjacent to the Pickering Street and Great Plain Avenue intersection for four hours every Sunday, opening at 11:00 a.m. and closing at 3:00 p.m. Operation will begin on June 12, 2022 and will extend through November 20, 2022.
- 1.5 The Needham Farmers Market has proposed to have a maximum of 18 vendors on each market day, who will use booths, tables, canopies, or other temporary structures on the site. Each vendor will have approximately one person selling at its location. The Needham Farmers Market has stated that at least eighty percent of all vendors will sell food items. The Needham Farmers Market will have a staff of approximately two people on each market day. In addition to the vendors, a food truck is proposed which will be parked on either Great Plain Avenue as shown under Option A of the Plan (See Exhibit 6) or on property of the YMCA as shown under Option B of the Plan, with Option B being the preferred location. Finally, in addition to the vendors, the Market will have tables, booths, or canopies for Needham nonprofit organizations; up to a maximum of six artists, musicians, and NFM's Market Manager.
- 1.6 Set-up time is proposed to begin three hours before the start of the market and break down time is proposed to be for two hours after the market closes. The hours of operation shall be from 11:00 p.m. to 3:00 p.m.
- 1.7 The 18 vendors (maximum proposed to be present at any one time) will be located on the portion of Greene's Field shown on the plans detailed under Exhibits 5 and 6 of this Decision. The physical layout of the Market shall be entirely located within the licensed area.
- 1.8 During setup and breakdown, vendors may use parking spaces on Great Plain Avenue and Pickering Street to unload and load if the spaces are available. During Market hours, the vendors will be parked in the Dedham Street Municipal Parking Lot.
- 1.9 The Needham Farmers Market acknowledges that all food vendors shall obtain food permits from the Needham Board of Health unless excluded by State or Local regulations. All applicable State and Local Health regulations shall be met.
- 1.10 The Needham Farmers Market and its vendors propose to have liability insurance in effect during the farmers market as well as motor vehicle insurance.
- 1.11 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (off-street parking design requirements).
- 1.12 Under the By-Law Section 5.1.2, in the event that the Building Commissioner is unable to determine if a particular use relates to any use within the table of "Required Parking" (Section 5.1.2), the Planning Board shall recommend to the Building Commissioner a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests or employees of the proposed business. Based on the Department of

- Public Works' recommendation, as recommended in Report 432 of the Planning Advisory Service for Off Street Parking Requirements for Farm Stands, the use requires 3 parking spots per every 1,000 square feet. The area of the property where the vendors will be stationed is calculated to be approximately 8,680 square feet. Therefore, the Board recommends a total parking requirement of 26 spaces ($8,680/1,000 \times 3 = 26$). Accordingly, a waiver of 26 parking spaces is required.
- 1.13 During the operation of the Market, parking for motor vehicles will be at the Dedham Avenue, Chestnut Street/Lincoln Street, and Chapel Street Municipal Parking Lots. The vendors will park at the Dedham Street Lot. The Board finds that the parking lots in the vicinity, as noted above, will satisfy the parking demands for the Needham Farmers Market.
 - 1.14 The Planning Board finds that no parking study is required for the farmers market use as proposed, due to its being held on Sundays, when parking in the Center of Town is least scarce and the Town Hall is closed.
 - 1.15 The Needham Farmers Market proposes to have free musical entertainment from individuals or small groups at the farmers market, such as flute, fiddle, or guitar players. Amplification, if any, would be limited and noise will not extend beyond the site.
 - 1.16 Vendors will be permitted to use the restrooms of Walgreens, the YMCA and Bagels Best.
 - 1.17 Vendors will be required to remove all trash and waste per an agreement with Needham Farmers Market, Inc. Additionally, the Petitioner has stated that the farmers market staff will assist in picking up and removing all trash from the site.
 - 1.18 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and site buffers, and preservation of views, light and air. The Market will be located at the southern end of Greene's Field next to Great Plain Avenue and will be separate from other activity on Greene's Field. The Petitioner proposes no construction and no permanent site changes. The Needham Farmers Market proposes to have musical entertainment that will either be un-amplified or slightly amplified from individuals or a small group, e.g., flute, fiddle, guitar. Sound volume from musicians playing at Green's Field will be reasonable and not loud or disruptive to neighbors and nearby businesses.
 - 1.19 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly has been assured. During the operation of the Market, parking for shopper vehicles will be at the Dedham Avenue, Chestnut Street/Lincoln Street, and Chapel Street Municipal Parking Lots, all within walking distance from the Market. The vendors will park at the Dedham Avenue Municipal Parking Lot. Any additional traffic due to the Market on surrounding streets will be marginally increased, with no traffic congestion on a Sunday afternoon. When NFM was previously located on the front lawn of First Parish (very close to Greene's Field) and on Garrity's Way and the Town Common, no traffic congestion resulted due to the operation of the Market. NFM has no accident-related history in 10 years of operation.
 - 1.20 Adequacy of the arrangement of parking and loading spaces in relation to the proposed use of the premises has been assured. NFM will occur on Sunday afternoons from 11:00 a.m. to 3:00 p.m. Three nearby municipal parking lots are more than adequate for the parking needs of vendors and shoppers at the Market. The Dedham Avenue Parking lot has 87 parking

spaces, the Chestnut Street/Lincoln Street Parking Lot has 231 parking spaces, and the Chapel Street Parking Lot has 127 parking spaces.

- 1.21 Adequate methods for disposal of refuse and waste will be provided. Vendors will be required to remove all trash and waste per an agreement with Needham Farmers Market, Inc. Needham Farmers Market staff will additionally assist in picking up and removing all trash from the site. Vendors may use the bathrooms at the YMCA, Walgreen's, and Bagel's Best. The wastewater system for these facilities is connected to the municipal sewer system.
- 1.22 Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this By-law has been assured. The relationship of structures and open spaces to the natural landscaping, existing buildings and other community assets will remain unchanged. Any canopies, tables and equipment brought to the Market by NFM and its vendors will be removed by them after the Market closes. NFM will not permit the Market area to be overloaded, damaged, stripped, or defaced, or suffer any waste. NFM will not make any holes in Greene's Field.
- 1.23 The proposed project will not have any adverse impacts on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The proposed use will not have an adverse impact on the Town's infrastructure. The existence of the Needham Farmers Market is an asset for Needham and will be a source of community in Needham.
- 1.24 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted within the Single Residence B zoning district, provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.25 Under Section 3.2.1 of the By-Law, a Special Permit may be granted to allow a farmers market in the Single Residence B zoning district. On the basis of the above findings and criteria, the Board finds that the proposed use, as conditioned and limited herein, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.26 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure, or lot does not warrant the application of certain design and parking spaces requirements, but that a waiver of certain design and parking spaces requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances justifying the reduction in the number of required parking spaces and design requirements of the By-Law, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law; (2) the requested Special Permit under Section 3.2.1 of the By-Law for a farmers market in the Single Residence B zoning district; and (3) the requested

Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Sections 5.1.2 (Required Parking) and 5.1.3 of the By-Law (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 No Plan modifications are required.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.17 hereof.
- 3.1 The Board approves the use by Needham Farmers Market of a farmers market on the southerly portion of Greene's Field, as shown on the Plan, from Sunday, June 12, 2022 through November 20, 2022.
- 3.2 The hours of operation shall be limited to four hours every Sunday, opening at 11:00 a.m. and closing at 3:00 p.m. from Sunday, June 12, 2022 through November 20, 2022.
- 3.3 The operation of the farmers market at Greene's Field shall be as described in Sections 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.13, 1.15, 1.16 and 1.17 of this Decision and as further described under the support materials provided under Exhibits 2, 3, 4, 5, 6, and 7 of this Decision.
- 3.4 The maximum number of vendors at any given time shall not exceed eighteen (18). In addition to the vendors, up to three tables, booths or canopies may be available for Needham nonprofit organizations: up to a maximum of six artists, musicians, and the NFM's Market Manager.
- 3.5 At least eighty (80) percent of all vendors shall sell fresh produce and other food products from booths, tables, or other temporary structures. If a food truck is utilized it shall be parked on either Great Plain Avenue as shown under Option A of the Plan (See Exhibit 6) or on property of the YMCA as shown under Option B of the Plan, with Option B being the preferred location. Truck engines shall be turned off during the market's business hours and no truck shall be moved during the market's business hours.

- 3.6 All food vendors shall obtain food permits from the Needham Board of Health unless excluded by State or Local regulations. All applicable State and Local Health regulations shall be met. Any ice used at the site shall be disposed of at a location approved by the Board of Health and in compliance with Board of Health and Town regulations. Disposal of ice within the Town's drainage system shall not be permitted.
- 3.7 Sale of alcoholic beverages by Needham Farmers Market vendors shall be prohibited. The drinking of alcoholic beverages on Greene's Field where the farmers market is located shall be prohibited.
- 3.8 Set-up time shall begin no earlier than 8:00 a.m., three hours before the start of the market and break down time shall last no longer than two hours after the market closes at 3:00 p.m. During setup and breakdown, vendors may use parking spaces on Great Plain Avenue and Pickering Street to unload and load if the spaces are available. The spaces shall not be reserved for this purpose, but rather utilized if vacant.
- 3.9 Due diligence must be exercised at all times to avoid excessive off-site parking traffic, tie-ups and unnecessary noise and congestion.
- 3.10 Needham Farmers Market vendors shall be directed to park in the Dedham Street Municipal parking Lot and patrons shall be directed to park in the Dedham Avenue, Chestnut Street/Lincoln Street, and Chapel Street Municipal Parking Lots.
- 3.11 Free musical entertainment from individuals or small groups at the farmers market, such as flute, fiddle, or guitar players, may be utilized. Any required permits from the Board of Selectmen shall be obtained. Amplification, if any, shall be limited and no noise shall extend beyond Greene's Field. In the event of any complaint or issue regarding the noise, volume or amplification, the Planning Board shall retain jurisdiction to reevaluate the authorization for musical entertainment provided by this Decision.
- 3.12 Vendors shall be permitted to use the restrooms of the YMCA, Walgreen's, and Bagel's Best. If vendors at any time are no longer allowed or able to use these restrooms, the Petitioner shall find other suitable arrangements and notify the Planning Board.
- 3.13 All trash and waste shall be confined to the site and shall be removed from the site promptly during the breakdown timeframe. No trash or waste shall be left on the site at the end of the breakdown at 6:00 p.m. The Petitioner shall also examine the vicinity adjacent to the market area and shall be responsible for the cleanup of any market trash or waste inadvertently left by patrons in that location. During the operation of the farmers market, trash receptacles shall be provided for the use of patrons.
- 3.14 This Special Permit to operate a farmers market at Greene's Field is issued to Needham Farmers Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA 02494 and may not be transferred, set over, or assigned by Needham Farmers Market, Inc. to any other person or entity without the prior written approval of the Board following such notice and hearing, if any as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.15 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commission, or other agencies, including, but not limited to the Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.

- 3.16 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.17 Violation of any of the conditions of this Decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Decision if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend, or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.
- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This special permit is for one season only running from June 12, 2022 through November 20, 2022.
- 4.7 This Decision shall be recorded in the Norfolk District Registry of Deeds. This Decision shall not take effect until (1) a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after this Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied and (2) this Decision is recorded with Norfolk District Registry of Deeds, and (3) the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 28th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Needham Farmers Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA, and the Town of Needham, 1471 Highland Avenue, Needham, MA, for Property at the location of Greene's Field, shown on Assessor's Map No. 51 as Parcel 31-02, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department
Jeffrey Friedman, NFM

Board of Health
Director, PWD
Design Review Board

From: friedmanesq@aol.com
To: [Alexandra Clee](#); [Lee Newman](#)
Cc: fundamentallynuts@gmail.com
Subject: Re: Needham Farmers Market
Date: Thursday, March 24, 2022 11:51:54 AM

Hi Lee and Alex,

A correction to my email below. Exhibit 6, NFM's layout map, states that a total of 16 food vendors will sell food, adding the word "food".

Best,
Jeff

-----Original Message-----

From: friedmanesq@aol.com
To: aclee@needhamma.gov <aclee@needhamma.gov>; lnewman@needhamma.gov <lnewman@needhamma.gov>
Cc: fundamentallynuts@gmail.com <fundamentallynuts@gmail.com>
Sent: Thu, Mar 24, 2022 11:27 am
Subject: Fwd: Needham Farmers Market

Hi Lee and Alex,

Thanks for sending me the draft Decision. I have a few edits.

Page 3, Para. 1.7, line 2. Add "5" after "Exhibits " where no number is stated, and before "and 6 of this Decision".

Page 3, Para. 1.5, line 4. Delete "at least eighty percent of all" and insert "sixteen (16)". Exhibit 6, NFM's layout map, states that a total of 16 vendors will sell food.

Page 6, Para. 3.5. Delete "At least eighty (80) percent of all" and insert "Predominantly". Predominantly is the word used in the farmers market by-law.

There has not been appropriate factual evidence and basis to equate or define "predominantly" used in the farmers market by-law with a required minimum percentage of vendors to sell food at a farmers market. This is not warranted in the context of a farmers market. Using the word "predominantly" in the Decision is appropriate because it is the descriptive word used in the farmers market by-law.

In 2011, the farmers market by-law was initiated by a Citizens Petition by the Needham Farmers Market Board of Directors, and signed by them. I researched farmers markets in other Massachusetts towns and cities at the request of the Planning Board. On May 9, 2011, Needham Town Meeting voted almost unanimously to approve the farmers market by-law.

Recently, I went to the Norfolk County Law Library. Using Westlaw (online) with the help of the Law Librarian, I researched and read cases by the Massachusetts Supreme Judicial Court involving zoning appeals, using the words "predominantly" or "predominant" as search terms and words in any context in reported Court decisions. In none of the SJC cases did the Court state any percentage, as an equivalent to describe "predominantly" or "predominant", in any zoning by-law related decision.

The use of the word "predominantly" is the appropriate word to use in the Decision, and it is used in the farmers market by-law.

Best,
Jeff

-----Original Message-----

From: Lee Newman <LNewman@needhamma.gov>
To: friedmanesq@aol.com <friedmanesq@aol.com>; Alexandra Clee <aclee@needhamma.gov>
Cc: fundamentallynuts@gmail.com <fundamentallynuts@gmail.com>
Sent: Wed, Mar 23, 2022 5:53 pm
Subject: RE: Needham Farmers Market

Jeff,

Attached is the draft Decision for the Farmers Market. Let me know if you have any questions or suggested edits. If you want me to include any of your comments in a revised draft, I will need your comments by noon tomorrow if they are to be included in the Planning Board agenda packet.

Thanks,

Lee

From: friedmanesq@aol.com <friedmanesq@aol.com>
Sent: Tuesday, March 22, 2022 7:50 PM
To: Alexandra Clee <aclee@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>; fundamentallynuts@gmail.com
Subject: Re: Needham Farmers Market

Thanks Alex.
Jeff

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To: friedmanesq@aol.com <friedmanesq@aol.com>
Cc: Lee Newman <LNewman@needhamma.gov>; fundamentallynuts@gmail.com <fundamentallynuts@gmail.com>
Sent: Tue, Mar 22, 2022 7:03 pm
Subject: Re: Needham Farmers Market

We're expecting to do it Monday March 28. We will send you a draft hopefully tomorrow.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
[//www.needhamma.gov/planning](http://www.needhamma.gov/planning)

From: friedmanesq@aol.com <friedmanesq@aol.com>

Sent: Tuesday, March 22, 2022 6:06:49 PM

To: Alexandra Clee <aclee@needhamma.gov>

Cc: Lee Newman <LNewman@needhamma.gov>; fundamentallynuts@gmail.com
<fundamentallynuts@gmail.com>

Subject: Needham Farmers Market

Hi Alex,

Will the Planning Board review on March 29th the Decision approving NFM's Special Permit, or at a later date?

Thanks,
Jeff

From: [Jeff Friedman](#)
To: [Alexandra Clee](#)
Cc: [Lee Newman](#); [Lisa Cherbulier](#)
Subject: Fwd: Needham Farmers Market
Date: Friday, March 25, 2022 5:46:31 PM

Alex,
I added "not" in red text to my earlier email below.
Jeff

Sent from my iPhone

Begin forwarded message:

From: friedmanesq@aol.com
Date: March 25, 2022 at 12:51:11 PM EDT
To: aclee@needhamma.gov
Cc: LNewman@needhamma.gov, fundamentallynuts@gmail.com
Subject: Re: Needham Farmers Market
Reply-To: friedmanesq@aol.com

Thanks Alex. What time should we check in on Monday? See my second edit, below, page 3, para 1.5, line 4. The following sentence in para. 1.5 is not true: "The Needham Farmers Market has stated that at least eighty percent of all vendors will sell food items." At the March 15th hearing, we never stated "80 percent", although it is true factually, per the NFM Plan, Exhibit 6. See my edit below.

The 80% rule is arbitrary, subjective, and not supported by facts and evidence. It does not comply with rule making requirements, i.e.. public notice with an opportunity for anyone to speak to or write the Board (be heard) on the proposed rule, as required. The farmers market by-law already expressly states the standard of "predominantly". There are other legal problems with the 80% rule that I will not elaborate on.

Jeff

On Mar 25, 2022, at 11:17 AM, Alexandra Clee <aclee@needhamma.gov> wrote:

Hi Jeff,

Your comments will be in the packet for the Board. Unfortunately this agenda item might be later in the evening again because we have some previously scheduled hearings. Typically the Board will let the Petitioner speak when the decision is being discussed.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: friedmanesq@aol.com <friedmanesq@aol.com>
Sent: Friday, March 25, 2022 7:25 AM
To: Alexandra Clee <aclee@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Cc: fundamentallynuts@gmail.com
Subject: Needham Farmers Market

Hi Alex,

Regarding NFM's Application for a Special Permit, at what time will the Board review the Decision on Monday? Will the Board consider my comments (edits) to the draft Decision, and will I have an opportunity to speak on these?

Thanks,
Jeff

-----Original Message-----

From: friedmanesq@aol.com
To: aclee@needhamma.gov <aclee@needhamma.gov>; lnewman@needhamma.gov <lnewman@needhamma.gov>
Cc: fundamentallynuts@gmail.com <fundamentallynuts@gmail.com>
Sent: Thu, Mar 24, 2022 11:51 am
Subject: Re: Needham Farmers Market

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Cc: fundamentallynuts@gmail.com <fundamentallynuts@gmail.com>

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Subject: RE: Needham Farmers Market

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Thanks,
Jeff

TOWN OF NEEDHAM
MASSACHUSETTS



PLANNING BOARD

2022 MAR 17 PM 4:50

500 Dedham Avenue
Needham, MA 02492
781-455-7550

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL

Submit three (3) copies. One copy to be filed with the Planning Board and one with the Town Clerk as required by Section 81-P, Chapter 41 of the General Laws. This application must be accompanied by the Original Tracing and three (3) copies of the plan.

To the Planning Board:

The undersigned, believing that the accompanying plan of land in the Town of Needham does not constitute a subdivision within the meaning of the Subdivision Control Law, for the reasons outlined below, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant Gorden C. Russell
Address 62 Brookside Road, Wellesley, MA 02481
2. Name of Engineer or Surveyor Glossa Eng. Inc
Address 46 East Street, East Walpole, MA 02032
3. Deed of property recorded in Norfolk Registry, Also 32651/182 & 36917/316
Book 27129, Page 144
4. Location and description of property #18 and #62 Brookside Road
5. Reasons approval is not required (check as applicable):
 - ☒ a) Every lot shown has the area and frontage required by the Zoning By-Law on a way, as defined by Section 81-L, Chapter 41 of the General Laws. (Lot 1 and Lot 2)
 - b) Land designated Lot 3 shall not be used as separate building lot(s) but only together with adjacent lots having the required area and frontage.
 - c) Lot(s) having less than required frontage or area resulted from a taking for public purpose or have been recorded prior to 3/26/1925, no land is available to make up the deficiency and the frontage and land area of such lots are not being reduced by the plan.
 - d) _____

(If the applicant is not the owner, written authorization to act as agent must be attached)

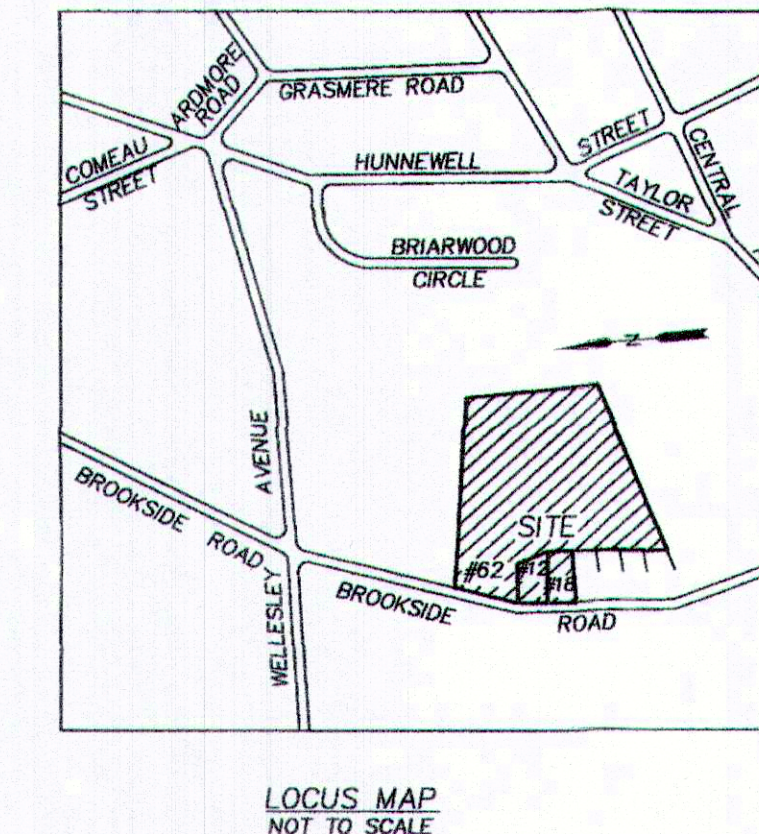
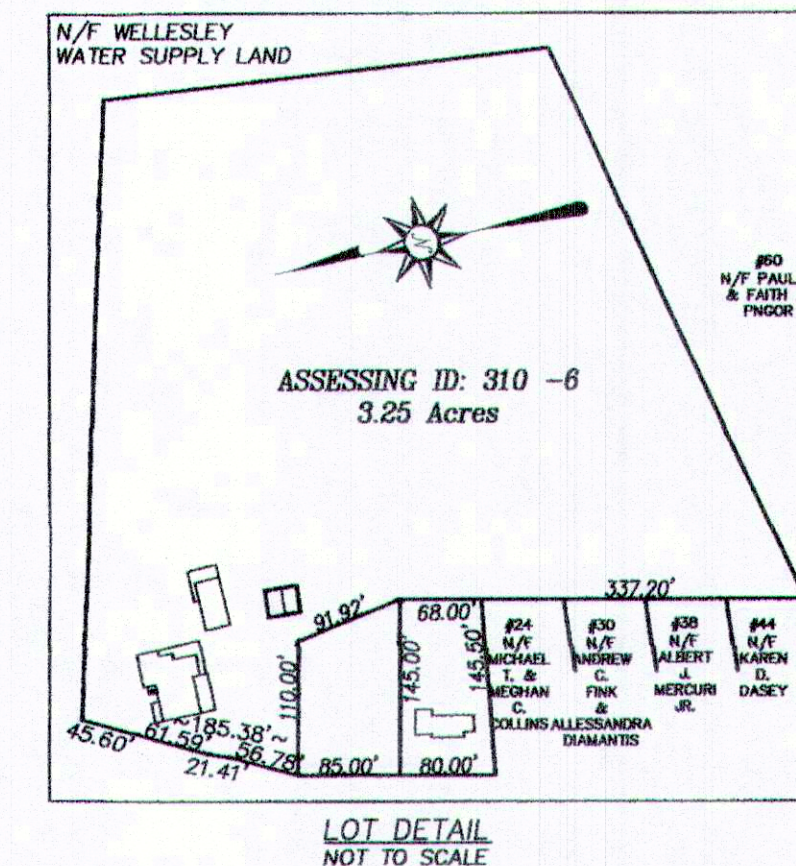
Signature of Applicant Gordon Russell

Address 62 Brookside Road, Wellesley, MA 02481

By _____ (agent)

Application accepted this 17 day of March 2022
as duly submitted under the rules and regulations of the Planning Board.

By [Signature]



DATE: _____

NEEDHAM PLANNING BOARD
PLANNING BOARD ENDORSEMENT
IS NOT A DETERMINATION AS
TO CONFORMANCE WITH ZONING
REGULATIONS.

OWNER/APPLICANT
GRSR BROOKSIDE ROAD REALTY TRUST
62 BROOKSIDE ROAD
WELLESLEY, MA 02481

193 WORCESTER ROAD ASSOCIATES, LLC
12 BROOKSIDE ROAD
NEEDHAM, MA 02492

GORDON C. RUSSELL
18 BROOKSIDE ROAD
NEEDHAM, MA 02492

ASSESSORS PARCEL
MAP 31 LOT 6 (62 BROOKSIDE)
MAP 113 LOT 27 (12 BROOKSIDE)
MAP 113 LOT 26 (18 BROOKSIDE)

DEED REFERENCE
BOOK 27129 PAGE 144 (62 BROOKSIDE)
BOOK 32651 PAGE 182 (12 BROOKSIDE)
BOOK 36917 PAGE 316 (18 BROOKSIDE)

PLAN REFERENCE
NORFOLK REGISTRY OF DEEDS FILED AS
PAGE 53 IN PLAN BOOK 532

ZONING -- SINGLE RESIDENCE A ZONE
ZONING REQUIREMENTS
 MIN. LOT AREA - 43,560 SF
 MIN. FRONTAGE - 150'
 SETBACKS
 FRONT - 30'
 SIDE - 25'
 REAR - 15'

THE ENTIRE SITE IS LOCATED WITHIN A
ZONE II WELLHEAD PROTECTION ZONE

#18 & 62
BROOKSIDE ROAD
IN
NEEDHAM, MA

SCALE: 1" = 30' JANUARY 10, 2022
GLOSSA ENGINEERING INC.
46 EAST STREET
EAST WALPOLE, MA
508-668-4401

NOTES:

- 1) PARCELS A, E AND F CURRENTLY COMPRISE ONE LOT CONTAINING 235,866 S.F. OWNED BY GORDON C. RUSSELL AS TRUSTEE OF THE GRSR BROOKSIDE ROAD REALTY TRUST.
- 2) PARCELS B & C CURRENTLY COMPRISE ONE LOT CONTAINING 10,838 S.F. OWNED BY 193 WORCESTER RD ASSOCIATES LLC.
- 3) PARCELS D CURRENTLY COMPRISES ONE LOT CONTAINING 10,730 S.F. OWNED BY GORDON C. RUSSELL.
- 4) PARCEL A (61,944 S.F.) IS TO BE COMBINED WITH ABUTTING LAND OF 193 WORCESTER RD ASSOCIATES LLC (PARCEL B) CONTAINING 5,898 S.F. ± TO FORM LOT 1 CONTAINING 67,842 S.F.
- 5) PARCEL D (10,730 S.F.) IS TO BE COMBINED WITH ABUTTING LAND OF 193 WORCESTER RD ASSOCIATES LLC (PARCEL C) CONTAINING 4,940 S.F. AND WITH ABUTTING LAND OF GRSR BROOKSIDE ROAD REALTY TRUST CONTAINING 27,940 S.F. (PARCEL E) TO FORM LOT 2 CONTAINING 43,610 S.F.
- 6) LOT 3 IS TO BE CREATED FROM LAND OF THE GRSR BROOKSIDE ROAD REALTY TRUST CONTAINING 145,982 S.F.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN
CONFORMITY WITH THE RULES AND REGULATIONS OF THE
REGISTERS OF DEEDS OF THE COMMONWEALTH OF
MASSACHUSETTS

Andrew C. Murphy
PROFESSIONAL LAND SURVEYOR

2-18-2
DATE

WILDER, SHEA & HIMMELBERGER, LLP

Counselors at Law
One Hollis Street, Suite 400
Wellesley, Massachusetts 02482

Fax (781) 235-8242

Leslie B. Shea
David J. Himmelberger

Telephone (781) 235-3400
Telephone (781) 237-8180

February 16, 2022

Alexandra Clee,
Assistant Town Planner
Town of Needham
500 Dedham Street
Needham, MA 02492

Re: ANR Plan for Brookside Road

Dear Ms. Clee:

I represent Gordon Russell, GRSR Brookside Road Realty Trust, and 193 Worcester Road Associates, LLC in connection with a proposed ANR Plan for 18 and 62 Brookside Road, Needham. Accordingly, your email to Mr. Russell, sent January 28, 2022, which provided your comments regarding the proposed ANR Plan has been shared with me. While I agree with your comments numbered 1 and 4, I believe that comments 2 and 3 are inapplicable to the ANR process.

Please find attached a revised proposed ANR Plan that now provides setbacks from all buildings to current and proposed lot lines, while also including bearings for all parcels affected by the proposed ANR Plan. However, I believe that the inclusion of build factor calculations for all new proposed building lots, and calculations of upland portions of the two buildable lots shown in plan, Lot 1 and Lot 2, are not required for the consideration and approval of the ANR Plan.

Pursuant to MGL ch 41, s 81P, the Planning Board is required to endorse an ANR Plan "unless such plan shows a subdivision". Endorsement of an ANR Plan may not be refused if each lot shown demonstrates that it possesses the required frontage under the local zoning bylaws. In the instant case, the land is located within the Single Residence A District, for which frontage of 150 feet is required. As shown in the proposed ANR Plan, 62 Brookside Road has frontage of 200.38 feet, while 18 Brookside Road has frontage of 150 feet. As each of the two proposed Lots 1 and 2 has the requisite frontage, an endorsement of the ANR Plan is appropriate.

The controlling case on this issue is Smalley v Planning Board of Harwich, 10 Mass. App. Ct 599 (1980). In Smalley, the Court held that the Planning Board's judgment under Ch 41, s 81P, "is confined to determining whether a plan shows a subdivision".

As both Lot 1 and Lot 2 have the required frontage on a public way, the reconfiguration of the land does not constitute a Subdivision, and therefore endorsement of the ANR Plan is required. In short, frontage is the only pertinent zoning dimension for determining whether a plan depicts a subdivision; and in this case the required 150 feet of frontage for both Lots 1 and 2 is demonstrated.

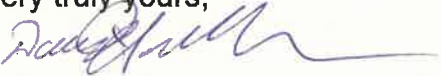
Additionally, we met today with the Building Commissioner to discuss this matter and my client's ability to raze and reconstruct a new home on Lot 2 subsequent to receiving the Planning Board's endorsement of the plan. Commissioner Roche advised that he believes that the Planning Board may endorse the ANR Plan and that there is no prohibition to creating Lot 2 as shown on the proposed ANR Plan with the existing pre-existing non-conforming home. While the zoning bylaws prohibit reducing a lot's area or frontage if it already has or would be caused to have less than the required area or frontage, there is nothing to prohibit adding land to an existing lot as is proposed for existing Lot D, thereby creating new Lot 2.

Commissioner Roche also advised that, once Lot 2 is created through the endorsement of the ANR Plan, he believes that the structure currently on the site retains its pre-existing non-conforming status and may be reconstructed as a matter of right, pursuant to Zoning Bylaw Section 1.4.7.3, so long as the new building is built in compliance with all front, side and rear setbacks, lot coverage, building height, and building story requirements.

I believe the revised proposed ANR Plan now complies with all necessary requirements and is now ready for submittal to the Planning Board. Could you confirm your agreement, and in the event that you disagree, advise as to the elements that you believe are missing?

I thank you for your attention to this matter.

Very truly yours,



David J. Himmelberger

Enclosure

CC: ✓ Lee Newman, Director of Planning and Community Development
David A. Roche, CBO, Building Commissioner

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: ANR Plan for Brookside Road
Date: Monday, March 28, 2022 11:00:47 AM

From: David Himmelberger <david@wshlawoffice.com>
Sent: Tuesday, March 15, 2022 4:31 PM
To: Lee Newman <LNewman@needhamma.gov>
Cc: David Roche <droche@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>
Subject: RE: ANR Plan for Brookside Road

Greetings: I have reviewed your email with my client. I am not authorized to include the requested additional language on the ANR Plan. While I can appreciate the fact that you have advised that this request is consistent with past Needham Planning Board practice, I don't believe that it is required statutorily. Unless you can provide some statutory guidance or citations that compel the inclusion of this language on an ANR Plan, my client declines to add this language, and we would request that this matter be set down for an ANR hearing as soon as possible, and consistent with the time line set forth in the statute. If you have any questions concerning the foregoing, please do not hesitate to contact me. I look forward to learning of the hearing date before the Planning Board. Best regards, David

David J. Himmelberger, Esq.
Wilder, Shea & Himmelberger, LLP
One Hollis Street, Suite 400
Wellesley, MA 02482
781 237-8180
fax 781 235-8242

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From: Lee Newman <LNewman@needhamma.gov>

Sent: Wednesday, March 2, 2022 3:41 PM

To: David Himmelberger <david@wshlawoffice.com>

Cc: David Roche <droche@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>

Subject: RE: ANR Plan for Brookside Road

David,

I am writing this email in response to your letter of February 16, 2022 regarding an ANR Plan for property located at 18 and 62 Brookside Road.

It is the practice of the Needham Planning Board to require a build factor calculation (Section 4.2.5) and Lot Area Calculation (Section 4.2.6) to appear on all ANR plans appearing before the Board. As I understand Lot 1 or Lot 2 as reconfigured may not meet the requirements of Section 4.2.5 and/or Section 4.2.6 we could add a note to the plan to clarify the lots protected nonconforming status. So after the data is listed on the plan regarding build factor and land excluded from the lot area calculation the following note could be provided to clarifying the lots protected nonconforming status.

Notwithstanding any nonconformity in lot size or shape, Lot 1 and Lot 2 have the benefit of Section 1.4.8 of the Needham Zoning By-Law, which provides that an increase in the area [or frontage?] of an existing improved lot shall not terminate the status of a [structure or?] building as a pre-existing non-conforming structure if it continues to be non-conforming following such increase [in area or frontage?].

If the words I put in brackets are deleted to make the note shorter, it would read:

Notwithstanding any nonconformity in lot size or shape, Lot 1 and Lot 2 have the benefit of Section 1.4.8 of the Needham Zoning By-Law, which provides that an increase in the area of an existing improved lot shall not terminate the status of a building as a pre-existing non-conforming structure if it continues to be non-conforming following such increase.

If only Lot 2 has the resulting non-conformity, then the reference to Lot 1 could also be deleted.

Given the historic practice in Needham the noted information will need to be added to the plan.

Happy to discuss further if you want to give me a call at 781-343-3120.

Lee

Lee Newman
Director of Planning and Community Development
Town of Needham
500 Dedham Avenue
Needham, MA 02492
781-455-7550 ext. 270

<https://www.needhamma.gov/>
<https://www.needhamma.gov/1114/Planning-Board>
www.needhamma.gov/NeedhamYouTube

From: David Himmelberger <david@wshlawoffice.com>

Sent: Tuesday, March 1, 2022 3:53 PM

To: Lee Newman <LNewman@needhamma.gov>

Subject: ANR Plan for Brookside Road

Greetings: I am sorry I wasn't able to return your call yesterday. I called today and left a voicemail and am sending this email so that you will have my email address, should you wish to email me.
Thanks, David

David J. Himmelberger, Esq.
Wilder, Shea & Himmelberger, LLP
One Hollis Street, Suite 400
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From: [David Himmelberger](#)
To: [Lee Newman](#)
Cc: [David Roche](#); [Alexandra Clee](#)
Subject: RE: ANR Plan for Brookside Road
Date: Monday, March 28, 2022 11:25:05 AM

Greetings: This will supplement and confirm our telephone conversations of this morning. You have advised that the submitted ANR Plan contained Build Factor and Upland calculations, and that at least the Build Factor was incorrectly calculated. This will confirm that after speaking with my client, he does not wish to proceed with the flawed ANR Plan and will submit one without the Build Factor and Upland calculations. I believe this revised plan will be submitted either today or tomorrow, and we look forward to tonight's hearing being continued the Board's April 5, 2022 meeting. Finally, this will confirm that you have advised that the matter can be continued from tonight until 4/5, without the need for an appearance by me or my client. I apologize for the incorrectly submitted plan, and look forward to seeing you and the Board next Monday. Best regards, David

David J. Himmelberger, Esq.
Wilder, Shea & Himmelberger, LLP
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From: Lee Newman <LNewman@needhamma.gov>
Sent: Wednesday, March 16, 2022 1:09 PM
To: David Himmelberger <david@wshlawoffice.com>
Cc: David Roche <droche@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>
Subject: RE: ANR Plan for Brookside Road

David,

As you client is not prepared to add the requested notes to the ANR plan for Brookside Road

detailed in my email below, he should just formally file the ANR Plan he wishes to have the Planning Board review and endorse. The Planning Board will determine if they are going to require our standard information and disclosures to be included.

Please have your client drop off the mylar and 3 prints of the plan at the Planning Office. We will also need the required ANR application and filing fee.

My assistant, Alex Clee is in the Planning office on Tuesday, Thursday, and Friday during normal office hours. I have copied her on this email so that your client can coordinate his submittal with Alex directly.

Best Regards,

Lee

From: David Himmelberger <david@wshlawoffice.com>

Sent: Tuesday, March 15, 2022 4:31 PM

To: Lee Newman <LNewman@needhamma.gov>

Cc: David Roche <droche@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>

Subject: RE: ANR Plan for Brookside Road

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Sent: Wednesday, March 2, 2022 3:41 PM

To: David Himmelberger <david@wshlawoffice.com>

Cc: David Roche <droche@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>

Subject: RE: ANR Plan for Brookside Road

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Happy to discuss further if you want to give me a call at 781-343-3120.

Lee

Lee Newman
Director of Planning and Community Development
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From: David Himmelberger <david@wshlawoffice.com>
Sent: Tuesday, March 1, 2022 3:53 PM
To: Lee Newman <LNewman@needhamma.gov>
Subject: ANR Plan for Brookside Road

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Thanks, David

David J. Himmelberger, Esq.
Wilder, Shea & Himmelberger, LLP
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NEEDHAM PLANNING BOARD MINUTES

January 18, 2022

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, January 18, 2022, at 7:15 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. He reviewed the rules of conduct for zoom meetings. He noted this meeting includes public hearings and there will be public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Public Hearings:

7:20 p.m. – Amendment to Major Project Site Plan Special Permit No. 98-6: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at Existing Municipal Parking Lot on Chestnut and Lincoln Street, Needham, MA).

Town Counsel Christopher Heep noted the Chestnut and Lincoln Street parking lot was approved in 1998 and there have been several revisions since then. There is seasonal outdoor seating for the restaurants that abut the lot. The ~~Town~~ site plan special permit covers the entire lot and does not account for outdoor seating. He thought it was necessary to amend the special permit to allow ~~room for~~ the restaurants to conduct seasonal outdoor seating in some portions of the lot. He believes there will be no loss of parking spaces. He added no ~~restaurant~~ is applying for any seating plan approval as part of this application. This is just allowing ~~room for~~ others to come in to seek permission on an individual basis.

Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with comments; an email from Tara Gurge of the Health Department noting no comments at this time and a letter from Acting Town Engineer Thomas Ryder with no comments or objections. Mr. Alpert noted his understating is that Hearth Pizzeria is using space outside for seating; that, pre-covid, were parking spaces but on private property. Marsala Art is also using pre-covid parking spaces. The Planning Board has jurisdiction for Marsala Art and Hearth Pizzeria but if another restaurant moving into a building abutting the parking lot, moved in it would be the Select Board, since this application is to allow the Select Board to have discretion to allow outdoor seating on any part of the parking lot. It is the entire lot. Mr. Jacobs asked if Mr. Heep, on behalf of the Town, would have any objection if the Board put a condition on there would be no loss of parking spaces. Mr. Heep stated he would have no objection. Ms. Newman noted, however, that the seating would be on areas that are shown on the previously-approved site plan as parking spaces. Mr. Heep noted the spaces in question being used not have not been used as parking spaces since before Covid. He would like a little flexibility where a restaurant may want to use individual spaces. He noted each restaurant would have to apply for relief from conditions of its own special permit from the Planning Board.

Ms. Newman stated the goal is to amend the parking lot Special Permit so the Planning Board or Select Board could entertain an application to put outdoor seating on parking spaces through a process. A discussion ensued. Ms. McKnight noted that the Select Board, for any spaces for restaurants abutting the parking lot, can allow outdoor seating anywhere, but any restaurant with a special permit would need to come to the Planning Board. Mr. Heep stated the existing parking lot special permit covers the entire lot. He is only asking for spaces near the restaurants they are currently occupying. Ms. Newman noted, if the Board issues a permit for another restaurant and they decide 2 years later to get outdoor seating, it would go back to the Select Board. Mr. Jacobs commented the Board needs to be careful writing reading the draft decision. It would be hard to describe.

Mr. Alpert noted correspondence from Bernie Segaloff, of Segaloff's Jewelers, to Amy Haelsen, of the Town, forwarded to the Planning Board, with comments regarding concerns with losing parking spaces. He noted this amendment would allow for future applications that would have to be approved by the Planning Board or Select Board.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to close the hearing.

Mr. Jacobs stated it needs to be clear in the decision the Town does not intend to give up any more parking spaces.

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 2006-04: Sol Soul Family Foods LLC, c/o Ivan Millan-Pulecio, Chef/Owner, d/b/a Hearth Pizzeria, 59 Mount Vernon Avenue, Needham, MA 02492, Petitioner (Property located at 974 Great Plain Avenue, Needham, MA).

Ivan Millan-Pulecio, chef and owner, thanked the Board for allowing him to operate the patio last year. He would like to keep the patio. He noted it is not on any parking spots on the left side. There may be one on the right side. He has 33 seats outside, a service station, handwashing station and bathrooms just inside the back door. He would like to legalize the seating. Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with comment he is ok with allowing this year round; an email from Police Chief John Schlittler noting the police are ok with approved safety measures previously approved and keeping the jersey barriers in place; an email from Tara Gurge of the Health Department with no comments and a letter from Acting Town Engineer Thomas Ryder with comments that the applicant would need Select Board approval as well.

Mr. Block stated he is glad it was working before, and he is glad to continue it. He asked if it would be a certain percentage of the number of seats inside that would be allowed outside. Ms. Newman noted it would be 30% but they are amending the special permit for 3 conditions; (1) outdoor dining, (2) on an outdoor lot and (3) year round. Mr. Block stated he is pleased to support the application. Mr. Jacobs noted a reference to the ~~T~~own's existing easement. Ms. McKnight asked who owns the fee. Ms. Newman noted the fee is owned by the Simons. When the municipal lot was created it was done with private owners. The property lines run through the lot. The Town has rights to access the property. She will get a copy of the easement documents for the Board members.

Ms. McKnight understood the Town was the holder of the easement and someone else held the fee. Ms. Newman confirmed ~~that~~ is correct. Mr. Alpert asked if the dumpster will be moved. Mr. Millan-Pulecio stated there are 5 parking spaces and one is used for the dumpster. The dumpster has been moved but the enclosure is still there. He noted there are 2 CVS dumpsters behind the area where the patio is proposed. Mr. Jacobs asked if the Town has surrendered the right to allow Hearth to continue the patio. He wants to understand. Ms. Newman will pull out the easement documents for the Board members to review. Mr. Alpert stated initial approval was from the Select Board for outdoor seating. They will need to get copies of the easement agreement.

Ms. McKnight stated the application was not clear. It was said that ~~the~~ property owner is Solomon [Simon?] but the owner's name is Copley Investments. Ms. Newman noted it is owned by the Simon Family. A motion was made to close the hearing and allow for easement information to be submitted post-hearing. Mr. Alpert commented the Board may want further discussion. The motion was withdrawn. A motion was made to continue the hearing. Mr. Millan-Pulecio stated the space he fixed to have the outdoor seating is behind the CVS dumpsters. It is not on any parking spaces. He noted the Farmhouse (restaurant) is taking the parking spaces.

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Ms. Newman noted the next meeting will have to start at 7:00 p.m. She will have this on the agenda for 7:00 p.m. Ms. McKnight would like a copy of the parking lot plan and architectural drawings to be provided. Mr. Jacobs stated they may need to reopen the previous hearing re: the Town parking lot after this discussion. Artie Crocker stated nothing has been better for the community than the opening of outdoor seating. What would this mean in the future? This is a huge benefit for the community. Mr. Jacobs thanked Mr. Crocker for his comments. Ms. Espada stated she is also in support. She wants to make sure it is written correctly so the applicant does not have to come back in the future. Carolyn Day raised the point to remember the rat situation of a few years ago with the outside dining. She wants the Board of Health to stay on top of it.

Upon a motion made by Mr. Block, and seconded by Ms. Espada, it was by a roll call vote of the five members present unanimously:

VOTED: to continue the hearing to 2/1/22 at 7:00 p.m.

Appointment:

7:45 p.m. – George Guinta Jr.: Discussion of possible redevelopment at 888 Great Plain Avenue.

Mr. Alpert recused himself from this discussion. Mr. Block chaired the discussion. Mr. Block noted the Board received 27 emails and letters regarding this proposal. Other communications received last November are already in the record. Some are concerned they were not provided notice for tonight's agenda item ~~hearing~~. He explained sometimes the developer would ask for an appointment to get feedback on aspects of their proposal. This is not a public hearing and does not require notice. He noted when the developer comes with a plan there is a public hearing with notice. Comments are helpful and are part of the ~~decision-making~~ decision-making process.

George Giunta Jr., representative for the applicant, provided a set of plans to give the Board an idea of what the applicant is proposing. He noted this is an example of what might happen and is a starting point for discussion and not a final point. The property is zoned for single family residential in the middle of multiple zones with commercial on 2 sides and parking areas and a church. It does not make sense to be a single-family house. The applicant is requesting to extend the Center Business District. Some other zoning relief may be a better idea which is the reason for the discussion. He discussed the relief sought on the side yard setback. He prepared supplemental information that he shared with the Board. Currently there is a 50-foot setback requirement adjacent to the residential boundary. The Center Business District Overlay allows for underground parking up to 10 feet from the lot boundary. He is proposing to extend the Center Business District with relief from the 50-foot setback through a special permit process. To limit it to the Overlay District zoning as currently in place would ~~make it~~ be difficult to develop the lot without some relief.

Mr. Giunta Jr. noted, even now if Center Business Zoning were to be extended, the first floor cannot be residential so they would need a 50-foot setback. They are asking for relief to get some flexibility. He would like feedback to help move it forward so there could be some reasonable development here. Mr. Block noted there is some misconception that may be affecting some people's understanding of the proposal. He asked if it is in a residential zone and the structure was a house but has been used as a garden center as a lawful pre-existing non-conforming use? He noted there is a desire to promote mixed-use. There are challenges and there is no curb cut between Dedham Avenue and Warren Street. Mr. Giunta Jr. stated the driveway may be the only curb cut on the block. Mr. Block stated that may be an issue. A ton of children go to Green's Field and this is a walking path for many. This will be 24 residential units and 3 commercial units. There could be an intensive use coming out of the one curb cut. It could be problematic with people coming in and out of the pizza place and Abbott's Custard.

Mr. Block stated everyone needs to be cognizant of safety. He is not closed off to it as proposed, but he is not a fan of it. He would recommend that the building ~~to~~ have access through the municipal lot and that be only vehicular access with pedestrian access in the front. He has strong concerns. He does not mind the concept of retail on the first floor with ~~to~~ residential above. He is not sure he is comfortable with the density, though. The setback requirement is 50 feet. To go from 50 feet to 10 feet is a high bar to achieve. He is not comfortable with that change. He has a question with regard to height. He is using 35 feet and 3 stories as the appropriate standard. A number of homehomes in the area are at least that height. If the building were ~~designed~~ to look at least like a house, it may have an easier time. Smaller, shorter and access from Dedham Avenue or Warren Street may be better. He is not convinced this rezoning could go through Town Meeting. He is not sure, but it may be spot zoning. The applicant should think about extending the ~~Mixed-Use~~ District from Dedham Avenue to Warren Street.

Ms. McKnight noted Mr. Giunta Jr. is here to get responses. She noted that Mr. Block suggested the prior use was a lawful, pre-existing, non-conforming under the By-Law but she is not convinced. It was an allowed ~~agricultural~~ use which is allowed in residential districts. Mr. Giunta Jr. noted the only relief sought would be on the side but she noted that the rear also abuts residential — wouldn't ~~the project would need relief on the back?~~ Mr. Giunta Jr. stated the rear setback abuts ~~is~~ in the Center Business District and it borders residential only on the left side not the rear. He noted, with regards to spot zoning, this borders the Center Business District on 2 sides and this squares off the district.

Ms. Espada asked for clarification as to whether ~~ed~~ 3 sides would require a 50-foot setback now but the plan shows 15 feet, 20 feet and 20 feet. Mr. Giunta Jr. stated his understanding is this property was a single-family house and used for Hillcrest Gardens agricultural activity. After they began using the property, the town changed the zoning to require 2½ acres for agricultural use, making it non-conforming. Ms. McKnight noted a serious issue is the back alley having an entrance to underground parking. It is ~~would be~~ tense whenever someone came out of the garage. There is no driver visibility until you are at the sidewalk. She would like to see a driveway back to a side or rear entrance to the underground parking, and suggested the developer look at 15-17 Oak Street that was recently built. She commented she would not like to see the entrance to the garage coming right out to the sidewalk. She noted the dimensional table mentions a 35-foot height and

with the overlay it can go to 37 feet. She asked if the developer would consider going up as an alternative if they do not get the 50-foot setback relief. Mr. Giunta Jr. stated they very well might but do not want to go too high.

Nicholas Landry, architect, stated they are trying to keep the building at a lower height to keep it in line with the commercial building next door but he can look at it. For the parking, there was talk about having the entrance coming off the parking lot but this was not looked at. A couple of parking spaces may be lost. Ms. McKnight asked if the number of spaces are what are required or are more being provided. Mr. Giunta Jr. stated 1½ spaces per unit would be 36 spaces. They wanted to get as much parking as possible but may need a waiver. They will know once they begin the plans.

Ms. McKnight noted the Housing Plan Working Group is looking at this area. Retail is having a hard time. She asked if stand-alone multi-family housing should be talked about ~~or multi-family housing~~. Is it economically feasible? Does ~~Mixed-Use~~ add economic value? Jay Derenzo, applicant, stated there definitely needs to be a commercial component to make it economically feasible. The Board discussed if it made sense to require 1½ parking spaces for multi-family housing that is transit oriented, how many units will be affordable, and curb cuts. Mr. Giunta Jr. noted the existing curb cut is at the driveway. The proposed curb cut has been shifted slightly to the other side to shift it away from Pickering Street.

Ms. Espada noted the Church adjacent to the property seems to be over the property line. She asked if that was an easement. Mr. Giunta Jr. noted the Assessor's map shows it really close but he is not sure it is accurate. Mr. Landry got the plan off the internet. It is not a survey. It could be an error and should be set ~~far~~ further over. Ms. Espada stated she had similar concerns to Ms. McKnight. She has a concern with traffic going directly out of the property and this should be taken into consideration. Mr. Block noted more green space would be able to be created. Mr. Giunta Jr. noted they looked at doing something in the back early on. The tail piece abutting the property is owned by the same owner as 60 Dedham Avenue. Something would have to be worked out with them, but the rest of the parking lot is owned by the Town. They would need to work something out with the Town, get Town Meeting approval and would need to reconfigure the parking lot. Mr. Block noted the project would need to go to Town Meeting anyway.

Mr. Jacobs informed the applicant he would not be on the Board in April. He thinks the driveway from Great Plain Avenue across the sidewalk to the underground parking is problematic. They should try to access the underground parking from the rear or a new drive from Great Plain Avenue going down the side. He views this site as an anomaly to be zoned single residence but is a transitional lot. It should be viewed differently. This needs to be setback from the street line more than zero and needs a lot more greenery. He likes the idea of maybe reducing the parking requirement from 1½ to 1 space per unit. He asked if 3 commercial spaces on the ground floor were really needed to make it work economically. He is not sure he is willing to accept more stand-alone multi-family.

Ms. McKnight agreed with Mr. Jacobs on not using a zero setback. The visibility from the driveway will be better with a front setback, and it would not be disharmonious with the area. Mr. Derenzo stated he would like to have another working meeting with the Planning Board. He will go back to the original plans.

Mr. Alpert rejoined the meeting as Chairman.

Minutes

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to accept the minutes of 9/21/21 Planning Board meeting as red-lined.

Report from Planning Director and Board members.

Ms. Newman reviewed upcoming meetings. The Housing Plan Working Group is having a meeting on 1/27/22. There will be a community wide meeting to discuss the status of affordable housing in Needham and the housing patterns. It will let the residents give ideas on what they see as problems. She would encourage all Planning Board members to participate. Ms. Espada encouraged community members to attend. It is a listening session. They want to get input at the beginning of the process. Ms. McKnight commented the Housing Plan Working Group thought to send out a survey but decided against it at this time, as it was too complicated and too early. They thought it would be a benefit to first get thoughts and ideas from community members. Mr. Block stated he has access to MLS and can get any information or data needed for the last

5 to 8 years. Ms. McKnight suggested he communicate directly with Community Housing ~~Specialist~~ Director Karen Sunnarborg. Ms. Sunnarborg has put together a lot of data and he may be able to assist her with additional information.

Ms. Newman reminded the Board there will be a Chair/Vice-Chair meeting with the Finance Committee on 2/2/22. She had a meeting with the Finance Committee and thinks it went well. She noted she is working with Latina Restaurant. The restaurant wants to retain the outdoor seating installed during Covid. She is having an issue as the seating is located on the right of way that services the building they are in and the multi-family dwelling next door. The applicant is having trouble getting a formal license agreement to allow them to keep the seating out there permanently. The owner was able to get a letter from the property owner next door acknowledging the use and stating he has no issue with the use and its continuation. She was hoping the Board would accept that rather than a formalized license agreement to allow the use to continue on a more permanent basis.

Ms. Newman thinks it is a good use and would like the Board to allow the use to remain in place after 4/1/22 when the Covid protections expire. She noted a lot of restaurants want to make the arrangement permanent. Mr. Alpert was confused who owns the land. Ms. Newman noted it is a private right of way. Both Brookline Development Corporation and Mr. Fuhrman, who owns 50 Dedham Avenue, have an easement over it to allow access to the rest of the property. She has a letter from the ~~property~~ owner of 50 Dedham Avenue stating he is ok with it. The dumpster in back can be accessed coming through the other area. She asked if Mr. Fuhrman's letter is sufficient to formalize the seating? Mr. Jacobs commented the Board needs to recognize the two owners could end ~~it~~ this accommodation at any time. Mr. Alpert stated the letter had conditions that he wants to exist. He asked if there were special permits on these 2 parcels that need to be mixed use ? defined to allow this use.

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Ms. Newman stated Latina would come in front of the Board and ask they be allowed to keep this. The Board would need to allow Latina to accept deliveries off Great Plain Avenue so that Latina can comply with the conditions set forth in the letter from Mr. Fuhrman. The issue of where it is located has been the impediment, but the abutter has now said he would allow it to go forward. Ms. McKnight is all in favor of going ahead using the letter as authorization. Usually, the Board would want to see ~~the~~ a formal license agreement, but they are not going to require it in this case. She noted the Select Board is very supportive of outdoor dining. Ms. Espada feels the Board should have Town Counsel look at these to make sure they are ok. Ms. McKnight feels seeking the opinion of Town Counsel would be perceived as being difficult. Ms. Newman agreed. Restaurants are relying on outdoor dining to maintain their business. The Town needs to be supportive of these restaurants. Mr. Alpert noted the Board needs to recognize the fact permission needs to be granted by 50 Dedham Avenue. Granting permission does not negate the applicant needing permission from 50 Dedham Avenue.

Mr. Block feels the issue was more about deliveries coming through the driveway ~~instead of and not~~ from Great Plain Avenue. This would solve that issue and make it better. Mr. Alpert feels the language should be clear that no rights are being taken away from 50 Dedham Avenue. A discussion ensued. Mr. Jacobs noted the Board talked about a policy of non-enforcement when this started 2 years ago. The Board is trying to make it happen quickly to allow people to do the outdoor seating. Ms. Newman noted outdoor seating has only been effective during the time of the Governor's order and will expire once the Governor's order expires. There would be a minor modification for 50 Dedham Avenue. Ms. Newman understands the next steps.

Correspondence

Mr. Alpert noted a notice of a zoning public hearing from Wellesley's Planning Board. Ms. McKnight stated some interesting zoning changes to Wellesley and Westwood. She would like to know more. Ms. Newman will get copies and reach out to the Planners of those towns. Mr. Alpert noted an email from Elizabeth Kaponya, Precinct J, expressing concerns as to a medical clinic proposed where Panera Bread is.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: that the Planning Board enter into executive session under M.G.L. c 30A, S 21(a)(7), for the purposes of complying with M.G.L. c.30A, S 22, to review and approve the minutes of the executive session held on November 8, 2021 and that the Board not return to open session at the conclusion of the executive session.

Executive session purpose 7: Approve minutes of executive session held November 8, 2021.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to approve the minutes of the 11/8/21 executive session.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to adjourn the meeting at 10:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk

DRAFT

From: [Jim Flanagan](#)
To: [Planning](#)
Cc: [Kate Fitzpatrick](#); [Lee Newman](#); [Health Department](#); [Housing](#)
Subject: Can we do something more at the May Town Meeting to address the affordable housing crisis?
Date: Monday, March 14, 2022 6:14:05 PM

Dear Needham Planning Board Members:

Thank you again for your leadership and service to our community. In particular, thanks for your sponsorship of the Working Group which is drafting a new Housing Plan. I have great respect for the Group members and believe they will deliver an excellent plan. Unfortunately, I understand and appreciate that it will take time to do their work in a manner that engages diverse stakeholders in the community. Therefore, significant action on their recommendations might not be possible until this fall or later. Yet we are years into the current housing crisis. Some immediate action is warranted and Accessory Dwelling Units (ADUs) seem like low-hanging fruit.

Can the Planning Board add an article to the May Town Meeting Warrant related to ADUs to prime the pump for more affordable housing? Perhaps approval of up to ten (10) ADUs with fewer restrictions in advance of the broader Housing Plan. I believe that there is significant community support for movement on ADUs as evidenced by the Citizens' Position shared at the [October 2021 Special Town Meeting](#) and as supported by [town leadership](#). We also appear to be years behind communities like Lexington, Newton, and Carlisle in liberalizing ADU regulations. ([source](#) Pioneer Institute, The State of Zoning for Accessory Dwelling Units, Report July 2018.) I believe that the Working Group can share some preliminary ADU recommendations in advance of the full report.

I think that this is a topic that Town Meeting Members would like to consider in as timely a manner as possible as we work toward a longer-term plan. And I am especially interested as I am running to be a first-time Town Meeting Member in Precinct G.

Thank you for your consideration -

Jim

Jim Flanagan
863 Webster St.
Needham, MA 02492
jimdflanagan@gmail.com
978-994-9451
[linkedin.com/in/jimdflanagan](https://www.linkedin.com/in/jimdflanagan)

Cc:

Kate Fitzpatrick, Town Manager

Lee Newman, Title: Director of Planning & Community Development

Timothy McDonald, Director of Public Health
EJN-Housing Group

From: noreply@civicplus.com
To: [Alexandra Cleg](#); [Lee Newman](#); [Elisa Litchman](#)
Subject: Online Form Submittal: Contact Planning Board
Date: Monday, March 28, 2022 10:03:40 AM

The following form was submitted via your website: Contact Planning Board

Full Name:: Susan Welby

Email Address:: swelby@comcast.net

Address:: 857 Webster Street

City/Town:: Needham

State:: MA

Zip Code:: 02492

Telephone Number:: 617/834-6097

Comments / Questions: The League of Women Voters of Needham will host Warrant Meetings for the Annual Town Meeting on Monday, April 25, at 7:30 p.m. at the Center at the Heights.

The League of Women Voters-Needham has decided to return to in-person Warrant Meetings in an effort to educate Town Meeting Members about the Warrant. The Warrant Meetings will follow the usual format, we will meet in 5 rooms, two precincts each, hear details about the articles, and ask questions. A League member in each room will lead the discussion. We would very much like to have a member of the Planning Board in each room to answer questions that might arise.

Please let me know by Friday, April 22, if your Board is able to have a representative in each room and the preferred Precincts to be covered.

Precincts A and B
Precincts C and D
Precincts E and F
Precincts G and H
Precincts I and J

If you have any questions or require further information, please feel free to contact me by email or by phone: 617-834-6097 (cell).

Thank you.
Susan Welby
League of Women Voters-Needham
Warrant Meeting Coordinator

Additional Information:

Form submitted on: 3/28/2022 10:03:28 AM

Submitted from IP Address: 173.76.244.252

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Form Address: https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.needhamma.gov%2fForms.aspx%3fFID%3d229&c=E.1.RE8pB_6TIOZ7E-0k6aySIJVM1baYTmRLaLoGFFFaMbNlvjf4lmM1xTYlnNt2gDhrS4YMOsvmvZSfuMSgfSRaLUZslMydqKEwLF6WODYsU1m&typo=1



2022 MAR 17 PM 4:50

PLANNING DIVISION
Planning & Community Development

March 17, 2022

Theodora Eaton
Town Clerk
1471 Highland Avenue
Needham, MA 02492

Re: 100 and 120 Highland Avenue, Needham, MA
Amendment to Major Project Site Plan Special Permit No. 2005-07
Needham Gateway – **X Golf**

Dear Ms Eaton:

The Planning Board, at its meeting of March 15, 2022, voted to accept the request of the Applicant to withdraw without prejudice the application for an Amendment to Major Project Site Plan Special Permit No. 2005-07, filed with the Town Clerk on February 1, 2022. This subject application sought approval for a golf simulation facility at the Needham Gateway Center. I have attached the request to withdraw without prejudice from Attorney Richard Mann dated February 22, 2022 as well as the original date stamped application.

Please feel free to contact me directly on this matter with any questions.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman

Lee Newman
Planning Director

Enclosure

cc: Richard Mann
Planning Board

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL

February 22, 2022
Town of Needham
Planning Board
c/o Planning Department
50 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Director

2022 FEB 17 PM 4:50

Re: Withdrawal of CNC Golf, LLC (DBA "X-Golf") Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 For Property at 100-120 Highland Avenue, Needham, MA (the "Center")

Dear Board Members:

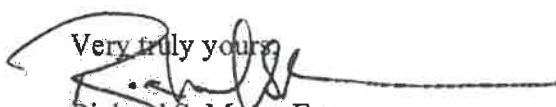
Reference is made to the Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 filed with the Planning Board by Needham Gateway, LLC and CNC Golf, LLC (together, the "Co-Applicants") seeking, among other relief, the approval of an indoor golf facility as an "indoor athletic or exercise" facility under the Needham Zoning By-Law along with accessory uses thereto and a parking waiver (the "X-Golf Application").

The prospective tenant (and co-applicant), CNC Golf LLC, has decided not to proceed with the indoor golf facility at 100 Highland Avenue. Accordingly, on behalf of CNC Golf LLC and Needham Gateway, LLC, the co-applicants, the X-Golf Application is hereby withdrawn, without prejudice.

To the extent possible, it would be appreciated if the application fee could be refunded.

Please accept my apologies for any inconvenience caused by this withdrawal.

Very truly yours,


Richard S. Mann, Esq.
On Behalf of Co-Applicants

cc: Michael Moskowitz
Attorney Elizabeth Lashway

COMMONWEALTH OF MASSACHUSETTS

LAND COURT
FILED

NORFOLK, ss.

22 MAR 23 AM 11:11
LAND COURT DEPT.
OF THE TRIAL COURT
MISC. Docket No.

22 MISC 000158

NEEDHAM ENTERPRISES, LLC.

Plaintiff,

v.

NEEDHAM PLANNING BOARD,

And

PAUL ALPERT, ADAM BLOCK,
MARTIN JACOBS, JEANNE McKNIGHT,
And NATASHA ESPADA,
in their capacity as members of the
NEEDHAM PLANNING BOARD

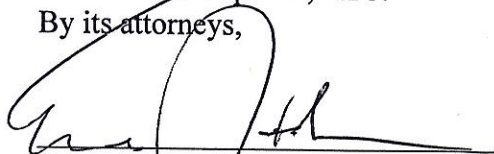
Defendants.

NOTICE OF APPEAL

2022 MAR 23 PM 12:13

Pursuant to M.G.L. c. 40A, § 17, notice is hereby given that Needham Enterprises LLC has filed an action in the Massachusetts Land Court, with the above caption, appealing the decision of the Needham Planning Board dated March 3, 2022 regarding the property at 1688 Central Avenue, Needham. A copy of the complaint initiating that appeal is attached hereto.

Respectfully Submitted,
Needham Enterprises, LLC.
By its attorneys,



Evans Huber, Esq.
BBO # 542133
Frieze Cramer Rosen & Huber LLP
60 Walnut Street
Wellesley, MA 02481
(781) 943-4000

Date: March 23, 2022

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

LAND COURT DEPT.
OF THE TRIAL COURT
MISC. Docket No.

22 MISC 000158

NEEDHAM ENTERPRISES, LLC.	)
	)
Plaintiff,	)
v.	)
	)
NEEDHAM PLANNING BOARD,	)
	)
And	)
	)
PAUL ALPERT, ADAM BLOCK,	)
MARTIN JACOBS, JEANNE McKNIGHT,	)
And NATASHA ESPADA,	)
in their capacity as members of the	)
NEEDHAM PLANNING BOARD	)
	)
Defendants.	)
	)

COMPLAINT PURSUANT TO M.G.L. c. 40A, SECTIONS 3, 9, AND 17

The plaintiff in this action, Needham Enterprises LLC, by and through its undersigned counsel, hereby appeals the Decision of the Needham Planning Board dated March 3, 2022 regarding certain property located at 1688 Central Avenue, Needham, as described in greater detail below.

PARTIES

1. The plaintiff, Needham Enterprises LLC, is a Massachusetts limited liability corporation with a principal address of 105 Chestnut Street, Suite 28, Needham, Massachusetts.

2. The defendant Needham Planning Board is a duly established Board of the Town of Needham, legally mandated to carry out certain statutory responsibilities on behalf of the Town of Needham, including certain responsibilities under M.G.L. c. 40A.

3. The defendant Paul Alpert is an individual residing at 116 Pine Street, Needham, MA. Mr. Alpert is a member of the defendant Needham Planning Board and is named as a party to this action solely in his capacity as a member of that Board, and not individually.

4. The defendant Adam Block is an individual residing at 103 High Rock Street, Needham, MA. Mr. Block is a member of the defendant Needham Planning Board and is named as a party to this action solely in his capacity as a member of that Board, and not individually.

5. The defendant Martin Jacobs is an individual residing at 36 Mayo Avenue, Needham, MA. Mr. Jacobs is a member of the defendant Needham Planning Board and is named as a party to this action solely in his capacity as a member of that Board, and not individually.

6. The defendant Jeanne McKnight is an individual residing at 100 Rosemary Way, Unit 336, Needham, MA. Ms. McKnight is a member of the defendant Needham Planning Board and is named as a party to this action solely in her capacity as a member of that Board, and not individually.

7. The defendant Natasha Espada is an individual residing at 1681 Central Ave, Needham, MA. Ms. Espada is a member of the defendant Needham Planning Board, but recused herself from the hearing and deliberations on this matter and did not sign the decision appealed hereby. Ms. Espada is named as a party to this action solely in her capacity as a member of that Board, and not individually, and solely in the event that, notwithstanding her non-participation in

the decision being appealed, she is required to be named as a defendant by virtue of her status as a member of the Needham Planning Board.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter and venue is proper pursuant to M.G.L. c. 40A, § 17.

FACTS

9. Needham Enterprises is the owner of a certain parcel of land located at 1688 Central Avenue in Needham (the "Property"). The Property, which at present comprises approximately 3.3 acres, is located in a zoning district identified in Needham's Zoning Bylaws as "Single Residence A" ("SRA"). Currently located on the Property are a house, a barn (the "Barn"), and another outbuilding sometimes referred to as the garage.

10. Needham Enterprises intends to demolish the house and garage, and to build a facility of approximately 10,000 square feet on the Property, to house a child care facility, a use that is allowed by right not only by M.G.L. c. 40A § 3, the so-called "Dover Amendment," but also by the Town's own bylaws, in every zoning district in Town, including the SRA district.

11. The proposed building exceeds by a wide margin every minimum dimensional requirement (such as front, side and rear setbacks) and is less than (again, by a wide margin) every maximum allowable dimensional requirement set forth in the Town's Bylaws. The proposed parking exceeds the Town's requirements for parking for a child care facility of this size.

12. The design of the building has been arrived at collaboratively with the anticipated tenant, Needham Children's Center (NCC), with extra space (and spaces) to enhance the

children's experiences there, and to facilitate early childhood programs that are important to NCC, rather than cramming the children into the minimum square footage required by state law.

13. NCC has been a highly regarded and responsible corporate citizen of Needham for over 40 years, and is accredited by the National Association for the Education of Young Children (NAEYC), consistently meeting or exceeding the national standard of child care excellence set by that organization

14. As part of this project, Needham Enterprises intends to build a site access driveway, including a dedicated pick-up and drop-off lane; a pick-up and drop-off area adjacent to the main entrance to the building (which is at the end of the building furthest from Central Avenue); parking areas that include a total of 30 parking spaces; and a large fenced outdoor play area.

15. Needham Enterprises intends and proposes to leave in place the Barn, which was built in the late 1980s, to be used by NCC for storage. At its current location, NCC is using approximately 1,850 s.f. of space for storage of equipment, materials, and supplies used in the operation of its child care facility.

16. All of these aspects of the project are shown on plans submitted to the Needham Planning Board, prepared by Needham Enterprises' engineering firm, Glossa Engineering, Inc., originally dated June 22, 2020, and most recently revised on November 8, 2021. These plans (which are collectively referred to herein as the "Plans") include an extensive landscaping plan that was modified at the request of, and subsequently approved by, the Needham Design Review Board.

17. Unlike some other towns in the MetroWest area, Needham's zoning bylaws do not include provisions specifically addressed to projects, buildings, or uses covered by the Dover Amendment.

18. Instead, the Needham zoning bylaws require something called a "Major Project Site Plan Review Special Permit," to be issued by the Planning Board after a public hearing process, for any project which (among other possible triggering criteria) involves 10,000 or more square feet of new construction, or the creation of 25 or more new off-street parking spaces. The Needham zoning bylaws specify various criteria that the Planning Board is to consider in determining whether to issue a Major Project SPR Special Permit, and what, if any, conditions to impose on an approved project.

19. But for the existence of the Dover Amendment, M.G.L. c. 40A, § 3, the project and Plans proposed by Needham Enterprises would fall under the Town's requirements for a Major Project SPR Special Permit. However, M.G.L. c. 40A, § 3 provides in relevant part:

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

20. In light of this language, it has consistently been Needham Enterprises' position that the Town, and more particularly the Planning Board, cannot require a Major Project SPR Special Permit for the project and the Plans, particularly with respect to the Barn, which was permitted by the Town as an accessory structure in 1989. Instead, because this project and the Plans fall under the portion of the Dover Amendment quoted above, it was and remains Needham Enterprises' position that the project and the Plans are subject to review and approval by the Planning Board "subject to reasonable regulations concerning the bulk and height of structures

and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements,” (rather than whatever regulations or conditions the Planning Board sees fit to impose under the Major Project SPR criteria).

21. Nevertheless, the Town insisted that the only path to approval of the project and the Plans was through the Major Project SPR Special Permit process. Accordingly, on or about May 20, 2021, Needham Enterprises submitted an application to the Planning Board for a Major Project SPR Special Permit for the project and Plans.

22. The application was scheduled for a public hearing on Monday, June 14, 2021. No testimony was taken at that hearing. Thereafter the public hearing was continued to and (except where specified below), evidence was taken on the following dates: Tuesday, July 20, 2021; Tuesday, August 17, 2021 (no testimony taken); Wednesday September 8, 2021; Tuesday, October 5, 2021; Tuesday, October 19, 2021 (no testimony taken), Tuesday, November 2, 2021; Tuesday, November 16, 2021; and Wednesday December 8, 2021.

23. As noted above, at the start of the process Planning Board member Natasha Espada recused herself on the grounds of conflict of interest, as she resides at 1681 Central Avenue, almost directly across the street from the Property. This recusal left four Board members apparently able to participate in the public hearing process, and deliberate and vote on Needham Enterprises’ application for a Major Project SPR Special Permit.

24. No testimony was taken at the October 19, 2021 hearing because, upon information and belief, shortly before that hearing, the Planning Board received a communication from a resident of Needham asserting that one of the four remaining members, Paul Alpert (who is the chair of the Planning Board) also had a conflict of interest. Mr. Alpert

announced at the meeting that the hearing would be continued to allow time to consult with Town Counsel as to how to proceed.

25. At the next hearing, on November 2, Mr. Alpert stated that after consultation with Town Counsel it had been determined that he should recuse himself due to this conflict, but that doing so would leave only three members of the Planning Board able to vote on the application, which would not meet the statutory requirement of four votes of a five-member board. Therefore, it was determined that the Town would invoke the so-called "rule of necessity" and that Mr. Alpert would remain on the Board for the remainder of the hearing, deliberation and vote on Needham Enterprises' application, although for the purposes of this application, he would tender chairmanship of the Planning Board to the vice-chair, Adam Block, for the remainder of the hearing.

26. An enormous amount of material -- some 252 documents in total -- was submitted to the Planning Board during the hearing process. Although a detailed review of the relevant documentation is not possible or appropriate in this Complaint, excerpts from three of those documents have a direct bearing on the issues raised by this appeal:

- a. A May 6, 2021 inter-departmental communication from John J. Schlittler, Chief of the Needham Police Department, to the Planning Board, in which Chief Schlittler states, in part: "the center [NCC] will be staggering drop-off and pick-up times as they currently do and will continue post covid . . . The change to 30 parking spaces will alleviate any concern of adequate parking or vehicles stacking within the lot during drop-off and pick-up" and concludes: **"If the facility continues to stagger drop-offs and manages the internal parking circulation, I feel the traffic will be manageable and not a safety concern."** (emphasis added)
- b. A November 16, 2021 letter from the Town's own traffic and engineering consultant, John Diaz of Greenman Pederson, Inc. ("GPI"), who was hired by the Town (at Needham Enterprises' expense) to act as peer reviewer of Needham Enterprises' traffic and engineering submissions and analyses. In that letter, Mr. Diaz states, as one of his recommendations: "The proponent should commit to provide police details during the peak morning and afternoon hours of arrivals and dismissals. **The detail should remain in place, until the Police Chief believes**

the site is operating without significantly impacting operations along Central Ave. (emphasis added)

- c. A December 7, 2021 letter from the Needham Building Commissioner, David Roche, to the Planning Board, in which Commissioner Roche discusses the definitions of “Accessory Building “ and “Accessory Use” under the Needham zoning bylaw in the context of M.G.L. c. 40A, § and concludes: **“Based on the definitions in the Bylaw and the section from 40A I believe that the use of the barn if used specifically by the child care facility would be a permitted use and not a violation of zoning.”** (emphasis added)

27. As can be seen from the language of certain sections enumerated below, including sections 2.1(d), 3.14(a), 3.14(c), 3.15, 3.16, and 3.17, when it issued its decision that is the subject of this appeal (hereinafter referred to as the “Decision,” a copy of which is attached hereto as Exhibit 1), the Planning Board ignored the advice and opinions of the Needham Police Chief; the Needham Building Commissioner, and the Planning Board’s own peer reviewer, John Diaz. In important respects discussed below, the Planning Board also ignored the advice of Town Counsel.

28. Following the public hearings listed in paragraph 22, above, on December 8, 2021, the Planning Board closed the public hearing, and thereafter conducted several public meetings in which it deliberated as to what conditions should be included in the Decision. Ultimately, on March 3, 2022, the Planning Board signed the Decision , and filed it with the Needham Town Clerk. Although it purports to “approve” a Major Project Site Plan Review Special Permit for the project, the Decision includes the following provisions, conditions, and required material modifications to the project and the Plans, among others:

- a. “Modifications” Section 2.0: The Plan shall be modified to include the requirements and recommendations of the Department of Public Works as set forth below. The modified plans shall be submitted to the Department of Public Works for review and comment, and to the Board for approval and endorsement. All requirements and recommendations of the Department of Public Works, set forth below, shall be met by the Petitioner. . . .(a) the plan shall be revised to show an ADA-compliant sidewalk along the entire frontage of the property.

- b. "Modifications" Section 2.1 (d): The Plan shall be revised to demolish or remove from the property the barn and to relocate the proposed building and associated fencing another 56 feet back from Central Avenue to a minimum front yard setback of 120 feet in accordance with the sketch plan shown as Exhibit 252.
- c. "Modifications" Section 2.2: The plan shall be revised to show all trees having a caliper of greater than 6 inches located within the area of disturbance that will not be retained during the construction process. Said trees shall be replaced at a 2 to 1 ratio with the location, size, and species to be reflected on a revised landscaping plan submitted to and approved by the Director of Parks and Forestry.
- d. Condition 3.4: The maximum number of children present at the child-care facility at any given time shall not exceed 115. The maximum number of child-care employees or staff inclusive of teachers, instructors and administrators present at any given time shall not exceed 18.
- e. Condition 3.8: Any change to the property shall require an amendment of the site plan approval.
- f. Condition 3.13: If the Petitioner is notified by the Planning Board, based on reliable observations reported to the Planning Board, of frequent or chronic backup of vehicles onto Central Avenue from the child-care facility, it shall promptly propose, in writing to the Planning Board, a plan to remedy the situation and following Board approval shall execute the approved plan without delay.
- g. Condition 3.14 (a) (and Section 1.17 (a)): A police detail shall be provided at the site driveway during the peak morning and afternoon hours of arrivals and dismissals. The detail will remain in place for a minimum of 45 days, commencing on or after the opening of the child-care facility. The detail may be discontinued thereafter upon request of the Petitioner and a finding by the Board (following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient) that the site is operating without significantly impacting operations along Central Avenue."
- h. Condition 3.14 (c) (and Section 1.17(c)): The Petitioner shall complete a follow-up traffic study using the methodologies and presenting conclusions consistent with the traffic studies presented to the Planning Board in this application after the site is open and operational to at least 80% of student capacity.
- i. Condition 3.15: The Petitioner shall not exceed the Maximum Trip Count as follows: The total Maximum Trip Count for the child-care facility is 110 trips during the weekday morning peak hour and 112 trips during the weekday evening peak hour. The Petitioner shall prepare, submit and implement a Transportation Demand Management Work Plan (the "TDM Work Plan"), that includes strategies and measures necessary to comply with the Maximum Trip Count. The TDM

Work Plan shall be submitted to the Board for review and approval prior to the issuance of the building permit.

- j. Condition 3.16: The Petitioner shall be responsible for verifying compliance with the Maximum Trip Count, if so requested by the Board. Such trip counts shall be conducted by a qualified professional in accordance with standard engineering methodology. The Petitioner shall be responsible for the cost of all trip counts, surveys, and required analysis. If the Maximum Trip Count is exceeded, the Petitioner shall submit a revised TDM Work Plan to the Planning Board for review and approval.
- k. Condition 3.17: In the event that traffic or parking problems caused by the use of the property develop that are inconsistent with what was represented to the Board at the hearing and that adversely affect the neighbors on Central Ave, the Board may modify this decision by imposing impose additional conditions.
- l. Condition 3.18: The Petitioner shall be responsible for implementing and complying with the requirements of the Board of Health as detailed in . . . Section 1.24 of this Decision, and all other requirements of the Board of Health as the Board of Health shall determine based on the report of the licensed site professional as set forth in section 1.24. The petitioner shall provide access to the property by the licensed site professional retained by the Board of Health for the purpose of completing the tasks set forth in Section 1.24.
- m. Section 1.24 of the Decision provides: The Board of Health will engage an independent third party, licensed site professional to conduct an independent environmental evaluation of the property. The licensed site professional will oversee the project and shall confirm that the soil testing work, along with the proposed capping work to be conducted, meets all local, state and federal requirements. The licensed site professional will conduct a complete site assessment, provide their recommendations on whether soil testing is required and what types of testing needs to be conducted due to the history of this site. This licensed site professional will also: (a) determine whether and what type of barrier or capping measures may be necessary on this site; (b) offer guidance on what mitigations are necessary in the event the soil is found to be contaminated; (c) offer guidance on what mitigations to the new building will be required to ensure the building air quality is adequate and safe; and (d) offer their guidance on what will be required going forward to ensure the site is deemed safe for the children at this new child-care facility.
- n. Condition 4.44 (presumably s/b 3.44): Violation of any of the conditions of this Decision shall be grounds for revocation of this Decision, or of any building permit or certificate of occupancy granted hereunder. In the case of violation of the continuing obligations of this decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Owner has not cured the violation, or in the case of violations requiring more than thirty (30)

days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Owner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of this Decision.

29. For the reasons set forth below, all of these conditions are void, because (a) they require further determinations of substance by the Planning Board, the Board of Health, and the town's Director of Parks and Forestry, which means that the Planning Board has not issued a final decision within the time required by M.G.L. c. 40A § 9; and/or (b) in the case of the Barn, they constitute an explicit denial of the proposal to use the Barn as a storage facility for the NCC child care facility, a result which is prohibited by M.G.L. c. 40A, § 3; and/or (c) the conditions and required modifications of the Plans exceed the Planning Board's authority to impose "reasonable regulations" pursuant to M.G.L. c. 40A, § 3 and the applicable case law thereunder; and in some cases are void for vagueness; and/or (d) they collectively represent such a material change to, and increase in the cost of, the project and the Plans as to constitute a *de facto* denial of the project and the Plans as proposed by Needham Enterprises, which is prohibited by M.G.L. c. 40A, § 3 and the Town's zoning bylaws.

COUNT I
CONSTRUCTIVE GRANT OF PLAINTIFF'S
APPLICATION FOR MAJOR PROJECT SITE PLAN SPECIAL PERMIT
(M.G.L. c. 40A, § 9)

30. Plaintiff incorporates the allegations of paragraphs 1- 29, above, with the same force and effect as if set forth in full.

31. As noted above, the public hearing on this matter was closed on December 8, 2021.

31. M.G.L. c. 40A, § 9 states in part that "The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing." This

language has been interpreted to mean that a final decision must be made no later than 90 days from the close of the public hearing (and possibly earlier).

32. It is well established under Massachusetts law that a decision of a municipal permit granting authority requiring “further determinations of substance” is not a final decision, particularly when those determinations are to be made based on facts and evidence that is not yet before the permit granting authority. In fact, during the January 4, 2022 deliberations of the Planning Board, the Board was advised by Town Counsel, Christopher Heep, that “you cant . . . require the applicant to take your site plan approval decision and come back to you in three months for a new hearing and another level of review . . . any condition that requires the applicant to come back to the Planning Board three months from now or six months from now for a public hearing or any kind of discretionary review is going to be vulnerable to attack on appeal . . . the key element here is that all of the discretionary review needs to be done when you issue your decision.”

33. The March 3, 2022 Decision requires further determinations of substance by the defendants (or in instances specified below, by the Board of Health or the Town Director of Parks and Forestry) on the following topics. All of these determinations of substance are to be based on facts, information, and evidence that is not yet before the Planning Board:

- a. Whether “**reliable evidence**” has been reported to the Planning Board that there are “**frequent or chronic backup of vehicles onto Central Avenue**” (Condition 3.13, emphasis added); if this is found to be the case, then after being so notified, Needham Enterprises must submit for Planning Board approval a plan to remedy the situation.
- b. Whether “**the site is operating without significantly impacting operations along Central Avenue;**” (Condition 3.14, emphasis added), and, before the daily morning and afternoon peak hour police detail required by Condition 3.14 can be discontinued, this “standard,” whatever it might mean to the Planning Board, must be met after a hearing conducted “in the sole and exclusive discretion of the Planning Board.”

- c. Whether the “follow-up traffic study” required by Condition 3.14 presents **“conclusions consistent with the traffic studies presented to the Planning Board during the application process”** (emphasis added) and if not, what additional conditions the Board may impose.
- d. Whether to approve a “Transportation Demand Management Work Plan” (“TDM Work Plan”) required to be submitted by Needham Enterprises, which must be approved even before a building permit can be issued (Condition 3.15)
- e. Whether to approve a revised TDM Work Plan required by Condition 3.16 if the maximum trip count specified in Condition 3.15 is exceeded.
- f. Whether **“traffic or parking problems caused by the use of the property develop that are inconsistent with what was represented to the Board at the hearing and that adversely affect the neighbors on Central Ave.”** and if so, what additional conditions to impose (Condition 3.17, emphasis added).
- g. The nature, extent, and physical scope of the soil testing that will be required at the property; the nature and extent of barriers or capping that will be required; the type and extent of mitigation that will be required in the event any soil is found to be “contaminated;” the nature and extent of “mitigation to the new building” that will be required “to ensure the building air quality is adequate and safe;” and the nature and extent of “what will be required going forward to ensure the site is deemed safe for the children at this new child-care facility;” all to be determined at some future date by the Board of Health (Condition 3.18).
- h. Whether the Director of Parks and Forestry will approve the to-be-created, Board-imposed tree replacement plan and revised landscaping plan as required by Modification 2.2 of the Decision.

34. Because all these provisions require further determinations of substance by the defendants, the Board of Health, and/or the Director of Parks and Forestry, the defendants have in effect failed to make a final decision within 90 days of the close of the public hearing.

35. It is well-established under Massachusetts law that the failure of a municipal permitting authority to take final action on an application within 90 days of the close of the hearing results in a constructive grant, without conditions, of the application as submitted by the applicant.

36. As a result, Needham Enterprises' application for a Major Project SPR Special Permit has been constructively granted by the defendants; all conditions and plan modifications imposed by the March 3, 2022 Decision are void and of no force or effect; and Needham Enterprises is entitled to a building permit to proceed with the project as specified in the Plans.

WHEREFORE, Needham Enterprises requests that the Court enter judgment as set forth below.

COUNT II
IMPOSITION OF CONDITIONS IN THE SPECIAL PERMIT THAT
EXCEED THE DEFENDANTS' AUTHORITY AND/OR ARE
OTHERWISE PROHIBITED BY APPLICABLE LAW
(M.G.L. c. 40A, § 17)

37. Plaintiff incorporates the allegations of paragraphs 1-36, above, with the same force and effect as if set forth in full.

38. As noted above, the Decision includes a requirement that the Barn be demolished. This requirement is clearly prohibited by the language of M.G.L. c. 40A, § 3 which states in relevant part that "No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility . . ." Inasmuch as the Barn is proposed to be used for storage purposes solely by NCC, it clearly is a "structure" to be used for an "accessory or incidental purpose of operating a child care facility." Prohibiting its use for this purpose is therefore proscribed by M.G.L. c. 40A § 3. Consistent with this clear and unambiguous language, the Planning Board was advised by Town Counsel during its January 4, 2022, deliberations that in his opinion "the barn is likely entitled to protection of the Dover Amendment to the extent it is being used for childcare facility purposes."

39. The Planning Board offers three rationales for requiring the demolition of the Barn, none of which has merit. First, the Decision asserts that the Barn is prohibited by the provision of the Needham zoning bylaw that prohibits more than one non-residential use or structure on a lot in this zoning district. *See* Decision Section 1.18(a). Relevant case law explicitly rejects this argument in Dover Amendment cases. Indeed, immediately adjacent to this Property, in the same zoning district, is the Temple Aliyah which is also operating a child care facility on its property, i.e., operating more than one non-residential use on the same lot in the SRA zoning district. Obviously, the Temple is not operating an illegal child care facility; it is legally operating a child care facility in apparent violation of the language of the bylaw because of the protection afforded to child care facilities (and religious institutions) by the Dover Amendment.

40. Second, defendants assert in the Decision that the barn does not qualify as an “accessory structure,” relying on the definition of “Accessory Structure” in the zoning bylaw: “a building devoted exclusively to a use subordinate to and customarily incidental to the principal use.” *See* Decision Section 1.18(b). Defendants argue that it is not customary for a child care facility to have an accessory structure of this size (4800 s.f. on a footprint of 2400 s.f. which is *less than half the size of the proposed building* that will be housing NCC) and misread the definition to mean that the Barn therefore does not qualify as an accessory structure under the bylaw.

41. The bylaw definition of accessory structure clearly states that it is the use of the structure (in this case, storage) that must be “customarily incidental” to the principal use (in this case, child care facility). Nowhere does the definition state that the size of the structure must be “customary.” Indeed, this Barn *was permitted by the Town as an accessory structure* in 1989, at

a time when it exceeded by a considerable margin the square footage of the principle structure (the house, 1663 s.f.) on the Property. In fact, the Barn, permitted by the Town as an accessory structure, is approximately *three times the size of the house* that it was accessory to.

42. Moreover, as noted in paragraph 26(c), above, the Needham Building Commissioner (who is the Town official responsible for enforcing the zoning bylaws) has stated, in writing, that in light of the definitions of “accessory structure” and “accessory use” in the zoning bylaw, and the protection afforded by the Dover Amendment for “structures” used “for the primary, accessory or incidental purpose of operating a child care facility,” that “based on the definitions in the Bylaw and the section from 40A . . . the use of the barn if used specifically by the child care facility would be a permitted use and not a violation of zoning.”

43. Lastly, defendants assert that it is not unreasonable to require that the Barn be demolished because initially Needham Enterprises did not propose that the barn would be used for storage for NCC, and therefore, by implication, NCC does not actually need the Barn for storage. Decision Section 1.22. This justification for requiring the demolition of the Barn is factually false.

44. As noted above, the first hearing on this matter at which evidence was presented was July 20, 2021. During the hearing, counsel for Needham Enterprises advised the Planning Board that although there was no lease yet between Needham Enterprises and NCC, there was an understanding between those entities that NCC would have the right to use the Barn for storage. At subsequent hearings the owner and principal of NCC, Patricia Day, provided testimony that at its current location, NCC is using approximately 1,850 s.f. of space for storage, and there is no dispute that the building shown on the Plans does not provide for anywhere near that amount of storage space. Moreover, at the later hearings Needham Enterprises repeatedly stated its

intention that the Barn would be used for storage exclusively by NCC, and this was confirmed by letters from Needham Enterprises' counsel to the Planning Board dated September 30, 2021, and January 31, 2022.

45. In addition to the reasons set forth above demonstrating that the requirement that the Barn be demolished is precluded by the Dover Amendment, case law decided thereunder, and the Town's own bylaws, the provisions of the Decision requiring that the Barn be demolished are not a "reasonable regulation" of this project, which is the standard defining the limit of what the Board is permitted to impose in a Dover Amendment case. The cost of demolishing the Barn, the loss of the storage capabilities, and the resulting *de facto* requirement that another storage facility be built at some yet-to-be-approved location on the Property (or that the design and footprint of the building be significantly enlarged to provide the lost storage space inside the footprint of the building) will all impose real and substantial costs on Needham Enterprises (and if the storage capability is not replicated elsewhere, on NCC). And imposing these costs on Needham Enterprises achieves no real benefit to the Town, particularly since, as noted above, the barn was built in the late 1980s and has been part of the neighborhood and its character since that time.

46. Indeed, it is apparent that the real reason the Planning Board is requiring that the Barn be demolished is to permit the imposition of additional front setback for the building, from the 64-foot front setback proposed by Needham Enterprises in the Plans, to 120 feet as required by the Decision. The location of the Barn is such that if the Barn remains standing, it is not physically possible to construct the building with a 120-foot front setback while maintaining the

design of the pick-up-and drop-off area at the rear of the building, which even the Planning Board recognizes is well-designed.¹

47. Again, the basis for this requirement is factually flawed and an unreasonable regulation of the project. Defendants assert that “abutting residential properties along Central Avenue show a 65-foot front yard setback for one property with the remainder [sic] ten properties presenting front yard setbacks in the range of 103 to 117 feet.” Decision Section 1.21. The data relied on for this statement was provided by opponents of the project; but this statement ignores data provided by Needham Enterprises during the public hearing process which shows that on the east side of Central Avenue (the same side of Central Ave as the Property), of the nine closest neighbors to the Property (five to the north and four to the south), five have front setbacks from Central Ave of 70, 70, 65, 55, and 40 feet. In light of this, the front setback of 64 feet proposed in the Plans is entirely in keeping with other front setbacks on that side and stretch of Central Avenue.

48. In addition, the front setback required by the Town’s zoning bylaws for this type of structure in this district is *thirty-five* feet. Needham Enterprises’ Plans propose a front setback that is almost twice the setback required by the Town’s bylaws.

49. The defendants are apparently of the view that they have the authority to require a front setback greater than that imposed by the Town’s bylaws. There is not a single published decision in the Commonwealth upholding a municipality’s imposition of a setback greater than that required by the applicable bylaws in a Dover Amendment case.

50. But even if the defendants do have that authority, the exercise of that authority must be *reasonable* under the Dover Amendment, a determination that typically requires

¹ The Decision requires that the building be moved to a setback of 120 feet, while maintaining the pick-up and drop off area exactly as proposed by the Plans in relation to the relocated building. Decision, Section 2.1(d).

balancing the municipal interest served by the restriction or regulation against the cost to the applicant, in this case, Needham Enterprises. Needham Enterprises presented evidence at the hearing in the form of a stamped letter from Glossa Engineering regarding the approximate additional costs if Needham Enterprises is required to demolish the barn and move the building further back from Central Avenue. These costs will be substantial.

51. The imposition of those costs must be reasonable in light of the municipal benefit to be achieved; in this case, an additional 56 feet of setback from Central Ave. The municipal benefit is nominal. The landscaping plan, when mature, will include (but is not limited to) significant vegetative screening along both side boundaries of the project area, extending almost all the way to Central Avenue, which will substantially screen the view of the building (with the front setback of 64 feet as proposed in the Plans) as one drives north and south on Central Avenue. The additional setback required by the Decision will not achieve a meaningful reduction in the visibility of the building as seen from Central Avenue.

52. It bears repeating that, in addition to being unreasonable, the 120-foot front setback required by the Decision will become moot if the Court agrees that Needham Enterprises is entitled to leave the Barn standing, to be used for storage and possibly other ancillary purposes related to NCC's child care operations. If the Barn remains, the 120-foot setback cannot be achieved with the current pick-up, drop-off, and traffic circulation for the site as shown on the Plans.

53. The Decision also requires that the number of children at the facility at any one time be capped at 115, and the number of staff on site at any one time be capped at 18. This is a condition that the Planning Board does not have the authority to impose under the Dover Amendment; relevant case law from this Court has explicitly held that the maximum number of

children at a given child care facility, and the attendant staff, is determined by the Massachusetts Department of Early Education and Care, and imposing a limit on the number of children and staff is not a permissible method for a municipal permit granting authority to attempt to address concerns about traffic.

54. It is true that initially Needham Enterprises and NCC had stated that they would agree to caps of 115 and 18 on the number of children and staff, respectively. However, the offer to agree to a cap was based on the assumption that the Planning Board would approve the major other elements of the Plans as proposed, including leaving the Barn intact (to be used for storage and other purposes ancillary to the child care facility), and leaving the front setback at 64 feet, as proposed.

55. Once the Planning Board had circulated a proposed draft Decision in January 2022 and it became clear that, all arguments and authority to the contrary notwithstanding, the Planning Board intended to require the demolition of the Barn and the imposition of additional front setback, Needham Enterprises advised the Planning Board, by letter dated January 31, 2022, that if those conditions were included in the final decision, Needham Enterprises would appeal those and other conditions, including the cap on the number of children and staff.

56. The Property comprises approximately 3.3 acres, and the project as shown on the plans will occupy only a portion of the entire Property. The Decision includes Condition 3.8, which states that “any change to the property shall require an amendment of the site plan approval.” In the first draft of the Decision circulated in January 2022, this condition was originally written to state: “All buildings and land constituting the property shall remain under a single ownership and the property shall not be further subdivided.” Upon information and belief, the Planning Board was advised that it did not have the authority to impose such a condition, so

the current phrasing of Condition 3.8 is what ended up in the Decision. However, it was clear from the Planning Board discussion of this condition that the intent of the revised language is the same as that of the condition as originally drafted.

57. This condition amounts to a requirement that the lot size be fixed at the current 3.3 acres. While the Dover Amendment does allow a town to impose "reasonable regulations" with respect to, among other things, lot size, this is not a reasonable regulation and will impose a very substantial economic burden on Needham Enterprises.

58. The Decision also requires that Needham Enterprises construct an ADA-compliant sidewalk along entire 250 feet of frontage of the Property. The sidewalk in question is not even located on Needham Enterprises' Property, but instead on land owned by the Town. In short, the Planning Board is demanding an improvement to Town-owned land as a condition of granting approval for this project to move forward.

59. This requirement is particularly unreasonable as it will be a "sidewalk to nowhere;" there are no real sidewalks, much less ADA-compliant sidewalks, in front of any of the properties along this stretch of Central Avenue. Furthermore, construction of this sidewalk will not be a minor expense, particularly given that the current "sidewalk" is, in some places, several feet below the grade of Central Avenue, and (among other things) the grade will have to be raised for the sidewalk to be ADA-compliant.

60. Nevertheless, during the hearing process Needham Enterprises did indicate, in an effort to reach agreement with the Planning Board on other disputed issues, that it would be willing to install an ADA-compliant sidewalk at the Property. Again, this willingness was premised on the assumption that the Planning Board would not do what it has now done, namely, imposed a variety of conditions that are unreasonable, excessive, and beyond the scope of the

Board's authority in Dover Amendment cases, and which individually (and certainly collectively) will be extremely expensive to implement.

61. As noted above, another condition in the Decision requires a police detail on Central Avenue at the Property driveway entrance during morning and afternoon peak hours. While the Decision states that the initial duration of the police detail will be a minimum of 45 days, it also states that it can only be discontinued upon approval of the Board, after notice and hearing. During the deliberations on the wording of this condition (after the close of the public hearing), one Board member stated during that, depending on the effect of the police detail on traffic flow along Central Avenue during peak hours, they might decide after a public hearing to require that the detail be maintained "in perpetuity," which is a possibility under the Decision as currently drafted.²

62. In the discussion of this condition in the Decision, the Planning Board asserts that this condition, among others, was included on the recommendation of the Town's peer reviewer, John Diaz of GPI. This is partially true but materially misstates the actual recommendation of Mr. Diaz on this topic. As set forth in paragraph 26(b), above, Mr. Diaz's *actual* recommendation was that the police detail should remain in place "until the Police Chief believes that the site is operating without significantly impacting operations along Central Avenue." In other words' Mr. Diaz recommended that it should be the Police Chief, not the Planning Board (after another public hearing) who decides when the police detail is terminated.

² During the Planning Board's January 4, 2022 deliberations, Town counsel advised the Board that "along the lines of eliminating discretionary decisions down the road in what really is an approval of a by right use, to the extent you want the applicant to come back after two months of police details to ask the board's permission to lift that requirement going forward, we ought to articulate a standard as to what will entitle the applicant to that relief at that point."

63. Because the Needham Police Department requires a minimum 4-hour shift for any police detail, this condition will require Needham Enterprises to pay for two four-hour shifts per day, at a cost of approximately \$480 per day. If this requirement is left in place "in perpetuity," as one Board member suggested it might be, it will cost approximately \$86,000 per 180-day school year. This is patently unreasonable and exceeds the Planning Board's authority, particularly in a Dover Amendment case.

64. As noted above, the decision also requires a that Needham Enterprises perform a follow-up traffic study, to be conducted once the child care facility reaches 80% of the maximum permitted number of children. The Decision gives little to specificity as to the parameters of the study, and no guidance whatsoever as to what is an acceptable outcome of the study, and what the Planning Board can do if it decides that the traffic study shows an unsatisfactory level of traffic. This condition is thus unreasonable and exceeds the Board's authority in a Dover Amendment case. It is also void for vagueness, as it would be even if the Board's authority were not limited by the Dover Amendment.

65. As noted above, the Decision also requires Needham Enterprises to provide a Transportation Demand Management Work Plan (TDM Work Plan) to be approved by the Planning Board prior to the issuance of a building permit, and NCC must comply with what was projected by Needham Enterprises' traffic engineer, and approved by Mr. Diaz, as the anticipated maximum vehicle trip count during peak morning and afternoon hours. There is no specificity in this condition as to what will constitute an acceptable TDM Work Plan, nor as to what consequences the Planning Board can or will impose if the projected maximum trip count is exceeded, even by one vehicle. The condition is impermissibly vague, unreasonable, and exceeds the Planning Board's authority.

66. The Decision also includes Condition 3.17, which states: "In the event that traffic or parking problems caused by the use of the property develop that are inconsistent with what was represented to the Board at the hearing and that adversely affect the neighbors on Central Ave, the Board may impose additional conditions." Again, this condition provides no specificity as to what constitutes "traffic or parking problems," what sort of "problem" would rise to the level of an "adverse effect" on the neighbors, and what the Planning Board can or will do about any such "problems."

67. At the hearing, during a discussion of the wording of this condition, one Board member stated that depending on what the "problem" is, those conditions could include a further reduction in the number of children. As noted above, the Planning Board does not even have the authority in a Dover Amendment case to put a limit on the number of children at a child care facility, much less impose a limit and then later make the limit even lower, to some unspecified number in response to unspecified "problems." This condition is clearly void for vagueness, is unreasonable, and exceeds the Board's authority.

68. The Decision also requires, for all trees greater than six inches in trunk diameter that will be taken down during construction, replacement at a 2 to 1 ratio. This requirement is in addition to the previously-approved landscaping plan. This is entirely new and was added at the last minute, apparently in an effort to control the landscaping of the area on the Property that will be vacated as a result of moving the building and parking areas back another 56 feet. Nothing in the Dover Amendment, or the case law decided thereunder, gives the Planning Board the right to impose this condition; it is unreasonable and exceeds the Board's authority.

69. As set forth above, the Decision also includes conditions requiring that Needham Enterprises comply with a program of soil testing, capping, remediation, "mitigation to the new

building” in order “to ensure the building air quality is adequate and safe;” and whatever other conditions the Board of Health deems necessary “to ensure the site is deemed safe for the children at this new child-care facility.” All of these requirements will be determined at some future date by the Board of Health.

70. Although there was material presented to the Planning Board about activities that took place at the Property in the past, and speculation that those activities could have led to leaks, spills, or other contamination of the property, there is no evidence whatsoever in the record before the Planning Board of any actual spill of or contamination from toxic or hazardous materials at the Property. Nevertheless, Needham Enterprises did retain a licensed environmental consultant; has proposed; and will implement a reasonable soil testing plan and capping program for all areas that children (and adults) will have access to.

71. In light of this, this condition as written is manifestly unreasonable and exceeds the authority of the Planning Board. It is also void for vagueness. There is no way of telling what these requirements will ultimately entail, whether they will actually be necessary to protect the health of persons at the property, and how much they will cost.

72. As noted above, Condition 4.44 (which presumably should be 3.44) states that violation of any condition of the Decision is grounds for revocation of the Decision, or of any building permit or certificate of occupancy issued pursuant to the Decision. This condition also states, in part, that **“the permit granting authority may, after notice to the Owner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of this Decision.”** (emphasis added).

73. This condition is unreasonable and exceeds the authority of the Planning Board, particularly in a Dover Amendment case. And the clearest evidence that this condition is

unreasonable is that while this language was often found in older Planning Board Decisions, the Planning Board itself no longer uses this language in its “standard” conditions. Instead, the analogous condition in current planning Board Decisions now typically reads:

Violation of any of the conditions of this decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing **in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder.** (emphasis added)

74. As can be seen from a comparison of these two versions of this “standard” condition, in its current decisions (other than the Decision in this case), the Planning Board no longer reserves the right to revoke the decision itself (as opposed to revoking the building permit or certificate of occupancy), and defers to the Building Commissioner the decision as to whether, where an ongoing violation of the Decision is occurring, to revoke a building permit or certificate of occupancy. The inclusion of the outdated version of this condition in the Decision is particularly inappropriate in a Dover Amendment case, which makes it clear that the Planning Board cannot prohibit the operation of a child care facility at the Property, and therefore could not revoke the Decision.

75. The imposition of each of the conditions discussed above, (as well as others not specifically enumerated above) is unreasonable, in some cases impermissibly vague, contrary to applicable law, and exceeds the Planning Board’s authority in this case.

WHEREFORE, Needham Enterprises requests that the Court enter judgment as set forth below.

COUNT III
DE FACTO DENIAL OF APPLICATION FOR
SITE PLAN APPROVAL SPECIAL PERMIT
IN VIOLATION OF M.G.L. c. 40A, § 3

76. Plaintiff incorporates the allegations of paragraphs 1- 75, above, with the same force and effect as if set forth in full.

77. Although the Decision purports to “approve” the project and the Plans, the collective effect of the conditions set forth above is the approve a project that is substantially and materially different from the project and Plans as proposed by Needham Enterprises, and that will be far more expensive to build and operate.

78. In this case, the conditions that have this collective effect include but are not limited to (a) demolition of the barn, with no allowance for another storage facility elsewhere on the property³; (b) an additional 56 feet of setback of the entire project, including the location of building, as well as the driveway, pick-up and drop-off areas, parking areas, and site circulation design; (c) an ADA-compliant sidewalk along the entire front of the property; (d) a two-for-one tree replacement plan in addition to the landscaping plan that has already been approved by the Design Review Board; (e) an as-yet undefined and potentially extensive soil sampling, capping, and remediation plan to be imposed by the Board of Health; and (f) various poorly defined or entirely open-ended and undefined “traffic mitigation measures” that may result in very substantial ongoing costs, as well as the possible imposition of additional conditions that will have an adverse effect on the operation of the child care facility.

³ Once it became clear that the Planning Board intended to require demolition of the barn, Needham Enterprises requested that the Decision be revised to include a provision that Needham Enterprises be permitted to construct an accessory storage facility of no more than 2000 s.f., and no more than 15 feet in height. The Planning Board rejected this request.

79. Courts of the Commonwealth recognize the principle that conditions imposed during the permitting process can be so onerous that at some point what appears to be an “approval with conditions” in reality becomes a *de facto* denial of a project, particularly where the conditions render the project uneconomic.

80. That is the case here. If these conditions remain in the Decision as currently drafted, the project will become uneconomic, with a substantial likelihood that the project and the child care facility will not be built at all. In effect, the Decision represents a *de facto* denial of the project and Plans as proposed by Needham Enterprises, a result which is prohibited by the Dover Amendment and the Town’s own bylaws for this as-of-right use.

WHEREFORE, plaintiff requests that the Court:

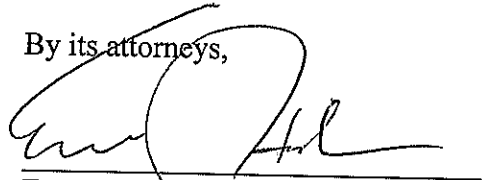
1. Enter judgment for the plaintiff under Count I, ruling that the defendants have failed to make a final decision within 90 days of the close of the hearing as required by M.G.L. c. 40A, § 9; that none of the conditions in the Decision are therefore valid or applicable; that the plaintiffs’ project and Plans as most recently submitted to the Planning Board are therefore approved; and that the plaintiff is entitled to a building permit on the basis of those Plans;
2. In the alternative, under Count II, with respect to those conditions in the Decision discussed above (or such subset of those conditions as the Court deems proper), enter an order that those conditions are void as violative of applicable law; impermissibly vague; and/or unreasonable and in excess of the defendants’ authority;
3. In the alternative, under Count III, enter an order that the Decision represents a *de facto* denial of the project and the Plans, which is prohibited by M.G.L. c. 40A, § 3 and the Town of Needham Bylaws, that as a result none of the conditions in the

Decision are valid or applicable; that the plaintiffs' project and Plans as most recently submitted to the Planning Board are therefore approved; and that the plaintiff is entitled to a building permit on the basis of those Plans;

4. Award plaintiff its costs incurred in prosecuting this action as allowed by statute; and
5. Enter such other and further orders as the Court deems just and proper.

Respectfully Submitted,
Needham Enterprises, LLC.

By its attorneys,

A handwritten signature in black ink, appearing to read 'Evans Huber', is written over a horizontal line.

Evans Huber, Esq.
BBO # 542133
Frieze Cramer Rosen & Huber LLP
60 Walnut Street
Wellesley, MA 02481
(781) 943-4000

Dated: March 23, 2022

From: [ROBERT DIMASE](#)
To: [Robert Dimase](#); [Alexandra Clee](#)
Subject: Re: Needham Enterprises lawsuit
Date: Thursday, March 24, 2022 9:15:06 PM

Ms. Clee,
In the interest of clarity, "by outside counsel" I am urging the planning board to utilize outside counsel in lieu of town counsel. Thank you.

On Mar 24, 2022, at 8:59 PM, Robert Dimase <rob.dimase@verizon.net> wrote:

Ms. Clee,
Would you be so kind as to share my e-mail below with the planning board?

Planning Board,
It has come to my attention that Matt Borrelli has directed his attorney to file a lawsuit on behalf of Needham Enterprises LLC against the Needham Planning Board and each individual Planning Board member over their final decision on the proposed 1688 Central Avenue project.

While I strongly disagree with the planning board's final decision to allow the proposed project to move forward, I appreciate all of the time, energy and resources that were put into the process. A significant amount of input was provided by the community, developer and proposed tenant and the planning board did their due diligence in rendering a final decision, balancing concerns from all interested parties.

While I don't like the final outcome, I respect the process and strongly urge the planning board, utilizing outside counsel, to vigorously defend their final decision.

Thank you for your community service.

Rob DiMase
1681 Central Avenue
781-844-5729

NEEDHAM PLANNING BOARD 2022 MEETING SCHEDULE

MEETING DATE	LOCATION
January 4, 2022	VIA ZOOM
January 18, 2022	VIA ZOOM
February 1, 2022	VIA ZOOM
February 15, 2022	VIA ZOOM
March 1, 2022	VIA ZOOM
March 15, 2022	VIA ZOOM
March 28, 2022	VIA ZOOM
April 5, 2022	VIA ZOOM
April 19, 2022 (school vacation week)	TBD
May 3, 2022	VIA ZOOM
May 17, 2022	TBD
June 7, 2022	TBD
June 21, 2022	TBD
July 2022 - TBD	TBD
August 2022 - TBD	TBD
September 6, 2022	TBD
September 20, 2022	TBD
Monday, October 3, 2022 (Yom Kippur is 10/4, 10/5)	TBD
October 18, 2022	TBD
November 1, 2022	TBD
November 15, 2022	TBD
December 6, 2022	TBD
December 20, 2022	TBD

All Planning Board meetings begin at 7:00 p.m. unless otherwise noted.