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PLANNING & COMMUNITY DEVELOPMENT  
PLANNING DIVISION

**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT  
AMENDMENT TO DECISION  
Application No. 99-2**

**November 15, 2022**

**BP 140 Kendrick Street LLC c/o Boston Properties Limited Partnership  
(Original Decision dated June 15, 1999, amended December 1, 2020, and July 12, 2022)**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of BP 140 Kendrick Street LLC c/o Boston Properties Limited Partnership, 800 Boylston Street, Suite 1900, Boston, MA, (hereinafter referred to as the Petitioner) for property located at 140 Kendrick Street, Needham, Massachusetts. Said property is shown on Assessors Plan No. 300 as Parcels 1 and 3 and containing 621,402 square feet in the New England Business Center Zoning District.

This Decision is in response to an application submitted to the Board on September 22, 2022, by the Petitioner for: a Major Project Site Plan Review Special Permit amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 3.2 of Major Project Site Plan Review Special Permit No. 99-2.

The requested Major Project Site Plan Review Special Permit Amendment, would, if granted, permit the Petitioner to construct and operate a solar garage roof on and above the existing parking garage. There are currently 1,334 parking spaces on site. The proposal shows that the battery storage equipment would be located such that 3 parking spaces would need to be relocated.

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 Chair, Adam Block, on Tuesday, November 1, 2022 at 7:20 p.m. in the Powers Hall, Needham Town Hall, 1471 Highland Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the November 1, 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 an Amendment to Major Project Site Plan Review Special Permit No. 99-2, dated September 22, 2022.

**Exhibit 2**      Letter from Frederick J. DeAngelis, Attorney, dated September 20, 2022.

- Exhibit 3** Plan prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, Sheet C1.00, entitled “Parking Plan,” dated September 12, 2022.
- Exhibit 4** Plan set consisting of 13 sheets, prepared by Parasol Structures: Sheet 1, Sheet PV-000, dated August 8, 2022, revised September 8, 2022; Sheet 2, Sheet PV-001, dated August 8, 2022, revised September 8, 2022; Sheet 3, Sheet PV-005, dated August 8, 2022, revised September 8, 2022; Sheet 4, Sheet PV-010, dated August 8, 2022, revised September 8, 2022; Sheet 5, Sheet PV-100, dated August 8, 2022, revised September 8, 2022; Sheet 6, Sheet PV-101, dated August 8, 2022, revised September 8, 2022; Sheet 7, Sheet PV-102, dated August 8, 2022, revised September 8, 2022; Sheet 8, Sheet PV-103, dated August 8, 2022, revised September 8, 2022; Sheet 9, Sheet PV-104, dated September 8, 2022; Sheet 10, Sheet PV-300, dated August 8, 2022, revised September 8, 2022; Sheet 11, Sheet PV-400, dated September 8, 2022; Sheet 12, Sheet PV-401, dated September 8, 2022; Sheet 13, Sheet PV-402, dated September 8, 2022.
- Exhibit 5** Parasol Renderings of 140 Kendrick Street, consisting of 10 sheets, dated August 16, 2022.
- Exhibit 6** Email from Frederick J. DeAngelis, Attorney, dated September 26, 2022, transmitting Plan prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, Sheet C2.00, entitled “Drainage Plan,” dated September 22, 2022.
- Exhibit 7** Letter from the Design Review Board with comments dated October 3, 2022 and October 17, 2022.
- Exhibit 8** Lighting information received in response to Design Review Board meeting of October 3, 2022, consisting of 9 pages.
- Exhibit 9** Rendering information received in response to Design Review Board meeting of October 3, 2022, consisting of 5 pages.
- Exhibit 10** Interdepartmental Communication (IDC) to the Board from Chief Tom Conroy, Needham Fire Department, dated October 26, 2022; IDC to the Board from Chief John Schlittler, Police Department, dated October 26, 2022; IDC to the Board from Tara Gurge, Needham Health Department, dated October 26, 2022; IDC to the Board from Thomas Ryder, Town Engineer, dated October 27, 2022 and November 10, 2022; and IDC to the Board from David Roche, Building Commissioner, dated October 26, 2022, and November 1, 2022.

EXHIBITS 1, 2, 3, 4, 5, 6, 8 and 9 are referred to hereinafter as the Plan.

## FINDINGS AND CONCLUSIONS

- 1.1. The property is the subject of Major Project Site Plan Review Special Permit No. 99-2, dated June 15, 1999 which permitted the redevelopment of a 262,670 square foot warehouse/office building to a single tenant 400,000 square foot office/research and development facility, including three interconnected buildings, a pavilion and one parking garage, 1,334 off street parking spaces, landscaping and a pedestrian walkway easement to the Metropolitan District Commission for access to Cutler park reservation were also provided.

By Decision dated December 1, 2020, the Petitioner was granted permission to renovate the existing single tenant space to allow for multiple tenants to lease buildings. Exterior improvements were limited to adding entrance locations to the buildings, patio improvements, an added trail linkage to Cutler Lake, accessible parking and landscape improvements at the new entrance locations, and a service walkway at the rear of Building A.

By Decision dated July 12, 2022, the Petitioner was further granted permission to construct and operate a rooftop deck on the roof of the low-rise building.

- 1.2 The Petitioner is now requesting permission to construct and operate a solar garage roof on and above the existing parking garage. There are currently 1,334 parking spaces on site. The proposal shows that the battery storage equipment would be located such that 3 parking spaces would need to be relocated. The total number of parking spaces will not change and there will be no addition to pavement. They are taking some standard size parking spaces and converting them to compact size to accommodate the additional 3 spaces in the existing site.
- 1.3 Boston Properties expressed that they are committed to sustainable and energy efficient measures in its properties. To date, they have completed 13 projects totaling 8 megawatts (MW) of on-site solar photovoltaic capacity on rooftops, garages and surface parking in Massachusetts and New Jersey. Their first solar roof was over a parking garage in Waltham at Bay Colony. Since then, they stated that they have completed a second phase at Bay Colony and a third garage project at CityPoint in Waltham.
- 1.4 At 140 Kendrick Street, the Petitioner is proposing to install a similar solar garage roof on/over the existing parking garage. The purpose of the solar roof is to:
  - a. Provide on-site generation of renewable energy that will result in net zero carbon operation of 140 Kendrick Street Building A. This is to be Boston Properties first fully net zero project and will serve as a model project for net zero carbon office building design and redevelopment.
  - b. Generate approximately 1,300 megawatt-hours (MWh) of renewable energy on-site from 2,900 405-watt (W) modules.
  - c. Advance the transition to a low carbon economy by building a high-quality distributed energy generation system with storage (336 kW). This project is emblematic of projects Boston Properties is pursuing to achieve carbon neutral operations by 2025 and to meet our climate action goals, which include a science-based emissions reduction target for the company.

As part of this project, the Petitioner will also be better insulating the buildings and providing other energy efficient measures within the buildings at the site. The garage solar canopy will produce more energy than the site utilizes.

- 1.5 The Petitioner appeared before the Design Review Board on October 3, 2022 and October 17, 2022 and received Design Review Board approval of the project.
- 1.6 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 site is presently fully developed and the proposed solar roof canopy has been approved by the Design Review Board (DRB). The DRB reviewed the lighting and the views of the canopy from abutting streets. Though it is partially visible from certain streets, the

DRB was satisfied with the proposal.

- 1.7 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. 3 parking spaces are being eliminated to house the solar battery equipment and will be relocated elsewhere on-site so that there is no change to the total number of parking spaces on-site and there will continue to be 1,334 parking spaces.
- 1.8 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been assured. As noted, 3 parking spaces are being relocated. No change is proposed to the number of spaces nor to the loading area.
- 1.9 Adequate methods for disposal of refuse and waste will be provided. The project will not generate additional refuse.
- 1.10 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 existing site is fully developed. The project has been reviewed and approved by the Design review Board.
- 1.11 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 project has been reviewed by the Department of Public Works, who has recommended that the storm water infiltration system be sized to infiltrate 0.50 inch of stormwater from the solar panel roof runoff. The Petitioner has agreed to this.
- 1.12 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit amendment may be granted within the New England Business Zoning District provided the Board finds that the proposed development will be in compliance with 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, 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.

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 Section 3.2 of Major Project Site Plan Review Special Permit No. 99-2, 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 The Plans 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.
  - a. The Plan shall be modified to show that the storm water infiltration system has been sized to infiltrate 0.50 inch of stormwater from the solar panel roof runoff, pursuant to the comments from the Department of Public Works and the Building Department.

### 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 3.16 hereof.
- 3.1 The conditions and limitations set forth in a Major Project Site Plan Review Special Permit No. 99-2, dated June 15, 1999, amended December 1, 2020, and July 12, 2022, as further amended by this Amendment are ratified and confirmed.
- 3.2 The Board approves the solar roof canopy, associated battery storage equipment, and relocation of 3 parking spaces, as shown on the Plan, as modified by this decision. The development of the site shall be as described under the support materials provided under Exhibits 1, 2, 3, 4, 5, 6, 8 and 9 of this decision. Any changes, revision or modifications to the Plan shall require approval by the Board.
- 3.3 The buildings, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this decision. Any changes, revisions or modifications to the Plan beyond this decision, as modified by this decision, shall require approval by the Board.
- 3.4 All new utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.5 The maintenance of the site and associated infrastructure and landscaping shall be the responsibility of the Petitioner and the site, infrastructure and landscaping shall be maintained in good condition.
- 3.6 1,334 parking spaces shall be provided at all times.
- 3.7 All construction staging shall be on-site. No construction parking shall be on public streets. Construction parking shall be all on-site or a combination of on-site and off-site parking at locations in which the Petitioner can make suitable arrangements. If required by the Building Commissioner, construction staging plans shall be included in the final construction documents prior to the filing of a Building Permit and shall be subject to the review and approval of the Building Commissioner.
- 3.8 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges.

- 3.9 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit, if applicable.
- 3.10 In constructing and operating the solar roof canopy pursuant to this Special Permit, due diligence shall be exercised, and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.11 The following interim safeguards shall be implemented during construction:
- a. The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday not at all on Sundays and holidays.
  - b. The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site which require excavation or otherwise pose a danger to public safety.
  - c. The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Commissioner, and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Kendrick Street, First Avenue or surrounding streets.
- 3.12 No building permit shall be issued in pursuance of the Special Permit and Site Plan approval for the solar roof canopy until:
- a. The final plans are in conformity with those approved by the Board (including any Plan Modifications), and a statement certifying such approval shall have been filed by this Board with the Building Commissioner.
  - b. A construction management and staging plan has been submitted to the Police Chief and Building Commissioner for their review and approval.
  - c. The Petitioner has recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.13 No portion of the solar roof canopy shall be occupied or utilized until the following conditions are met:
- a. An as-built plan, supplied by the engineer of record showing that the site improvements were installed according to the approved documents, shall be submitted to the Board and Department of Public Works. The as-built plan shall show the building, and all final improvements on-site, in its true relationship to the lot lines. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.
  - b. There shall be filed with the Building Commissioner and Board a statement by the Department of Public Works certifying that the site improvements have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved Plan.

- c. There shall be filed with the Board and Building Commissioner a Final Construction Control Document signed by a registered structural engineer upon completion of construction.
  - d. There shall be filed with the Board and Building Commissioner a Final Construction Control Document signed by a registered architect upon completion of construction.
- 3.14 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 Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.15 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.
- 3.16 Violation of any of the conditions of this Approval 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 Approval, 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 Commissioner 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 Approval 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 Approval 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, as modified by this decision.
- 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, Section 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 Site Plan Special Permit shall lapse on November 15, 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 November 15, 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.
- 4.7 This decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with M.G.L. Chapter 40A, Section 11, this Major Site Plan Review 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 office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

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 15<sup>th</sup> day of November 2022.

NEEDHAM PLANNING BOARD

Adam Block

Adam Block, Chair

Jeannette S. McKnight

Jeannette S. McKnight, Vice Chair

Paul S. Alpert

Paul S. Alpert

Artie Crocker

Artie Crocker

Natasha Espada

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Nov. 15 2022

On this 15 day of November, 2022, before me, the undersigned notary public, personally appeared Adam Block, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known, 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.

Alexandra Clee

Notary Public Alexandra Clee

My Commission Expires: March 9, 2021

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Amendment to Decision of the project proposed by the BP 140 Kendrick Street LLC c/o Boston Properties Limited Partnership, 800 Boylston Street, Suite 1900, Boston, MA, for property located at 140 Kendrick Street, Needham, Massachusetts, 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  
Director, PWD  
Board of Health  
Conservation Commission

Board of Selectmen  
Engineering  
Fire Department  
Police Department  
Frederick J. DeAngelis, Attorney  
Parties in Interest