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PLANNING DIVISION
Planning & Community Development

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Amendment
May 16, 2023**

**Wingate Development, LLC
Application No. 93-3**

**(Original Decision dated July 27, 1993, as amended August 9, 1994, August 8, 1995,
November 21, 1995, June 3, 1997, and March 15, 2011,
Insignificant Change on April 18, 2013,
and further amended on December 17, 2013 and March 15, 2022)**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Wingate Development, LLC, 63 Kendrick Street, Needham, Massachusetts 02494, (hereinafter referred to as the Petitioner), for property located at 589 Highland Avenue, Needham, Massachusetts. The property is shown on Assessor's Map 77 as Parcel 1 containing 110,490 square feet in the Elder Services Zoning District.

This Decision is in response to an application submitted to the Board on February 7, 2023 by the Petitioner for an Amendment to Major Project Site Plan Review Special Permit issued by the Needham Planning Board on July 27, 1993, under Sections 3.2.1, 5.1.1.5 and 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Special Permit No. 1993-03, dated July 27, 1993. The July 27, 1993, decision was further amended on August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013 and March 15, 2022.

By Decision dated March 15, 2022, the Planning Board approved an application for an amendment to permit the conversion of the then-current Nursing Home to 50 Independent Living (IL) Units. The Nursing Home was officially closed on or about April 21, 2022. The Petitioner intends to proceed with the work and the change of use authorized by that permit. The requested Major Project Site Plan Review Special Permit Amendment would permit the expansion of that project by adding a third floor to the building. This would add an additional 22 IL units, for a total of 72 IL units, of which 12.5%, or 9 units, will be affordable, as defined in the Elder Services district By-Law. No other use is proposed for the site.

In accordance with the By-Law, Section 3.12.4, a special permit is required for independent living units in the Elder Services Zoning District. In accordance with the By-Law, Section 7.4, a Major Project Site Plan Review Amendment is required.

After causing notice of the time and place of the public hearing and of the subject matter hereof 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, Adam Block on Tuesday, March 7, 2023 at 7:05 PM

in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. The hearing was continued to Tuesday April 25, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham 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 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 an Amendment to the Major Project Special Permit No. 93-3.
- Exhibit 2 - Two Letters from Attorney Evans Huber to the Needham Planning Board and Lee Newman, both dated February 3, 2023.
- Exhibit 3 - Memo from Kristen Braun, Ron Muller & Associates regarding site traffic generation, dated January 25, 2023, with attached trip generation worksheets.
- Exhibit 4 - Architectural Plans, entitled "Wingate at Needham Renovation / Expansion," prepared by The Architectural Team, Inc., 50 Commander's Way at Admiral's Hill, Chelsea, MA 02150, consisting of 10 sheets: Sheet 1, Sheet T0.01, entitled "Project Cover," dated February 3, 2023; Sheet 2, Sheet D1.00, entitled "Existing/Demolition overall Plan – Basement," dated February 3, 2023; Sheet 3, Sheet D1.01, entitled "Existing/Demolition Overall Plans (Schematic)," dated February 3, 2023; Sheet 4, Sheet A1.00, entitled "Proposed Overall Plan – Basement," dated February 3, 2023; Sheet 5, Sheet A1.01, entitled "proposed Overall Plans (Schematic)," dated February 3, 2023; Sheet 6, Sheet A1.02, entitled "Proposed Overall Plan Level 3 & Roof (Schematic)," dated February 3, 2023; Sheet 7, Sheet A4.01, "Exterior Elevations," dated February 3, 2023; Sheet 8, Sheet A4.02, entitled "Exterior Elevations," dated February 3, 2023; Sheet 9, Sheet A4.03, entitled "Exterior Elevations," dated February 3, 2023; Sheet 10, Sheet A5.01, entitled "Wall Sections," dated February 3, 2023.
- Exhibit 5 - Renderings, entitled "Wingate at Needham Renovation / Expansion," prepared by The Architectural Team, Inc., 50 Commander's Way at Admiral's Hill, Chelsea, MA 02150, consisting of 4 sheets: Sheet 1 entitled "Rendered View from intersection of Gould Street and Highland Avenue," dated February 1, 2023; Sheet 2, entitled "Rendered View from Gould Street Looking South," dated February 1, 2023; Sheet 3, entitled "Rendered View from Rear parking," dated February 1, 2023; Sheet 4, entitled "Rendered View from Side Entrance," dated February 1, 2023.
- Exhibit 6 - Materials Sheet, dated February 2, 2023 and Existing Photos Sheet, dated February 3, 2023.
- Exhibit 7 - Landscape Plans, entitled "Wingate at Needham Renovation / Expansion," prepared by Hawk Design Inc., Sagamore, MA, consisting of 7 sheets: Sheet 1, Cover Sheet, dated February 3, 2023; Sheet 2, Sheet L1, entitled "Site Landscaping Plan," dated February 3, 2023; Sheet 3, Sheet L1.1, entitled "Illustrative Site Plan Rendering," dated February 3, 2023; Sheet 4, Sheet L2, entitled "Entry Landscape Plan," dated February 3, 2023; Sheet 5, Sheet L3, entitled "Parking / Plan Landscape Plan," dated February 3, 2023; Sheet 6,

Sheet D1, entitled "Planting Details," dated February 3, 2023; Sheet 7, Sheet D2, entitled "Planting Notes," dated February 3, 2023.

- Exhibit – 8 Plans entitled "Site Development Plans for Wingate at Needham, inc., 589 Highland Avenue, Needham, MA," prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02062, R.E. Cameron & Associates, Inc., 681 Washington Street, Norwood MA, consisting of 3 sheets: Sheet 1, Cover 1, dated February 3, 2023; Sheet 2, entitled "Existing Conditions Plan," dated February 3, 2023; Sheet 3, entitled "Layout Plan," dated February 3, 2023.
- Exhibit - 9 Stormwater Management Report, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02062, dated February 3, 2023.
- Exhibit 10 - Letter from David Feldman, Senior Vice President of Real Estate and Development, Continental Wingate Development, dated February 3, 2023. (re: NPDES Requirements)
- Exhibit 11 - Letter from Attorney Evans Huber, dated April 5, 2023.
- Exhibit 12 - Renderings, entitled "Wingate at Needham Renovation / Expansion," prepared by The Architectural Team, Inc., 50 Commander's Way at Admiral's Hill, Chelsea, MA 02150, consisting of 4 sheets: Sheet 1 entitled "Rendered View from Intersection of Gould Street and Highland Avenue," dated March 30, 2023; Sheet 2, entitled "Rendered View from Gould Street Looking South," dated March 30, 2023; Sheet 3, entitled "Rendered View from Rear parking," dated March 30, 2023; Sheet 4, entitled "Rendered View from Side Entrance," dated March 30, 2023.
- Exhibit 13 - Architectural Plans, entitled "Wingate at Needham Renovation / Expansion," prepared by The Architectural Team, Inc., 50 Commander's Way at Admiral's Hill, Chelsea, MA 02150, consisting of 3 sheets: Sheet 1, Sheet A1.00, entitled "Proposed Overall Plan – Basement," dated February 3, 2023, revised April 4, 2023; Sheet 2, Sheet A1.01, entitled "Proposed Overall Plans (Schematic)," dated February 3, 2023, revised April 4, 2023; Sheet 3, Sheet A1.02, entitled "Proposed Overall Plan Level 3 & Roof (Schematic)," dated February 3, 2023, revised April 4, 2023.
- Exhibit 14 - Letter from David Feldman, Senior Vice President of Real Estate and Development, Continental Wingate Development, dated March 21, 2023. (re: Construction Control)
- Exhibit 15 - Letter from David Feldman, Senior Vice President of Real Estate and Development, Continental Wingate Development, dated March 21, 2023. (re: Generator).
- Exhibit 16 - Letter from Brandon Li, Kelly Engineering, dated March 22, 2023 with attachments.
- Exhibit 17 - Design Review Board memorandum, dated February 28, 2023 and April 10, 2023.
- Exhibit 18 - Email from Teresa Combs, 7 Utica Road, dated March 11, 2023.
- Exhibit 19 - Email from Terry Ryan, 79 Evelyn Rd, dated April 24, 2023.
- Exhibit 20 - Interdepartmental Communication (IDC) to the Board from Thomas Ryder, Town Engineer, dated February 27, 2023 and April 18, 2023; IDC to the Board from Tara Gurge, Assistant Public Health Director, Health Department, dated March 2, 2023 and April 19, 2023; IDC to the Board from David Roche, Building Commissioner, dated

March 6, 2023; IDC to the Board from Chief John Schlittler, Police Department, dated March 2, 2023 and April 6, 2023; and IDC to the Board from Chief Dennis Condon, Fire Department, dated March 5, 2023.

Exhibits 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, 15 and 16 are referred to hereafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013 and March 15, 2022, were ratified and confirmed except as follows:

- 1.1 The subject property is located at 589 Highland Avenue, Needham, Massachusetts, at the corner of Highland Avenue and Gould Street in the Elder Services Zoning District. The property is shown on Assessor's Map No. 77 as Parcel 1 containing a total of 110,490 square feet. The property is presently owned by the Wingate at Needham, Inc.
- 1.2 The property has been the subject of several site plan special permit decisions and amendments thereto. The original decision was dated July 27, 1993, and was amended as follows: August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013 and March 15, 2022.
- 1.3 By Decision dated March 15, 2022, the Planning Board approved an application for an amendment to permit the conversion of the then-current Nursing Home to 50 Independent Living (IL) Units. The Nursing Home was officially closed on or about April 21, 2022. The Petitioner intends to proceed with the work and the change of use authorized by that permit. The requested Major Project Site Plan Review Special Permit Amendment would permit the expansion of that project by adding a third floor to the building. This would add an additional 22 IL units, for a total of 72 IL units, of which 12.5%, or 9 units, will be affordable, as defined in the Elder Services district By-Law. No other use is proposed for the site.
- 1.4 The existing 2 story building will remain. The existing footprint of the building will not change and a third story will be added to create another 22 IL units, above the 50 approved under the 2022 Amendment, for a total of 72 IL units. The building will contain approximately 81,995 square feet at completion.
- 1.5 As shown on the site layout and landscaping plans submitted, there are currently 98 spaces on site. The Petitioner proposes to eliminate 17 parking spaces on the side of the building opposite Gould Street, to create more green space and landscaping and to eliminate head-in parking immediately adjacent to the first-floor units on that portion of the building. The proposed number of spaces on this site will therefore be 81. Access to and from the site will continue to be provided via existing driveways off Gould St. and Highland Ave. that will remain and provide access to the site.
- 1.6 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all applicable dimensional and density requirements of the Elder Services Zoning District namely, front, side and rear setback, maximum building height, maximum number of stories, and floor area ratio. As indicated in the Zoning Table shown on the Plan, the proposed parking lot currently already complies with all the Design Guidelines under Section 5.1.3 of the Zoning By-Law

- 1.7 Pursuant to Section 3.12.9 of the By-Law, the parking requirement for independent living units is .5 spaces per unit, resulting in a required parking supply for this proposed redevelopment of 36 spaces. The Petitioner also anticipates 6 full time employees which would require an additional 3 spaces (1 space per 2 employees). The additional parking requirement would bring the total required parking to 39 spaces. As the proposed number of spaces on this site is 81, there is more than sufficient existing parking to satisfy the requirement.
- 1.8 Pursuant to Section 3.12.10 of the Zoning By-Law, at least 10% of the Independent Living Apartments shall be Affordable Housing Units. However, in this instance the Petitioner has agreed that, consistent with the previously expressed preference of the Board, twelve and one-half percent (12.5%) of the units will be Affordable. Since the combination of the previously-approved project and the current proposal includes the creation of seventy-two (72) IL Apartments, a total of nine (9) will be designated as Affordable Housing Units.
- 1.9 Ron Muller & Associates conducted a Traffic Analysis to determine the traffic impacts associated with the project (Exhibit 4). The study reviewed a trip generation comparison and concluded that the change to Independent Living units will generate less traffic at all times than the 142-bed nursing facility. The proposed project was further shown to have a reduction in the parking demand on the site and that more than adequate parking will still be provided on site, even with the proposed reduction in on-site parking spaces.
- 1.10 The Petitioner appeared before the Design Review Board on February 28, 2023 and April 10, 2023 and obtained approval of the project.
- 1.11 The Petitioner agreed that the Building shall be electrically wired and the roof shall be made structurally sound so that the roof is considered “solar ready”, and so that photovoltaic panels can be added in the future, if desired.
- 1.12 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 has been designed to ensure that there will be no off-site drainage impacts. A drainage system exists on site. The drainage system will ensure that peak storm generation levels will remain unchanged. The proposed site development plans have been approved by the Town of Needham Engineering Division. The proposed project will have a net reduction in impervious area.

A landscape plan has been developed for screening and enhancing the existing site. Parking spaces up against the west side of the building have been replaced with greenspace. This eliminates the issue of automobile headlights shining into the ground floor units and provides a more attractive view for residents and abutters on that side of the building. Noise and visual impacts have been minimized. Abutting properties will be protected by means of the existing solid fence and mature trees. Shade trees proposed for the newly created greenspace will add to the landscape buffering.
- 1.13 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets and the location of driveway openings in relation to traffic or to adjacent streets has been assured. The project has been designed ensure that there will be safe vehicular and pedestrian circulation throughout the site. The access and egress to the property will be via existing driveways off Gould St. and Highland Avenue that will remain and provide access to the site. Sidewalks exist on both Gould St. and Highland Avenue that connect to the sidewalks on the site. This allows for pedestrian access to the site.

The main entrance into the building is proposed to be accessed by way of a pedestrian only seating courtyard. A two-foot high retaining/seat wall on the Highland Avenue and Gould St. side of the courtyard will allow for additional berming to help with sound attenuation. A pergola will provide shading for residents and draw attention to the main entrance for visitors. New mass plantings of shrubs, ornamental grasses and perennials will rejuvenate the slope at the intersection and help to improve the existing identity sign's visibility.

Available sight distances at the site driveways on Gould St. and Highland Avenue exceed required sight distances.

Sidewalk access has been provided adjacent to the primary parking stalls for pedestrian safety. Handicap access and parking is provided.

- 1.14 Adequate parking has been provided for staff, deliveries, visiting professionals, family and friends of residents.
- 1.15 Adequate methods of disposal of refuse and other wastes resulting from the uses permitted on the site have been provided. A dumpster enclosure exists onsite. The dumpster enclosure is screened with a wooden fence. Refuse will be removed from the site by a licensed hauler.
- 1.16 The proposed project will not have any adverse impacts on the Town's resources, including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The project will maintain the existing water connection to the Town's water system. The project will maintain the existing sewer connections to the Town's sewer system by means of the connections to the sewer main located at the intersection of Highland Avenue and Gould St. The proposed site layout plans will continue to maintain the existing access and circulation for emergency and fire protection vehicles.
- 1.17 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 the By-Law has been met.

The existing building is surrounded by other senior living facilities and residential properties. The proposed building expansion is consistent with these buildings. The aforementioned fence and mature, natural landscape buffer will be maintained to the west of the site. All of the existing vegetation on the north, buffering the senior living facilities and on the east, buffering Gould St. will be preserved. To the south is a strip of existing trees and shrubs that has been impacted by the Highland Ave. bike lane construction. Shrubs are proposed to infill the disturbed areas and provide screening to the parking, and from the new courtyard to the street.

The project has been designed to maximize landscaped area and reduce impervious areas. This is accomplished by removing 17 parking spaces and the main entrance drop-off circle and replacing with landscaped areas and a small, paved seating area. Additionally, the existing sunken loading dock on the southwest corner of the building will be filled and landscaped, providing an enhanced site entry and a buffer from traffic for the ground floor residents, the open space will full comply with the requirements of the bylaw.

- 1.18 Under Section 3.12.4 of the By-Law, a special permit to operate independent living units in the Elder Services Zoning District may be granted if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. Based on the above findings and conclusions, the Board finds that the proposed development Plan, 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, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.

- 1.19 Under Section 7.4 of the By-Law and Section 4.2 of Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013 and further amended on December 17, 2013 and March 15, 2022, a Major Project Site Plan Special Permit Amendment may be granted in the Elder Services 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. Based on the above findings and criteria, the Board finds that the Approved Plan Set, 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.

THEREFORE, the Board voted 5-0 to GRANT (1) the requested special permit for 72 independent living units in the Elder Services Zoning District under Section 3.12.4 of the Zoning By-Law; and (2) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Zoning By-Law and Section 4.2 of Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013 and further amended on December 17, 2013 and March 15, 2022; 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 pertaining to this Decision, 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 for the work proposed in this Decision nor shall he permit any construction activity pertaining to this Decision 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 four 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) No Plan Modifications required.

CONDITIONS AND LIMITATIONS

The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013 and March 15, 2022, are ratified and confirmed except as modified herein.

- 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 3.38 hereof.

- 3.1 The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013 and March 15, 2022, are ratified and confirmed, except as follows:
- 3.2 The expansion of that project by adding a third floor to the building is approved. This would add an additional 22 IL units, for a total of 72 IL units, of which 12.5%, or 9 units, will be affordable.
- 3.3 No administrative use, other than that needed for operation of the independent living units, or other community activity incidental to the facility being conducted on the site, shall be allowed. There shall be no more than 6 full time employees.
- 3.4 At least 81 paved parking spaces including 48 full sized spaces and 33 compact spaces shall be provided on-site.
- 3.5 Pursuant to Section 3.12.10 of the Zoning By-Law, at least 10% of the independent living apartments shall be Affordable Housing Units. At the request of the Board, the Petitioner, however, has committed to 12.5% of the units being Affordable Housing Units. Since after completion of the proposed addition, the project will contain 72 independent living apartments, a total of nine of said apartments shall be Affordable Housing Units. The nine affordable units will be proportionately distributed throughout the new building in terms of both unit size and type consistent with Local Initiative Guidelines, Section VI.B.5.d.
- 3.6 There shall be nine new affordable units in the entire building. The nine affordable housing units in the project shall be as defined in Section 1.3 of the By-Law. Said units shall comply with all applicable provisions of the Department of Housing and Community Development's (DHCD) Chapter 40B Guidelines, dated February 22, 2008, as amended, and shall be eligible for the Chapter 40B Subsidized Housing Inventory as "Local Action Units" under the DHCD Local Initiative Program. It shall be the Petitioner's responsibility to prepare all applications, exhibits, and supporting documentation that DHCD requires in order to approve the unit for the Subsidized Housing Inventory and to record a DHCD-approved affordable housing restriction with the Norfolk Registry of Deeds or the Land Court. No certificate of occupancy shall be issued for the project until the Petitioner provides evidence that such restriction has been recorded.
- 3.7 Subject to DHCD approval, the Petitioner shall set aside up to 70% of the affordable units as local preference units, i.e., offered first to Needham residents or persons with a connection to the Town, in accordance with a local preference policy determined by the Board of Selectmen consistent with DHCD directives and applicable state and federal laws. The Town will provide reasonable assistance to the Petitioner in designing an affirmative marketing plan for the Affordable Units. The Town may delegate oversight of an affirmative marketing plan and local preference selection procedures to another organization deemed appropriate by the Board to represent the Town interests. All costs associated with preparing and implementing the affirmative marketing plan and local preference procedures shall be paid by the Petitioner.
- 3.8 The Town of Needham intends to enter into an agreement with a person or entity selected by the Town Manager and approved by DHCD to monitor the Petitioner's compliance with the affordability restriction on an annual basis and to provide an annual report of its monitoring to the Town (the "Monitoring Agent"). The Petitioner shall pay for the cost of the Monitoring Agent pursuant to a separate agreement between the Town and the Petitioner. The Petitioner shall cooperate with the monitoring agent by providing all documentation necessary to demonstrate

that the affordable housing units comply with Section 1.3 of the Zoning By-Law and this Decision and are occupied by income-eligible households.

- 3.9 The Building shall be electrically wired and the roof shall be made structurally sound so that the roof is considered “solar ready”, and so that photovoltaic panels can be added in the future, if desired.
- 3.10 The building, 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, as modified by this Decision, shall require approval by the Board.
- 3.11 The proposed building and support services shall contain the dimensions and shall be located on that portion of the locus exactly as shown on the Plan, as modified by this Decision, and in accordance with the applicable dimensional requirements of the By-Law. Notwithstanding the above, the Petitioner may revise the floor plans without the need for additional hearings or approvals, provided that the total square footage of the building does not increase and the total number of independent living apartment units does not exceed 72 units.
- 3.12 All buildings and land constituting the premises shall remain under a single ownership.
- 3.13 The staffing for the 72 IL units shall be limited to 6 employees on-site during the largest shift.
- 3.14 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this Decision, and there shall be no parking of motor vehicles off the locus at any time.
- 3.15 All required handicapped parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words “Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed at Owners Expense”. The quantity & design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.16 The emergency generator to be installed at the edge of the parking lot along Gould Street shall be designed and operated so as to comply with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. The emergency generator shall also be installed and screened as far as practical to minimize the visibility of the emergency generator.
- 3.17 Prior to project occupancy, an as-built plan of the emergency generator together with a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Board, available manufacturer’s specifications are insufficient to demonstrate compliance with applicable noise standards) shall be submitted to the Board for its review and approval. The sound analysis shall demonstrate compliance with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations.
- 3.18 Normal maintenance and testing of the emergency generator shall be limited to one occurrence per month between the weekday hours of 9:00 a.m. and 5:00 p.m. for a period not to exceed 2 hours. The emergency generator shall not operate more than 300 hours per rolling 12-month period, including the normal maintenance and testing procedure as recommended by the

manufacturer and periods when the primary power source for Wingate at Needham, has been lost during an emergency, such as a power outage, an on-site disaster or an act of God.

- 3.19 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 Board of Selectmen, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.20 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. 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.
- 3.21 This Special Permit to operate a 72-unit facility as described in this Decision is issued to Wingate Development, LLC, 63 Kendrick Street, Needham, Massachusetts 02494. Prior to any change in the entity operating the facility (other than a change to an affiliated entity under common control with Wingate Development, LLC), Petitioner shall provide written notice of the anticipated change to the Board, and the new operating entity shall provide a written statement to the Board, signed by a person who will be responsible for the operations of the facility, that they have read this Decision and acknowledge that the terms hereof are binding on the new entity.
- 3.22 All utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.23 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.24 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit and any grants of location that are required from the utility companies.
- 3.25 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit per Town requirements.
- 3.26 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out per Town requirements.
- 3.27 The Petitioner shall connect the sanitary sewer line only to known sources. All known sources that cannot be identified shall be disconnected and properly sealed.
- 3.28 The maintenance of site and parking lot landscaping shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.29 The Petitioner shall comply with the Public Outreach & Education and Public Participation & Involvement control measures required under NPDES. The Petitioner shall submit a letter to the DPW identifying the measures selected and dates by which the measures will be completed.
- 3.30 All solid waste shall be removed from the site by a private contractor. Snow shall also be removed or plowed by private contractor. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced.

- 3.31 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 Highland Avenue, Gould Street or surrounding streets.
- 3.32 All deliveries and trash dumpster pick up 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. The trash shall be picked up no less than two times per week. The dumpster shall be screened with a wooden fence, which shall be maintained in good condition. The dumpster shall be maintained in a locked condition with the key controlled by management so as to ensure compliance with the trash removal conditions of this permit. The dumpster shall be emptied, cleaned and maintained to meet Board of Health standards.
- 3.33 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. The Petitioner shall adjust its parking lights during the night and early morning. Between the hours of 10:00 p.m. and 11:00 p.m., the Petitioner shall shut off most of the parking lot lights using the lights on the building to shine down and provide basic security. The building lights shall be set at a low light level to prevent any annoyance to the neighbors.
- 3.34 No building permit shall be issued for the proposed project in pursuance of the Special Permit and Site Plan Approval until:
- a. The final plans shall be in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Commissioner.
 - b. A construction management and staging plan shall have been submitted to the Police Chief and Building Commissioner for their review and approval.
 - c. The Petitioner shall have 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.
- 3.35 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:
- a. An as-built plan, supplied by the engineer of record certifying that the on-site and off-site project improvements were built according to the approved documents, has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage

systems, utility installations, and sidewalk and curbing improvements on-site and off-site, in their 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 finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalks and curbing improvements on-site and off-site, 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 architect upon completion of construction.
 - d. There shall be filed with the Board and Building Commissioner an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. Said plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.
 - e. There shall be filed by the Petitioner an as-built plan of the emergency generator and a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Board, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards). The sound analysis shall demonstrate compliance with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. Said as-built plan and sound level analysis shall be reviewed and approved by the Board without the requirement of a public hearing.
 - f. The Town shall have received a copy of the recorded DHCD-approved affordable housing restriction as described in paragraph 3.6.
 - g. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Commissioner may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.
- 3.36 The building or structure authorized for construction by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Commissioner.
- 3.37 The Petitioner, by accepting this permit Decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, that this information is true and valid to the best of the Petitioner's knowledge.
- 3.38 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 and off-site improvements, which are the subject of this petition. All construction to be conducted on-site and off-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, 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 Site Plan Special Permit Amendment shall lapse on May 16, 2025, 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 May 16, 2025. 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 Amendment 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 Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit Amendment 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, 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 16th day of May, 2023.

NEEDHAM PLANNING BOARD

Adam Block
Adam Block, Chairperson

Jeanne S. McKnight
Jeanne S. McKnight

Paul S. Albert
Paul S. Albert

Artie Crocker
Artie Crocker

Natasha Espada
Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

May 16, 2023

On this 16 day of May, 2023, 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 preceding 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, 2029

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 Wingate Development, LLC, 63 Kendrick Street, Needham, Massachusetts 02494, for property located at the 589 Highland Avenue, 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 #
Design Review Board
Building Commissioner
Conservation Commission
Evans Huber, Attorney

Select Board
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest