



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

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

PLANNING

MAJOR PROJECT SITE PLAN SPECIAL PERMIT Amendment December 1, 2020

BP 140 Kendrick Street LLC c/o Boston Properties Limited Partnership
Application No. 99-2
(Original Decision dated June 15, 1999)

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts of 2020)

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, MA. The property is shown on Assessor's Map 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 and recorded with the Town Clerk on October 28, 2020, by the Petitioner to amend the Original Decision dated June 15, 1999. The requested amendment would, if granted, permit the Petitioner to renovate the existing single tenant space to allow for multiple tenants to lease buildings. Exterior improvements are 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.

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, Jeanne S. McKnight on Tuesday, November 17, 2020 at 7:20 PM via remote meeting using Zoom Web ID Number 826-5899-3198. Board members Jeanne S. McKnight, Martin Jacobs, Paul S. Alpert, Ted Owens and Adam Block 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 Form for Site Plan Review completed by the applicant dated October 28, 2020.
- Exhibit 2 - Letter from Frederick J. DeAngelis, Attorney, dated October 15, 2020.
- Exhibit 3 - Design Review Board approval dated October 19, 2020.

- Exhibit 4 - Presentation, prepared by Copley Wolff Design Group, dated October 19, 2020, consisting of 8 pages.
- Exhibit 5 - Stormwater Analysis, prepared by VHB, dated September 23, 2020.
- Exhibit 6 - Plan set prepared by VHB, 101 Walnut Street, PO Box 9151, Watertown, MA, Stantec, 311 Summer Street, Boston, Copley Wolff Design Group, 10 Post office Square, Boston, consisting of 8 sheets: Sheet 1, Sheet C-1, entitled "Grading and Drainage Plan," dated September 23, 2020; Sheet 2, Sheet C-2, entitled "Site Details," dated September 23, 2020; Sheet 3, Sheet C-3, entitled "Parking plan," dated September 23, 2020; Sheet 4, Sheet L-100, entitled "Landscape Materials Plan," dated August 6, 2020, revised September 25, 2020; Sheet 5, Sheet L-300, entitled "Landscape Grading Plan," dated August 6, 2020, revised September 25, 2020; Sheet 6, Sheet L-400, entitled "Landscape Planting Plan," dated August 6, 2020, revised September 25, 2020; Sheet 7, Sheet L-500, entitled "Landscape Details," dated August 6, 2020, revised September 25, 2020; Sheet 8, Sheet L-501, entitled "Landscape Details," dated August 6, 2020, revised September 25, 2020.
- Exhibit 7 - Letter responding to Engineering Division comments, prepared by Nicholas Skoly, VHB, dated November 12, 2020.
- Exhibit 8 - Interdepartmental Communication (IDC) to the Board from Thomas Ryder, Assistant Town Engineer, dated November 10, 2020; IDC to the Board from Tara Gurge, Health Department, dated November 10, 2020; IDC to the Board from Chief Dennis Condon, Fire Department, dated October 22, 2020; and IDC to the Board from Chief John Schlitter, Police Department, dated November 10, 2020.

Exhibits 4, 5 and 6 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 99-2, dated June 15, 1999, were ratified and confirmed except as follows:

- 1.1. The property was the subject of Major Project Site Plan Special Permit No. 99-2, dated June 15, 1999 which permitted the redevelopment of a 262,670 square foot warehouse/office building to a 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.
- 1.2. The requested amendment would, if granted, permit the Petitioner to renovate the existing single tenant space to allow for multiple tenants to lease buildings. Exterior improvements are 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.
- 1.3. The Petitioner appeared before the Design Review Board on October 19, 2020 and received approval.
- 1.4. The new terrace will be completely handicapped accessible.

- 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, 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 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.
- 1.6 Adjoining premises will be protected against any seriously detrimental uses of the proposed project by minimizing new impervious soil, incorporating the surroundings of the Cutler Park Reservation but including a walkway to the reservation and replacing any trees to be removed with new trees at a ratio of 1.5 to 1.
- 1.7 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 proposed project will have no impact to vehicular or pedestrian movement within the site or on the adjacent streets. Removal of 3 trees in the inner island will increase visibility in that section of the driveway.
- 1.8 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been assured. The proposed project will have no impact on the arrangement of parking and loading spaces on the premises.
- 1.9 Adequate methods of disposal of refuse and other wastes resulting from the uses permitted on the site have been provided. There will be no change or increase to trash generation based on the proposed changes. Dumpsters for trash and recycling, and grease receptacles, if necessary, all as required by the Board of Health will be provided.
- 1.10 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 site is already developed. The proposed project will not have an adverse effect on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets.
- 1.11 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 development of the space already takes advantage of being adjacent to the Cutler Park Reservation by way of pedestrian access to the reservation and landscaping that compliments the park.

THEREFORE, the Board voted unanimously by 5-0 vote to GRANT: (1) the requested Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the By-Law; and (2) the requested Further Site Plan Review under Major Project Site Plan Special Permit 99-2, Section 3.2; 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 pertaining to this Decision, 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 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 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 four copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

2.1 No Plan Modifications required.

CONDITIONS

The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 99-2, dated June 15, 1999, are ratified and confirmed except as modified herein.

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 3.11 hereof.

- 3.1 The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 99-2, dated June 15, 1999 are ratified and confirmed, except as follows:
- 3.2 The proposed improvements 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. Any changes, revisions or modifications to the Plan, as modified by this Decision, shall require approval by the Board.
- 3.3 The proposed site improvements shall be installed and operated as described in Sections 1.2, 1.3, and 1.4 of this Decision and as further described under Exhibits 1, 2, 3, 4, 5, 6 and 7. Any changes of such above-described use shall be permitted only by amendment of this Approval by the Board.
- 3.4 The Petitioner shall obtain all necessary Federal, state and local permits for the project. The facility shall operate in compliance with all applicable lawful requirements imposed by local, state and/or federal authorities, including those addressing sound attenuation to protect the adjoining properties and nearest inhabited residence.
- 3.5 The Petitioner shall contact the Massachusetts Department of Conservation and Recreation (DCR) to seek approval to upgrade the section of the path around Cutler Lake that is adjacent to the Petitioner's property, and shall contact the Town of Needham Conservation Commission to obtain any approvals that may be required, and, if approved by DCR and the Conservation Commission, the Petitioner shall undertake said renovations.
- 3.6 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 Inspector.
- 3.7 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 Inspector 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 First Avenue or surrounding streets.
- 3.8 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.
- 3.9 No occupancy permit shall be issued for the proposed project in pursuance of the Special Permit and Site Plan Approval until:
- 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 an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features for the project. Said plan shall include a certification that such improvements were completed according to the approved documents.

- 3.10 The applicant, by accepting this permit decision, warrants that the applicant has included all relevant documentation, reports, and information available to the applicant in the application submitted, and that this information is true and valid to the best of the applicant's knowledge.
- 3.11 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 Petitioner of such violation and give the Petitioner 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 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 December 1, 2022, 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 December 1, 2022. 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 1st day of December, 2020.

NEEDHAM PLANNING BOARD

Jeanne S. McKnight
Jeanne S. McKnight, Chairperson

Paul S. Alpert
Paul S. Alpert

Martin Jacobs
Martin Jacobs

Adam Block
Adam Block

Ted Owens

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Dec. 3, 2020

On this 3 day of December, 2020, before me, the undersigned notary public, personally appeared Martin Jacobs, 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 me, 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.

Alicia Hu
Notary Public

My Commission Expires: March 18, 2022

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

Select Board
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest