



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

Major Project Site Plan Special Permit No. 2020-03
February 16, 2021
Hunnewell Needham, LLC
400 Hunnewell Street

(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 Hunnewell Needham, LLC, 393 South Main Street, Cohasset, MA, 02025, for property located at 400 Hunnewell Street, Needham, MA. Said property is located in the Hillside Avenue Business District. The property is shown on Assessors Plan No. 99 as Parcel 3 containing a total of 20,123 square feet.

This decision is in response to an application submitted to the Board on November 24, 2020, by the Petitioner for: (1) a Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit under Section 1.4.6 of the By-Law for a change and extension of a lawful, pre-existing, non-conforming use, and the alteration and enlargement and reconstruction of a lawful, pre-existing, non-conforming structure; (3) a Special Permit under Section 3.2.2 of the By-Law for an apartment or multifamily dwelling in the Hillside Avenue Business District; (4) a Special Permit under Section 4.4.2 of the By-Law to exempt the basement level underground parking from inclusion in the Floor Area Ratio calculation; and (5) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law.

The requested Major Project Site Plan Special Permit, would, if granted, permit the Petitioner to demolish the existing commercial building and replace it with a new residential building containing a total of eight units. The new building would be two stories high, plus a basement level, to be used for underground parking. The first and second floor together would contain a total of 12,915 square feet of floor area. The area to the left of the building, looking from the front, is proposed to be completely landscaped, as will the area in front of the building. Additional landscaping would be provided in the rear corner of the Premises as well. The rest of the Premises is proposed to be occupied by an access driveway and 7 surface parking spaces.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Jeanne S. McKnight on Tuesday, December 15, 2020 at 7:20 p.m. via remote meeting using Zoom ID 826-5899-3198. The hearing was continued to Monday, January 4, 2021 at 7:30 p.m., using Zoom ID 826-5899-3198. The hearing was further continued to Tuesday, January 19, 2021 at 8:15 p.m., using Zoom ID 826-5899-3198. The hearing was further opened on Tuesday, February 2, 2021, to accept the correspondence detailed under Exhibit 11 below. Board members Jeanne S. McKnight, Paul S. Alpert, Martin Jacobs, Adam Block and Ted Owens 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.

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

- Exhibit 1 - Application submitted by Hunnewell Needham, LLC, dated November 24, 2020 with Addendum A.
- Exhibit 2 - Two letters from George Giunta Jr. Attorney, dated November 5, 2020 and January 6, 2021.
- Exhibit 3 - Letter from Elisha Long, Manager, Hunnewell Needham, LLC, dated November 5, 2020.
- Exhibit 4 - Plan set prepared by Field Resources, 281 Chestnut Street, Needham, MA, J.M. Grenier Associates, Inc., 325 Donald Lynch Blvd., Suite 100, Marlborough, MA, 01752, consisting of 8 sheets: Sheet 1, Cover Sheet, dated November 2, 2020; Sheet 2, entitled "Existing Conditions Plan of Land," dated March 5, 2020, revised April 6, 2020 and November 5, 2020; Sheet 3, entitled "Layout Plan showing proposed Structure," dated March 5, 2020, revised April 6, 2020 and November 5, 2020; Sheet 4, entitled "Grading and Drainage Plan," dated November 2, 2020; Sheet 5, entitled "Utility Plan," dated November 2, 2020; Sheet 6, entitled "Erosion and Sediment Control Plan," dated November 2, 2020; Sheet 7, entitled "Details 1/2," dated November 2, 2020; Sheet 8, entitled "Details 2/2," dated November 2, 2020.
- Exhibit 5 - Plan set prepared by Duckham Architecture and Interiors, 53 Central Avenue, Needham, MA, consisting of 7 sheets: Sheet 1, Cover Sheet, dated November 5, 2020; Sheet 2, Sheet A.B.1, entitled "Lower Level Garage Plan," dated November 5, 2020; Sheet 3, Sheet A.1.1, entitled "1st Floor Plan," dated November 5, 2020; Sheet 4, Sheet A.1.2, entitled "2nd Floor Plan," dated November 5, 2020; Sheet 5, Sheet A.1.3, entitled "Roof Plan," dated November 5, 2020; Sheet 6, Sheet A201, entitled "Proposed Elevations," dated November 5, 2020; Sheet 7, Sheet A202, entitled "Proposed Elevations," dated November 5, 2020.
- Exhibit 6 - Stormwater Management Report, prepared by J.M. Grenier Associates, Inc., 325 Donald Lynch Blvd., Suite 100, Marlborough, MA, 01752, dated November 2, 2020.
- Exhibit 7 - Plan prepared by Field Resources, 281 Chestnut Street, Needham, MA, entitled "Layout Plan showing proposed Structure," dated March 5, 2020, revised April 6, 2020, November 5, 2020 and November 20, 2020.
- Exhibit 8 - Plan prepared by Verdant Landscape Architecture, entitled "Landscape Plan, 400 Hunnewell Street, Needham MA," dated December, 2020.
- Exhibit 9 - Letter from Bette Vogel, Rushit Kamani and Annie Atlas, dated December 4, 2020.
- Exhibit 10 - Memorandum from Design Review Board, dated December 7, 2020.

- Exhibit 11 - Letter from Bette Vogel, Rhonda Altman, Rushit Kamani, Mary Bronski, Noah Atlas, Karina Dodor, Elizabeth Hayden, Sam Hart, residents from 154, 156 and 160 Hillside Avenue, dated December 21, 2020, with attached photographs.
- Exhibit 12 - Email from Jeanne McKnight, Planning Board Chair, dated December 29, 2020, with attached photographs.
- Exhibit 13 - Email from Inga Puzikov, dated January 19, 2021.
- Exhibit 14 - Email from Martin Raffol, dated January 19, 2021.
- Exhibit 15 - Plan set prepared by Duckham Architecture and Interiors, 53 Central Avenue, Needham, MA, consisting of 7 sheets: Sheet 1, Cover Sheet, dated January 4, 2021; Sheet 2, Sheet A.B.1, entitled "Lower Level Garage Plan," dated January 4, 2021; Sheet 3, Sheet A.1.1, entitled "1st Floor Plan," dated January 4, 2021; Sheet 4, Sheet A.1.2, entitled "2nd Floor Plan," dated January 4, 2021; Sheet 5, Sheet A.1.3, entitled "Roof Plan," dated January 4, 2021; Sheet 6, Sheet A201, entitled "Proposed Elevations," dated January 4, 2021; Sheet 7, Sheet A202, entitled "Proposed Elevations," dated January 4, 2021.
- Exhibit 16 - Plan set prepared by Field Resources, 281 Chestnut Street, Needham, MA, J.M. Grenier Associates, Inc., 325 Donald Lynch Blvd., Suite 100, Marlborough, MA, 01752, consisting of 8 sheets: Sheet 1, Cover Sheet, dated November 2, 2020; Sheet 2, entitled "Existing Conditions Plan of Land," dated March 5, 2020, revised April 6, 2020, November 5, 2020 and December 30, 2020; Sheet 3, entitled "Layout Plan showing proposed Structure," dated March 5, 2020, revised April 6, 2020, November 5, 2020 and December 30, 2020; Sheet 4, entitled "Grading and Drainage Plan," dated November 2, 2020; Sheet 5, entitled "Utility Plan," dated November 2, 2020; Sheet 6, entitled "Erosion and Sediment Control Plan," dated November 2, 2020; Sheet 7, entitled "Details 1/2," dated November 2, 2020; Sheet 8, entitled "Details 2/2," dated November 2, 2020.
- Exhibit 17 - Plan set prepared by Verdant Landscape Architecture, consisting of 3 sheets: Sheet 1, Sheet L1, entitled "Landscape Plan, 400 Hunnewell Street," dated December 14, 2020; Sheet 2, Sheet L2, entitled "Lighting Plan, 400 Hunnewell Street," dated December 14, 2020; Sheet 3, Sheet L3, entitled "Materials, 400 Hunnewell Street," dated December 14, 2020.
- Exhibit 18 - Plan consisting of 2 sheets, each showing March 19, 2020 Sun Path.
- Exhibit 19 - Plan set prepared by Duckham Architecture and Interiors, 53 Central Avenue, Needham, MA, consisting of 7 sheets: Sheet 1, Sheet A.0.1, entitled "Existing Site Photos," dated January 4, 2021; Sheet 2, Sheet A.0.2, entitled "Existing Site Photos," dated January 4, 2021; Sheet 3, Sheet A.0.3, entitled "Existing Site Photos, View of Tracks & Train," dated January 4, 2021; Sheet 4, Sheet A.0.4, entitled "Existing Shadow Photos," dated January 4, 2021; Sheet 5, Sheet A.0.5, entitled "Existing Roof Height Photos," dated January 4, 2021; Sheet 6, Sheet A.0.6, entitled "Existing Site Photos, View from Office Building," dated January 4, 2021; Sheet 7, Sheet A.0.7, entitled "Site Sections," dated January 4, 2021.

Exhibit 20 - Interdepartmental Communication (IDC) to the Board from Chief John Schlittler, Needham Police Department, dated December 4, 2020 and January 6, 2021; IDC to the Board from Thomas Ryder, Assistant Town Engineer, dated December 14, 2020 and January 12, 2021; and IDC to the Board from Tara Gurge, Health Department, dated December 10, 2020.

Exhibits 1, 2, 3, 6, 15, 16, 17, 18, and 19 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

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

- 1.1 The subject property is located in the Hillside Avenue Business District at 400 Hunnewell Street, Needham, MA. The said property is shown on Needham Town Assessors Plan No. 99 as Parcel 3 and contains approximately 20,123 square feet. The property is owned by Hunnewell Needham, LLC, 393 South Main Street, Cohasset, MA, 02025.
- 1.2 The site is presently fully developed, occupied by a two-story commercial building, associated parking areas and limited landscaping. Based on the records of the Assessor's Department, the building, which is made of concrete block, was constructed in or around 1975. It contains approximately 8,520 square feet of area divided over two floors, both of which are used for office purposes.
- 1.3 The Petitioner proposes to demolish the existing commercial building and replace it with a new residential building containing a total of eight units. The new building would be two stories high, plus a basement level, to be used for 16 underground parking spaces. The first and second floor together would contain a total of 12,915 square feet of floor area. The area to the left of the building, looking from the front, is proposed to be completely landscaped, as is the area in front of the building. Additional landscaping is proposed in the rear corner of the premises as well. The rest of the premises is proposed to be occupied by an access driveway and 7 surface parking spaces. Access to the surface parking lot and the underground garage will be provided off of Hunnewell Street. As a part of the site improvements, the Petitioner is proposing to install a stormwater infiltration system on site.
- 1.4 As indicated above, the proposed new building will be used entirely for residential purposes. Pursuant to Section 3.2.2 of the Zoning By-Law, use of property in the Hillside Avenue Business District for "apartment or multifamily dwelling" is allowed by special permit. Therefore, provided the Board approves the requested special permit, the proposed use of the premises will comply with the By-Law.
- 1.5 The By-Law, Section 4.4.1 requires that the minimum lot area be 10,000 square feet and the minimum lot frontage be 80 feet. The proposed development, having a lot with an area of approximately 20,123 square feet and 104.31 feet of frontage on Hunnewell Street, complies with the minimum frontage and the minimum area requirements.

- 1.6 The By-Law, Section 4.4.4 requires a minimum front setback of 20 feet. The proposed building is to have a front setback of 20 feet from Hunnewell Street at its closest point. Therefore, the proposed new building complies with the applicable setback requirements.
- 1.7 The By-Law, Section 4.4.2 (e) allows a maximum floor area ratio (FAR) of 0.7 or 14,086.1 square feet in the subject case. The proposed new building will contain a total of 14,076 square feet; 10 square feet less than the maximum permitted. In addition, the basement level will be occupied by a parking garage. Provided the Planning Board issues a special permit waiving inclusion of the underground parking garage in the FAR calculation, the floor area will remain less than the maximum allowed by the By-Law, and the proposed new building will comply with the applicable FAR requirement.
- 1.8 Pursuant to Section 4.4.3 the maximum height allowed as of right in the Hillside Avenue Business District is two and one-half (2 ½) stories, not to exceed 35 feet; with all use except storage prohibited above the second floor. Whereas the proposed new building is two stories with a height of 29 feet, the proposed new building will comply with the height limitations of the By-Law.
- 1.9 The By-Law, Section 4.4.5, further requires that no more than two driveways be permitted for every 150 feet of frontage, and two-way driveways of the kind proposed for the premises must be no less than 18 feet wide and no more than 25 feet wide. Whereas only one driveway is proposed, and whereas the driveway is 25 feet wide, same complies with the applicable driveway opening conditions of Section 4.4.5.¹
- 1.10 The By-Law, Section 4.4.8.4, requires that:

“no building or structure for a use not allowed in a residential district shall be placed within fifty (50) feet of a residential district boundary, and the ten feet closest to such boundary shall be suitable landscaped as specified at Section 4.4.8.5. The remainder of the setback may be used for an accessory use not including a building or structure.”

A small portion of the Premises directly abuts the Single Residence B Zoning District, at the rear corner, with a larger portion located adjacent to the MBTA railroad right-of-way. Because the HAB district boundary ends at the edge of the railroad right-of-way, and whereas the opposite side of the right-of-way is located in the SRB District, the property line likely constitutes a residential district boundary, as contemplated by Section 4.4.8.4.

However, whereas the proposed new building is an apartment or multi-family dwelling, used for residential purposes, and whereas apartments and multifamily structures and residential use are allowed in a residential district, the provisions of Section 4.4.8.4 do not apply by their own terms.

- 1.11 Under the By-Law, Section 5.1.4, 1.5 parking spaces per each residential unit is required for the eight residential units, for a total of 12 spaces. The Petitioner is proposing to install a total of 23 spaces: 16 underground parking spaces and an additional 7 surface

¹ The Board notes that technically only 12.5 feet of the driveway opening is on the Premises, as the proposed driveway utilizes a common right of way, shared with the adjacent Premises, as set forth in Deed recorded with Norfolk County Registry of Deeds in Book 5115, Page 175, and shown on “Plan of Land in Needham, Mass.,” dated January 28, 1975, prepared by Apex Associates, endorsed by the Needham Planning Board and recorded therewith.

spaces; two to the right of the new building and 5 to the rear. As a result, more than sufficient parking is provided, and the redevelopment complies with the off-street parking requirements of the By-Law relative to the number of spaces.

- 1.12 The spaces as designed comply with all aspects of the Parking Plan and Design Requirements set forth at Section 5.1.3 of the By-Law except the following three, for which waivers are required and requested by the Petitioner under this Section: (1) The illumination proposed is limited to the lights mounted on the building, short bollards and decorative ground mounted lighting, which are all expected to produce an average illumination level of less than one foot candle in the parking area, instead of the requirement of an illumination level of an average of one foot candle required pursuant to Section 5.1.3(a); (2) The By-Law Section 5.1.3(k) requires that ten (10) percent or more of the parking area shall be maintained as landscaped area. Whereas the majority of the parking provided is in an underground structure, and due to the configuration of the site, a waiver from such provision has been requested; (3) As applied to the Premises, the By-Law Section 5.1.3(l) requires two trees, located within or around the parking area, with not less than 40 square feet of unpaved soil or other permeable surface area per tree, in planting beds at least 4 feet wide. While the Petitioner is proposing landscaping at the front and rear corner of the Premises, same does not meet the tree requirement and a waiver has been requested.
- 1.13 Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light and air has been assured. The Board finds that the use of the premises for residential purposes does not constitute a “seriously detrimental use.” The premise is to be connected to the municipal storm drain system. Surface water drainage will be improved over the existing conditions and adequate provision has been made for same. Considering that the premises is bounded to the rear by the MBTA railroad right of way, to one side by a commercial use and to the other side by a multifamily / apartment development, no additional sound and sight buffers are required, and with the redevelopment of the site, views, light and air have been adequately mitigated with height adjustments made in the course of this approval to mitigate shadowing on adjacent properties.
- 1.14 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets has been assured. The driveway serving the parking area is of adequate width and in an appropriate location, and the building is accessed by a walkway.
- 1.15 The arrangement of parking and loading spaces is adequate, based on the layout and use of the site. Parking is arranged both around and below the building and is readily accessible. The proposed residential use of the building is not expected to require any special or dedicated loading spaces.
- 1.16 Adequate methods of disposal of refuse and other wastes resulting from the uses of the site have been provided. The proposed residential use of the premises is not anticipated to generate any significant wastes or trash. Nevertheless, it will be a requirement for the occupants of the building that all trash, waste and debris be removed on a regular basis, as necessary and appropriate, consistent with customary residential use.
- 1.17 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area are in compliance with other requirements of this By-law and have been adequately addressed by this project. The property is bounded on one side by an existing commercial activity on another by a multifamily development,

and on the third side by the MBTA railroad right of way. As a result, the proposed development for residential purposes is not anticipated to have any significant negative effect on any community asset or any adjacent landscape.

- 1.18 The 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. The use of the Premises for residential purposes is consistent with both other current uses in the Hillside Avenue Business District and the uses allowed pursuant to the By-Law. The building will not generate large numbers of motor vehicles and the project has been designed to accommodate fire and other emergency services. The project will connect to the Town's water system that is located in Hunnewell Street. The project will connect to the Town's sewer system by means of connecting to the sewer main located in Hunnewell Street.
- 1.19 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted in the Hillside Avenue Business District, if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that 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 minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.
- 1.20 Under Section 3.2.2 of the By-Law, a Special Permit may be granted for apartment or multifamily dwelling use in the Hillside Avenue Business District . On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.21 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.3 of the By-Law (Off-Street Parking Requirements) more specifically, in Sections 5.1.3(a), 5.1.3(k) and 5.1.3(l), as further described in Section 1.12 above, may be granted provided the Board finds that owing to special and unique circumstances, the particular use, structure or lot does not warrant the application of certain design requirements. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the waiver of the above-noted requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.
- 1.22 Under Section 4.4 of the By-Law, a Special Permit may be granted to exempt the floor area of underground parking devoted in whole or in part to the parking of automobiles from being counted as floor area for purposes of determining maximum floor area ratio. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the waiver of the above-noted requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-law; (2) the requested Special Permit under

Section 3.2.2 of the By-Law for apartment or multifamily dwelling in the Hillside Avenue Business District; (3) the requested Special Permit under Section 4.4.2 of the By-Law to exempt the basement level underground parking from inclusion in the Floor Area Ratio calculation; and (4) the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirements) of the By-Law, as modified by this decision; 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 Inspector shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.0 The 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 “Parking Plan and Design Requirements” compliance table shall be added to the site plan and be consistent with the waivers requested under the Section 5.1.3 requirement.

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 3.31 hereof.
- 3.1 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.
- 3.2 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.
- 3.3 The building shall be used exclusively for residential purposes. The basement level shall contain parking spaces for 16 automobiles. Any changes, revisions or modifications to the Plan, as modified by this decision, shall require approval by the Board.
- 3.4 Except in the event that the property is condominiumized, all buildings and land constituting the property shall remain under a single ownership.

- 3.5 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this decision, and that there shall be no parking of motor vehicles off the locus at any time except in designated legal on-street parking areas. The sales/leasing plan shall not allow the allocation of parking spaces to tenants or unit owners in excess of the available number.
- 3.6 Sixteen (16) underground parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this decision. While the Petitioner proposed and the Board approves seven (7) surface spaces, notwithstanding any provision of this Decision to the contrary, the Board notes that the 5 surface spaces in the rear of the Building may be eliminated without the need to return to the Board. All off-street parking shall comply with the requirements of Section 5.1.3 of the By-Law, except as otherwise waived by this decision.
- 3.7 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.
- 3.8 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if and to the extent applicable.
- 3.9 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit, if and to the extent applicable.
- 3.10 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. The Petitioner shall connect the sanitary sewer line only to known sources. All sources that cannot be identified shall be disconnected and properly sealed.
- 3.11 The construction, operation and maintenance of the subsurface infiltration facility, on-site catch basins and pavement areas, shall conform to the requirements outlined in the EPA's Memorandum of Understanding signed by the Needham Board of Selectmen.
- 3.12 The Storm Water Management Policy form shall be submitted to the Town of Needham signed and stamped and shall include construction mitigation and an operation and maintenance plan as described in the policy.
- 3.13 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.
- 3.14 The Petitioner shall provide wooden privacy fence with lattice as well as trees, along the northeastern edge of the property, as shown on the plan.
- 3.15 All solid waste shall be removed from the site by a private contractor, as and when necessary. Snow shall also be removed or plowed by private contractor, as and when

necessary. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced.

- 3.16 All commercial deliveries and trash pick-up shall occur only between the hours of 8:30 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. Trash shall be removed from the building as necessary and shall not be stored in dumpsters or external containers.
- 3.17 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. The Petitioner shall utilize the exterior lighting located on the exterior of the building to shine down and provide basic and adequate security. There are bollard and railing lights proposed in the handicapped parking area as well the handicapped ramp and the walkway at the rear of the building.

Lighting shall be adjusted during the evening hours to prevent any annoyance to the neighbors. The Petitioner shall reduce its exterior building and site lighting during the night with that reduction remaining in effect until the following morning. Between the hours of 9:00 p.m. and 10:00 p.m. all site lighting shall be turned off and converted to a motion detection system except as specifically noted: a) the lights embedded in the stair risers may stay on overnight for safety, given their location and low level, b) the light above the front entry (on the daycare side) may stay on from sunset to sunrise for safety and c) the lights above the garage door may be turned on when the garage door is activated.

- 3.18 The maintenance of landscaping, as shown on the Plan, as modified by this decision, shall be the responsibility of the Petitioner.
- 3.19 Any portions of the sidewalks located on Hunnewell Street shall be built to Town of Needham Specifications.
- 3.20 In constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence be exercised and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.21 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the site, shall be removed from the site.
- 3.22 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.
- 3.23 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.
 - 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 Hunnewell Street.
 - d. The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Hunnewell Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.24 No building permit shall be issued 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 Inspector.
 - b. A construction management and staging plan shall have been submitted to the Police Chief and Building Inspector for their review and approval.
 - c. The Petitioner shall have submitted a letter to the DPW identifying the measures selected and dates by which the NPDES requirements outlined in Section 3.13 of this decision will be completed.
 - d. 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.
- 3.25 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 Inspector 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 Inspector a Final Construction Control Document signed by a registered architect upon completion of construction.
 - d. There shall be filed with the Board and Building Inspector an as-built Landscaping Plan and As-Built Lighting 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 with the Board a statement by the Engineering Division of DPW that the Petitioner has met the NPDES requirement as detailed in Section 3.13.
 - f. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector 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 surety 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.
- 3.26 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 Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
 - 3.27 Any blasting conducted at the property shall require approval by the Needham Fire Department in accordance with Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00.
 - 3.28 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 Inspector.
 - 3.29 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.
 - 3.30 The Petitioner shall implement the following maintenance plan:
 - a. Parking lot sweeping - sweep twice per year; once in spring after snowmelt, and early fall.
 - b. Catch basin cleaning - inspect basins twice per year; in late spring and fall. Clean basins in spring.
 - c. Oil/grit separators - inspect bi-monthly and clean four times per year of all oil and grit.
 - 3.31 Violation of any of the conditions of this decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of

violation of any conditions of this decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this decision if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site 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 The conditions contained within this decision are limited to this specific application and are made without prejudice for any further modification or amendment.
- 4.5 No approval of any indicated signs or advertising devices is implied by this decision.
- 4.6 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.
- 4.7 This Site Plan Special Permit shall lapse on February 16, 2023, 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 February 16, 2023. 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 except for good cause.
- 4.8 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 G.L. Chapter 40A, Section 11, this Major Site Plan 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 of the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

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

Witness our hands this 16th day of February, 2021

NEEDHAM PLANNING BOARD

Jeanne S. McKnight
Jeanne S. McKnight, Chairman

Paul S. Alpert
Paul S. Alpert

Martin Jacobs
Martin Jacobs

Adam Block
Adam Block

Ted Owens
Ted Owens

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Feb. 25 2021

On this 25 day of Feb., 2021, 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 18, 2022

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Hunnewell Needham, LLC, 393 South Main Street, Cohasset, MA, 02025, for Property located at 400 Hunnewell 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 Inspector
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
George Giunta, Jr.