



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

2021 MAR 11 AM 9:42
500 Dedham Ave
Needham, MA 02492
781-455-7500

DECISION

PLANNING

SITE PLAN SPECIAL PERMIT AMENDMENT

Application No. 91-3

March 2, 2021

(Original Decision dated May 28, 1991 and amended on July 1, 1997, October 7, 1997, August 10, 1999, June 16, 2009, September 8, 2011, March 20, 2012, July 10, 2012, September 28, 2012 (insignificant modification), March 19, 2013, July 8, 2014, August 11, 2015, August 26, 2016 (insignificant modification))

NORTH HILL NEEDHAM INC.

(Formerly known as Living Care Villages of Needham, Inc.)

(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 North Hill Needham, Inc. 865 Central Avenue, Needham, Massachusetts, (hereinafter referred to as the "Petitioner"), for property located at 865 Central Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessor's Plan No. 309, as Parcel 25, and contains 59.54 acres.

This Decision is in response to an Application submitted to the Board on January 25, 2021, by the Petitioner for: (1) a Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the "By-Law") and Section 4.2 of Site Plan Special Permit No. 91-3, dated September 8, 2011, as amended; and (2) a Special Permit under Sections 5.1.1.5 and 5.1.1.7 of the By-Law to waive strict adherence to the off-street parking requirements of Section 5.1.3 (Parking Plan Design Requirements) of the By-Law, more specifically, in Section 5.1.3(f), to waive the parking space size requirement of six existing parking spaces, and in Section 5.1.3(n), to waive the requirement to install bicycle racks.

The requested Major Project Site Plan Special Permit, would, if granted, permit the Petitioner to make modifications to the Plans approved in connection with Major Project Site Plan Special Permit Amendment No. 91-3, dated May 28, 1991 as amended by Amendments dated July 1, 1997, October 7, 1997, August 10, 1999, June 16, 2009, September 8, 2011, March 20, 2012, July 10, 2012, September 28, 2012, March 19, 2013, July 8, 2014, August 11, 2015 and August 26, 2016, respectively. The proposed modifications would allow the Petitioner to construct 75 new parking spaces along a portion of the existing fire lane, widen the fire lane, and undertake associated sitework and landscaping.

The Petitioner has further noted in its application that the existing cooling tower shown on the plans for purposes of illustration needs replacement and that the proposed location of the cooling tower (also shown on the plans) is slightly different from the current location. The replacement of the existing cooling tower is part of a continuous process of maintenance, repair, and replacement of elements of a large facility such as North Hill, and Petitioner requests that the Board make a determination that said cooling tower replacement is not part of the site plan review process and will be permitted and overseen, as required, by the Building Department.

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, February 16, 2021 at 7:30 p.m. via remote meeting using Zoom ID [826-5899-3198](#). Board members Jeanne S. McKnight, Paul S. Alpert, Martin Jacobs and Adam Block were present at the February 16, 2021 hearing. 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 Form for Site Plan Review completed by the applicant's representative dated January 25, 2021, with Exhibit A and application signed by property owner dated February 4, 2021, including "Clerk's Certificate".
- Exhibit 2 Letter to the Needham Planning Board, from Attorney Evans Huber, dated January 14, 2021.
- Exhibit 3 Memorandum from Dan Keches and Justin Mosca, Vanasse Hangen Brustlin, Inc., 101 Walnut Street, PO Box 9151, Watertown MA, 02472, dated January 4, 2021, regarding Plan Changes.
- Exhibit 4 Memorandum from Dan Keches and Justin Mosca, Vanasse Hangen Brustlin, Inc., 101 Walnut Street, PO Box 9151, Watertown MA, 02472, dated January 4, 2021, regarding stormwater revisions, with attachments.
- Exhibit 5 Plans entitled "North Hill Life Care Facility, 865 Central Avenue, Needham, Massachusetts 02492" prepared by Vanasse Hangen Brustlin, Inc., 101 Walnut Street, P.O. Box, 9151, Watertown, MA, 02471, Hammer + Walsh design Inc., 24 Famesworth Street, 4th Floor, Boston, MA, 02210, consisting of 19 sheets: Sheet 1, Title Sheet, dated June 17, 2011, revised July 28, 2011, December 3, 2012, April 1, 2013, May 28, 2014, July 8, 2014, July 30, 2015, August 9, 2016 and January 4, 2021; Sheet 2, Sheet C2, entitled "Key Plan," dated June 17, 2011, revised July 28, 2011, December 3, 2012, May 28, 2014, July 14, 2016 and January 4, 2021; Sheet 3, Sheet C3, entitled "Overall Site Master Plan," dated June 17, 2011, revised July 28, 2011, December 3, 2012, May 28, 2014, July 14, 2016 and January 4, 2021; Sheet 4, Sheet C3.1, entitled "Phasing Site Plan," dated June 17, 2011, revised July 28, 2011, December 3, 2012, May 28, 2014, July 8, 2014, July 14, 2016 and January 4, 2021; Sheet 5, Sheet C4.1.2, entitled "Bayview Road, Layout and Materials Plan," dated January 4, 2021; Sheet 6, Sheet C4.2.2, entitled "Bayview Road, Layout and Materials Plan," dated January 4, 2021; Sheet 7, Sheet C4.3.2, entitled "Bayview Road, Layout and Materials Plan," dated January 4, 2021; Sheet 8, Sheet C5.1.2, entitled "Bayview Road, Grading and Drainage Plan," dated January 4, 2021; Sheet 9, Sheet C5.2.2, entitled "Bayview Road, Grading and Drainage Plan," dated January 4, 2021; Sheet 10, Sheet C5.3.2, entitled "Bayview Road, Grading and Drainage Plan," dated January 4, 2021; Sheet 11, Sheet C6.1.2, entitled "Bayview Road, Utilities Plan," dated January 4, 2021; Sheet 12, C6.2.2, entitled "Bayview Road, Utilities Plan," dated January 4, 2021; Sheet 13, C6.3.2, entitled "Bayview Road, Utilities Plan," dated January 4, 2021; Sheet 14, Sheet C7, entitled "Emergency Vehicle Access Plan," dated June 17, 2011, revised July 28, 2011, December 3, 2012, May 28, 2014 and January 4, 2021; Sheet 15, Sheet C8.5, entitled "Bayview Road, Site Details," dated January 4, 2021; Sheet 16, Sheet L3.7, entitled "Bayview Road, Stairway and Path Improvements," dated January 4, 2021; Sheet 17, Sheet L3.8, entitled "Bayview Road, Bioretention Basin Planting Plans," dated January 4, 2021; Sheet 18, Sheet PH1.02, entitled "Bayview Road, Lighting Photometric Plan," dated January 4, 2021; Sheet 19, Sheet ES1.02, entitled "Bayview Road, Site Distribution Plan," dated January 4, 2021.

Exhibit 6 Design Review Board Approval on January 11, 2021.

Exhibit 7 Interdepartmental Communication ("IDC") to the Board from Dennis Condon, Chief of the Needham Fire Department, dated January 20, 2021; IDC to the Board from Tara Gurge, Assistant Director of Public Health, the Needham Health Department dated January 21, 2021 and February 16, 2021; IDC to the Board from Tom Ryder, Assistant Town Engineer, the Needham Department of Public Works dated February 10, 2021.

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

Submitted for the Board's deliberation after to the close of the public hearing (content stated verbally at hearing) was the following exhibit:

Exhibit 8 Letter to the Needham Planning Board, from Attorney Evans Huber, dated February 17, 2021.

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

Exhibit 9 Email to Lee Newman and Alexandra Clee, from Attorney Roy Cramer, dated March 1, 2021.

Exhibit 10 Email to Lee Newman and Alexandra Clee, from Attorney Roy Cramer, dated March 3, 2021, with attachments.

Exhibit 11 Email to Lee Newman, from Ross Whistler, dated March 1, 2021, with attachments.

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 an A-2 and SRA Zoning District. The residential component of North Hill is a use permitted as of right. The Health Center, as a nursing home, is a use permitted by Special Permit originally issued by the Board of Appeals on June 12, 1979, and modified March 9, 1982, and April 18, 1984. The property was also the subject of a Special Permit Amendment issued by the Planning Board on May 28, 1991, and further amended on July 1, 1997, October 7, 1997, August 10, 1999, June 16, 2009, September 8, 2011, March 20, 2012, July 10, 2012, September 28, 2012 (insignificant modification), March 19, 2013, July 8, 2014, August 11, 2015, and August 26, 2016 (insignificant modification). The Planning Board's jurisdiction arises from the Site Plan Review provisions of Section 7.4 of the By-Law. The existing Special Permit, as amended, provided for an aggregate of 512 parking spaces serving the entire existing development on the property.
- 1.2 The property is shown on Needham Town Assessor's Plan 309, parcel 25, and contains 59.54 acres. The property is owned by Babson College and is leased to the Petitioner.
- 1.3 As indicated on the Zoning Table shown on the Plan, the proposed Project conforms to the zoning requirements as to height, lot coverage and front, side and rear setbacks and all other applicable dimensional requirements of the By-Law.

- 1.4 The Petitioner has expanded and modernized its facility over the past several years, much of it pursuant to the Planning Board special permit/site plan review process. There presently exists a 12-foot wide fire lane that parallels the rear of the main building. During the construction process associated modernization, a number of residents and staff parked adjacent to the fire lane. In many instances those parking spaces were closer to residents' units or staff offices than the parking areas that were formerly utilized, so several residents and staff continued to park adjacent to the fire lane following construction. For the benefit that proximity of spaces brings, particularly to many senior citizens who have some difficulty walking longer distances (much of it outside), the Petitioner now seeks to make the parking arrangement at the fire lane permanent.
- 1.5 The proposed modifications would allow the Petitioner to construct 75 new parking spaces along a portion of the existing fire lane, widen the fire lane, and undertake associated sitework and landscaping.
- 1.6 The total number of parking spaces after completion of the project will increase from 512 to 587. The existing Special Permit, as amended, provided for an aggregate of 512 parking spaces at the conclusion of the project serving the entire existing development on the property. The project, as proposed by this application for an amendment, will increase the total number of parking spaces at the conclusion of the project to 587 parking spaces.
- 1.7 The project comprises replacement of most of the existing access drive in the area of work with a 20-foot wide paved driveway conforming to access requirements for fire lanes, and the addition of paved parallel parking to the outer perimeter. For the remaining portion of the drive at the east end, the driveway width is proposed to be increased to 24 feet to accommodate "head in" parking where adjacent topography allows. Curbing is proposed to be provided along the outer edge of the new pavement to route stormwater from the reconstructed drive into the onsite stormwater management system and prevent runoff down the adjacent slopes. Stormwater will flow overland to one of two proposed lined, filtering bioretention basins located on the outside of the new driveway near "G" and "I" Wings of the Independent Living Building. Outlets from these basins will connect back to the existing closed-drainage system within Bayview Road, ultimately routing this stormwater to the existing stormwater infiltration/detention basin at East Militia Heights Drive. Stormwater runoff from the paved area of the fire lane that previously flowed untreated toward Central Avenue will now be collected in an onsite stormwater management system designed to provide greater than the requisite water quality using bioretention basins providing removal of suspended solids, phosphorus, and pathogens.
- 1.8 The Needham Conservation Commission issued an Order of Conditions on August 18, 2011, with respect to the portions of the Project within its jurisdiction and issued an amendment to said Order of Conditions on June 20, 2012.
- 1.9 None of the proposed work is within the Conservation Restriction on site, as shown on the plans.
- 1.10 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.5 and 5.1.1.7 of the Zoning By-Law, to waive strict adherence to the off-street parking requirements of Section 5.1.3 (Required Parking) of the By-Law. The project complies with all the design criteria set forth in Section 5.1.3 except that the Petitioner is seeking a waiver from Section 5.1.3(n) and Section 5.1.3(f). The Petitioner is seeking a waiver from the Section 5.1.3(n) bicycle rack requirement and requests that, due in part to the topography and location of the property, and the population that it serves. The Petitioner notes that parking waivers have already been granted with respect to

the necessity of providing bicycle racks, but the Petitioner requests the relief again if the Board determines that the provisions of Section 5.1.1.7 are applicable.

- 1.11 In addition, a waiver is requested from the requirements of Section 5.1.3(f) (Parking Space Size) with respect to the six existing spaces located along the southeasterly corner of the existing Farley building. The spaces are non-compliant in that they are of varying lengths (between 14-16 feet). A parking waiver has already been granted with respect to these parking spaces, but the Petitioner requests this relief again, if the Board determines that the provisions of Section 5.1.1.7 are applicable.
- 1.12 The Petitioner notes that the existing cooling tower shown on the plans for purposes of illustration is in need of replacement and the proposed location of the cooling tower (also shown on the plans) is slightly different from the current location. The Petitioner has proposed to replace the existing cooling tower and pad with a new cooling tower and pad having dimensions as follows:

Existing Cooling Tower

Width 5'-5/8"

Length 12'-2 7/8"

Height: 9'-3 h"

New Cooling Tower

Width 4'-1 3/4"

Length 9'-5 3/8"

Height 9'-11"

Tower Pad

Width 16'

Length 18'

Tower Pad

Width 19'

Length 22'

The replacement of the existing cooling tower is part of a continuous process of maintenance, repair, and replacement of elements of a large facility such as North Hill, and the Petitioner requests that the Board make a determination that said cooling tower replacement is not part of the site plan review process and will be permitted and overseen, as required, by the Building Department. The Planning Board determined that the cooling tower is subject to site plan review and has approved the proposed new location as shown on the plan in Exhibit 5 and as described above and in Exhibit 8, Exhibit 9 and Exhibit 10 subject to the terms of this permit.

- 1.13 There is proposed to be a guardrail on the side of the driveway that slopes downward towards the conservation restriction to restrict snow from being pushed in that direction. Snow is proposed to be hauled to the inside of the bays in between the wings of the building. From there it will melt and flow towards the street's stormwater system.
- 1.14 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and sight buffers and preservation of views, light and air. The proposal is creating better stormwater management on the portion of the site affected. Sound and site buffers will not be affected, as the driveway already exists. The improvements proposed by this application have been designed to be consistent with the existing structures and other improvements.
- 1.15 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. Traffic flow will continue in the one-way direction on the driveway but will now provide the required fire lane width for added safety.

- 1.16 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been achieved. The total number of parking spaces after the conclusion of the Project will increase from 512 to 587. All new parking spaces will meet existing parking criteria and the only spaces that are non-compliant are the six parking spaces along the southeast corner of the Farley Building, for which waivers have been granted.
- 1.17 Adequate methods of disposal of refuse and other waste resulting from the uses permitted on the site have been assured. The methods of disposal of refuse and other wastes remain consistent with existing conditions. Solid waste and refuse will be disposed of in compliance with all applicable rules and regulations. The waste water system is connected to the municipal sewer system and will continue to do so. Disposal of refuse will continue to be handled at the existing loading bay door on the south side of the existing Farley Building and at the trash compactor located at the Skilled Nursing Facility loading dock.
- 1.18 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. No additional structures are being added as a result of the current proposal. The cooling tower is being relocated to a location very near its prior location to accommodate the widening of the driveway. The community garden, a natural area and asset for North Hill residents, will remain.
- 1.19 Mitigation of adverse impact 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 has been assured. The changes proposed by this application will have no additional impact on the Town's resources. The work proposed by the present application represents minor modifications and refinements to the total project.
- 1.20 No change in the total number of beds and/or units is contemplated by the current proposal.
- 1.21 The Petitioner met with the Design Review Board on January 11, 2021 and obtained approval for the project.
- 1.22 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted in the Apartment-2 Zoning District and in the Single Residence A Zoning 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 be harmonious with the surrounding area.
- 1.23 Under Section 5.1.1.5 of the By-Law, a special permit to waive certain parking plan and design requirements as set forth in Section 5.1.3, more specifically, in Section 5.1.3(n), to waive the requirement for bicycle racks, if the particular use, structure or lot does not warrant the application of certain design requirements, and that the elimination of the bicycle rack requirement is warranted. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the elimination of the bicycle rack requirement, 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. Under Section 5.1.1.5 of the By-Law, a special permit to waive certain parking plan and design requirements as set forth in Section 5.1.3, more specifically, in Section 5.1.3(f), to waive the minimum length of parking space, may be granted, if 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. Given that the six existing spaces located along the southeasterly corner of the existing Farley Building are non-compliant spaces in that they are of varying lengths, between 14 and 16 feet, and that said parking spaces are located at the end of the maneuvering aisle, the Board finds that there are special and unique circumstances justifying that continuation of the non-compliant length of the six (6) spaces described 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 4-0 to grant (1) the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Site Plan Special Permit No. 91-3, dated September 8, 2011, as amended; and (2) the requested Special Permit under Sections 5.1.1.5 and 5.1.1.7 of the Zoning By-Law to waive strict adherence to the off-street parking requirements of Section 5.1.3 (Parking Plan Design Requirements) of the By-Law, more specifically, in Section 5.1.3(f), to waive the parking space size requirement of six existing parking spaces, and in Section 5.1.3(n), to waive the requirement to install bicycle racks; subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

2.0 No Plan Modifications required.

CONDITIONS

3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.24 hereof.

3.1 The Special Permit issued to Babson College by the Board of Appeals on June 12, 1979 and filed with the Town Clerk on August 2, 1979, the Special Permit amendment issued to Babson College by the Board of Appeals on March 9, 1982, and filed with the Town Clerk on March 15, 1982, the Special Permit amendment issued to Living Care Villages of Massachusetts, Inc. by the Board of Appeals on April 18, 1984, and filed with the Town Clerk on May 4, 1984, the Special Permit amendment issued by the Planning Board on May 28, 1991, and filed with the Town Clerk on June 6, 1991, the Special Permit amendment issued by the Planning Board on July 1, 1997, and filed with the Town Clerk on July 1, 1997, the Special Permit amendment issued by the Planning Board on October 7, 1997, and filed with the Town Clerk on October 10, 1997, the Special Permit amendment issued by the Planning Board on August 10, 1999, and filed with the Town Clerk on August 13, 1999, the Special Permit amendment issued by the Planning Board on June 16, 2009, and filed with the Town Clerk on June 17, 2009, the Special Permit amendment issued by the Planning Board on September 8, 2011, and filed with the Town Clerk on September 12,

- 2011, the Special Permit amendment issued by the Planning Board on March 20, 2012, and filed with the Town Clerk on March 20, 2012, the Special Permit amendment issued by the Planning Board on July 10, 2012, and filed with the Town Clerk on August 1, 2012, the Special Permit amendment issued by the Planning Director on September 28, 2012, the Special Permit amendment issued by the Planning Board on March 19, 2013, and filed with the Town Clerk on March 21, 2013, the Special Permit amendment issued by the Planning Board on July 8, 2014, and filed with the Town Clerk on July 11, 2014, the Special Permit amendment issued by the Planning Board on August 11, 2015, and filed with the Town Clerk on August 13, 2015, and the Special Permit amendment issued by the Planning Director on August 26, 2016, are incorporated by reference and all other conditions therein imposed remain in full force and effect, except that modifications as shown on the “Plan” are hereby approved and incorporated by reference as conditioned by this Decision.

3.2 The work authorized by this Decision is the following:

- (a) Widening the existing fire lane to 20 feet and 24 feet for a small portion;
- (b) Creation of 75 new parking spaces adjacent to the widened fire lane;
- (c) Associated sitework, such as adding handrails to the existing walkway adjacent to Building G, and reconstructing a portion of the existing walkway adjacent to Building I;
- (d) Landscaping; and
- (e) Relocation and replacement of the cooling tower;

All as shown on the plans in Exhibit 5 and as detailed in Section 1.12, Exhibit 8, Exhibit 9 and Exhibit 10.

- 3.3 The buildings, support services, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan. Any changes, revisions or modifications to the Plan shall require approval by the Board.
- 3.4. All buildings and land constituting the premises shall remain under a single leasehold ownership interest.
- 3.5 Sufficient parking shall be provided on the locus at all times in accordance with the Plan and there shall be no parking of motor vehicles off the locus at any time, except for construction and other vehicles as may be parked on property owned by others with the assent of the property owner, including the Town of Needham.
- 3.6 A minimum of 587 parking spaces shall be provided on the site at all times at completion of this phase of the project. 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 Owner's Expense”. The quantity and 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.
- 3.8 The Petitioner shall submit to the Building Inspector the plans and specifications for the cooling tower. The cooling tower shall be designed in accordance with the specification detailed in Section 1.12, Exhibit 8, Exhibit 9 and Exhibit 10 of this Decision. The cooling tower shall be designed, operated and screened to comply with all applicable Federal, state and local regulations,

including those addressing sound attenuation to protect the adjoining properties and nearest inhabited residence.

- 3.9 All new utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.10 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.
- 3.11 A signed and stamped Storm Water Management Policy form has been submitted to the Town of Needham, together with a construction mitigation and an operation and maintenance plan as described in the policy. A copy of the inspection reports for the Operations and Maintenance Program of the Stormwater Management Report shall be provided to the Planning Board on an annual basis.
- 3.12 All solid waste shall be removed from the site by a private contractor. Snow shall also be removed or plowed by private contractor or Petitioner's staff. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced and shall be moved away from the steep slope towards the conservation restriction.
- 3.13 Lighting proposed to be installed by the cooling tower on site shall not cause a public health nuisance, with lighting being allowed to migrate on to other abutting properties. If complaints are received, this lighting shall be adjusted if warranted pursuant to Board of Health standards so it will not cause a public health nuisance.
- 3.14 In constructing and operating the proposed buildings on the locus pursuant to this Special Permit, due diligence shall be exercised, and reasonable efforts shall always be made to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.15 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.
- 3.16 All construction staging shall be on-site. No construction parking shall be on public streets. Construction parking shall be all on site or a combination of on-site and off-site parking at locations in which the Petitioner can make suitable arrangements. If required by the Building Inspector, 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.
- 3.17 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 Central Avenue, East Militia Heights Road and Forest 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 Central Avenue, East Militia Heights Road and Forest Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.18 No portion of the newly paved driveway, including the 75 new parking spaces, nor the new cooling tower shall be constructed 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) The Petitioner shall have met the conditions of Section 3.8 of this decision as relates the cooling tower.
 - (c) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Decision granting this Special Permit Amendment 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.
- 3.19 The Board acknowledges that the first portion of the work for this project involves the construction of a new concrete pad and the installation of the new cooling tower (including associated site work). The second component of the project is the removal of the existing cooling tower and the existing concrete pad. The third component of the project is the widening of the fire lane and the construction of the 75 new parking spaces (and associated site work). No portion of the 75 new parking spaces shall be utilized for parking until the following conditions are met:
- (a) An as-built plan, supplied by the engineer of record certifying that the on-site project improvements associated with the work authorized by this Decision is requested 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 cooling tower, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-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 associated with the work authorized by this Decision is requested, 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 Building Inspector a Certificate of Compliance signed by a registered engineer upon completion of construction of the cooling tower.
- 3.20 The proposed driveway, parking spaces and cooling tower shall contain the dimensions and shall be located on that portion of the locus as shown on the Plan, as modified by this Decision, and in accordance with the applicable dimensional requirements of the By-Law.

- 3.21 Lighting for the fire lane and new parking areas shall be designed and installed so that, to the extent reasonably possible, the light is directed downwards and shielded from impinging directly on adjacent units or balconies. This condition shall not obligate Petitioner to change the location of light poles as shown on the Plan, nor to undertake light shielding measures beyond what is commercially reasonable. Petitioner shall submit documentation to the Board demonstrating compliance with this condition.
- 3.22 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.
- 3.23 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.
- 3.24 Violation of any of the conditions of this decision shall be grounds for revocation of any building permit 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 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 March 2, 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 thirty (30) days prior to March 2, 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 unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.
- 4.8 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 on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

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

NEEDHAM PLANNING BOARD

Jeanne S. McKnight, Chairman

Paul S. Alpert

Martin Jacobs

Adam Block

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

3/3 2021

On this 3 day of March, 2021, 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 be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public

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 North Hill Needham, Inc. 865 Central Avenue, Needham, Massachusetts, for Property located at 865 Central 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 # _____
 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
Evans Huber, Attorney