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November 2, 2015

Board of Appeals Members
Town of Needham
500 Dedham Avenue
Needham, MA 02492
Attn: Sheila Page



Re: Normandy Real Estate Partners
Needham Hine Owners LLC
Chapter 40B Project

Dear Board Members and Ms. Page:

At the October 20, 2015 public hearing, the Board asked for several additional pieces of information, dealing mainly with the Center 128 East and Center 128 West projects in the New England Business Center. Please note the following:

1. Center 128 East

As was described at the public hearing, in December, 2014, an affiliate of Normandy Real Estate Partners purchased the approximately 27.25 acre parcel owned by General Dynamics. The 5.13 acre parcel that is the subject of the Chapter 40B Comprehensive Permit Application is to be carved out of the 27.25 acre parcel, leaving a commercial parcel of 22.12 acres. That commercial parcel presently contains buildings at 77 A Street, 156 B Street, and 189 B Street, containing a total of 514,992 sq. ft. of floor area, associated parking and landscaping. The proposal contains the following components:

- (a) Redevelop the building at 77 A Street for office/research and development purposes. The redeveloped building will contain approximately 260,429 square feet of floor area. The building presently contains approximately 263,653 square feet of floor area.
- (b) Redevelop the building at 189 B Street for office/research and development purposes. The redeveloped building will contain approximately 160,000 square feet of floor area. The building presently contains approximately 171,004 square feet of floor area.
- (c) Demolish the building at 156 B Street, which presently contains approximately 80,335 square feet of floor area and replace it with a 128 unit hotel, which will include guest units, conference/function space, a guest dining area, lounge/bar area, indoor pool,

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exercise room and other hotel amenities. The hotel will contain approximately 91,000 square feet of floor area.

- (d) Develop a portion of the first floor of the building that will house the hotel (but will not be part of the hotel itself), with approximately 19,000 square feet of retail space.
- (e) Reconfiguration of the existing parking areas, maneuvering aisles, landscaping and other site improvements.
- (f) Utilization, on a temporary basis (for a period currently anticipated to be approximately one year), of up to 50,000 square feet of 189 B Street as temporary space for the future tenant of the bulk of 77 A Street, while 77 A Street is being renovated for their use and permanent parking is being constructed on the adjacent parcel to accommodate the parking demand. The temporary space will be located in the northeast section of the building and the required parking will be in the existing rear parking area to the east of 189 B Street.

The total square footage of the three buildings will be approximately 530,429 square feet, a minor increase over the presently existing 514,992 square feet.

The Planning Board closed the public hearing on October 27, 2015, and circulated a draft decision. It is hoped that the project will be approved and the decision signed at the Planning Board's November 10, 2015 meeting.

2. Center 128 West

Center 128 West is comprised of approximately 13.68 acres. That multi-phased project approved the development of four office/research and development buildings containing up to 740,000 square feet of floor area, a 128 unit hotel, and two multi-level parking garages. As of this date, both the TripAdvisor building and the Marriott Residence Inn have been completed and are occupied. In addition, parking associated with those buildings have been completed and are occupied.

Enclosed is a copy of the First Amended and Restated Major Site Plan Special Permit, dated April 2, 2013, which is the operative decision for Center 128 West (Exhibit A). The Applicant has requested an amendment to that decision. The public hearing is ongoing and it is anticipated that the public hearing will be closed at the Planning Board's next meeting on November 10, 2015. A draft decision is being prepared by the Town Planner and it is hoped that it will be circulated shortly.

The two principal reasons for the amendment request are the following:

- (a) After discussions with Needham Town officials, it was determined that Garage A and Garage B should be expanded to accommodate the parking of some of the vehicles associated with Center 128 East. A parking easement between the respective owners of Center 128 East and Center 128 West will be prepared, executed and recorded at the Norfolk Registry of Deeds to evidence and memorialize said parking rights. An underlying rationale for this proposal was to be able to eliminate the construction of a new parking garage on the Center

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128 East site so that the parking garages serving both Center 128 East and Center 128 West will be clustered together in the interior portion of the property and not fronting on any public ways.

- (b) The second principal reason is to improve the route for pedestrian traffic moving between Center 128 East and Center 128 West. Architectural elements will be added to garages located on the property and a path, with associated landscaping, will be constructed that will be user-friendly and aesthetically pleasing. It is also intended to encourage the utilization of the proposed retail space in Center 128 East by employees and visitors to Center 128 West.

The proposed modifications to Center 128 East and Center 128 West have been approved by the Design Review Board.

3. The Board of Appeals asked me to summarize the mitigation measures that have been agreed to with respect to Center 128 East and Center 128 West. Please note the following:

Center 128 West

A. The Applicant paid a traffic improvement fee to the Town of Needham in the amount of \$930,000.

B. The Applicant gave a gift to the Town in the amount of \$75,000 to fund an evaluation of proposed traffic improvements in the New England Business Center area.

C. The Applicant pledged a payment of \$100,000 for Wayfinding Signage in the New England Business Center.

D. The Applicant made the commitment to pay \$1,000,000 to the New England Business Center Owner's Association Traffic Fund. As of this date, \$550,000 has been paid. The balance of \$450,000 will be paid within the next 15 months.

E. The Applicant paid an I&I mitigation payment to the Town of Needham of \$392,000 for the TripAdvisor building and the Marriott Hotel. Timing of payments is related to obtaining building permits for various phases of the Center 128 West project.

F. It is estimated that an additional I&I mitigation payment for the balance of the Center 128 West project will be paid to the Town of Needham of approximately \$700,000.

The total mitigation payments associated with Center 128 West is \$3,197,000.

Center 128 East

A. As noted above, the net square footage of the project is minimal. The Applicant has agreed to fund traffic improvements in the Third Avenue/B Street area, provided that the Board of Selectmen and other governmental bodies grant the necessary approvals. The approximate cost of those improvements is \$125,000.

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B. The anticipated I&I mitigation payment for the new 128 room hotel is estimated to be \$250,000.

The total mitigation payments for Center 128 West is anticipated to be \$375,000, for a total mitigation payment of Center 128 West and Center 128 East of \$3,572,000.

Chapter 40 B Project (2nd Avenue Residences)

As described in the application materials to the Board of Appeals, the Applicant has entered into a Memorandum of Understanding with the Needham Board of Selectmen for the payment of \$2,225,000. (See Tab 4 of the Application for a Comprehensive Permit.) As described in the Memorandum of Understanding, if the Chapter 40B project requires the removal of more than 258,708 gallons of wastewater (I&I) the Applicant has agreed to an additional one-time payment equal to \$6.00 per gallon above the 258,708 gallons described.

4. The Board also asked about anticipated rents in the 40B Project. Attached as Exhibit B to this letter is an estimate of the rents to be charged for the affordable units. As shown in the Exhibit, the estimated net rents are the following: Please note that when the Applicant is ready to begin marketing of the units (approximately six months prior to the anticipated date of issuance of a certificate of occupancy, the rents listed will likely be slightly higher based on 2017 (presumably) median incomes, utility allowances, etc. The numbers listed are not meant to be definitive but only estimates.

- A. Studio - \$1,106
- B. One Bedroom - \$1,239
- C. Two Bedroom - \$1,334
- D. Three Bedroom - \$1,441

The market rents have yet to be determined but will presumably be what similar units will be renting for at the time the property is ready to be marketed. Anticipated rents for market rate units are estimated to be in the following ranges:

Studios	\$1,900 - \$2,300
One Bedroom	\$2,400 - \$2,900
One Bedroom +	\$2,800 - \$3,200
Two Bedroom	\$3,100 - \$3,700
Two Bedroom +	\$3,500 - \$4,000
Three Bedroom	\$3,700 - \$4,300

5. Attached is a letter from A Street Residential, LLC, describing its intention to eventually assign the comprehensive permit, and to sell the 5.13 acre parcel to Needham Residential LLC, an affiliate of Toll Brothers Apartment Living (Exhibit C). The purchaser will be bound by all of the Chapter 40B conditions.

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I hope that this responds adequately to the additional information that you have requested.

Thank you for your cooperation.

Very truly yours,



Roy A. Cramer

Attachments

Bk 31283 Pg 474 #50998
04-30-2013 @ 12:31PRECEIVED TOWN CLERK
NEEDHAM, MA 024922013 APR 9 PM 12:56
PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT500 Dedham Ave
Needham, MA 02492
781-455-7500

PLANNING

DECISION

FIRST AMENDED AND RESTATED MAJOR SITE PLAN SPECIAL PERMIT

Normandy Real Estate Partners

Application No. 2012-07

April 2, 2013

Decision of the Planning Board (hereinafter referred to as the Board) on the petition of Normandy Real Estate Partners, 99 Summer Street, Boston, Massachusetts 02110 (hereinafter referred to as the Petitioner) for property located at 360 First Avenue, 410 First Avenue, 66 B Street and 37 A Street, Needham, Massachusetts (hereinafter referred to as the Property). The Property is owned by Normandy GAP-V Development Needham, LLC (hereinafter referred to as the Property Owner). Said Property is shown on Needham Town Assessor's Plan No. 300 as parcels 15, 16, 28 and 29 and contains 595,960 square feet. On October 16, 2012, the Board issued Major Site Plan Special Permit No. 2012-07 (the "Original Decision").

The Original Decision allowed construction of an 89,740+/- square foot hotel plus four office/research and development buildings containing up to 740,000 square feet and two garages over a 10-year period. Each building was authorized to proceed as a separate phase. Phase I was comprised of the hotel and associated parking (the "Hotel"), and is nearing completion. After the issuance of the Original Decision the Petitioner secured a prospective tenant namely TripAdvisor, LLC (hereinafter "TripAdvisor") who is interested in occupying Building 3, with an option to occupy Building 2. However, TripAdvisor has requested that Building 3 be a six-story building comprised of approximately 287,855 sq. ft. (as opposed to the six-story 240,000 sq. ft. structure authorized in the Original Decision) and that Building 2 be a five-story building comprised of approximately 127,145 sq. ft. (as opposed to the six-story 175,000 sq. ft. structure authorized in the Original Decision). TripAdvisor has also requested a change in orientation of Buildings 2 and 3 with respect to First Avenue and B Street.

In order to address TripAdvisor's requests, the Petitioner, in this Application (as hereinafter defined), is presenting an alternate set of plans ("Alternate Plan Set" or "Alternate Plan") as an alternative to the plans previously filed with the Board and approved in the Original Decision. As described below, in this First Amendment (as hereinafter defined), the Board has granted certain zoning relief, made certain findings and approved the Alternate Plan Set, in addition to the plans approved and the relief granted in the Original Decision, subject to the conditions set forth in this First Amendment. If for any reason a building permit for Building 3 and Garage B as described in the Alternate Plan Set is not issued for TripAdvisor, then the Original Decision will remain in full force and effect without modification, except as specifically set forth herein. If the Petitioner obtains a building permit for Building 3 and Garage B as described in the Alternate Plan Set, then the Alternate Plan Set shall become the operative plans under this First Amendment and Restated Major Site Plan Special Permit (the "First Amendment"), and this First Amendment shall supersede the Original Decision.

In addition, Building 3 as depicted on the Alternate Plan Set does not fall within all of the Design Guidelines set forth in Section 3.37 of the Original Decision. As a result, the Alternate Plan Set is subject

to further site plan review¹. The public hearing conducted by the Board in connection with this Application had two components: (1) to consider certain requested zoning relief and requested findings as described below; and (2) to approve detailed plans of Building 3 and Garage B, which, together with other associated improvements described in the Alternate Plan Set and the Phasing Plan, would constitute the next Phase of the Project.

This First Amendment is in response to the application submitted to the Board on March 11, 2013, by the Petitioner (the "Application") requesting:

- (1) an amendment to the Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the "By-Law"), Article II of the Planning Board Rules, and Section 4.2 of the Site Plan Special Permit No. 2012-07, dated October 16, 2012; to approve the Alternative Plan Set described in this First Amendment, to approve the detailed plans of Building 3 and Garage B, together with associated landscaping and other site improvements as shown on the Alternative Plan Set, and to approve Phase 2A of the Project, as shown on the phasing plans described in Exhibit 7 of this First Amendment.
- (2) a Special Permit pursuant to Section 4.8(1) of the By-Law to increase the maximum height of the four buildings and the two garages from 72 to 84 feet;
- (3) a Special Permit pursuant to Section 4.8.3 of the By-Law to waive the requirements of Section 4.8.1(6) of the By-Law to permit the facades of both garages to exceed 300 ft. of uninterrupted facade length;
- (4) a Special Permit pursuant to Section 4.8.3 of the By-Law to reduce the rear setback of Garage A from 20 ft. to 15 ft.;
- (5) a Special Permit pursuant to Section 4.8.3 of the By-Law to waive the requirement contained in Section 4.8.1(2) ("where appropriate street trees shall be planted at least every 40 ft. along the frontage") to the extent that there are two gaps along B Street in front of Building 3 where the 40 ft. requirement is not met due to the existence of storm water chambers that need to be constructed at those locations and one gap along First Avenue in front of Building 3 where the 40 ft. requirement is not met due to a proposed significant architectural feature (a large bay window) in the location where one of the trees would otherwise be placed, and a finding that the Special Permit granted in the Original Decision relative to the two gaps along B Street remains in full force and effect;
- (6) a Special Permit pursuant to Section 4.8.3 of the By-Law to waive the requirement contained in Section 4.8.1(2) ("where appropriate, street trees shall be planted at least every 40 ft. along the frontage") to the extent that the requirements of said section shall not be applicable to the portions of the site that are not subject to Phase I or the current phase of the Project, so that street trees shall not be required to be planted until the applicable portion of the frontage is included in a subsequent phase of the Project;
- (7) a finding that the Petitioner have the discretion to increase the number of parking spaces and levels in Garage A, and to decrease the number of parking spaces and levels in Garage B, without further Board review or approval, and without further review or approval of the Design Review

¹ As set forth in this First Amendment, the plans for Garage B do fit within the Design Guidelines set forth in Section 3.37 of the Original Decision.

Board, provided that the design features of the garages remain unchanged, and provided further that the total number of parking spaces on the property is 2,734;

(8) a determination that in all other respects the special permits granted in the Original Decision and the findings and approvals contained in the Original Decision, shall remain in full force and effect pursuant to this First Amendment, and that the relief granted in this First Amendment be considered as additional relief authorizing construction of the Project in accordance with the Alternate Plan Set filed with this Application if that course is pursued by the Petitioner for TripAdvisor;

(9) a modification of the Design Guidelines contained in the Original Decision to reflect the above-described flexibility set forth in request (7);

(10) a finding that the Special Permit granted in the Original Decision pursuant to Section 4.8(6) of the By-Law to increase the floor-area ratio from 1.00 allowed as a matter of right to 1.39 allowed by special permit, or such other number as is required to accommodate 829,740 sq. ft. of development to include office/research and development space in the four proposed buildings and the hotel on the Property, remains in full force and effect;

(11) a finding and determination that the Special Permit pursuant to Section 3.2.4.2(d) of the By-Law for a hotel use in the New England Business Center Zoning District granted by Major Site Plan Special Permit No. 2012-03, dated April 23, 2012, (the "Hotel Decision"), and other relief granted by the Original Decision with respect to the Hotel Decision be extended to and made applicable to this First Amendment. By way of background, the Board incorporated the Hotel Decision into the Original Decision as though fully restated in the Original Decision to ensure that the zoning relief granted in the Hotel Decision is carried over to the Original Decision, except to the extent specifically modified by the Original Decision. The Petitioner further requested that the Board make a finding and determination that the Hotel Decision remained in full force and effect until such time as (a) the Board granted the relief requested for the Project; (b) all applicable appeal periods expired without any appeals being filed; (c) all other conditions precedent to the issuance of a Building Permit for the first office/research and development building were satisfied; and (d) the Building Permit already issued by the Building Department for the Hotel pursuant to the Hotel Decision would remain in full force and effect. The Board granted those requests in the Original Decision. Because construction of the Hotel remains a work in progress, Petitioner requests that the Board determine that the Original Decision shall remain in full force and effect until such time as: (a) the Board grants the relief requested for the Project by this Application; (b) all applicable appeal periods from this First Amendment have expired without any appeals being filed; (c) all other conditions precedent in this First Amendment to issuance of a Building Permit for the first office/research and development building have been satisfied; and (d) the Building Permit already issued by the Building Department for the Hotel pursuant to the Hotel Decision shall remain in full force and effect;

(12) the right to design and/or modify floor plans of the office/research and development buildings and garages without further Board review or approval provided that (a) the total number of parking spaces contained in the garages in the aggregate is not reduced below 2620, and/or (b) the footprint and total square footage of the subject office/research and development building has been approved;

(13) a determination that if, as and when a building permit for Building 3 as shown on the Alternate Plan Set is issued by the Town of Needham, that the Alternate Plan Set shall be deemed

to have superseded the plans approved in the Original Decision for purposes of this First Amendment and the Original Decision; and

(14) the requested relief that Building 1 be modified from a four-story, 150,000 sq. ft. building to a five-story, 190,000 sq. ft. building, and a consequent decrease in Building 4 from a five-story, 175,000 sq. ft. building to a four-story 135,000 sq. ft. building.

The requested Amendment to Major Project Site Plan Special Permit, would, if granted, permit the Petitioner to redevelop the present single parcel of 596,000 sq. ft. (approximately 13.68 acres, formerly comprising 66 B Street, 360 First Avenue, 410 First Avenue, and 37 A Street) to construct:

(a) a hotel comprising approximately 89,740 sq. ft. and containing 128 guest units (116 studio units, 8 one-bedroom units, and 4 two-bedroom units), approximately 13,240 sq. ft. of conference/function space, a guest dining area, lounge/bar, indoor pool, exercise room and other hotel amenities, parking for 140 vehicles, landscaping and associated improvements as more particularly described and approved in the Hotel Decision;

(b) four office/research and development buildings with a total square footage not to exceed 740,000 sq. ft., two parking garages (Garage A to contain 580 parking spaces; Garage B to contain 2040 parking spaces (the latter to be constructed in phases)), 114 surface parking spaces and associated infrastructure, improvements and landscaping ((a) and (b) (collectively, the "Project"). The total number of parking spaces on the property, including the 140 parking spaces for the hotel, shall not be less than 2,734.

Each building would be considered as a separate phase of the Project with the hotel being considered as Phase 1 of the Project. The Project has been engineered based on "full build" assumptions, as more specifically set forth herein, taking into account such items as storm water management, sewage disposal, utilities, internal driveways, landscaping and other improvements, parking and traffic. Each building within the Project is intended to be independent of every other building within the Project, allowing each to be separately owned and financed, and each to have its own certificate of occupancy regardless of the state of completion or compliance of any other component of the Project. While each building comprising the Project shall be considered a separate phase of the Project, upon completion of the improvements comprising an individual phase, such phase shall be entitled to a permanent certificate of occupancy, notwithstanding the state of the other phases comprising the Project.

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 Chairman, Bruce T. Eisenhut, on Tuesday, April 2, 2013, at 7:30 p.m. at the Public Services Administration Building, Charles River Room, 500 Dedham Avenue, Needham, Massachusetts. Board members Bruce T. Eisenhut, Martin Jacobs, Jeanne S. McKnight, Sam Bass Warner and Ronald W. Ruth were present throughout the April 2, 2013 proceedings. The record of the proceedings and the submissions upon which this First Amendment 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 Properly executed Application for (1) an amendment to the Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law, Article II of the Planning Board Rules, and Section 4.2 of the Site Plan Special Permit No. 2012-07, dated October 16, 2012; to approve the Alternative Plan Set described in this First Amendment, to approve the

- detailed plans of Building 3 and Garage B, together with associated landscaping and other site improvements as shown on the Alternative Plan Set, and to approve Phase 2A of the Project, as shown on the phasing plans described in Exhibit 7 of this First Amendment;
- (2) a Special Permit pursuant to Section 4.8(1) of the By-Law to increase the maximum height of the four buildings and the two garages from 72 to 84 feet;
 - (3) a Special Permit pursuant to Section 4.8.3 of the By-Law to waive the requirements of Section 4.8.1(6) of the By-Law to permit the facades of both garages to exceed 300 ft. of uninterrupted façade length;
 - (4) a Special Permit pursuant to Section 4.8.3 of the By-Law to reduce the rear setback of Garage A from 20 ft. to 15 ft.;
 - (5) a Special Permit pursuant to Section 4.8.3 of the By-Law to waive the requirement contained in Section 4.8.1(2) ("where appropriate street trees shall be planted at least every 40 ft. along the frontage") to the extent that there are two gaps along B Street in front of Building 3 where the 40 ft. requirement is not met due to the existence of storm water chambers that need to be constructed at those locations and one gap along First Avenue in front of Building 3 where the 40 ft. requirement is not met due to a proposed significant architectural feature (a large bay window) in the location where one of the trees would otherwise be placed and a finding that the Special Permit granted in the Original Decision relative to the two gaps along B Street remains in full force and effect;
 - (6) a Special Permit pursuant to Section 4.8.3 of the By-Law to waive the requirement contained in Section 4.8.1(2) ("where appropriate, street trees shall be planted at least every 40 ft. along the frontage") to the extent that the requirements of said section shall not be applicable to the portions of the site that are not subject to Phase I or the current phase of the Project, so that street trees shall not be required to be planted until the applicable portion of the frontage is included in a subsequent phase of the Project;
 - (7) that the Board make a finding that the Petitioner have the discretion to increase the number of parking spaces and levels in Garage A, and to decrease the number of parking spaces and levels in Garage B, without further Board review or approval, and without further review or approval of the Design Review Board, provided that the design features of the garages remain unchanged, and provided further that the total number of parking spaces on the property is 2,734;
 - (8) a request that in all other respects the special permits granted in the Original Decision and the findings and approvals contained in the Original Decision, shall remain in full force and effect with respect to this First Amendment, and that the relief granted in this First Amendment be considered as additional relief granted that is necessary to construct the Project in accordance with the Alternate Plan Set filed with this Application;
 - (9) a request that the Design Guidelines contained in the Original Decision be modified to reflect the above-described flexibility set forth in request (7);
 - (10) a finding and determination that a Special Permit granted in the Original Decision pursuant to Section 4.8(6) of the By-Law to increase the floor-area ratio from 1.00 allowed as a matter of right to 1.39 allowed by special permit, or such other number as is required to accommodate 829,740 sq. ft. of development to include office/research and development

space in the four proposed buildings and the hotel on the Property, remains in full force and effect;

(11) a finding that the Special Permit granted in the Original Decision pursuant to Section 3.2.4.2(d) of the By-Law for a hotel in the New England Business Center Zoning District remains in full force and effect. The Board previously granted a Special Permit for a hotel use on the Property in the Hotel Decision. Petitioner requested in the Original Decision that the Hotel Decision be incorporated into the Original Decision as though fully restated in the Original Decision to ensure that the zoning relief granted in the Hotel Decision is carried over to the Original Decision, except to the extent specifically modified by this the Original Decision and such request was granted by the Board in the Original Decision. In connection with this request, the Petitioner further requested that the Board make a finding and determination that the Hotel Decision remain in full force and effect until such time as the Board grants the relief requested for the Project, all applicable appeal periods have expired without any appeals being filed, and all other conditions precedent to the issuance of a Building Permit for the first office/research and development building have been satisfied, and finally, that the Building Permit already issued by the Building Department for the Hotel pursuant to the Hotel Decision remain in full force and effect. The Board granted said requests in the Original Decision. The Petitioner in this Application makes the same request with respect to the Hotel Decision that was made by Petitioner in connection with the Original Decision;

(12) The Petitioner further requests the right to design and/or modify floor plans of the office/research and development buildings and garages without further Board review or approval provided that (a) the total number of parking spaces contained in the garages in the aggregate in such garage is not reduced below 2620, and/or (b) the footprint and total square footage of the subject office/research and development building has been approved;

(13) a request for determination that if, as and when a building permit for Building 3 as shown on the Alternate Plan Set is issued by the Town of Needham, that the Alternate Plan Set shall be deemed to have superseded the plans approved in the Original Decision for purposes of this First Amendment and the Original Decision; and

(14) the requested relief that Building 1 be modified from a four-story, 150,000 sq. ft. building to a five-story, 190,000 sq. ft. building, and a consequent decrease in Building 4 from a five-story, 175,000 sq. ft. building to a four-story, 135,000 sq. ft. building.

- Exhibit 2** One letter from Roy A. Cramer, Esq. to the Planning Board Members, dated February 28, 2013.
- Exhibit 3** Traffic impact letter prepared by Tetra Tech, 1 Grant Street, Framingham, Massachusetts 01701, dated February 28, 2013.
- Exhibit 4** Stormwater Management Report entitled "Stormwater Management Report Center 128-Full Build, First Avenue, A Street and B Street, Needham, Massachusetts" prepared by Tetra Tech, 1 Grant Street, Framingham, Massachusetts 01701, dated August 24, 2012, revised March 1, 2013.
- Exhibit 5** A set of plans entitled, "Center 128, Phase 2: Major Project Site Plan Review, August 20, 2012," prepared by Tetra Tech, One Grant Street, Framingham, MA 01701, Precision Land Surveying Inc., 32 Turnpike Road, Southborough, MA 01772, Terraink, Inc., P.O. Box 261,

Arlington, MA 02476, Elkus Manfredi Architects, 300 A Street, Boston, MA 02210, consisting of 38 sheets: Sheet 1, Cover Sheet, dated August 20, 2012, revised March 1, 2013; Sheet 2, Sheet C-2, entitled "Abbreviations and Notes," dated August 20, 2012, revised August 24, 2012, and March 1, 2013; Sheet 3, Sheet C-3, entitled "Layout and Materials Plan," dated August 20, 2012, revised August 24, 2012, September 18, 2012, October 2, 2012, November 1, 2012, and March 1, 2013; Sheet 4, Sheet C-4, entitled "Grading and Drainage Plan," dated August 20, 2012, revised August 24, 2012, October 2, 2012, November 1, 2012, and March 1, 2013; Sheet 5, Sheet C-5, entitled "Drainage Schedules," dated August 20, 2012, revised August 24, 2012, September 18, 2012, October 2, 2012, and March 1, 2013; Sheet 6, Sheet C-6, entitled "Utilities Plan," dated August 20, 2012, revised August 24, 2012, September 18, 2012, October 2, 2012, November 1, 2012, and March 1, 2013; Sheet 7, Sheet LT-1, entitled "Site Lighting Plan," dated August 20, 2012, revised September 18, 2012, October 2, 2012, November 1, 2012, and March 1, 2013; Sheet 8, Sheet L-1, entitled "Landscape Plan," dated August 14, 2012, revised August 24, 2012, September 18, 2012, October 2, 2012, November 1, 2012, and March 1, 2013; Sheet 9, Sheet L-2, entitled "Landscape Details," dated August 14, 2012, revised August 24, 2012, September 18, 2012, and March 1, 2013; Sheet 10, Sheet L-3, entitled "Landscape Details," dated March 1, 2013; Sheet 11, Sheet D-1, entitled "Construction Details," dated August 20, 2012, revised August 24, 2012, September 18, 2012 and March 1, 2013; Sheet 12, Sheet D-2, entitled "Construction Details," dated August 20, 2012, revised August 24, 2012, September 18, 2012, and March 1, 2013; Sheet 13, Sheet D-3, entitled "Construction Details," dated August 20, 2012; Sheet 14, Sheet D-4, entitled "Construction Details," dated August 20, 2012, revised September 18, 2012, and March 1, 2013; Sheet 15, Sheet D-5, entitled "Construction Details," dated August 20, 2012, revised September 18, 2012, and March 1, 2013; Sheet 16, Sheet D-6, entitled "Construction Details," dated August 20, 2012, revised September 18, 2012, and March 1, 2013; Sheet 17, entitled "360 First Avenue, Existing Conditions Plan," dated January 18, 2012; Sheet 18, entitled "410 First Avenue, Existing Conditions Plan," dated January 18, 2012; Sheet 19, entitled "66 B Street, Existing Conditions Plan," dated January 18, 2012; Sheet 20, entitled "37 A Street, existing Conditions Plan," dated January 18, 2012; Sheet 21, entitled "37 A Street, existing Conditions Plan," dated January 18, 2012; Sheet 22, Sheet A-000 (Building #3), entitled "Cover Sheet," dated March 1, 2013; Sheet 23, Sheet A-101 (Building #3), entitled "First Floor Plan," dated March 1, 2013; Sheet 24, Sheet A-102 (Building #3), entitled "Second Floor Plan," dated March 1, 2013; Sheet 25, Sheet A-103 (Building #3), entitled "Third Floor Plan," dated March 1, 2013; Sheet 26, Sheet A-104 (Building #3), entitled "Fourth Floor Plan," dated March 1, 2013; Sheet 27, Sheet A-105 (Building #3), entitled "Fifth Floor Plan," dated March 1, 2013; Sheet 28, Sheet A-106 (Building #3), entitled "Sixth Floor Plan," dated March 1, 2013; Sheet 29, Sheet A-107 (Building #3), entitled "Roof Plan," dated March 1, 2013; Sheet 30, Sheet A-201 (Building #3), entitled "Building Elevations," dated March 1, 2013; Sheet 31, Sheet A-202 (Building #3), entitled "Building Elevations," dated March 1, 2013; Sheet 32, Sheet A-301 (Building #3), entitled "Building Sections," dated March 1, 2013; Sheet 33, Sheet A-000 (Garage B), entitled "Cover Sheet," dated March 1, 2013; Sheet 34, Sheet A-101 (Garage B), entitled "First Level Plan," dated March 1, 2013; Sheet 35, Sheet A-102 (Garage B), entitled "Second to Seventh Level Plan," dated March 1, 2013; Sheet 36, Sheet A-103 (Garage B), entitled "Eighth Level Plan," dated March 1, 2013; Sheet 37, Sheet A-201 (Garage B), entitled "Exterior Elevations," dated March 1, 2013; Sheet 38, Sheet A-202 (Garage B), entitled "Exterior Elevations," dated March 1, 2013; Sheet 39, Sheet A-301 (Garage B), entitled "Building Sections," dated March 1, 2013.

- Exhibit 6** A set of plans entitled, "Center 128, Phase 2: Major Project Site Plan Review, August 20, 2012," prepared by Tetra Tech, One Grant Street, Framingham, MA 01701, Precision Land Surveying Inc., 32 Turnpike Road, Southborough, MA 01772, Terraink, Inc., P.O. Box 261, Arlington, MA 02476, Elkus Manfredi Architects, 300 A Street, Boston, MA 02210, consisting of 37 sheets: Sheet 1, Sheet A0, Office #1, entitled "Cover Sheet," dated August 20, 2012; Sheet 2, Sheet A1.1, Office #1, entitled "First Floor Plan," dated August 20, 2012; Sheet 3, Sheet A1.2, Office #1, entitled "Second Floor Plan," dated August 20, 2012; Sheet 4, Sheet A1.3, Office #1, entitled "Third Floor Plan," dated August 20, 2012; Sheet 5, Sheet A1.4, Office #1, entitled "Fourth Floor Plan," dated August 20, 2012; Sheet 6, Sheet A1.5, Office #1, entitled "Roof Plan," dated August 20, 2012; Sheet 7, Sheet A2.0, Office #1, entitled "Exterior Elevations," dated August 20, 2012; Sheet 8, Sheet A3.0, Office #1, entitled "Building Sections," dated August 20, 2012; Sheet 9, Sheet A0, Garage A, entitled "Cover Sheet," dated August 20, 2012; Sheet 10, Sheet A1.1, Garage A, entitled "First Level Plan," dated August 20, 2012; Sheet 11, Sheet A1.2, Garage A, entitled "Second Level Plan," dated August 20, 2012; Sheet 12, Sheet A1.3, Garage A, entitled "Third Level Plan," dated August 20, 2012; Sheet 13, Sheet A1.4, Garage A, entitled "Fourth Level Plan," dated August 20, 2012; Sheet 14, Sheet A1.5, Garage A, entitled "Fifth Level Plan," dated August 20, 2012; Sheet 15, Sheet A1.6, Garage A, entitled "Sixth Level Plan," dated August 20, 2012; Sheet 16, Sheet A2.1, Garage A, entitled "Exterior Elevations," dated August 20, 2012; Sheet 17, Sheet A3.1, Garage A, entitled "Building Sections," dated August 20, 2012.
- Exhibit 7** Lighting Cut Sheets as detailed on the plan described under Exhibit 5 above and consisting of the following: Kim Lighting Specification No. BNS1-LED comprising 11 sheets; Kim Lighting Specification No. WD14 comprising 8 sheets; Kim Lighting Specification No. PGL7-LED comprising 8 sheets; Kim Lighting Specification No. SAR-LED comprising 5 sheets; and Kim Lighting Specification No. AR-Led comprising 5 sheets.
- Exhibit 8** Phasing plan entitled "Center 128 Phase 2A: Major Project Site Plan Review", prepared by Tetra Tech, One Grant Street, Framingham, MA 01701, consisting of 3 sheets: Sheet C-1 entitled "Cover Sheet"; Sheet C-2 entitled "Layout and Materials Plan" dated March 1, 2013; Sheet L-1, entitled "Landscape Plan", dated March 1, 2013.
- Exhibit 9** Application and Report stamped "Approved" by the Town of Needham Design Review Board dated March 18, 2013. Project plans approved by Design Review Board are described under Exhibit 5 above.
- Exhibit 10** Interdepartmental Communications (IDC) to the Board from Paul F. Buckley, Needham Fire Department dated March 27, 2013 and March 27, 2013; IDC to the Board from Lieutenant John H. Kraemer, Needham Police Department dated April 27, 2013, received April 2, 2013; IDC to the Board from Janice Burns, Needham Health Department dated March 25, 2013; IDC to the Board from Anthony L. Del Gaizo, Assistant Director of Public Works dated April 2, 2013.

Exhibits 1, 2, 3, 4, 5, 6, 7 and 8 are hereinafter referred to as the Alternate Plan Set.

FINDINGS AND CONCLUSIONS

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

- 1.1 The Property is located in the New England Business Center Zoning District. The Property consists of a new single parcel that merged four parcels that are currently shown on Needham

Town Assessors Map 300, parcels 15, 16, 28 and 29. The new parcel contains approximately 595,960 square feet. All parcels are presently owned by Normandy GAP-V Development Needham LLC, c/o Normandy Real Estate Partners, 99 Summer Street, Boston, MA 02110.

- 1.2 The Property was originally comprised of four separate parcels, each of which contained one building and a parking area. The Petitioner demolished three of the four buildings in late 2011 and early 2012. The three buildings totaled 152,906 sq. ft. and the four parcels provided a total of 408 surface parking spaces. 360 First Avenue was a 1.79 acre parcel that contained a 35,435 sq. ft. one story brick building; 410 First Avenue was a 2.23 acre parcel that contained a 36,247 sq. ft. one story brick building; 66 B Street was a 4.13 acre parcel that contained an 81,224 sq. ft. one story brick building; and 37 A Street is a 5.52 acre parcel that contains a one story industrial building of approximately 99,223 sq. ft. and 205 parking spaces. The demolished buildings were located at 360 First Avenue, 410 First Avenue and 66 B Street.
- 1.3 A portion of the Property, comprising 8.16 acres, (360 First Avenue, 410 First Avenue and 66 B Street) was previously permitted for a three phase development that included three new buildings, containing 150,000 square feet, 150,000 square feet, and 90,000 square feet, respectively, for a total of 390,000 square feet, together with a multi-level parking garage ultimately containing 1,343 parking spaces, an underground parking garage containing 50 parking spaces, and surface parking with 107 spaces. That project was never constructed. (See Major Project Site Plan Special Permit No. 2008-03 dated June 16, 2008.)
- 1.4 At the Fall, 2011 Needham Special Town Meeting, the By-Law was amended to relax a number of the dimensional restrictions in effect in the New England Business Center ("NEBC") Zoning District. The principal purpose of the rezoning was to encourage development in the NEBC. Despite a rezoning effort in 2001 that created the NEBC (formerly the Industrial Park Zoning District), no new buildings have been constructed in the NEBC since the NEBC was created, except a Chapter 40B project that was exempt from compliance with the requirements of the By-Law.
- 1.5 On April 23, 2012, the Planning Board issued Major Project Site Plan Special Permit No. 2012-03 that permitted the redevelopment of 360 First Avenue, 410 First Avenue and 66B Street into one parcel comprising approximately 8.16 acres and to construct a hotel comprising approximately 89,740 sq. ft. and containing 128 guest units (116 studio units, 8 one bedroom units and 4 two bedroom units), approximately 13,240 sq. ft. of conference/function space, a guest dining area, lounge/bar area, indoor pool, exercise room and other hotel amenities, parking for 140 vehicles, landscaping and associated improvements as described in the Hotel Decision. The Board in the Hotel Decision acknowledged that the Petitioner intended to further develop the 8.16 acre parcel, together with the adjacent 5.3 acre parcel located at 37 A Street. That decision also stated that when that further development occurred, the hotel development would be considered Phase 1 of the larger project.
- 1.6 Findings and Conclusions Specific to the Hotel. In the Hotel Decision, the Board made Findings and Conclusions in Sections 1.5 to 1.8, 1.11, 1.15, 1.16 and 1.17 of that Decision which Findings and Conclusions were incorporated by reference into the Original Decision and are incorporated herein by referenced, as if fully restated here.
- 1.7 The Petitioner proposes to construct four new office buildings having a total square footage not to exceed 740,000 sq. ft. The Petitioner intends that the four new buildings will be utilized for professional, business or administrative offices and for laboratories engaged in scientific research and development. Building 1 will be a five story, 190,000 sq. ft. structure. Building 2 will be a

five story, 127,145 sq. ft. structure. Building 3 will be a six story, 287,855 sq. ft. structure. Building 4 will be a four story, 135,000 sq. ft. structure. Notwithstanding the foregoing, the buildings may be modified pursuant to Section 3.37 ("Design Guidelines") of this First Amendment. At the completion of the Project there will be two, free-standing garages. The first will contain spaces for 580 vehicles and the second will be built in stages and eventually contain space for 2,040 vehicles. There will also be surface parking for 114 vehicles, for a total of 2,734 parking spaces. The undeveloped portions of the site will be loamed and seeded on a temporary basis until future phases of work on the property are approved and implemented. The Board finds that the plans filed with this Application with respect to Garage B fall within the Design Guidelines set forth in Section 3.37 of the Original Decision.

- 1.8 The four separate parcels (66 B Street, 360 First Avenue, 410 First Avenue and 37 A Street) have been consolidated into a single 13.68 acre parcel. Construction of the hotel has begun and the building located at the former 37 A Street parcel is presently vacant. A permanent certificate of occupancy may be issued for the hotel irrespective of whether the building at the former 37A Street parcel remains standing or has been demolished. It is anticipated that 37 A Street will be demolished prior to the issuance of a certificate of occupancy for the first of the four office/research and development buildings to be constructed.
- 1.9 The Traffic Impact Study that was prepared for this Project and filed as part of the Application assumes a "full build" condition of 740,000 sq. ft. of office/research and development space and the 128 unit hotel, together with 2,734 parking spaces. It is anticipated that Garage A as shown on the Alternate Plan Set will be fully constructed at one time, while Garage B will be constructed in several phases, depending on the timing of the construction of the four office buildings. The Petitioner has requested that each building be considered a separate phase of the Project with the required parking provided to service the intended use. The Project has been engineered based on "full build" assumptions, as more specifically set forth in the application materials filed herewith, taking into account such items as storm water management, sewage disposal, utilities, internal driveways, landscaping and other improvements, parking and traffic.
- 1.10 It is anticipated that ownership of buildings or portions of buildings will be based on a condominium model of ownership, as contemplated in the Hotel Decision. A condominium has already been created pursuant to Massachusetts General Laws Chapter 183A and has been filed at the Norfolk Registry District of the Land Court as Document No. 1259666 and recorded at the Norfolk Registry of Deeds at Book 30268, Page 511.
- 1.11 The Petitioner has requested that the Hotel Decision, as affected by the Original Decision, continue in full force and effect until this First Amendment is issued by the Board with respect to this Project, all applicable appeal periods have expired and all other terms and conditions required for final Planning Board approval of the Project have been satisfied and evidence thereof having been transmitted to the Building Department and other Town departments. The Hotel development will be considered to be Phase 1 of this Project, governed by the terms of the Original Decision. The Original Decision will be superseded by this First Amendment after the occurrence of the events described above. As described in the Hotel Decision, and reiterated in the Original Decision, upon completion of the Hotel and improvements described in the Hotel Decision, as affected by the Original Decision, the Hotel will be entitled to a permanent certificate of occupancy regardless of the extent of future development authorized by this First Amendment and the level of completion, or commencement of subsequent phases, and said Permanent Certificate of Occupancy shall not be revocable.

- 1.12 The Petitioner has stated that it is critical that the hotel building and associated improvements be allowed to stand on its own and upon completion of the Hotel and such associated improvements, that a Permanent Certificate of Occupancy be issued, regardless of the state of the Project and the state of completion or incompleteness of any other phases of the Project. It is also critical that if future phases of the Project are commenced prior to the completion of the Hotel and that the loaming and seeding required by the Hotel Decision is disturbed to make way for future construction activities, that such event shall have no impact on or delay the issuance of said Permanent Certificate of Occupancy of the Hotel. It is also critical that each subsequent phase be allowed to stand on its own and upon completion of each phase a Permanent Certificate of Occupancy be issued for such phase, notwithstanding the status of other phases of the Project, which may not have been commenced or not completed. The Petitioner has stated that for each of the phases of the Project there will be parking spaces available equal to or in excess of what is required pursuant to the By-Law. The Board finds it appropriate that the Project may be divided into separate phases, authorizes the issuance of separate permanent certificates of occupancy upon completion of each individual phase, and grants the Petitioner the discretion to initially determine and subsequently modify the location and sequence of individual phases without further Board review except as described in Section 3.37 of this First Amendment, provided further that each phase include the construction of a structure and parking spaces equal to or in excess of what is required pursuant to the By-Law. The plans for each phase shall include the limits of the phase, and to the extent not already shown on the Alternate Plan approved by this First Amendment, the landscaping, walkways, and other hardscape and utility connections.
- 1.13 The Petitioner has requested an amendment to the Major Project Site Plan Special Permit No. 2012-07, dated October 16, 2012, under Section 7.4 of the By-Law, Article II of the Planning Board Rules and Section 4.2 of Major Project Site Plan Special Permit.
- 1.14 The Petitioner proposes to place two emergency back-up generators in the front yard areas (B Street and First Avenue) of the buildings. The Petitioner has stated that the emergency generators will be designed and operated to comply with all applicable Federal, state and local regulations, including those addressing sound attenuation to protect the adjoining adjacent properties.
- 1.15 The proposed buildings and the proposed Project will conform to zoning requirements as to height, front, side and rear setbacks, maximum lot coverage, maximum floor-area ratio and minimum open space, with the exception of the Special Permits that have been requested by the Petitioner. The lot conforms to zoning requirements as to size and frontage.
- 1.16 Under the provisions of Section 5.1.2 of the By-Law a minimum of 2,608 parking spaces are required for the Project and a total of 2,734 parking spaces are provided. The parking requirement for hotel use is the following: "One space for each sleeping unit plus one space for each 200 square feet of function or conference area, plus one space for each three employees on the largest shift." Accordingly, the parking requirement for the hotel use is 140 parking spaces computed as the sum of (a) 128 sleeping units equals 128 parking spaces; (b) 1,306 square feet of conference/function space equals 7 parking spaces; and (c) 15 employees on the largest shift equals 5 parking spaces. Under the provisions of Section 5.1.2 of the By-Law, the parking requirement for an office use is "One parking space per 300 square feet of floor area". Accordingly, the parking requirement for the office use is 2,468 computed as the sum of $190,000/300 + 127,145/300 + 287,855/300 + 135,000/300 = 2,468$.
- 1.17 When Garage A is constructed a number of the surface parking spaces at the rear of the hotel will be eliminated but will be replaced on an interim basis by other parking on the property. Upon completion of Garage A, the balance of the parking spaces required for the hotel to comply with

the By-Law will be located in Garage A and shared with other users of Garage A. At all times 140 parking spaces will be available to serve the hotel use.

- 1.18 Adjoining premises will be protected against any seriously detrimental uses on the site through provision of surface water drainage, sound and sight buffers, and preservation of views, light and air. Four separate parcels will be consolidated into one larger parcel. Until recently each parcel contained a free-standing building with surface parking. In late 2011, the office buildings at 360 First Avenue, 410 First Avenue and 66 B Street were demolished. The three buildings located on those parcels contained a total of 152,906 sq. ft. and was served by 408 parking spaces. 37 A Street presently contains a one story industrial building of approximately 99,223 sq. ft., together with additional surface parking for 205 vehicles. It is anticipated that the building at 37 A Street will be demolished prior to the issuance of the Certificate of Occupancy for the first of the four new office/research and development buildings to be constructed.

A hotel comprised of approximately 89,740 sq. ft., together with 140 parking spaces and associated improvements was approved by this Board by Major Site Plan Special Permit No. 2012-03, dated April 23, 2012. Of the 140 parking spaces, approximately 22 of those spaces will be located under the hotel at grade level. The balance of the parking spaces serving the hotel will be surface parking, until the construction of Garage A, at which time a number of the surface parking spaces at the rear of the hotel will be eliminated and additional parking will be made available for use by the hotel employees, guests and visitors in the garage.

Four new office buildings will be constructed with a total square footage not to exceed 740,000 sq. ft. Building 1 will be a five story, 190,000 sq. ft. structure. Building 2 will be a five story, 127,145 sq. ft. structure. Building 3 will be a six story, 287,855 sq. ft. structure. Building 4 will be a four story, 135,000 sq. ft. structure. Notwithstanding the foregoing, the buildings may be modified pursuant to Section 3.37 ("Design Guidelines") of this First Amendment. At the completion of the Project there will be two, free-standing garages. The first will contain spaces for 580 vehicles and the second will be built in stages and eventually contain space for 2,040 vehicles. There will also be surface parking for 114 vehicles, for a total of 2,734 parking spaces. The undeveloped portions of the site will be loamed and seeded on a temporary basis until future phases of work on the property are approved and implemented.

The existing site will be reconfigured such that the majority of the proposed parking will be contained in two parking garages. Due to this reconfiguration of parking, there will be an increase in open space and a corresponding increase in groundwater recharge. Surface water that is not recharged directly into the ground will be collected via a series of catch basins and drains. These drains will connect into the existing storm drains located in A Street and B Street as shown on the proposed site plans. Once the Project is constructed, the existing storm water infrastructure in First Avenue, A Street and B Street will see a significant decrease in the rate and volume of storm water runoff. The storm water drainage system is designed in accordance with the Massachusetts DEP's Stormwater Management Policy and the Town's requirements for storm water. (See Stormwater Management Report filed with this Application)

- 1.19 Convenience and safety of vehicular and pedestrian traffic will not be adversely affected by the project. The parking garages and other parking areas proposed to be created will contain at least the number of parking spaces required by the By-Law and will comply with the design criteria set forth in Section 5.1.3 of the By-Law. Instead of the continuation of four separate parcels, each containing its own building and parking area, curb cuts and the like, the consolidated new parcel will rationalize the parking and traffic to and from (as well as within) the site, improve the convenience and safety of vehicular and pedestrian movement within the site and on adjacent

streets and location of driveway openings in relation to traffic and adjacent streets will be enhanced. The project also complies with other regulations for the handicapped, minors and the elderly.

- 1.20 Parking and loading spaces have been adequately arranged in relation to the proposed uses on the premises. The number of parking spaces required by the By-Law will be provided. The bulk of the parking will be in two parking garages which will protect employees and visitors to the site from the elements. As described in 1.12 above, in each of the phases of the Project there will be parking spaces available equal to or in excess of what is required pursuant to the By-Law.
- 1.21 Adequate methods for disposal of refuse and waste will be provided by the Project. Solid waste and refuse will be disposed of in compliance with all applicable rules and regulations. The waste water system is and will continue to be connected to the municipal sewer system.
- 1.22 The relationship of the structures to be constructed to those in the surrounding area will substantially improve the present condition of the site in that four old buildings, each with its own parking area, will be replaced by four new office buildings and an attractive, state-of-the-art multi-storied hotel. The creation of a campus-like environment and structured parking will enhance the relationship of structures and open space on the site. The proposed Project will comply with the off street parking requirements of Section 5.1.2 of the By-Law as well as the parking design criteria set forth in Section 5.1.3 of the By-Law. The addition of a hotel in the New England Business Center will provide an amenity that will stimulate and encourage further growth in the New England Business Center Zoning District. Community assets in the area will be improved as a result of the contribution by the Petitioner of a Traffic Improvement Fee to the Traffic Mitigation Fund established pursuant to Section 6.8 of the By-Law.
- 1.23 The proposed Project will not have any adverse impact on the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The proposed Project will not have any adverse impact on the Town's water or wastewater infrastructure. The Reservoir B Sewer Pump Station is presently being reconstructed and upgraded by the Town of Needham and is expected to be complete and operational in the near future.

The Kendrick Street Pump Station was upgraded in conjunction with the Charles River Landing project. A third pump was added to the station which not only mitigated the increased flows from the Charles River Landing project, but also increased the capacity of the station.

With respect to fire protection, each new building will be accessible for the Town's firefighting apparatus. The maximum height of the proposed buildings is 84 feet, and all buildings will be properly accessible to fire fighting equipment.
- 1.24 Because the Petitioner requested an increase in the floor-area ratio (FAR) above 1.0 in the New England Business Center District and the Board granted said request in the Original Decision, the criteria set forth in Section 6.8.1(b) of the By-Law are applicable.
- 1.25 The existing public infrastructure is able to adequately service the proposed facility without negatively impacting existing uses, including but not limited to water supply, drainage and sewage services. The site currently fronts First Avenue, A Street and B Street. All roadways are public and contain water drainage and sewage infrastructure. The water, drainage, sewer and utility infrastructure in the public roadways are capable of supporting the proposed Project.

- 1.26 The Project proposes to provide parking spaces in excess of the number of spaces required under the By-Law. In addition, as described in the Traffic Impact Study filed with and made a part of this Application, the fees to the Town of Needham generated by the Traffic Improvement Fee described in the By-Law will total \$930,000.00. The funds will be spent at the discretion of the Town of Needham. The Petitioner has offered to accelerate payments over what is required under the By-Law, which will enable the Town to improve traffic conditions to maximize the benefit on traffic conditions made possible by the contribution.

The impact on traffic conditions at the site, on adjacent streets and in nearby neighborhoods, including the adequacy of roads and major intersections to safely and effectively provide access to and from the areas included in the New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan, dated June 2001 (District Plan) and the areas immediately adjacent to said areas, will be addressed by the Kendrick Street Interchange associated with the I-95/I-93 (Route 128) Transportation Improvement Project and the Highland Avenue Improvement Project. In addition, the Petitioner will pay a Traffic Improvement Fee to the Traffic Mitigation Fund, to be spent at the discretion of the Town of Needham. Within a 1.0 FAR as allowed as a matter of right, the 13.68 acres (595,960 sq. ft.) property could be developed with approximately 595,960 sq. ft. of office space. At the rate of one parking space per 300 sq. ft. of office space, the site would require 1,987 parking spaces. The proposed building program includes four office buildings with a total of 740,000 sq. ft. and a hotel of approximately 80,000 sq. ft. with 128 units. The proposed Project comprised of 740,000 sq. ft. of office space (computed at one space per 300 sq. ft.) and 140 spaces for the hotel equals 2,607 parking spaces. The difference in parking spaces (2,607-1,987) is 620 spaces. The Traffic Improvement Fee is \$1,500 per excess parking space. Accordingly, the Traffic Improvement Fee for the project is \$930,000.00. The Petitioner has offered to accelerate the payments over what is required under the By-Law, by paying the entire fee for the full-build Project (\$930,000.00) upon the issuance of a building permit for the first office building planned to be constructed at the Property.

In addition to the Traffic Improvement Fee described above, the Petitioner has made a gift to the Town of Needham in the amount of \$75,000.00 for the purpose of hiring a traffic engineer to assist the Town to evaluate traffic measures that ought to be implemented to improve traffic conditions in the geographical area subject to the Traffic Mitigation Fund, either on an intermediate or long-term basis.

- 1.27 The environmental implications of the proposal are positive in that the creation of a campus environment will allow the construction of two free-standing parking garages to accommodate the vast majority of the parking requirements, thereby substantially reducing surface parking and the amount of impervious surface that would otherwise be required. The Project is also consistent with open space and conservation plans adopted by the Town. By consolidating four existing parcels and adopting a higher density approach to the design and development of the Project featuring multi-level structured parking, the Project will increase the amount of open space that would otherwise exist, and in doing so, decrease the amount of impervious surface area that would otherwise be necessary.
- 1.28 The Board has considered the long term and short term fiscal implications of the Project to the Town of Needham and finds that the Project will be beneficial to the Town. The New England Business Center is a principal generator of income to the Town of Needham. In addition to substantial payments to the Town and the Traffic Improvement Fee, it is anticipated that the Project will generate substantial net additional annual property taxes to the Town of Needham.

- 1.29 The Project is consistent with the goals of the New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan dated June 2001 and set forth in the document entitled "Goals of the June 2001 New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan", as adopted by the Planning Board on December 11, 2001 (Goals of the District Plan).
- 1.30 The Project will help to create a high quality office park that meets the space and infrastructure needs of the regional office market. The existing structure (37 A Street) and the recently demolished structures (360 First Avenue, 410 First Avenue and 66 B Street) no longer meet the needs of the modern, regional office market. The proposed Project will replace them with four modern, highly efficient and very attractive Class-A suburban office buildings of the design and quality sought after by the market. With structured parking and functional open space, the proposed buildings will cater to a wide variety of high-quality tenants looking to establish themselves in Needham. The unparalleled visibility and prominence along Route 128 will further enhance the attraction of the Project to prospective tenants. The eventual completion of the Add-a-Lane project, including the construction of the Kendrick Street intersection, will, in the future, increase the desirability of the New England Business Center as a high quality office park. The construction of a hotel on the Property will also enhance the attractiveness of the office park and will complement the business expected to locate at the Property.
- 1.31 The Project will create a "campus-like" character for the district through the design of buildings, streets and/or public spaces. The Project has been designed specifically to create a "campus-like" character. The consolidation of four lots into a single lot with interior walking areas, and vibrant, functional plazas will serve to connect the buildings through the use of open space. The placement of garages in relation to the buildings will maximize convenience for visitors. The incorporation of strategically located driveways and landscaped interior "streets" further promotes the campus ideal. The construction of a hotel on the campus will increase the viability and success of the campus, serves to decrease vehicle trips for those business people doing business in the NEBC from out of town and will add an element of diversity of use in the "campus".
- 1.32 The design of the Project will increase the amount of pervious surface and green space throughout the district as a result of the Project's campus environment and shared parking structures. As currently proposed, the Project will entail the complete demolition of four buildings and existing surface parking areas associated with each of those buildings and replace the vast majority of the parking within structured parking garages. This First Amendment will dramatically increase the amount of area available for open green space and pervious surfaces. As currently designed, the Project will provide the required 25% of open space.
- 1.33 One of the criteria listed in the District Plan is whether the Project "improves pedestrian access and views Charles River and Cutler Lake". This goal is inapplicable to the Project, due to its location on the opposite side of the District as the aforementioned amenities.
- 1.34 The Project, which has been branded "Center 128", will create a "sense of address" in each of the sub areas along Route 128, in the center of the site and along the river. The Project will take advantage of First Avenue as the leading visible edge of the New England Business Center. The proposed hotel located on B Street will also be partially visible from Route 128 and increase the attractiveness and draw to the "campus". In doing so, the Project will enhance the NEBC's strategic location in the highly competitive suburban office market.

- 1.35 By locating the structured parking garages towards the rear of the site and with the use of strategic landscaping, the Project effectively screens the visual impact of the garage on the open public space. The buildings, not the garages, are located along the public roads.
- 1.36 The Project helps to create a unified sense of character and defines a clear hierarchy of streets throughout the district. Establishing First Avenue as a primary street will be accomplished not only with the orientation of the buildings themselves, but also by carefully treating the perimeter of the Project with appropriate levels of landscaping and streetscapes. The hotel along B Street will also include a high level of landscaping and further enhance the streetscape of B Street. Native trees and shrubs will compliment high quality street furnishings and lighting elements throughout the site. First Avenue will benefit from its visibility and innovative design to signify its primary street focus. In addition, the attractive state-of-the-art hotel on B Street, together with the landscaping and architectural elements visible from B Street, will increase the attractiveness of the entire campus. As B Street feeds into Third Avenue, it leaves open the possibility of Third Avenue evolving into another primary street for the New England Business Center.
- 1.37 The Project helps to create a consistent edge to the district that provides an attractive face to Route 128. The orientation of the proposed buildings to Route 128 and First Avenue will provide an attractive face and sense of quality to motorists on Route 128. The addition of an attractive state-of-the-art hotel on B Street that will be visible from Route 128 will add to the attractive face to Route 128. Incorporating modern design and materials, the buildings will signify a new era for the New England Business Center, one that denotes progress and opportunity.
- 1.38 The Project permits taller buildings with massing and height appropriate to the scale of the highway by replacing the existing one story structures with multi-story structures. The Project will exemplify this goal of permitting taller buildings along the Route 128 highway edge of the New England Business Center.
- 1.39 The Project will create spaces between buildings that allow views into the site from Route 128. By situating one of the new buildings perpendicular to Route 128 and First Avenue, a more thorough campus setting has been created that allows for visibility into the site from Route 128. The proposed new building at 37 A Street has been situated to maximize its attractiveness in relation to A Street.
- 1.40 Both the Hotel Project as described in the Hotel Decision, the Project described in the Original Decision and the present Project have been approved by the Design Review Board.
- 1.41 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 Alternative 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.
- 1.42 Under Section 3.2.4.2(d), a Special Permit may be granted for a hotel in the New England Business Center Zoning District, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law and is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area. The Board finds that the proposed development plan shown on the

Alternative Plan Set, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.

- 1.43 Under Section 4.8(1), a Special Permit may be granted to increase the maximum height of buildings in the New England Business Center to 84 ft. provided that the proposed structures are properly accessible to fire fighting equipment. The Board finds that the proposed structures are properly accessible to fire fighting equipment.
- 1.44 Under Section 4.8.3 of the By-Law, a Special Permit may be granted to waive any or all dimensional requirements set forth in Section 4.8 of the By-Law, by relaxing each by up to a maximum of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waivers does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of the By-Law, and that such waivers are consistent with the requirements of Section 6.8. The requested waivers are as follows:
- (a) The Applicant has requested Special Permits under Section 4.8.3 to waive the requirements of Sections 4.8.1(6) of the By-Law ("maximum uninterrupted façade lengths shall be 300 ft. or 200 ft. if within 350 ft. of a General Residence District Zoning Boundary, a river or a lake"). Two facades of both garages will exceed 300 ft. of uninterrupted facade length.
 - (b) The Petitioner has also requested a Special Permit pursuant to Section 4.8.3 to reduce the rear setback of Garage A from 20 ft. to 15 ft. and to waive the requirement contained in Section 4.8.1(2), which states "Where appropriate street trees shall be planted at least every 40 ft. along the frontage."
 - (c) The Petitioner has also requested a waiver under Section 4.8.3, authorizing two gaps along B Street in front of Building 3 where the 40 ft. requirement is not met due to the existence of storm water chambers that need to be constructed at those locations and one gap along First Avenue in front of Building 3 where the 40 ft. requirement is not met due to a proposed significant architectural element (a large bay window) in the location where one of the trees would otherwise be placed. The Petitioner has also requested a finding that the Special Permit granted in the Original Decision relative to the two gaps along B Street remain in full force and effect.
 - (d) The Petitioner has also requested a waiver pursuant to Section 4.8.3 to waive the requirement contained in Section 4.8.1(2) ("where appropriate street trees shall be planted at least every 40 ft. along the frontage") to the extent that the requirements of said section shall not be applicable to the portions of the site that are not subject to Phase I or the current phase of the Project, so that street trees shall not be required to be planted until the applicable portion of the frontage is included in a subsequent phase of the Project.
 - (e) The Petitioner has also requested that the Board make certain findings, as described in this First Amendment.

The Board finds that given the particular location and/or configuration of the Project in relation to the surrounding neighborhood, the four requested waivers are consistent with the public good and that to grant such waivers does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of the By-Laws, and that such

waivers are consistent with the requirements of Section 6.8. With respect to the waiver request described in paragraph (a) above, the Board notes that the two affected facades are located along a side lot line abutting a strip of land previously utilized for railroad purposes and that said facades do not face or front on a street upon which such extended facade length would be visible. With respect to the waiver request described in paragraph (b) above, the Board notes that the setback waiver for Garage A is from a strip of land previously utilized for railroad purposes and that said parcel is unbuildable. The Board further notes that with the noted side line setback waiver, Garage A complies with the setback standards for structured parking from adjacent buildings which requires the garage's placement at least 20 feet from any adjacent building. The Board further finds that with respect to the requested findings described above, that given the particular location and/or configuration of the Project in relation to the surrounding neighborhood, the requested findings are consistent with the public good and that to grant such relief and/or to make said findings does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1 of the By-Laws and that such findings are consistent with the requirements of Section 6.8.

- 1.45 Under Section 4.8.6(6) of the By-Law, a Special Permit may be granted to increase the floor-area ratio from 1.0 to 1.5. In the Original Decision, the Board examined the factors described in Section 6.8.1 of the By-Law, acknowledges that the Petitioner has agreed to the payment of the traffic improvement fee described in Section 6.8.1(d) of the By-Law. The Board finds the Alternative Plan Set, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.

On the basis of the above findings and conclusions, the Board finds the proposed Project and Alternative Plan Set, as modified by this First Amendment and as conditioned and limited herein, to meet these requirements, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and will not be a detriment to the Town's and neighborhood's inherent use of the surrounding area.

THEREFORE, the Board voted 5-0 to GRANT:

- (1) the requested amendment to a Special Permit for Major Project Site Plan Review under Section 7.4 of this By-Law; to approve the Alternative Plan Set described in this First Amendment, to approve the detailed plans of Building 3 and Garage B, together with associated landscaping and other site improvements as shown on the Alternative Plan Set, and to approve Phase 2A of the Project, as shown on the phasing plans described in Exhibit 7 of this First Amendment;
- (2) the requested Special Permit under Section 4.8(1) to increase the maximum height of the buildings and garages from 72 ft. to 84 ft.;
- (3) the requested Special Permits under Section 4.8.3 of the By-Law to waive the requirements of Section 4.8.1(6) of the By-Law relative to maximum uninterrupted facade length to permit the facades of both garages to exceed 300 feet;
- (4) the requested Special Permit under Section 4.8.3 of the By-Law, to reduce the rear setback of Garage A to 20 ft. to 15 ft.;
- (5) the requested Special Permit under Section 4.8.3 of the By-Law to waive the requirement contained in Section 4.8.1(2) regarding street trees, to the extent requested;

- (6) the requested Special Permit under Section 4.8.3 of the By-Law to waive the requirement contained in Section 4.8.1(2) to the extent that the requirements of said Section shall not be applicable to the portions of the site that are not subject to Phase 1 or the current phase of the Project so that street trees shall not be required to be planted until the applicable portion of the frontage is included in a subsequent phase of the Project;
- (7) the requested finding that the Petitioner have the discretion to increase the number of parking spaces and levels in Garage A, and to decrease the number of parking spaces and levels in Garage B, without further Board review or approval, and without further review or approval of the Design Review Board provided that the total number of parking spaces on the property is 2,734;
- (8) the requested finding that in all other respects the Special Permits granted in the Original Decision and the findings and approvals contained in the Original Decision shall remain in full force and effect, including but not limited to:
 - (a) the requested right to approve specific building design and other site changes without further public hearings provided that said plans and/or changes fall within the design guidelines described herein, and
 - (b) the requested right to divide the Project into separate phases without further public hearings, and to initially determine and subsequently modify the location and sequence of individual phases subject to Board review and approval as described in Section 3.37 of this First Amendment, provided that each phase includes the construction of a structure and parking spaces equal to or in excess of what is required pursuant to the By-Law and that the relief granted in this First Amendment be considered as additional relief granted that is necessary to construct the Project in accordance with the Alternate Plan Set filed with this Application if that course is pursued by the Petitioner;
- (9) the requested finding that the Design Guidelines contained in the Original Decision be modified to reflect the above-described flexibility set forth in Finding 7 above;
- (10) the requested finding that the Special Permit granted in the Original Decision pursuant to Section 4.8(6) of the By-Law to increase the floor-area ratio above 1.00 to 1.39 remain in full force and effect;
- (11) the requested findings and determinations that the Special Permit granted in the Original Decision pursuant to Section 3.2.4.2(d) of the By-Law for a hotel in the New England Center Business District remain in full force and effect; the requested finding that the Special Permit previously issued in the Original Decision, specifically, the Special Permit under Section 3.2.4.2(d) for a hotel on the Property in the Hotel Decision which, as modified by the Original Decision, is incorporated herein by reference, except to the extent modified by this First Amendment, and specifically authorizes: (i) the requested right to condominiumize the Property (but not the hotel into a condominium hotel) or to enter into ground leases between Petitioner and third parties without further Board action or approval, as approved in the Hotel Decision and incorporated herein by reference, except to the extent modified by the Original Decision remain in full force and effect; and (ii) the requested right to revise the floor plans and the unit mix of the hotel without the need for additional hearings or approvals from the Board, provided that the square footage of the hotel does not exceed 89,740 sq. ft., the total number of guest units does not exceed 128, and the approximately 13,240 sq. ft. of first floor conference/function space, guest dining area, lounge-bar area, indoor pool, exercise room and other hotel amenities uses remains in full force and effect;

- (12) the requested right to modify floor plans of the office/research and development building and garages without further Board review or approval, provided that (a) the aggregate number of parking spaces in the garages is not reduced below 2620, and/or (b) the footprint and total square footage of the subject office/research and development building has been approved and that the Alternate Plan Set with respect to Garage B falls within the Design Guidelines set forth in Section 3.37 of the Original Decision;
- (13) the requested determination that if, as and when a building permit for Building 3 as shown on the Alternate Plan Set is issued by the Town of Needham, that the Alternate Plan Set be deemed to have superseded the plans approved in the Original Decision for purposes of this First Amendment and the Original Decision; and
- (14) the requested relief that Building 1 be modified from a four-story, 150,000 sq. ft. building to a five-story, 190,000 sq. ft. building, and a consequent decrease in Building 4 from a five-story, 175,000 sq ft. building to a four-story, 135,000 sq. ft. building.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the Site, the Petitioner shall cause the Alternative Plan Set to be revised, if necessary, 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 Alternative Plan Set contains or 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.

- 2.1 The Alternative Plan Set 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. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
 - (a) The Plan shall be revised to show a temporary "Fire Lane" along the north side, and adjacent to, Parking Garage B. The lane shall be a minimum of 18 feet wide and shall extend the entire length of the structure, with sufficient radiuses for fire apparatus at the proposed curb. The lane shall be constructed with a type of reinforced material that would support fire apparatus (including outriggers for aerial trucks) such as asphalt. The Plan shall show such area marked as "Fire Lane No Parking", as well as show signage for the same.
 - (b) The Plan shall be revised to eliminate the section of walkway and landscaping located between the two proposed garages and located on property not owned by the Petitioner.
 - (c) The Plan shall be revised to show the inside of the loading docks and shall provide the proposed grades.
 - (d) The Plan shall be revised to provide the contours of the proposed rain gardens.
 - (e) The Plan shall be revised to include a note indicating that the cisterns will be used for irrigation purposes.
 - (f) The Plan shall be revised to show proposed tree locations relocated so that they are not

- located on top of the utilities and infiltration system.
- (g) The Plan shall be revised to show the Grease Tank relocated to provide a 10-foot offset to the proposed infiltration system.
 - (h) The Plan shall be revised to correct the sewer and drain pipe conflicts in the area of Building Number 2 by relocating the infiltration drainage system or raising/relocating the building sewer.

CONDITIONS

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 3.48 hereof.

I. Conditions pertaining specifically to the Hotel

- 3.1 This permit is issued for a hotel comprising approximately 89,740 square feet and containing 128 guest units (116 studio units, 8 one bedroom units and 4 two bedroom units), approximately 13,240 square feet of conference/function space, a guest dining area, lounge/bar area, indoor pool, exercise room, and other hotel amenities, parking for 140 vehicles, landscaping and associated improvements. Ancillary to the hotel use each guest unit may have a self contained kitchen area with some or all of the following: a refrigerator with freezer, dishwasher, a two-burner cook top, microwave and sink. A conference/function space may be provided for hotel guest use and that of outside parties. A guest dining area, lounge/bar area, indoor pool, exercise room, and other hotel amenities may be provided for the exclusive use of hotel guests and their invitees. Notwithstanding the above, the mix of guest units between urban studios, one-bedroom units and two-bedroom units within the footprint of the square footage designated for said unit use on the building's second, third, fourth and fifth floors as shown on the Hotel plan shall be allowed (including associated halls and support functions) without further review or approvals by the Planning Board, provided that the square footage of the hotel does not exceed 89,740 square feet, the total number of guest units does not exceed 128 and the use of the approximately 13,240 square feet of first floor conference/function space, guest dining area, lounge/bar area, indoor pool, exercise room, and other hotel amenities uses remains unchanged.
- 3.2 No services commonly associated with transitional housing or short term residential studio units, including but not limited to provision of case management, or counseling, may be provided to hotel clients on-site.
- 3.3 The hotel shall only be used by transients and shall not be used as a residence and shall at all times be licensed under Massachusetts General Laws Chapter 140, Section 6 as a hotel. All guests shall be licensees under Massachusetts law and not tenants. To ensure that the hotel is used solely for transient or overnight occupancy and not as a permanent residence, multi-family residence or rooming house, the hotel's marketing shall disclose that the hotel does not provide residences (notwithstanding that the hotel name may use the word "residence") but provides only hotel-room or hotel-suite accommodations for transient or overnight occupancy, and the hotel shall be operated so that the majority of guest-nights per calendar year are provided to guests whose stay is not longer than thirty days and no guest shall be allowed to stay for ninety continuous days in any one calendar year. The Petitioner shall provide to the Board pre-opening copies of its marketing materials, and shall, forthwith after one full calendar year of operation and for each year thereafter, provide to the Board both its then-current marketing materials and a written report based on its guest log, without disclosure of guest names, giving number of guests

and number of nights for each unit. If marketing or occupancy history indicates that the hotel is marketed or used for other than transient occupancy, the Petitioner shall revise its marketing materials and business practices to the satisfaction of the Board so as to ensure transient occupancy.

- 3.4 The following hotel operational procedures shall be followed: the operator shall provide the furnishings and utilities; the hotel shall provide maid service; the operator shall provide the keys or means of access, there shall be a front desk (staffed 24 hours) and a centralized reservation system. The hotel's license with the guest shall prohibit the guest from using the hotel address for voter or automobile registration.
- 3.5 The hotel shall be limited to one hundred twenty-eight 128 guest units. The staffing for the hotel shall be limited to fifteen (15) employees on-site during the largest shift.
- 3.6 One hundred forty (140) parking spaces shall be provided for the hotel at all times in accordance with the final plan and there shall be no parking of motor vehicles off the Property at any time except in designated legal on-street parking areas. Upon construction of Garage A certain surface parking spaces to the rear of the hotel shall be eliminated. Temporary parking spaces shall be made available during construction and Hotel guests will be permitted to utilize Garage A in common with others entitled thereto, such that at least 140 parking spaces shall be available for hotel use at all times.
- 3.7 The hotel building, parking area, driveways, walkways, landscaped area, and other site and off-site features shall be constructed in substantial accordance with the plan. Any changes, revisions or modifications to the plan shall require approval by the Board.
- 3.8 Notwithstanding the provisions of Section 3.37 relative to condominiumization of the Property, nothing in this First Amendment shall constitute permission for the Hotel to be converted to a condominium hotel. Neither shall the ground lease nor the Project condominium plans and documents allow allocation of the 140 hotel parking spaces to other property tenants or unit owners. The parking spaces in Garage A shall be shared with others entitled to use Garage A. No specific Garage A spaces will be designated for the exclusive use of the Hotel.

II. General Conditions

- 3.9 The proposed buildings, parking areas, driveways, landscape areas, and other site and off-site features shall be constructed in substantial accordance with the Alternative Plan Set as modified by this First Amendment and shall contain the dimensions and be located on that portion of the Property as shown on the plan and in accordance with applicable dimensional requirements of the By-Law, except as may be approved by this Board in accordance with the terms of this First Amendment. Upon completion of the project a total of 2,734 parking spaces shall be provided to service the Project. All off-street parking shall comply with the requirements of Section 5.1.2 and 5.1.3 of the By-Law, as shown on the plan, or as may be waived in the future by this Board.
- 3.10 The proposed buildings and support services shall contain the dimensions and shall be located on that portion of the locus as shown on the Alternative Plan Set, as modified and/or approved pursuant to Section 3.38 of this First Amendment, and in accordance with the applicable dimensional requirements of the By-Law as have been waived as modified by this First Amendment or as may be waived in the future by this Board.

- 3.11 This permit is issued for professional, business or administrative offices, laboratories engaged in scientific research and development, and hotels. Any changes of such above-described uses shall be permitted only by amendment of this Approval by the Board. Notwithstanding the above, the Board may permit on the first floor of a multi-story office building the uses contemplated under Section 3.2.4/1(j) of the By-Law following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.12 The Alternative Plan Set, as modified by this First Amendment is approved for the TripAdvisor complex. In the event that TripAdvisor does not go forward with its option on Building 3, then the Original Decision shall remain in full force and effect without modification..
- 3.13 The Petitioner has prepared and filed with the Board and the Norfolk County Registry of Deeds a plan which shows Assessor's Plan 300, Parcels 15, 16, 28 and 29 merged, using customary surveyor's notation. Except (a) as a result of the condominiumization of the Property, or (b) the Property being ground leased, all buildings and land constituting the Property shall remain under single ownership.
- 3.14 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 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, both as may be amended from time to time.
- 3.15 Sufficient parking shall be provided on the site at all times in accordance with the Alternative Plan Set and there shall be no parking of motor vehicles off the site at any time except in designated legal on-street parking areas. The leasing plan shall not allow the allocation of parking spaces to tenants in excess of the available number.
- 3.16 The Petitioner shall provide or make available shuttle service between the Project buildings and public transportation stations during the hours of 7:00 a.m.-9:00 a.m. and 4:00-6:00 p.m. Monday through Friday.
- 3.17 The Petitioner shall undertake a transportation demand management program (TDM) program to facilitate carpooling, transit usage and parking management. A copy of the TDM program plan as described above shall be submitted to the Board for review and approval for compliance with the terms of the permit prior to the issuance of the occupancy certificate for each project phase.
- 3.18 The Petitioner shall pay a Traffic Improvement Fee to the Traffic Mitigation Fund, to be spent at the discretion of the Town of Needham. The Traffic Improvement Fee for the entire project is \$930,000.00. The Petitioner shall pay the entire fee for the full-build Project (\$930,000.00) upon the issuance of a building permit for the first office building planned to be constructed at the Property.
- 3.19 In addition to the Traffic Improvement Fee described in Section 3.18 above, the Petitioner has made a gift to the Town of Needham in the amount of \$75,000.00, for the purpose of hiring a traffic engineer to assist the Town to evaluate traffic measures that ought to be implemented to improve traffic conditions in the geographical area subject to the Traffic Mitigation Fund, either on an intermediate or long-term basis.
- 3.20 The Petitioner shall undertake the following measures:

- (a) The Petitioner shall make a contribution in the amount of \$1,000,000 to a New England Business Center owners' association (the "Association") to be created and to be comprised of owners of real estate within the New England Business Center Zoning District (the "NEBC") who wish to join the association. The \$1,000,000 shall be available for the association to use to address traffic and related issues that exist or which may exist in the future at any or all intersections in and around the NEBC as the Association shall deem advisable. Petitioner shall cooperate with the Association in connection with the Association's application of the \$1,000,000.00. The Petitioner made an initial payment of \$100,000 to the Association within thirty (30) days after the appeal period expired on the Original Decision with no appeal having been filed or if an appeal has been filed, within thirty (30) days after satisfactory resolution of the appeal. The balance of the funds shall be paid in four annual installments, each in the amount of \$225,000. Said payments shall commence one year after the original \$100,000 payment described was made.
 - (b) Petitioner shall not request the Board to modify the \$930,000 payment to the Traffic Mitigation Fund as described in this First Amendment. Petitioner shall cooperate with the Association and the Town to ensure that the \$930,000 shall be used in part to mitigate traffic and related impacts of the Project, including but not limited to (and as a priority) the 4th Street and Kendrick Street intersection.
 - (c) Petitioner will encourage its prospective tenants and/or purchasers of the proposed new office buildings to provide that ground floor retail uses in the office/R&D buildings (including, but not limited to retail establishments, restaurants, cafeterias, daycare, indoor athletic and exercise facilities) shall be open to the public.
 - (d) Petitioner shall provide a bike share program for the NEBC (such as Zagster or similar programs).
 - (e) The Transportation Demand Management program (TDM program) described in Section 3.17 of this First Amendment shall include (a) provisions for Zipcar parking spaces and (b) participation in the 128 Business Council's shuttle service, as more particularly described in Section 3.15 of this First Amendment.
 - (f) Petitioner shall propose a commemorative historical exhibit and signage within the NEBC recognizing the NEBC as the first industrial park in the United States and shall use reasonable efforts to obtain approval for said exhibit and signage by the Design Review Board and other applicable Town boards or departments whose approval is required.
 - (g) Petitioner shall provide up to \$100,000 to fund a new ingress and egress signage package for the NEBC. The Association to be created shall provide that it shall be responsible for payment of all costs and expenses related to said signage package, including permitting and installation in excess of such \$100,000.
- 3.21 All deliveries and trash dumpster pick up shall occur only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. The trash shall be picked up no less than two times per week or as necessary. Notwithstanding the above, there shall be a prohibition against tractor-trailer deliveries in the loading dock area of Building 2 and

Building 3 between the hours of 7:00 a.m. to 9:00 a.m. and between the hours of 4:00 p.m. and 6:00 p.m.

- 3.22 All lights shall be shielded during the evening hours to prevent any annoyance to the neighbors and to minimize light pollution.
- 3.23 All new utilities, including telephone and electrical service, shall be installed underground from the street line or from any off-site utility easements, whichever is applicable. If installed from an off-site utility easement the utility shall be installed underground from the source within the easement.
- 3.24 All solid waste shall be removed from the Property by a private contractor. Snow shall also be removed or plowed by private contractor. All snow shall be removed or plowed such that the total number and size of required parking spaces remain available for use.
- 3.25 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the Petitioner cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out as per Town requirements.
- 3.26 The Petitioner shall connect the sanitary sewer line only to known sources. All sources which cannot be identified shall be disconnected and properly sealed.
- 3.27 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit and shall pay an impact fee, if applicable.
- 3.28 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit.
- 3.29 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.
- 3.30 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.
- 3.31 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.
- 3.32 The maintenance of parking lot landscaping and site landscaping, as shown on the plan, shall be the responsibility of the Petitioner. The undeveloped portions of the site shall be loamed and seeded on a temporary basis until future phases of work on the property are approved and implemented.

- 3.33 In constructing and operating the proposed building and parking area on the Property pursuant to this First Amendment, due diligence shall be exercised and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.34 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the Property, shall be removed from the Property.
- 3.35 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.
- 3.36 The following interim safeguards shall be implemented during construction:
- (a) The hours of construction shall be 7:00 a.m. to 8:00 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 Property 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 B Street, A Street, First Avenue and Second Avenue, or the adjacent roads.
 - (d) The Petitioner shall take the 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 B Street, A Street, and First Avenue clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.37 Condominiumization of the Property. The Board hereby acknowledges that the land comprising the property and the improvements thereon were submitted to the provisions of Massachusetts General Laws Chapter 183A by the recording of the "Master Deed of Center 128 Condominium, Needham, Massachusetts," with the Norfolk County Registry of Deeds at Book 30268 and Page 511 (the "Master Deed"), thereby creating Center 128 Condominium (the "Condominium"). It is anticipated that the Master Deed of the Condominium will be amended to add, as additional Units, each new building constructed pursuant to this Special Permit.

The Master Deed specifically provides that each Unit Owner may submit its Unit to the provisions of Chapter 183A and establish a secondary condominium. In the event that a secondary condominium is created for a particular building/Unit authorized by this Special Permit, following the issuance of a permanent certificate of occupancy for the core and shell of that building/Unit, temporary and permanent certificates of occupancy may be issued for individual units within the secondary condominium unit. Except for condominiumization of the property and/or to base ownership on ground lease arrangements, the buildings and land

constituting the property shall remain under a single ownership. Nothing herein shall constitute permission for the hotel to be converted into a condominium hotel.

- 3.38 Design Guidelines. The Board approves the plans for the site, Building 1, Building 3, Garage A and Garage B, as filed. The Board approves Buildings 2, and 4, with general size, massing and locations of the buildings at a conceptual level as described in the application and using the plans for Building 1 as a template. As a prerequisite for final approval and the issuance of a building permit, each new building (and modifications to Building 1, Building 3, and Garage A and Garage B) shall be subject to design review by the Planning Board to determine conformance to the following Design Guidelines. Design approval shall be granted by the Planning Board for final plans that are consistent with the Design Guidelines and the applicable requirements of the By-Law. Design Review approval by the Planning Board shall constitute the Planning Board's determination that the proposed plans are consistent with this First Amendment and meet all applicable standards of review for the Project.

Design Guidelines

- 1) There shall be four office buildings and two free-standing garages. The total square footage of the four office buildings shall not exceed 740,000 sq. ft.
- 2) The buildings will be designed in a first class manner and Class A commercial building standards consistent with the Central Route 128 office market.
- 3) Building 1 is approximately 35% opaque. Of this amount, 60 to 70% may be precast concrete, natural or manufactured stone, brick or similar masonry material. The remainder may be metal, wood, ceramic, glass fiber reinforced concrete, fiber cement or similar panelized material to be used as part of wall and curtain wall systems. Synthetic stucco (EIFS) is prohibited.
- 4) Building 1 is approximately 65% transparent. Of this amount 60 to 70% may be glazing in a punched or ribbon arrangement. The remainder may be aluminum storefront or curtain wall systems. Vision glass will be low-e, minimally reflective and may be tinted for aesthetic effect without significantly reducing transparency. Mirrored or highly reflective glass is prohibited.
- 5) Building 1 shall serve as a template for Buildings 2 and 4. Quality design and construction will be carried through to all buildings. While there may be shared architectural elements and materials between the buildings, some variation is encouraged. Primary materials identified for Building 1 in a generic sense and assigned a proportional range of façade area will be carried through, with some variation, to Buildings 2 and 4.
- 6) Each building can be increased or decreased by not more than one floor.
- 7) The location of the building footprint may be moved not more than 15 ft. in any direction, as long as the minimum setbacks, site distances and required open space requirements are maintained.
- 8) The shape of the footprint of each building can be modified no more than 15 ft. in any direction, as long as the minimum setbacks, site distances, and required open space requirements are maintained.

9) The total square footage of each building shall not vary more than 15% than what is described hereinabove, except that a larger variation is acceptable if an additional floor is added to the building pursuant to Design Guideline (6) above and if the shape of the footprint of the building is modified pursuant to Design Guideline (8) above.

10) The 15 ft. variation in shape, size and location shall be applicable to Garage A and Garage B to the same extent as they are applicable to the office buildings as described in 7, 8 and 9 above.

11) Site changes, including landscaping, may be modified without further public hearing to accommodate changes in building shape, location and size described above.

12) Notwithstanding the foregoing, the Board finds that the Petitioner has the discretion to increase the number of parking spaces and levels in Garage A, and to decrease the number of parking spaces in Garage B without further Board review or approval, and without further Design Review Board review or approval, provided that the total number of parking spaces on the property remains at 2,734 spaces. Such changes are deemed to be consistent with the Design Guidelines set forth herein.

The proposed plans and an application for review shall be filed with the Planning Board. At the same time application materials shall also be submitted to the Design Review Board along with an application for design review. Within 20 days of receipt of the Design Review application, the Design Review Board shall hold a public meeting, to which the Applicant shall be invited for the purpose of determining whether the proposed plans fall within the Design Guidelines described above. Within 15 days of the meeting the Design Review Board shall transmit its determination as to the plans' compliance with the Design Guidelines described above and its design review report to both the Planning Board and Applicant. The Planning Board shall review said plans with the Applicant at its next public meeting following receipt of said recommendation from the Design Review Board provided such recommendation is received at least 7 days prior to the next scheduled meeting. If the Planning Board finds that the plans do fall within said Design Guidelines, the Planning Board shall approve and endorse said plans and transmit its decision to the Applicant and Building Inspector via memorandum. If the Planning Board finds that the plans do not fall within said Design Guidelines, the Applicant may modify said plans or file a Request for Further Site Plan Review with the Board. The Planning Board shall make its determination within 60 days of receipt of said plans from the Petitioner.

- 3.39 Project Phasing: The Planning Board approves the division of the Project into separate phases. The Board grants the Petitioner the discretion to initially determine and subsequently modify the location and sequence of individual phases subject to Board review and approval as described in Section 3.37 of this First Amendment and the provisions of this section and further provided that each phase includes the construction of a structure and parking spaces equal to or in excess of that which is required pursuant to the By-Law. The plans for each phase shall include the limits of the phase, and to the extent not already shown on the Alternative Plan Set approved by this First Amendment, the landscaping, walkways, and other hardscape and utility connections. Approval of a Project phase shall be granted by the Planning Board for plans that are consistent with the above-noted requirements and the applicable requirements of the By-Law. Approval of a Project phase by the Planning Board shall constitute the Planning Board's determination that the proposed phasing plans are consistent with this First Amendment and meet all applicable standards of review for the Project.

- 3.40 No building permit shall be issued for individual phases of the Project or the entirety of the Project in the pursuance of this First Amendment until:
- (a) The final plans shall be in conformity with those previously approved by the Board, or approved by the Board as provided in the Design Guidelines section of this First Amendment and a statement certifying such approval has been filed by this Board with the Building Inspector.
 - (b) A phasing plan shall have been submitted to the Board for their review and approval pursuant to Section 3.39 of this First Amendment. The Board acknowledges that said phasing plan has been submitted to and approved by the Board for construction of the Hotel phase, and the phase consisting of Building 3 and associated parking as shown on the Alternative Plan Set.
 - (c) A construction management and staging plan shall have been submitted to the Police Chief and Building Inspector for their review and approval.
 - (d) The Town shall have received the portion of the Traffic Mitigation fee due as described in paragraph 3.18 of this First Amendment
 - (e) The Plan shall be revised to include the specifications for the emergency back-up generator installed on B Street serving the building for which a building permit is being requested. A noise analysis shall be provided demonstrating that the back-up emergency generator for the affected building has been designed and will operate in compliance with all applicable Federal, state and local regulations, including those addressing sound attenuation to protect the adjoining adjacent properties. Said plan and noise analysis shall be submitted to and approved by the Board.
 - (f) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this approval with the appropriate reference to the Book and Page number of the recording of the Petitioner's Title, Deed or Notice endorsed thereon.
- 3.41 No building or structure, or portion thereof for any phase of the Project and subject to this First Amendment 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 pertaining to the applicable phase of the Project 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 in their true relationship to the lot lines for the applicable phase of the Project. In addition, the as-built plan for the applicable phase of the Project shall show the final location, size, depth, and material of all public and private utilities on the site and their points of connection to the individual utility, and all utilities which have been abandoned for the applicable phase of the Project. 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 registered professional engineer of record certifying that the 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, have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved plans for the applicable phase of the Project.

- (c) There shall be filed with the Board and Building Inspector an as-built Landscaping Plan showing the final location, number and type of plant material, final location, number and type of plant material, final landscape features, parking areas, and lighting installations for the applicable phase of the Project. 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.
 - (d) The proposed new sidewalks on A Street, B Street and First Avenue shall have been built to Town of Needham specifications to the extent that the relevant portions of the sidewalks are part of the applicable phase of the Project.
 - (e) There shall be filed with the Board and Building Inspector a Final Affidavit signed by a registered architect upon completion of construction for the applicable phase of the Project.
 - (f) A copy of the TDM program as described in paragraph 3.17 of this First Amendment shall have been submitted to and approved by the Board for each Phase of the Project.
 - (g) The proposed roadways between A Street, B Street and First Avenue, shall have been completed to a stage where fire apparatus can easily maneuver throughout the proposed project. Water mains and fire hydrants shall be fully functional.
 - (h) There shall be filed by the Petitioner a supplemental letter from the Petitioner's acoustical Engineer certifying that the emergency back-up generator installed on B Street serving the building for which a certificate of occupancy is being requested has been installed such that its operation at any time of the day or night shall not exceed the applicable Commonwealth of Massachusetts and Town of Needham noise regulations.
 - (i) Notwithstanding the provisions of Section a, b, and c hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the building in each Phase prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board a bond 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 for such Phase of the Project.
- 3.42 At the time occupancy is granted for Building 3 and the southern side of Parking Garage B a safety zone having a minimum width of 25 feet on all sides of the structure shall be established where no flammable materials may be stored or staged.
- 3.43 The temporary "Fire Lane" located along the north side, and adjacent to, Parking Garage B shall be kept clear at all times, and shall be cleared of snow/ice during the winter months.
- 3.44 In addition to the provisions of this First Amendment, the Petitioner must comply with all applicable requirements of all state, federal, and local boards, commission or other agencies, including, but not limited to the Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.

- 3.45 The proposed new sidewalks on A Street, B Street and First Avenue shall be built to Town of Needham specifications to the extent that the relevant portions of the sidewalks are part of the applicable phase of the Project.
- 3.46 The building and parking area authorized for construction by this First Amendment (including the portion or phase that is the subject of such request) 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 for said building or parking area has been issued by the Building Inspector.
- 3.47 The Petitioner, by accepting this First Amendment, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.48 Violation of any of the conditions of this First Amendment 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 First Amendment, 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 First Amendment 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 First Amendment if the Town prevails in such enforcement action.

LIMITATIONS

The authority granted to the Petitioner by this First Amendment is limited as follows:

- 4.1 This First Amendment applies only to the Property improvements, which are the subject of this First Amendment. All construction to be conducted on-site and off-site shall be conducted in accordance with the terms of this First Amendment and shall be limited to the improvements on the approved plans. There shall be no further development of this Property without further site plan approvals as required under Section 7.4 of the By-Law.
- 4.2 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 First Amendment to clarify the terms and conditions of this First Amendment.
- 4.3 This First Amendment applies only to the Original Decision, the requested Amendment to Major Project Site Plan Review Special Permit and related special permits and approvals specifically granted herein. Other permits or approvals required by the By-Law, other governmental board, agencies or bodies having jurisdiction should not be assumed or implied by this First Amendment.

- 4.4 No approval of any indicated signs or advertising devices is implied by this First Amendment.
- 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 special permit shall be governed by the provisions of Chapter 40A and Section 7.5.2 of the By-Law, which establish the time within which construction authorized by the Original Decision, as amended by this First Amendment must commence. Construction of one of either the hotel, one parking garage, or office building must commence within two years of the date of filing of the Original Decision with the Town Clerk. In addition, if commencement of construction of the hotel is begun prior to the issuance of this Original Decision (by virtue of it being approved by the Hotel Decision), the requirements of the preceding sentence shall be deemed to have been satisfied.

Given the size of the Project, and its anticipated duration of full build out, the precise time for each subsequent building to commence construction cannot be established with any certainty at the time of the granting of this First Amendment. Therefore, the Board establishes the following conditions and limitations:

- a) All authorized construction of buildings and required site improvements, infrastructure and mitigation measures shall be constructed or under construction (or authorized by the issuance of a Building Permit), installed, or put into operation within ten (10) years of the date of filing of the Original Decision with the Town Clerk. Extension of the ten (10) year time period shall be permitted only for good cause.
- b) Should the Applicant or Permittee not seek design approval for a building for a period of two years from design approval for the preceding building, the Permittee shall report to the Board at the end of that two year period, updating the Board on the anticipated schedule for future construction, difficulties encountered in executing the balance of the Project, and whether the Permittee believes that the entire Project can be fully constructed within the ten (10) years provided, and if not how much additional time might be required.
- c) It is the intention of the Board that this First Amendment shall not lapse, and shall continue in effect, during the ten (10) year period, as long as the Permittee continues to report to the Board under subparagraph (b) above.

Any further requests for an extension of the time limit set forth herein must be in writing to the Board at least thirty (30) days prior to the expiration of the Original Decision. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun except for good cause.

- 4.7 This First Amendment shall be recorded in the Norfolk District Registry of Deeds. This First Amendment shall not take effect until (1) a copy of this First Amendment bearing the certification of the Town Clerk that twenty (20) days have elapsed after this First Amendment has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied and (2) this First Amendment is recorded with Norfolk District Registry of Deeds, (3) the Petitioner has delivered a certified copy of the recorded document to the Board;

and (4) that a building permit has been issued to the Petitioner by the Town of Needham for Building 3 as shown on the Alternative Plan Set for TripAdvisor.

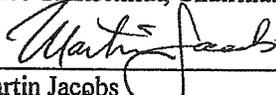
The provisions of this Major Site Plan Special Permit shall be binding upon every owner or owners of the lots and the executors, administrator, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land in accordance with their terms, in full force and effect for the benefit of and enforceable by the Town of Needham.

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

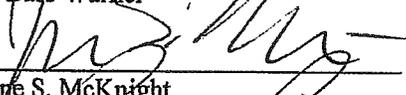
Witness our hands this 2nd day of April, 2013.

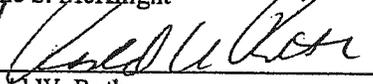
NEEDHAM PLANNING BOARD


Bruce T. Eisenhut, Chairman


Martin Jacobs


Sam Bass Warner


Jeanne S. McKnight

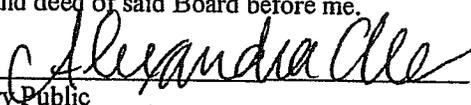

Ronald W. Ruth

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

April 2 2013

On this 2 day of April, 2013, before me, the undersigned notary public, personally appeared Bruce Eisenhut, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, 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: April 2, 2015

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Normandy Real Estate Partners, 99 Summer Street, Boston, Massachusetts, for property located at 360 First Avenue, 410 First Avenue and 66B Street, Needham, Massachusetts, has passed, and there have been no appeals made to this office. (All Judicial Appeals taken from this First Amendment have been dismissed.)

April 30, 2013
Date

Helen F. Atkinson
Theodora K. Eaton, Town Clerk
Helen F. Atkinson, Asst. Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission
Design Review Board

Board of Selectmen
Engineering
Fire Department
Police Department
Roy A. Cramer
Parties in Interest

Needham, MA		2015 HUD Figures, Boston MSA			
	persons	80% income			
	1	\$48,800			
	2	\$55,800			
	3	\$62,750			
	4	\$69,700			
	5	\$75,300			
Utility Allowances for Needham Housing Authority High Rise (via Dedham HA), January 2015					
			30% of 80%		
	Studio	1BR	2BR	3BR	
2015 Gross Affordable Rents	\$1,220.00	\$1,395.00	\$1,568.75	\$1,742.50	
natural gas heating	(\$34)	(\$45)	(\$61)	(\$72)	
gas cooking	(\$6)	(\$7)	(\$9)	(\$10)	
electricity	(\$37)	(\$43)	(\$61)	(\$69)	
natural gas hot water	(\$14)	(\$18)	(\$21)	(\$26)	
refrigerator	N/A	N/A	N/A	N/A	
Water	(\$10)	(\$16)	(\$28)	(\$41)	
Sewer	(\$13)	(\$27)	(\$54)	(\$83)	
parking	N/A	N/A	N/A	N/A	
					1 spot included with each affordable unit
total utility allowance	(\$114)	(\$156)	(\$234)	(\$301)	
Net Rent (Total Rent Charged)	\$1,106.00	\$1,239.00	\$1,334.75	\$1,441.50	
Net Rent (Rounded Down)	\$1,106	\$1,239	\$1,334	\$1,441	

A Street Residential, LLC
c/o Normandy Real Estate Partners
99 Summer Street, Suite 200, Boston, MA 02110

October 15, 2015

Town of Needham Massachusetts
Zoning Board of Appeals
Highland Avenue
Needham, MA

Re: 2nd Avenue Residences, Needham, MA

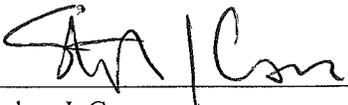
Dear Board Members,

A Street Residential, LLC ("Developer"), an affiliate of Normandy Real Estate Partners, has applied for a comprehensive permit under the Commonwealth's affordable housing statute G.L. c. 40B, §§20-23 and more particularly through the Local Initiative Program ("LIP") administered by the Commonwealth of Massachusetts Department of Housing and Community Development ("DHCD"). The Developer seeks to entitle 390 units of multi-family residential (the "Project" or the "2nd Avenue Residences") under the Chapter 40B statute.

Normandy, a firm that specializes in the development, operation, and management of commercial office properties, has formed a relationship with Needham Residential LLC, an affiliate of Toll Brothers Apartment Living (individually or collectively "Toll Brothers"), to assist in the design and entitlement of the 2nd Avenue Residences. As Normandy's investment focus and expertise is in commercial office projects, upon completion of the approval process, Normandy will assign the comprehensive permit and sell a sub-divided portion of the Center 128 East property to Toll Brothers, which will then develop, own, and operate the 2nd Avenue Residences. Toll Brothers will continue to be bound by all of the Chapter 40B conditions. The Needham Board of Selectmen is aware of the proposed assignment of the permits to Toll Brothers.

Normandy and Toll Brothers have worked together to ensure that the Project is consistent with the planning and design objectives of the Town of Needham and the neighborhood. While Normandy will no longer own the Project, it has a vested interest in the successful development of all aspects of Center 128 and has worked with Toll Brothers to make sure that the 2nd Avenue Residences will be a positive addition to Center 128 for residents, tenants, neighbors, and visitors. Normandy is confident in Toll Brothers' capabilities as a developer and manager of residential communities around the country and the two firms will maintain a business relationship through their status as neighbors in Needham and as partners in other real estate projects.

Sincerely,
A STREET RESIDENTIAL, LLC,
a Delaware limited liability company

By: 
Stephen J. Cusma
Assistant Secretary