

You've asked for additional information relative to the inclusion of a portion of the previously abandoned Hardy Street in the Needham Mews project site. For your reference, we are only including in the project site the small area in the northeastern corner of the project site labeled "Hardy Street Discontinued Per Article 29 1988 Town Meeting Vote" on the Lot Consolidation Plan of Land (the "Plan") previously submitted to the ZBA, a copy of the relevant portion of which is attached. As the Plan shows, an area equal to approximately 146 square feet, one half of the portion of the former Hardy Street which was adjacent to the project site (the "Former Street Area"), has been included in the project site.

A copy of the applicable Town Meeting Vote is also attached. The Vote provides as follows:

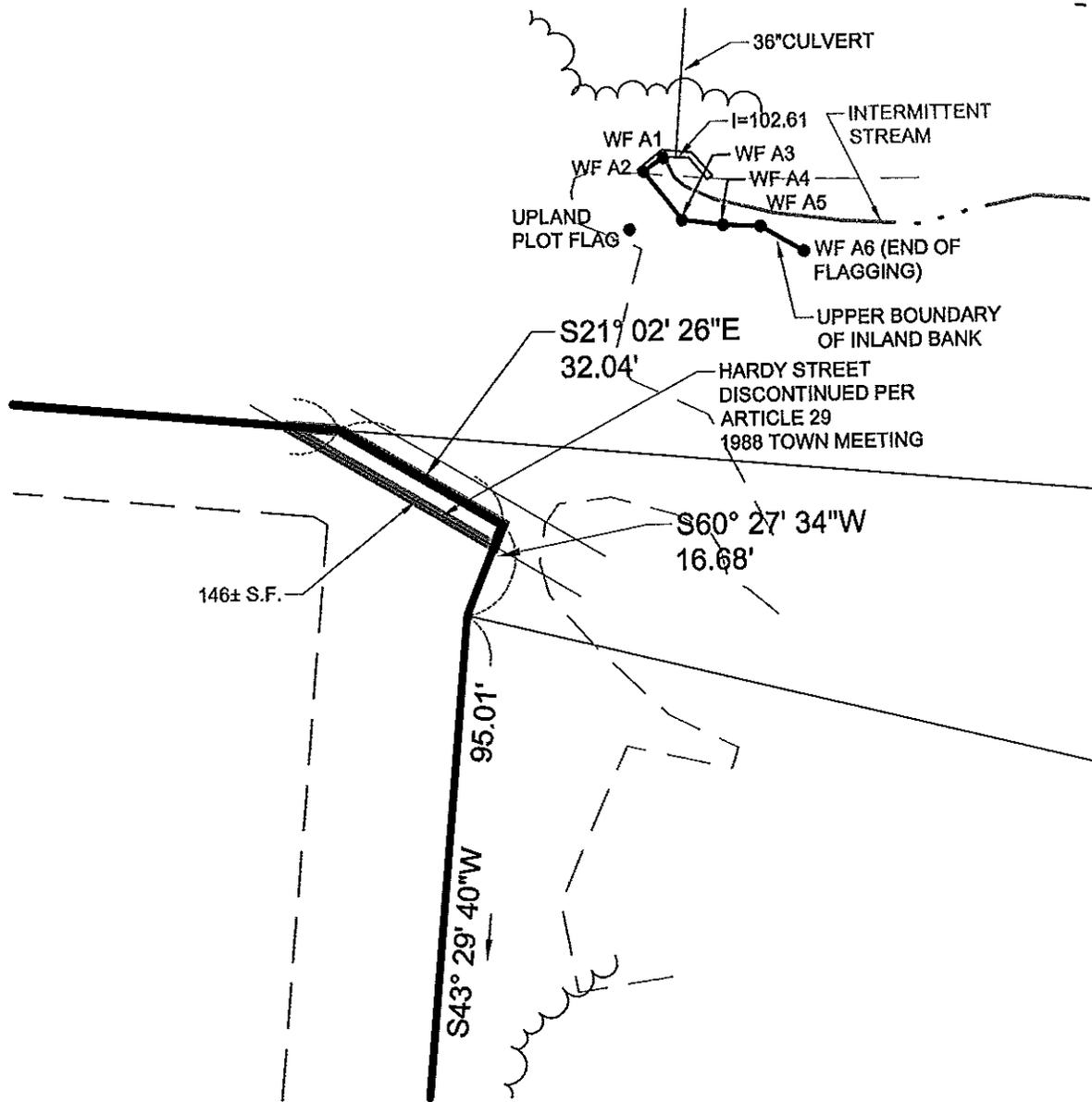
"That the Town of Needham vote to declare permanently abandoned that portion, as described below, of the ancient Town way known on paper as Hardy Street and to grant all ensuing rights to the abutters;

That portion from the Route 128 layout running in a southeasterly and southerly direction (as shown on Assessor's Plans Nos. 18 and 16) to its intersection with Old Greendale Avenue."

As you can see, the Vote specifically provides that all rights in the abandoned Hardy Street go to the abutters. Pursuant to the deed attached, abutters in the area of the abandoned portion of Hardy Street included Vincent and Mary Boris. As described in such deed, their parcel is bounded "northerly and easterly by Hardy Street."

The registered land surveyor for the Project has confirmed that the area of Hardy Street discontinued by the 1988 Vote includes the Former Street Area. The Project's Title Insurance Company, Commonwealth Land Title Insurance Company, has confirmed that the effect of the 1988 discontinuance was that the fee in the discontinued area reverted to the adjacent owners, in this case the Boris'. The Title Insurance Company confirmed that the Former Street Area will be included in the insured premises when Mill Creek acquires the Boris' property.

Based on the above, the Former Street Area is properly included in the Property. In any case, I note that the Former Street Area is only 146 square feet. Even if one were to deduct 146 square feet from the 262,177 square foot (6.02 acres) site area shown on the Lot Consolidation Plan, the resulting 262,031 square foot (6.015 acres) site area would still yield 108 units at 18 units per acre.



determine how such sum shall be raised and how expended; or take any other action relative thereto.

(See D.P.W. Report, Page 31).

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: This Article be approved.

ARTICLE 23: STORM DRAIN IMPROVEMENTS

To see if the Town will vote to raise and appropriate the sum of \$20,000 for construction of storm water drains in public ways and through easements on private property, as proposed by the Public Works Department; determine how such sum shall be raised and how expended; or take any other action relative thereto.

(See D.P.W. Report, Page 31).

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: This Article be approved.

ARTICLE 24: WATER MAIN REHABILITATION

To see if the Town will vote to raise and appropriate the sum of \$682,000 for the rehabilitation and improvement of the water system including studies, engineering service, plans, specifications and contract documents for main relining and replacement and pumping station improvements; determine how such sum shall be raised and how expended; or take any other action relative thereto.

(See D.P.W. Report, Page 31).

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: This Article be approved.

ARTICLE 25: REVISE SEWER ASSESSMENT RATE

To see if the Town will vote to redetermine the fixed uniform rate charged to abutters for the construction of sewers as authorized under the provisions of General Laws, Chapter 83, Section 15A; or take any other action relative thereto.

(See D.P.W. Report, Page 31).

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation deferred.

ARTICLE 26: AMEND TOWN CHARTER REGARDING SEWERAGE DISPOSAL COSTS

To see if the Town will vote to amend its Special Home Rule Charter Act (Chapter 40, Acts of 1971, as amended) as authorized by M.G.L. Chapter 43B, as amended, by deleting from the first sentence in Section 28 the following words:

"provided that it shall not pay less than one-fourth nor more than two-thirds of the whole cost."

or take any other action relative thereto.

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation deferred.

ARTICLE 27: TRAFFIC SIGNALS-DEDHAM AVENUE AND SOUTH STREET

To see if the Town will vote to raise and appropriate a sum of money to install traffic control signals at the intersection of Dedham Avenue and South Street; determine how such sum shall be raised and how expended; or take any other action relative thereto.

(See D.P.W. Report, Page 31).

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation deferred.

ARTICLE 28: CONTINUE SOLID WASTE DISPOSAL STUDY COMMITTEE

To see if the Town will vote to continue the Solid Waste Disposal Study Committee, established by vote of the 1966 Annual Town Meeting under Article 73 and last continued by vote under Article 29 of the 1987 Annual Town Meeting; direct and authorize said Committee to continue to investigate all methods of collection and disposal of solid waste; said Committee to report to the Capital Budget Sub-Committee and to the next Annual Town Meeting or sooner; or take any other action relative thereto.

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation deferred.

ARTICLE 29: ABANDON HARDY STREET

To see if the Town of Needham will vote to declare permanently abandoned the ancient Town way known on paper as Hardy Street and to grant all ensuing rights to the abutters; or take any other action relative thereto.

INSERTED BY: Citizen Petition
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation deferred.

ARTICLE 30: UNDERGROUND UTILITIES - CHESTNUT STREET

To see if the Town will vote to amend its General By-Laws by adding to Article II, Town Finance and Administration a new section as follows:

Section 22. Any person, firm, corporation, partnership, their agents and employees, who has been granted or may be granted, any license, permission, or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut Street between its intersection with School Street and the railroad bridge at Needham Junction;

or take any other action relative thereto.

INSERTED BY: Board of Selectmen
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation deferred.

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A motion to amend was offered by Mr. Howard B. Bacon to add under section 7.7.2.1. Composition, subsection (a) on the second line after the word "or" the word "architectural".

After a brief discussion Mr. Richard L. Malconian moved the previous question on both the main motion and the motion to amend and it carried by voice vote.

The following Town Meeting Member was sworn in as teller by the Moderator: Richard S. Green.

The motion to amend was presented, but it failed to pass by voice vote.

ACTION: The main motion was presented and it carried by the required two-thirds vote. The hand count was Yes 208 - No 8.

ARTICLE 38

To see if the Town will vote to amend the General By-Laws, Article XIX, Needham Sign By-Law, as follows:

(a) In Section 3. Administration, Subsection 3.2. Issuance of Permits, by adding the following language to the second paragraph so that it shall read as follows (new language underlined):

"Applicants shall file a permit application accompanied by a photograph of the facade to which the sign is to be attached, or the area of intended location if unattached, and two prints of scale drawings of the sign and supporting structure showing placement thereon; the applicant shall also file seven copies of the permit application, including seven copies of all application materials, with the Design Review Board. (See Section 7.7. Design Review, of the Zoning By-Law.)"

(b) In Section 3. Administration, Subsection 3.2. Issuance of Permits, by adding the following new third paragraph:

"The Design Review Board shall review requests for sign permits submitted and shall, within thirty-five (35) days of the receipt of the application materials, transmit its advisory recommendations regarding the design of the sign to the Building Inspector and the applicant. No sign permit shall be issued by the Building Inspector within this thirty-five (35) day period unless said recommendations are sooner received."

or take any other action relative thereto.

MOVED: That the Town vote to amend the General By-Laws, Article XIX, Needham Sign By-Law, as follows:

(a) In Section 3. Administration, Subsection 3.2. Issuance of Permits, by adding the following language to the second paragraph so that it shall read as follows (new language underlined):

"Applicants shall file a permit application accompanied by a photograph of the facade to which the sign is to be attached, or the area of intended location if unattached, and two prints of scale drawings of the sign and supporting structure showing placement thereon; the applicant shall also file seven copies of the permit application, including seven copies of all application materials, with the Design Review Board. (See Section 7.7. Design Review, of the Zoning By-Law.)"

(b) In Section 3. Administration, Subsection 3.2. Issuance of Permits, by adding the following new third paragraph:

"The Design Review Board shall review requests for sign permits submitted and shall, within thirty-five (35) days of the receipt of the application materials, transmit its advisory recommendations regarding the design of the sign to the Building Inspector and the applicant. No sign permit shall be issued by the Building Inspector within this thirty-five (35) day period unless said recommendations are sooner received."

ACTION: The main motion was presented and carried by voice vote.

ARTICLE 28

To see if the Town will vote to continue the Solid Waste Disposal Study Committee, established by vote of the 1966 Annual Town Meeting under Article 73 and last continued by vote under Article 29 of the 1987 Annual Town Meeting; direct and authorize said Committee to continue to investigate all methods of collection and disposal of solid waste; said Committee to report to the Capital Budget Sub-Committee and to the next Annual Town Meeting or sooner; or take any other action relative.

MOVED: That the Town vote to continue the Solid Waste Disposal Study Committee, established by vote of the 1966 Annual Town Meeting under Article 73 and last continued by vote under Article 29 of the 1987 Annual Town Meeting; direct and authorize said Committee to continue to investigate all methods of collection and disposal of solid waste; said Committee to report to the Capital Budget Sub-Committee and to the next Annual Town Meeting or sooner.

ACTION: The main motion was presented and carried unanimously by voice vote.

ARTICLE 29

To see if the Town of Needham will vote to declare permanently abandoned the ancient Town way known on paper as Hardy Street and to grant all ensuing rights to the abutters; or take any other action relative thereto.

MOVED: That the Town of Needham vote to declare permanently abandoned the ancient Town way known on paper as Hardy Street and to grant all ensuing rights to the abutters.

A motion to amend was offered by Mr. Paul Killeen to add after the word "abandoned" the words "that portion, as described below, of" and to the period to a colon and add the following words at the end of the motion: "That portion from the Route 128 layout running in a southeastern and southerly direction (as shown on Assessor's Plans Nos. 18 and 16) to its intersection with Old Greendale Avenue."

Mr. Chet Curtis, abutter to Hardy Street, spoke in favor of this proposal. Mr. Vincent Boris, the largest abutter to Hardy Street, spoke in opposition to the proposal to abandon the ancient way.

After a brief discussion, Mr. Dexter H. Marsh, Jr. moved the previous question, but it failed to pass by voice vote.

In response to an inquiry, Mr. Norman L. Provencher, Chairman, advised that there is some land under the stewardship of the Park and Recreation Commission which could be used at some future point and should be accessible.

After a lengthy discussion, Mr. John J. Ryan moved the previous question and it carried by voice vote.

Mr. Killeen's motion to amend was presented and carried by voice vote.

ACTION: The main motion, as amended, was presented and carried by voice vote. Town Meeting Member Marin W. Connolly rose to question the vote and was joined by at least seven Town Meeting Members. The main motion, as amended, was again presented and it carried by a count of hands. The hand count was Yes 148 - No 60. Town Meeting Member Diane Perry Matthews rose to request a roll call vote, but was not joined by the required twenty-five members. The Moderator declared the article disposed of.

VOTED: That the Town of Needham vote to declare permanently abandoned that portion, as described below, of the ancient Town way known on paper as Hardy Street and to grant all ensuing rights to the abutters:

That portion from the Route 128 layout running in a southeasterly and southerly direction (as shown on Assessors' Plans Nos. 18 and 16) to its intersection with Old Greendale Avenue.

ARTICLE 30

To see if the Town will vote to amend its General By-Laws by adding to Article II, Town Finance and Administration a new section as follows:

Section 22. Any person, firm, corporation, partnership, their agents and employees, who has been granted or may be granted, any license, permission, or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut Street between its intersection with School Street and the railroad bridge at Needham Junction;

or take any other action relative thereto.

MOVED: That the Town vote to amend its General By-Laws by adding to Article II, Town Finance and Administration a new section as follows:

Section 22. Any person, firm, corporation, partnership, their agents and employees, who has been granted or may be granted, any license, permission, or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut Street between its intersection with School Street and the railroad bridge at Needham Junction;

Mr. Stanley R. Tippet, member, addressed this article on behalf of the Planning Board. Mr. H. Phillip Garrity, Jr., Chairman, Board of Selectmen, also spoke in favor of this proposal.

Mr. Gerald R. Browne, Town Meeting Member, expressed concern with this proposal indicating that there is "no free lunch". He advised that the surcharge continues for the life of the property. It is not a one-time charge. He also advised that the town's operating budget will increase.

A motion to postpone to a time certain, namely Monday next, to be the first business to come upon the floor when all other business then on the floor has been otherwise disposed was offered by Mr. H. Phillip Garrity, Jr.

Mr. Garrity's motion to postpone was presented and it carried by voice vote.

ARTICLE 31

To see if the Town will vote to amend the Zoning By-Law, Section 4.4, Dimensional Regulations for Business Districts, Subsection 4.4.3, Height Limitation, by changing the second sentence such that it shall read as follows (new language underlined):

"In addition, no building or structure which is located on property any portion of which lies within 360 feet of Chestnut Street shall exceed two and one-half (2-1/2) stories, including ground level covered or enclosed parking, no more than two (2) stories of which shall be occupied, nor shall the same exceed a total height of 35 feet."

or take any other action relative thereto.

MOVED: That the Town vote to amend the Zoning By-Law, Section 4.4, Dimensional Regulations for Business Districts, Subsection 4.4.3, Height Limitation, by changing the second sentence such that it shall read as follows (new language underlined):

"In addition, no building or structure which is located on property any portion of which lies within 360 feet of Chestnut Street shall exceed two and one-half (2-1/2) stories, including ground level covered or enclosed parking, no more than two (2) stories of which shall be occupied, nor shall the same exceed a total height of 35 feet."

Mrs. Joanne Hull Roth, member, addressed this proposal on behalf of the Planning Board. She advised that this article was passed at the 1987 Annual Town Meeting and basically is amended this year to allow a pitched roof.

ACTION: The main motion was presented and carried unanimously by voice vote.

ARTICLE 32

To see if the Town will vote to amend the Zoning By-Law, Section 7.3, Occupancy Permit, Subsection 7.3.2, by inserting the words "or Planning Board" towards the end, such that it shall read as follows (new language underlined):

"An occupancy permit shall be conditional on the maintenance of full compliance with the provisions of this By-Law in effect at the time of issuance or with restrictions imposed in a decision of the Board of Appeals or Planning Board and shall lapse if such compliance fails."

or take any other action relative thereto.

MOVED: That the Town vote to amend the Zoning By-Law, Section 7.3, Occupancy Permit, Subsection 7.3.2, by inserting the words "or Planning Board" towards the end, such that it shall read as follows (new language underlined):

"An occupancy permit shall be conditional on the maintenance of full compliance with the provisions of this By-Law in effect at the time of issuance or with restrictions imposed in a decision of the Board of Appeals or Planning Board and shall lapse if such compliance fails."

Mrs. Joanne Hull Roth, member, addressed this proposal on behalf of the Planning Board.

ACTION: The main motion was presented and carried unanimously by voice vote.

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