

NEEDHAM PLANNING BOARD

Tuesday, December 19, 2023

7:00 p.m.

Virtual Meeting using Zoom

Meeting ID: **880 4672 5264**

(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **880 4672 5264**

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Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **880 4672 5264**

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. ANR Plan – Brendon – Mota LLC, Petitioner, (Property located at 543 Greendale Avenue, Needham, MA).
2. Decision: De Minimus Change: Major Project Site Plan Review Special Permit No. 1998-11: 117 Kendrick DE, LLC, 116 Huntington Ave, #600, Boston, MA, 02116, Petitioner, (Property located at 117 Kendrick Street, Needham, MA.)
3. Decision: Major Project Site Plan Special Permit No. 2023-03: Neehigh LLC, 93 Union Street, Suite 315, Newton Center, Petitioner. (Property located at 629-661 Highland Avenue, Needham, Massachusetts). Regarding request to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) spaces.
4. Discussion of Zoning Strategies for Solar Energy Systems.
5. Minutes.
6. Report from Planning Director and Board members.
7. Correspondence.

(Items for which a specific time has not been assigned may be taken out of order.)

TOWN OF NEEDHAM
MASSACHUSETTS



PLANNING BOARD

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

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL

Submit three (3) copies. One copy to be filed with the Planning Board and one with the Town Clerk as required by Section 81-P, Chapter 41 of the General Laws. This application must be accompanied by the **Original Tracing** and **three (3) copies of the plan**.

To the Planning Board:

The undersigned, believing that the accompanying plan of land in the Town of Needham does not constitute a subdivision within the meaning of the Subdivision Control Law, for the reasons outlined below, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

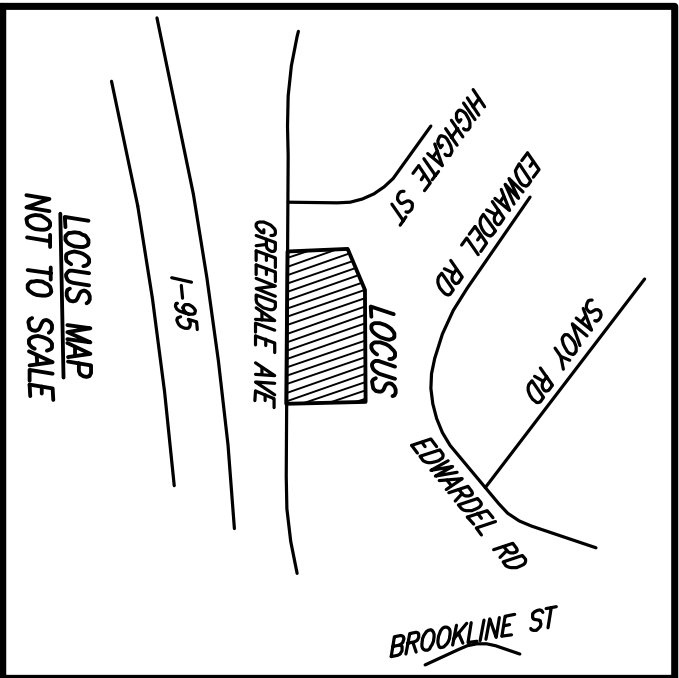
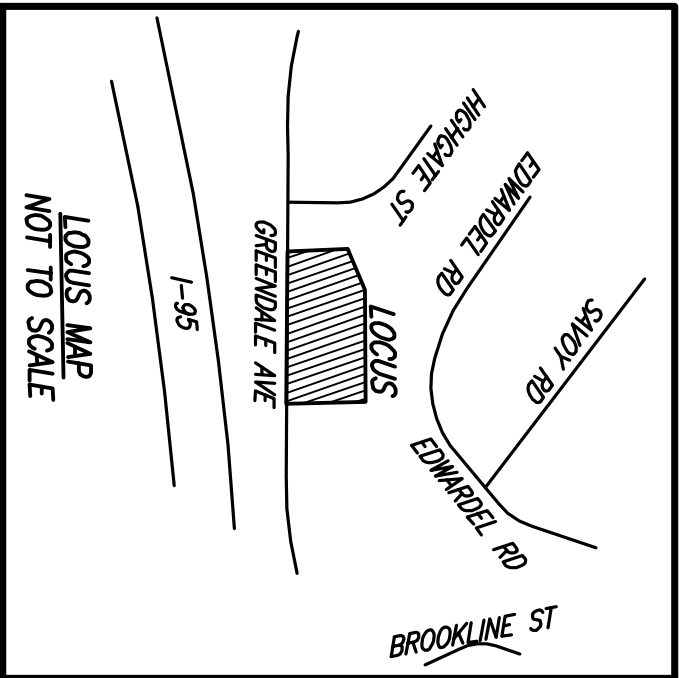
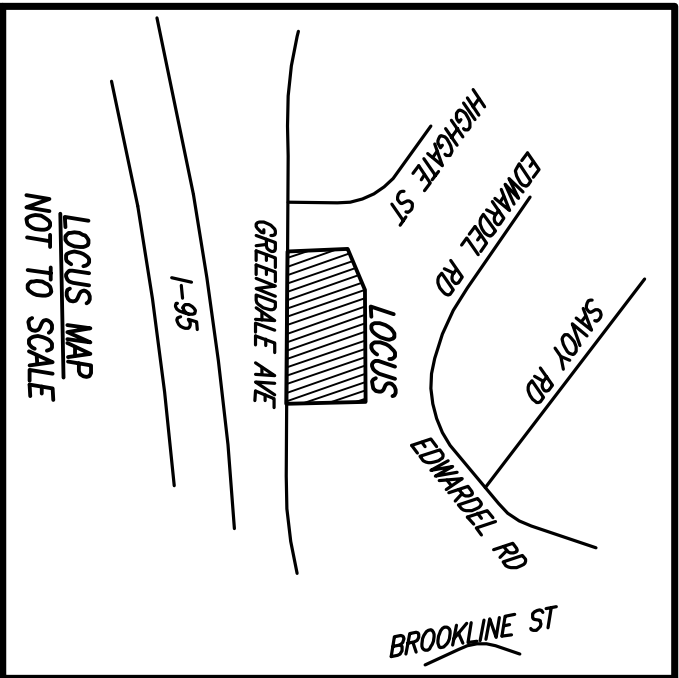
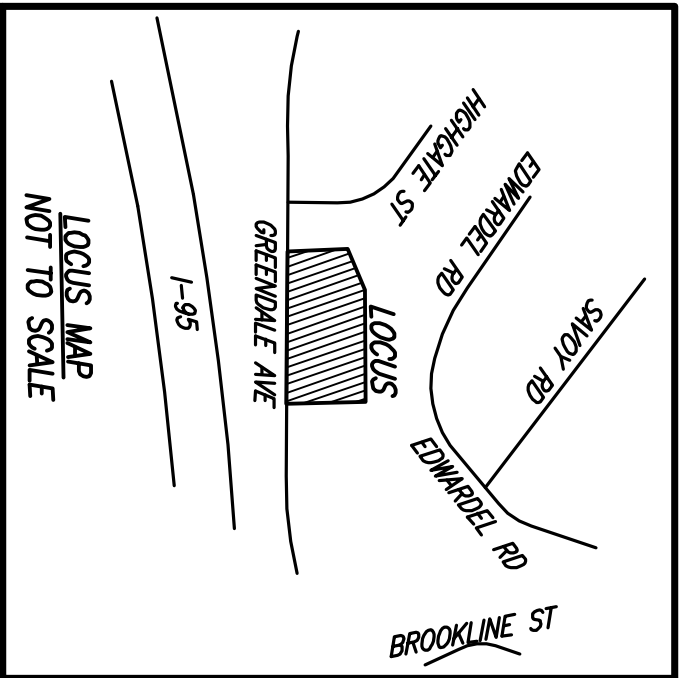
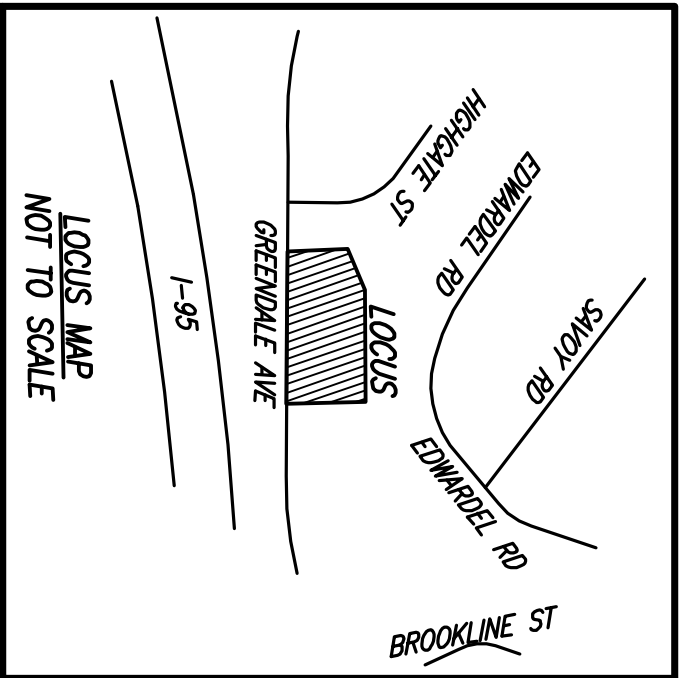
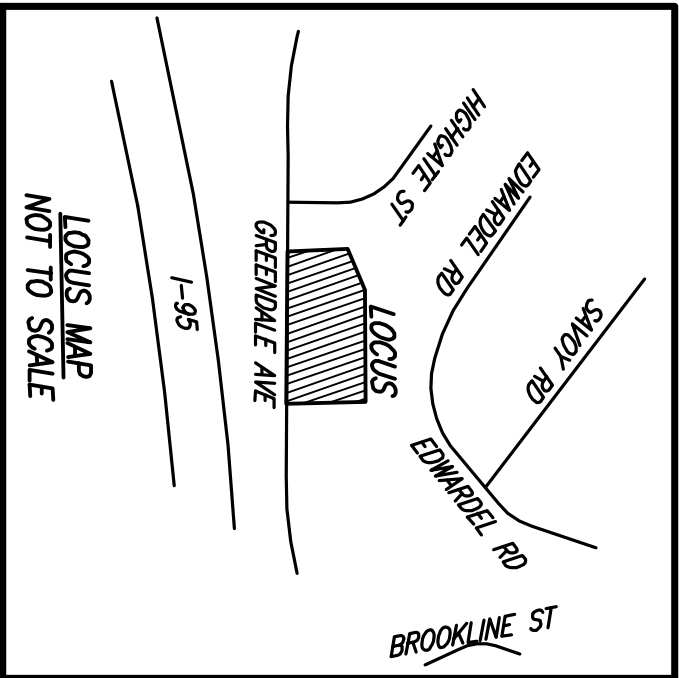
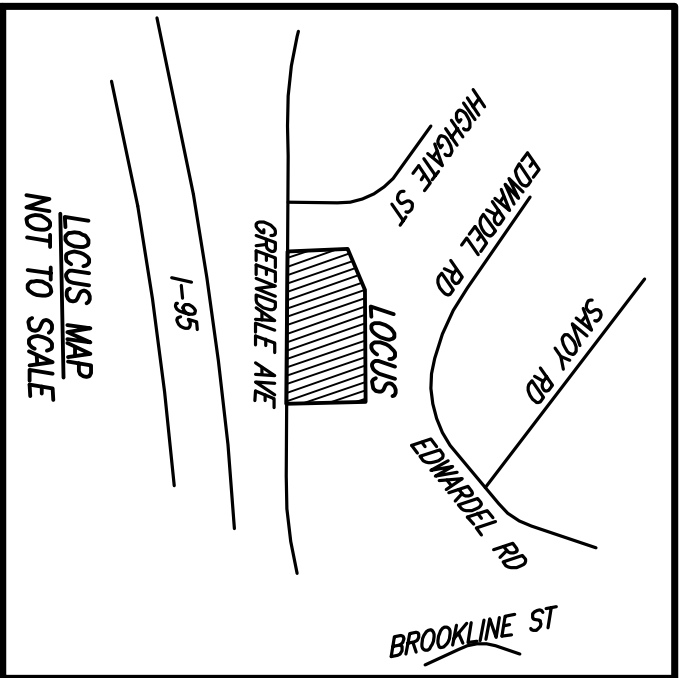
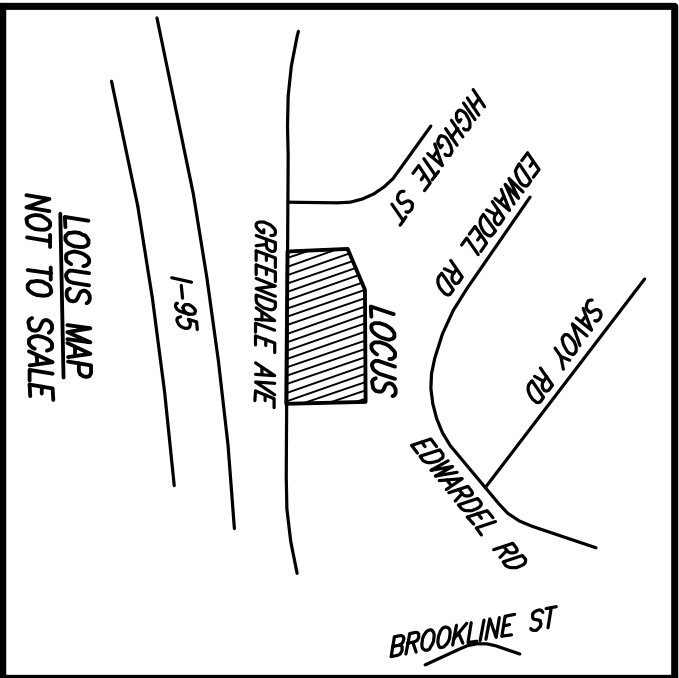
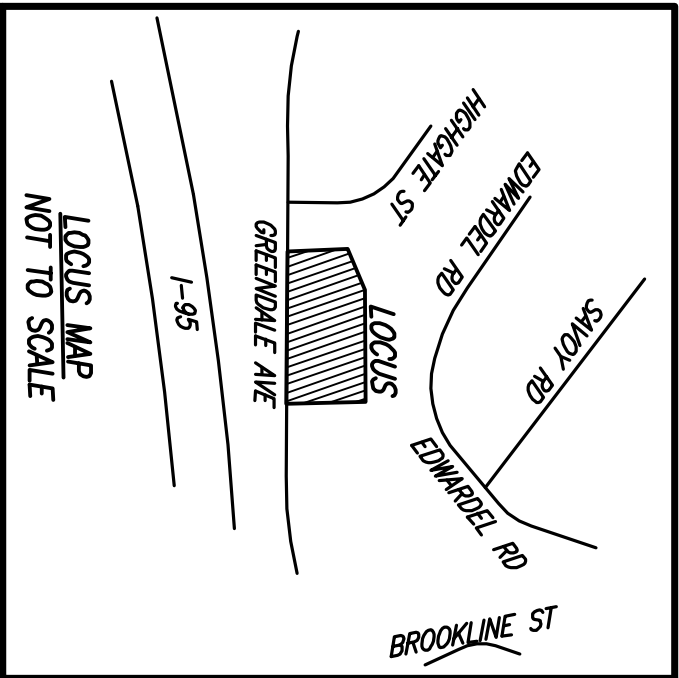
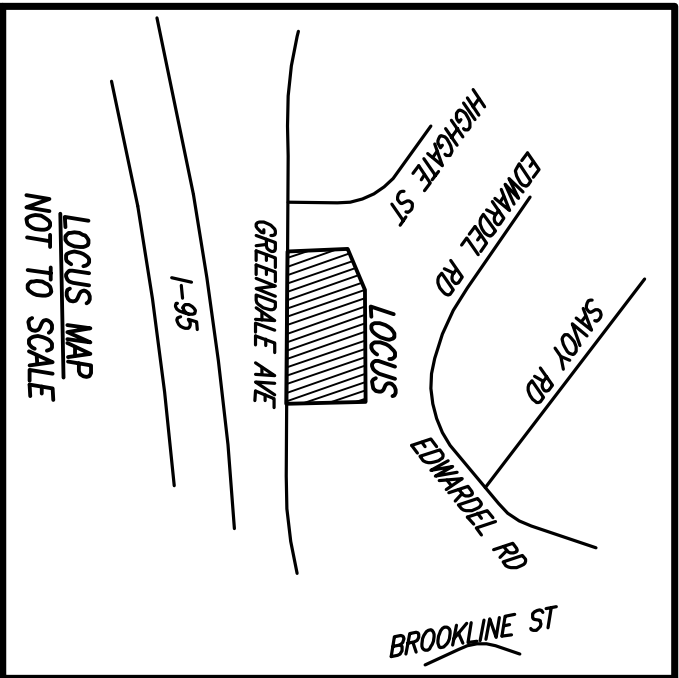
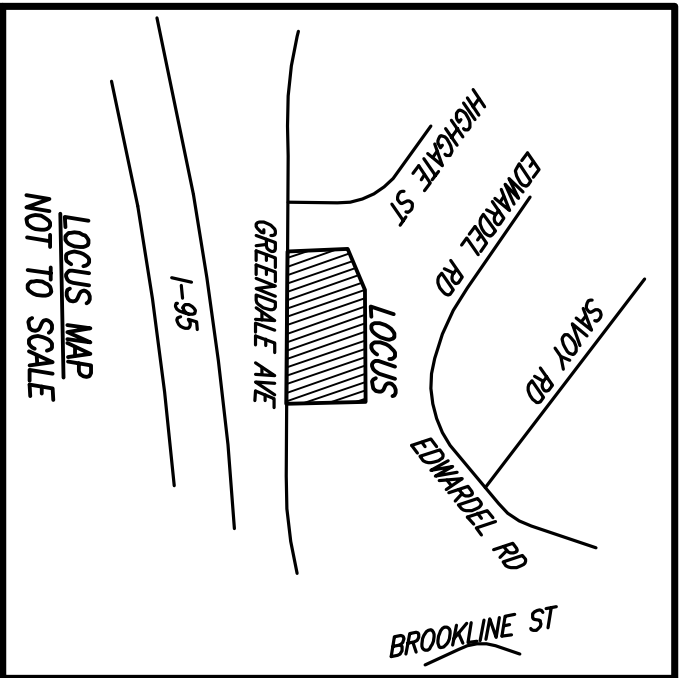
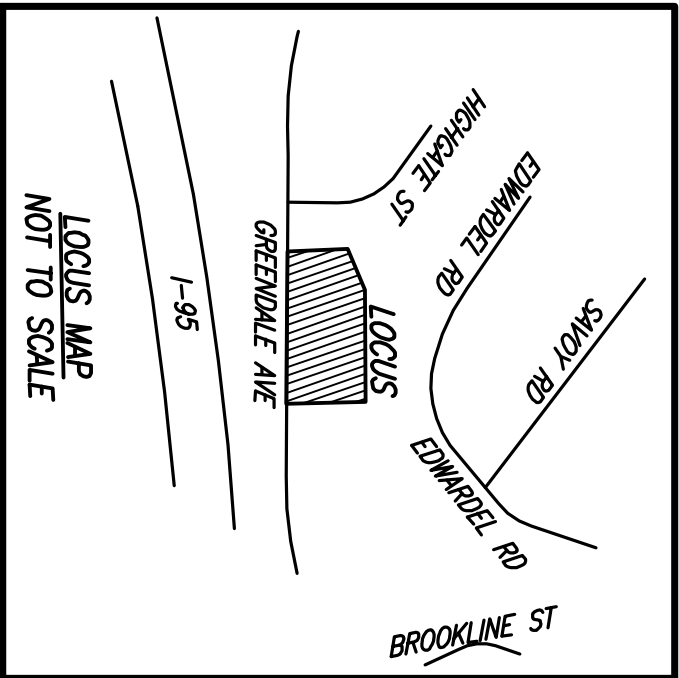
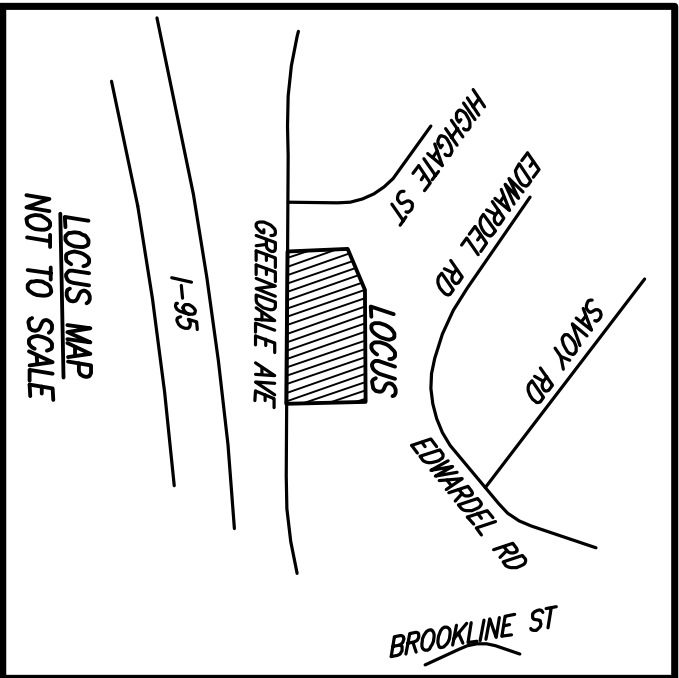
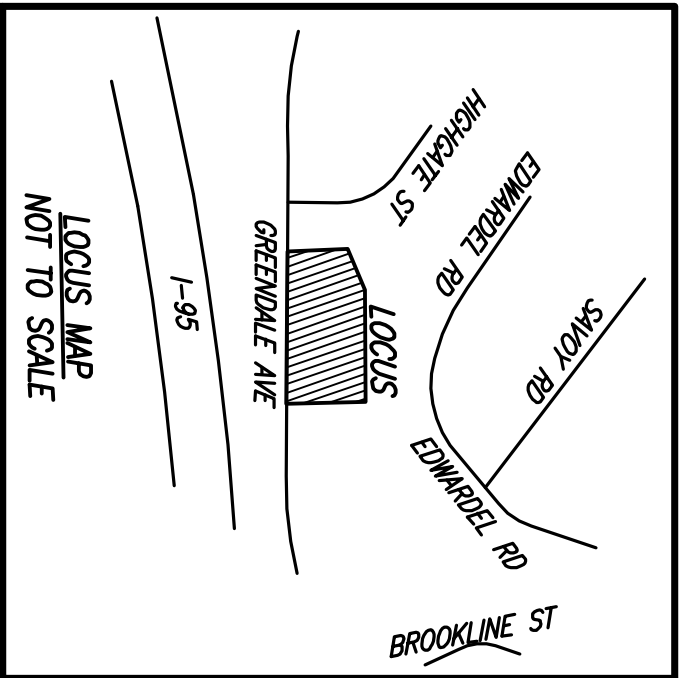
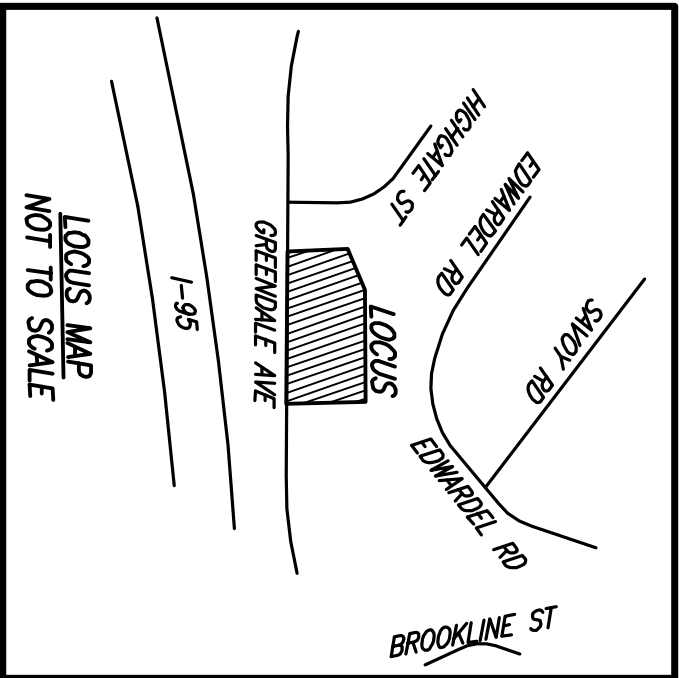
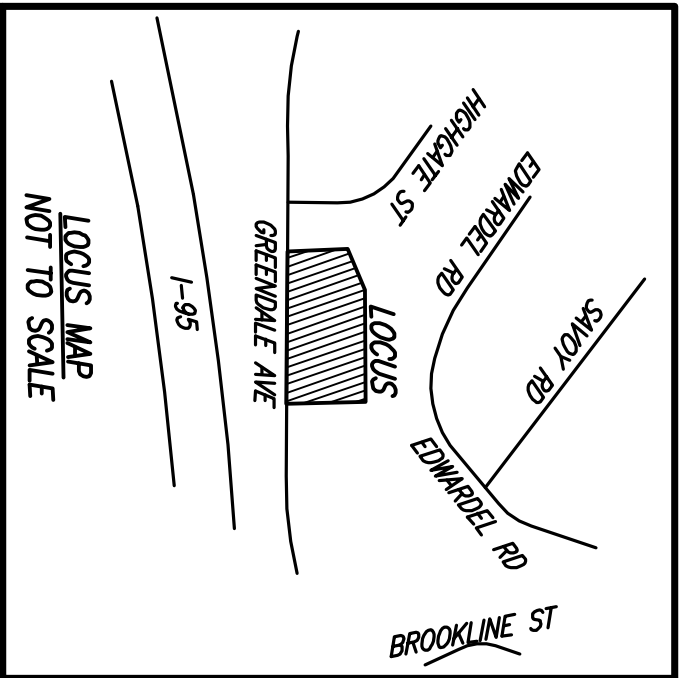
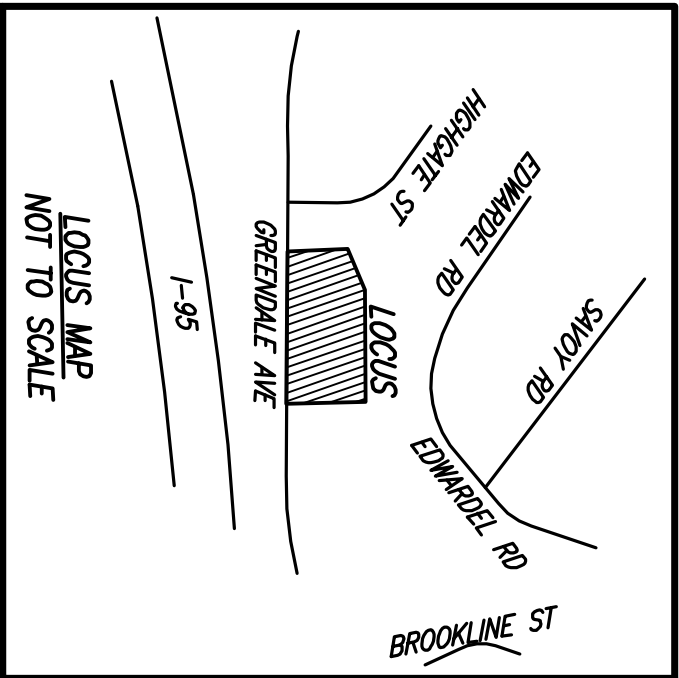
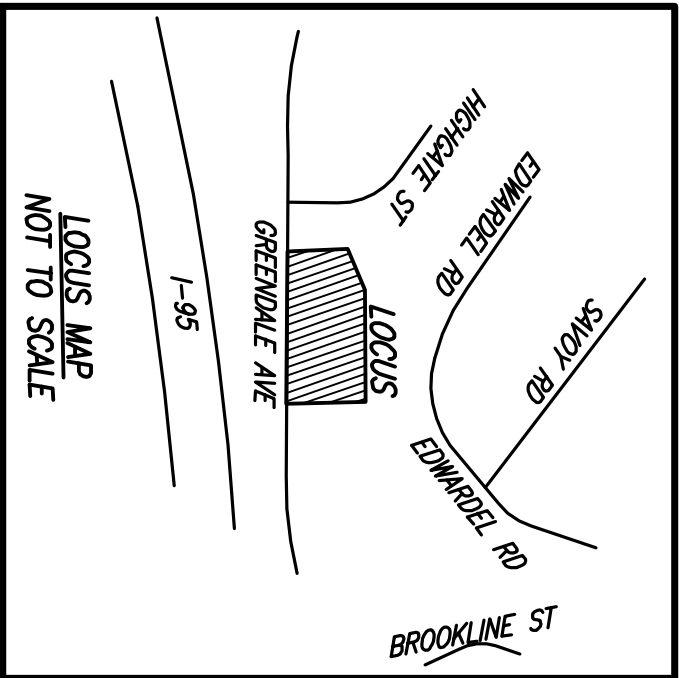
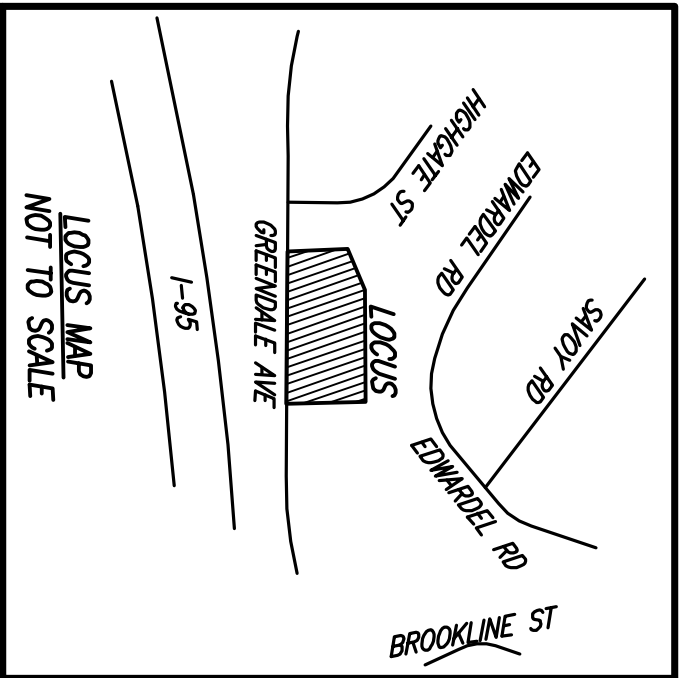
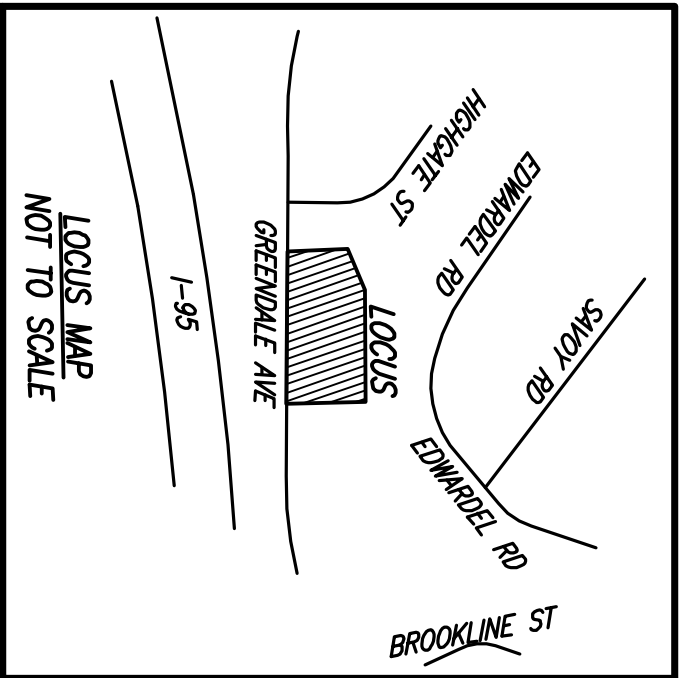
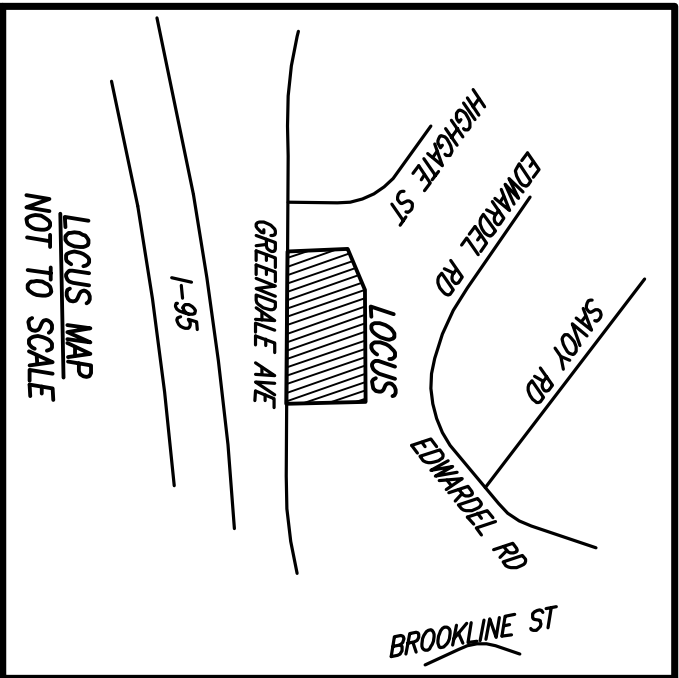
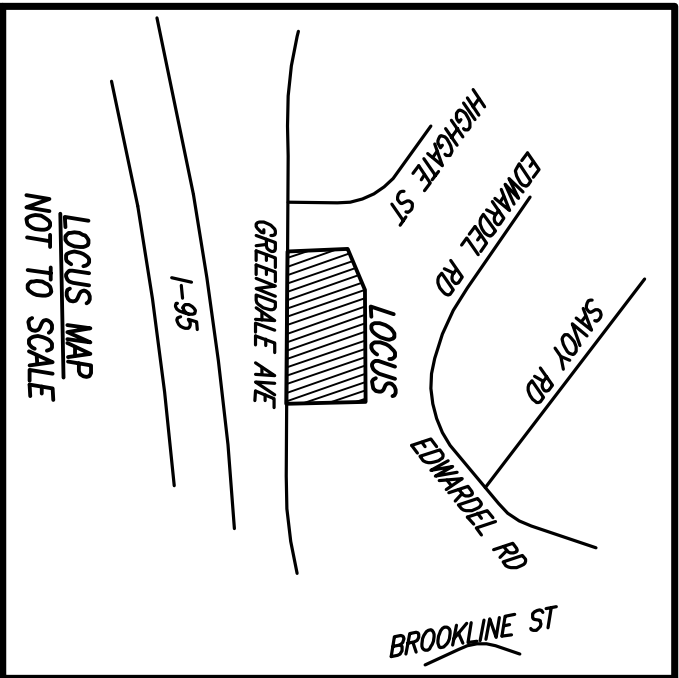
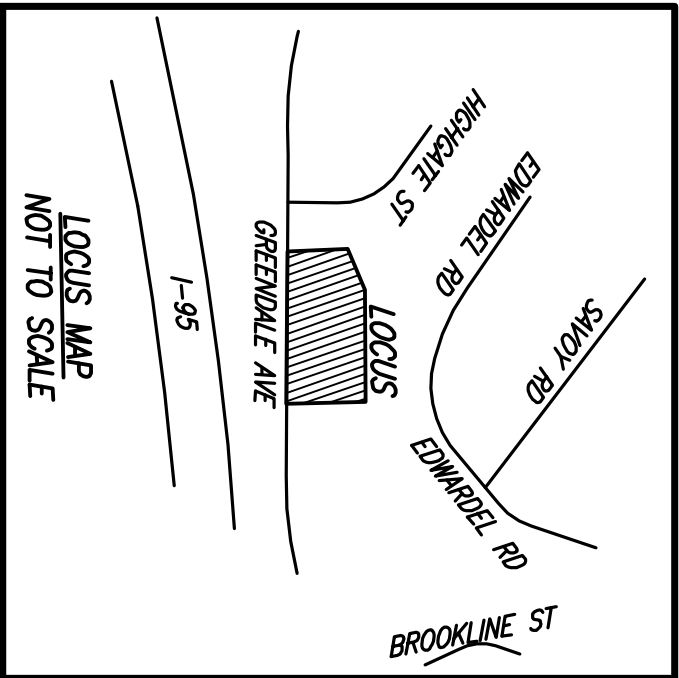
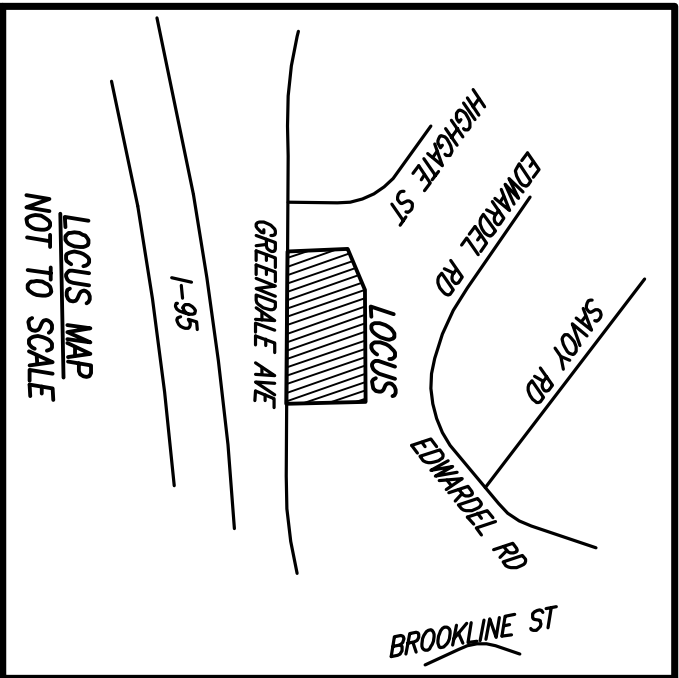
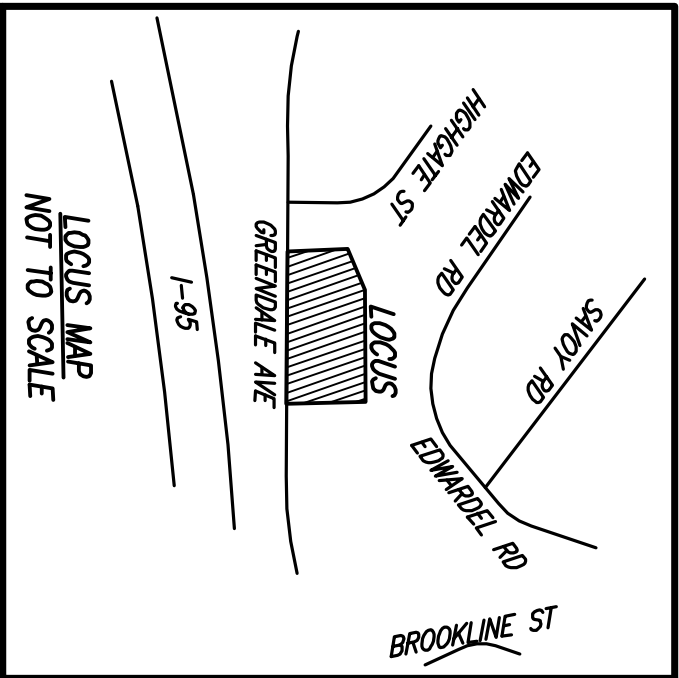
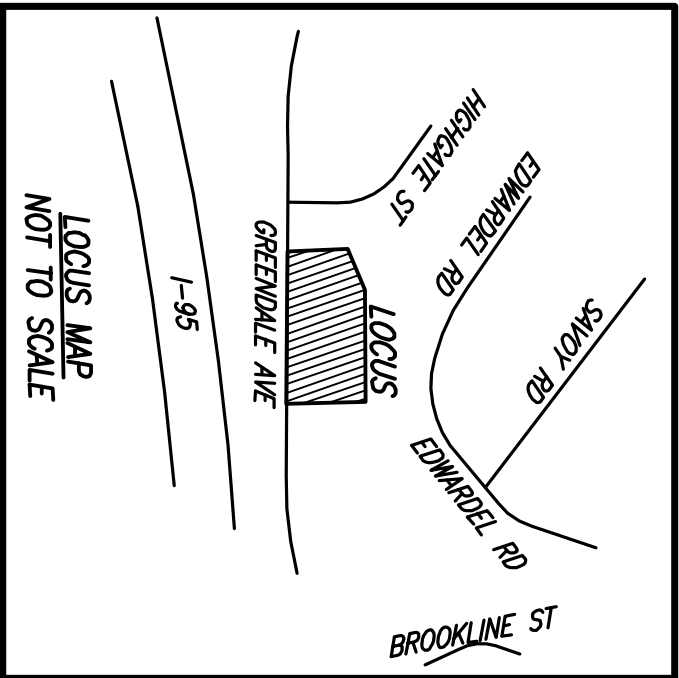
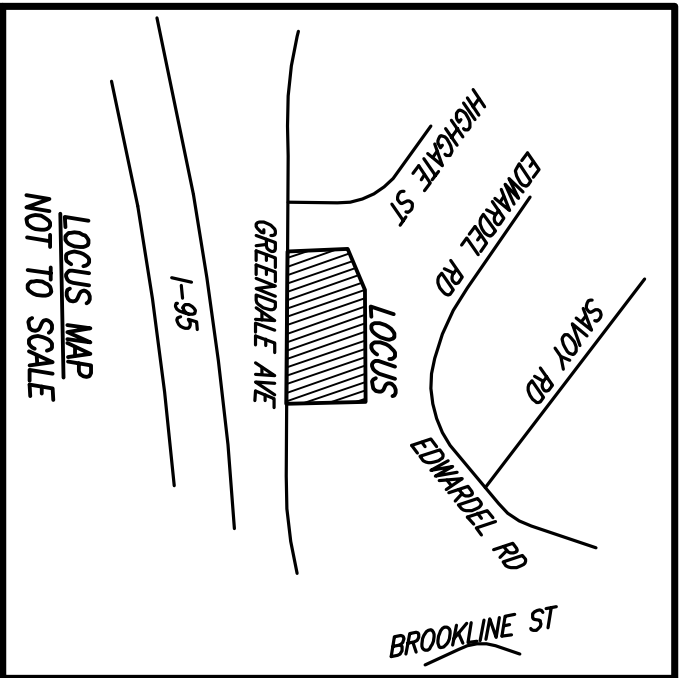
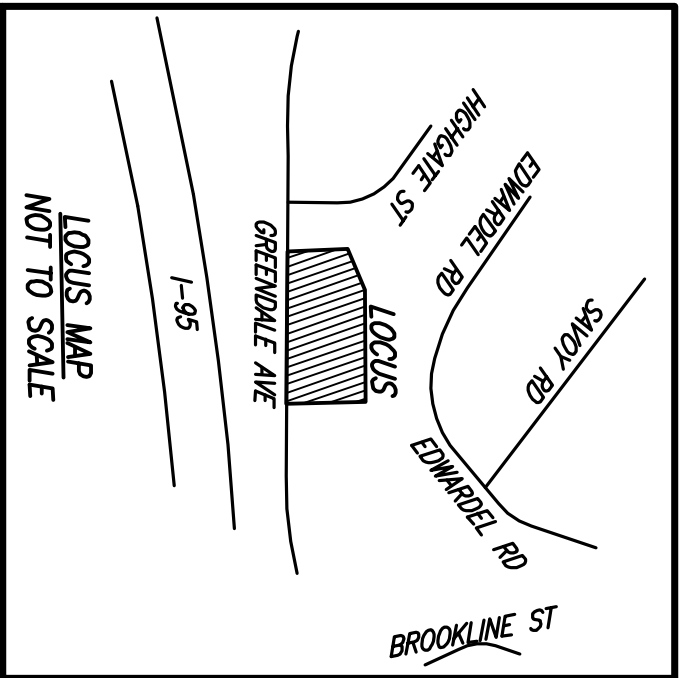
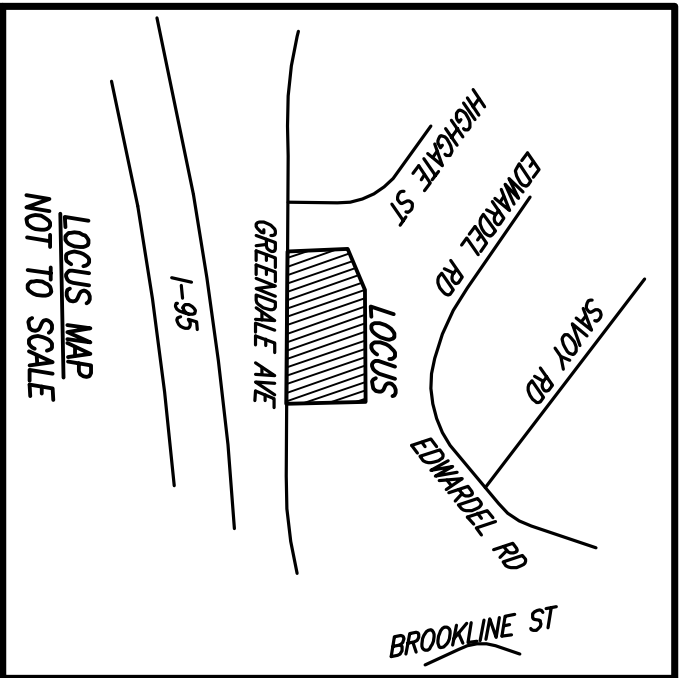
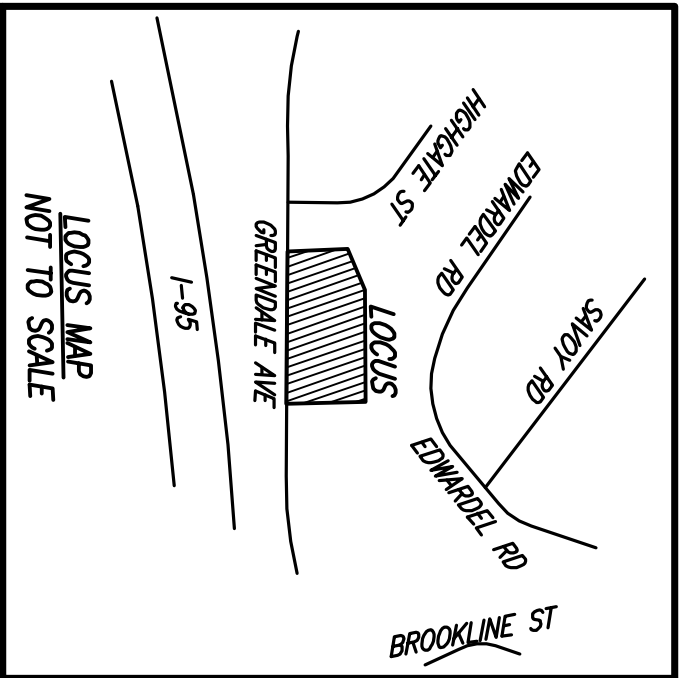
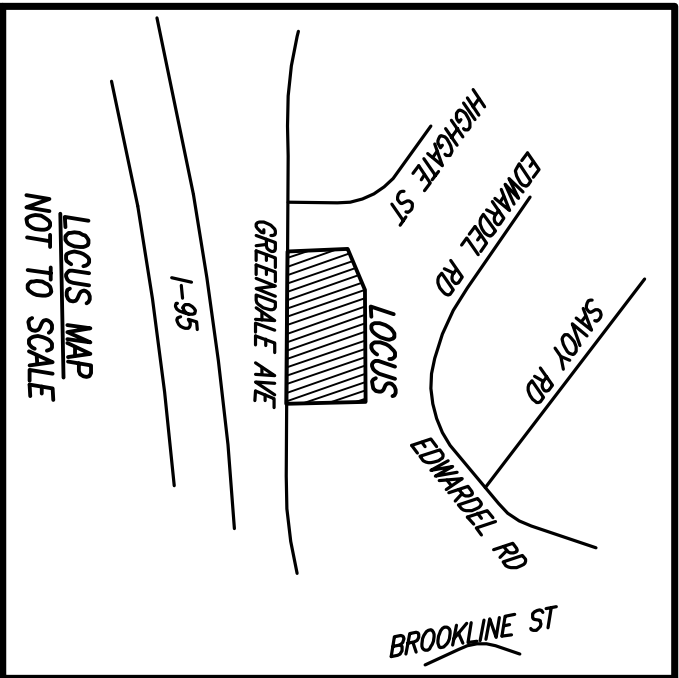
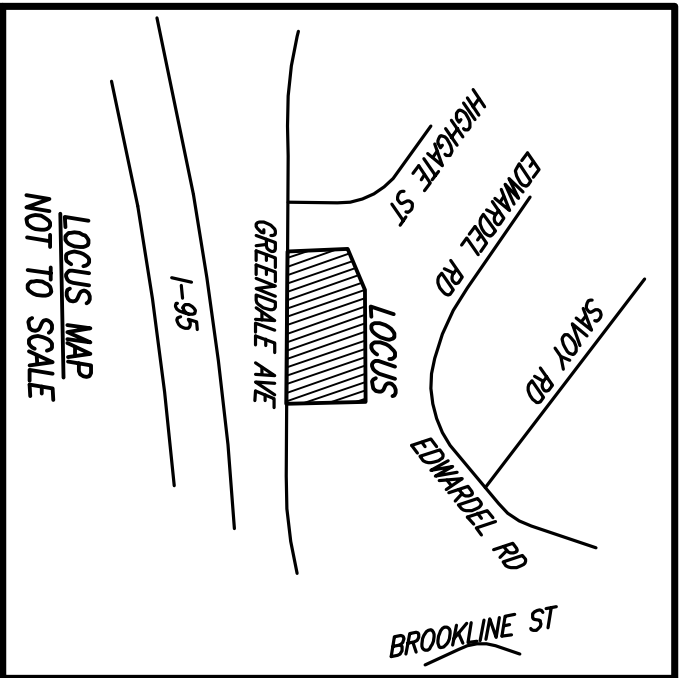
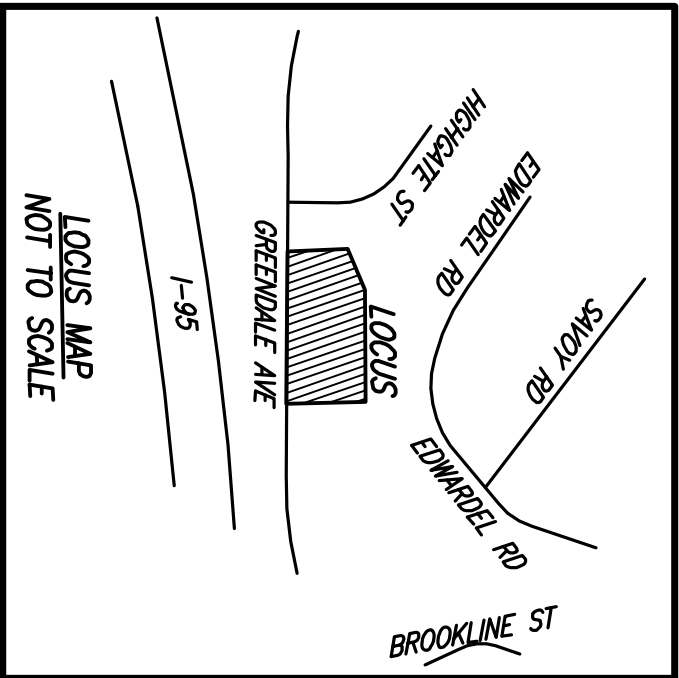
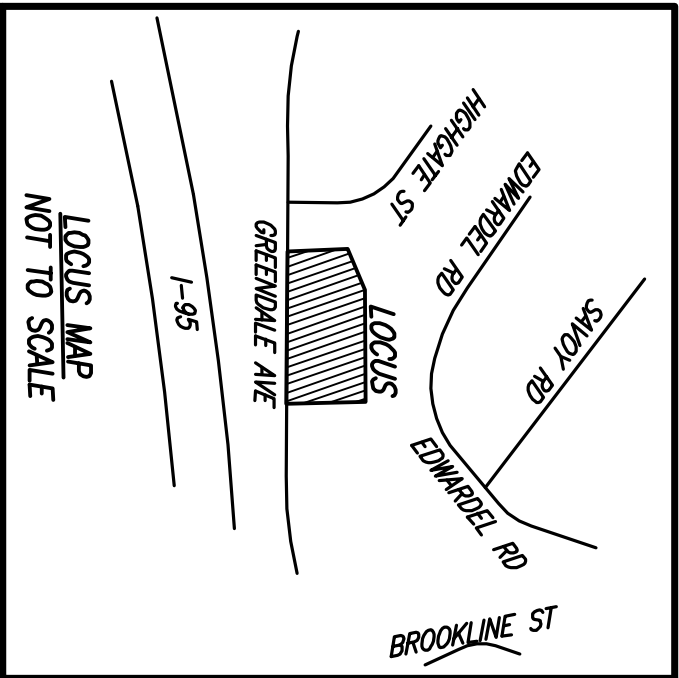
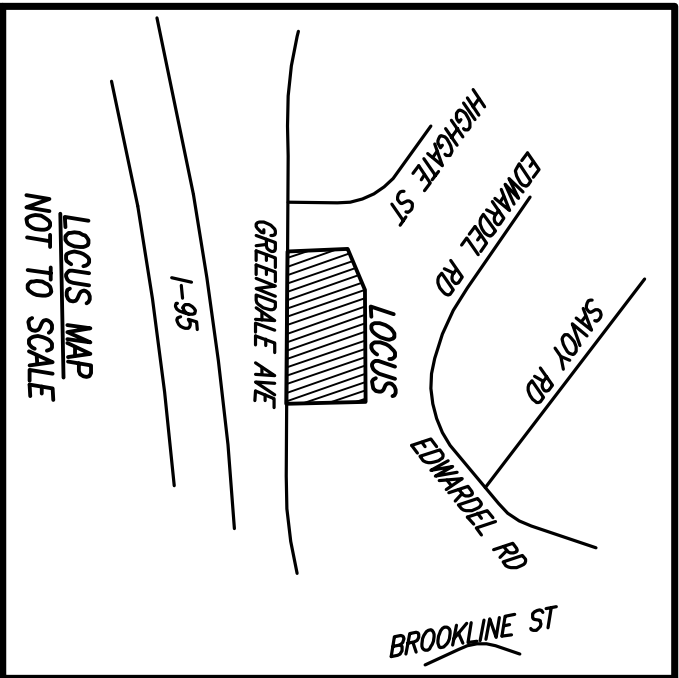
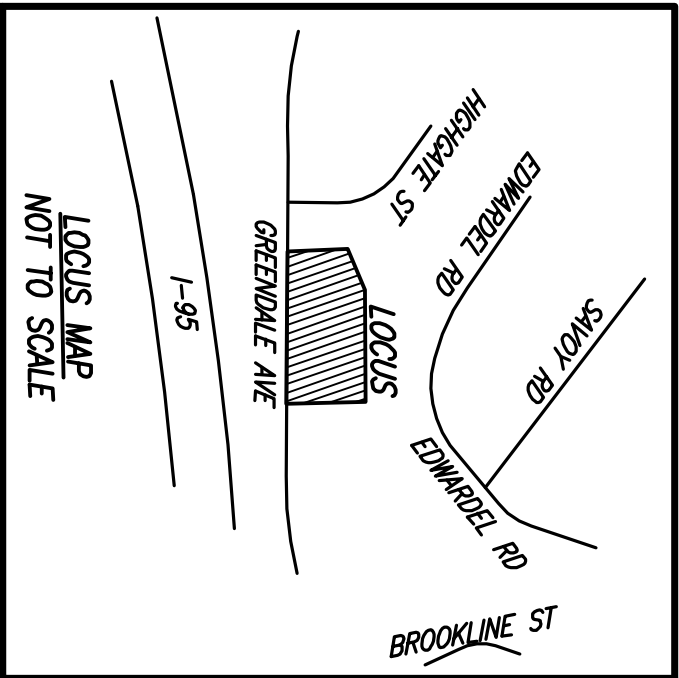
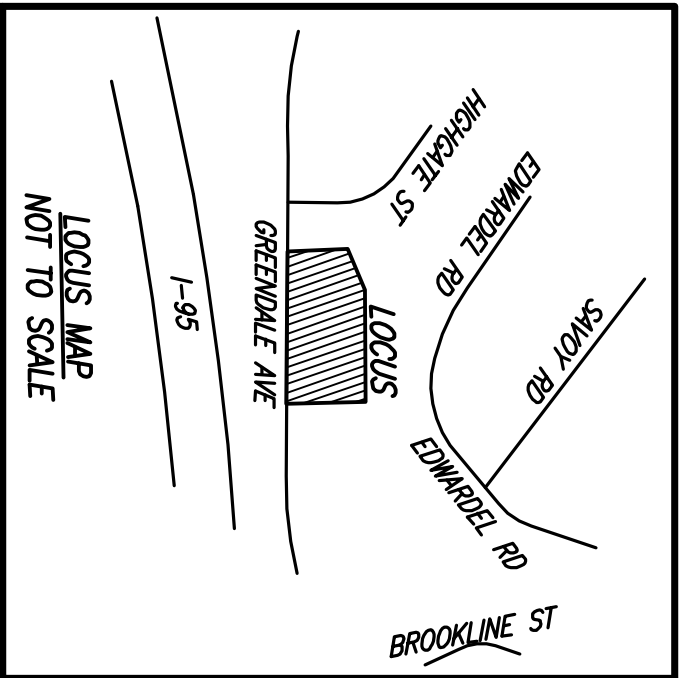
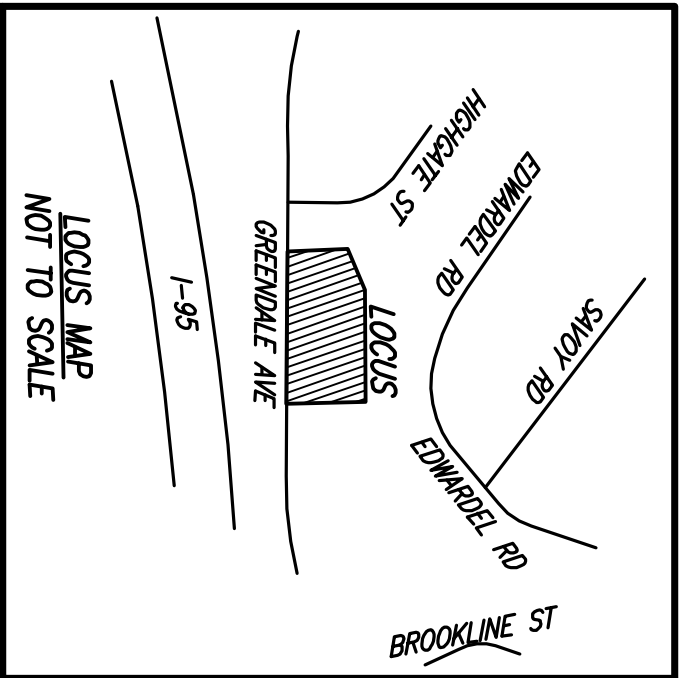
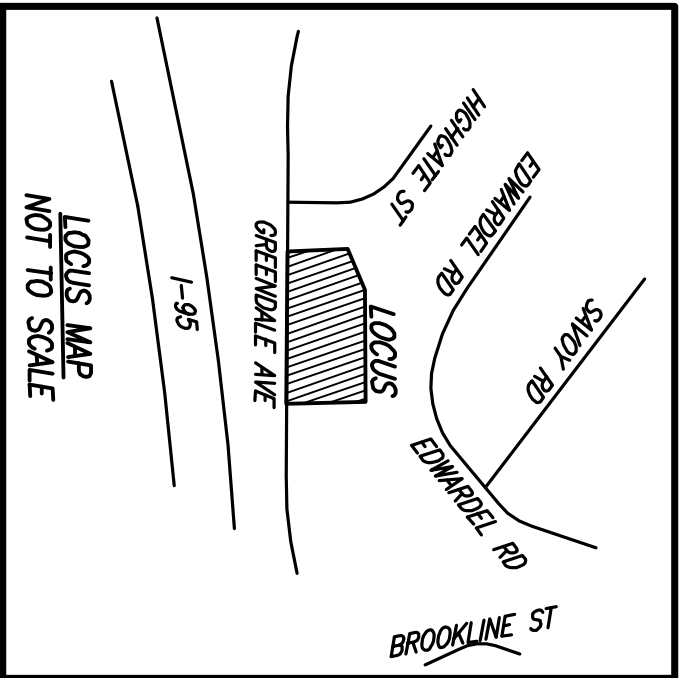
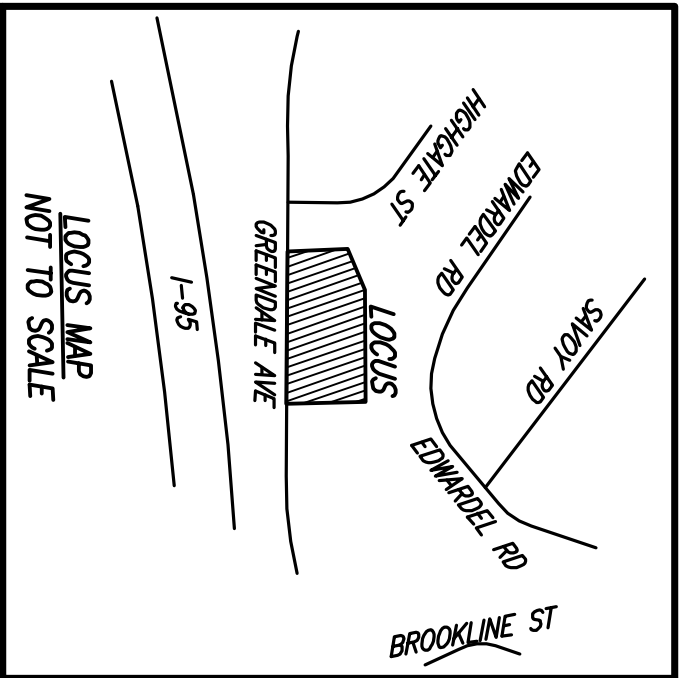
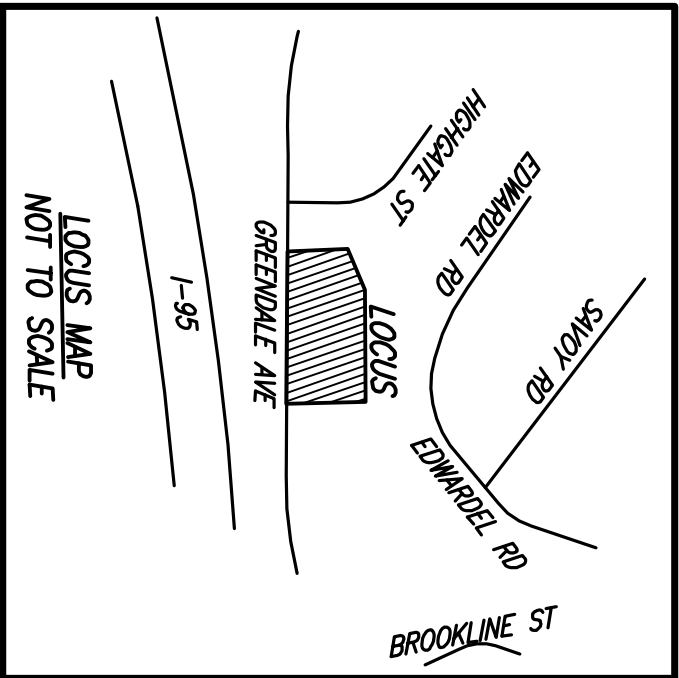
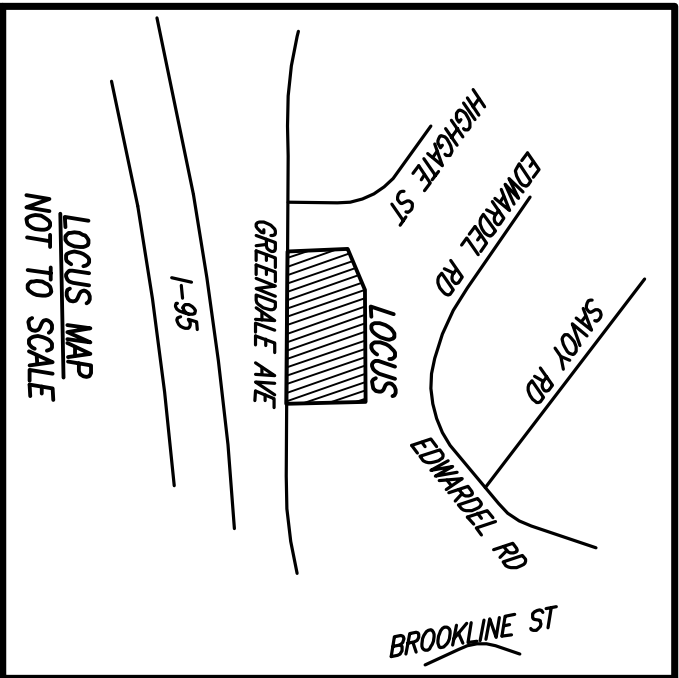
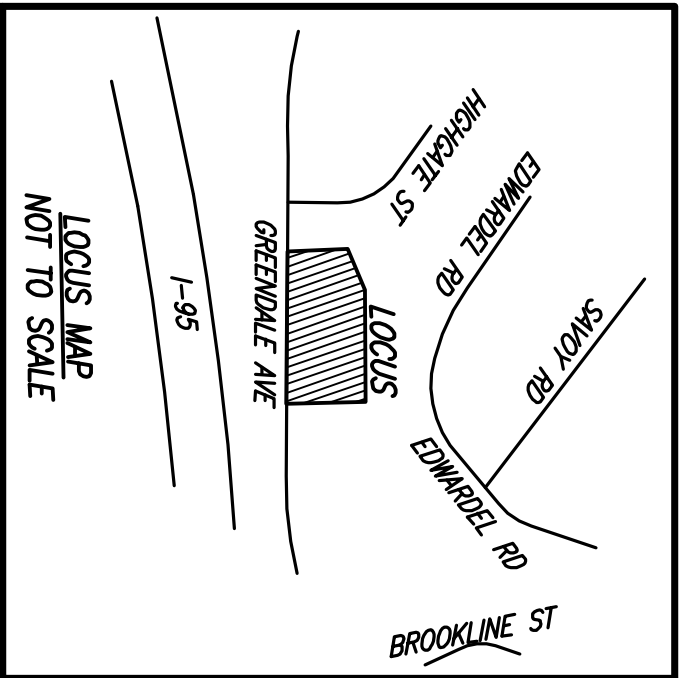
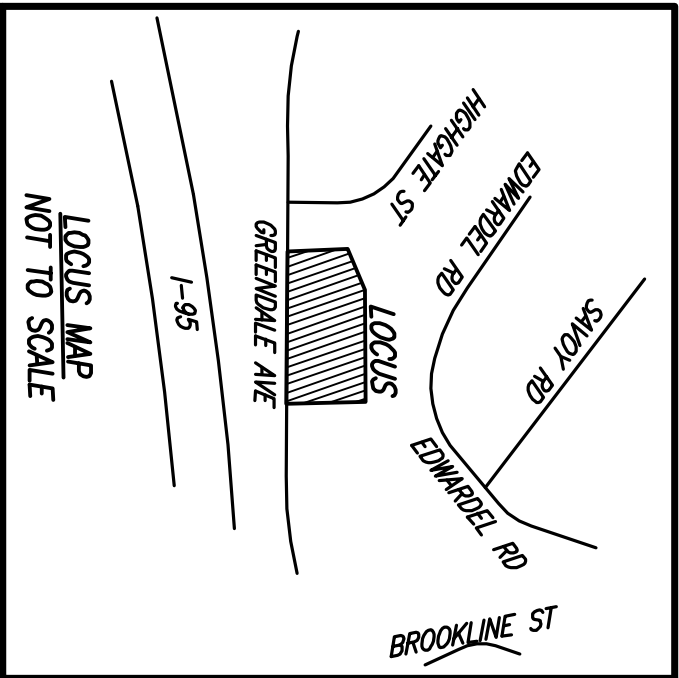
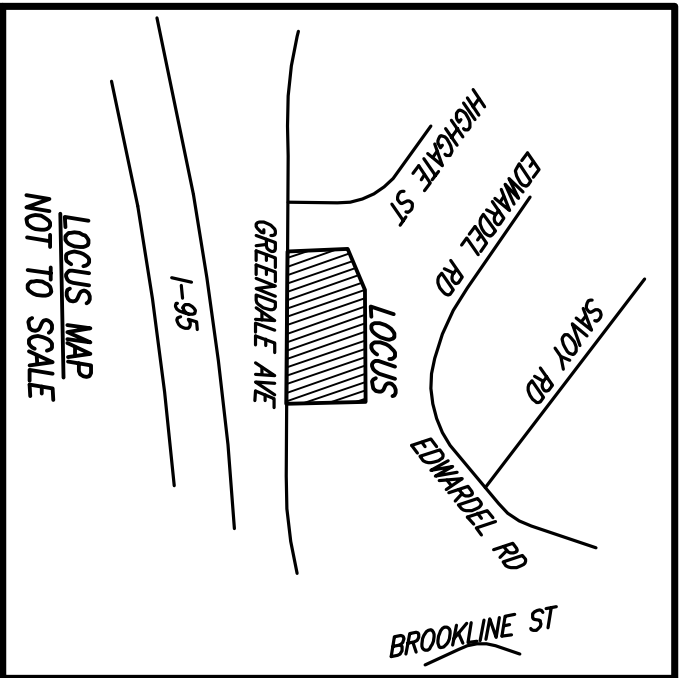
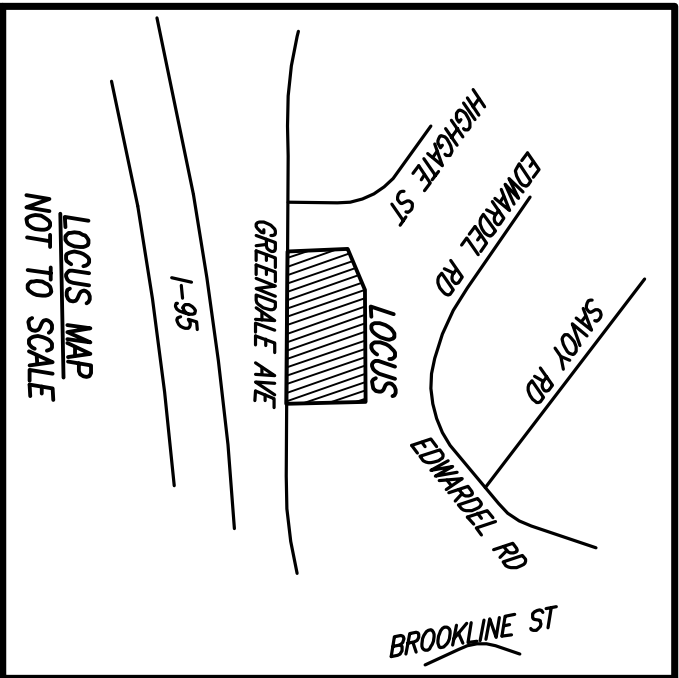
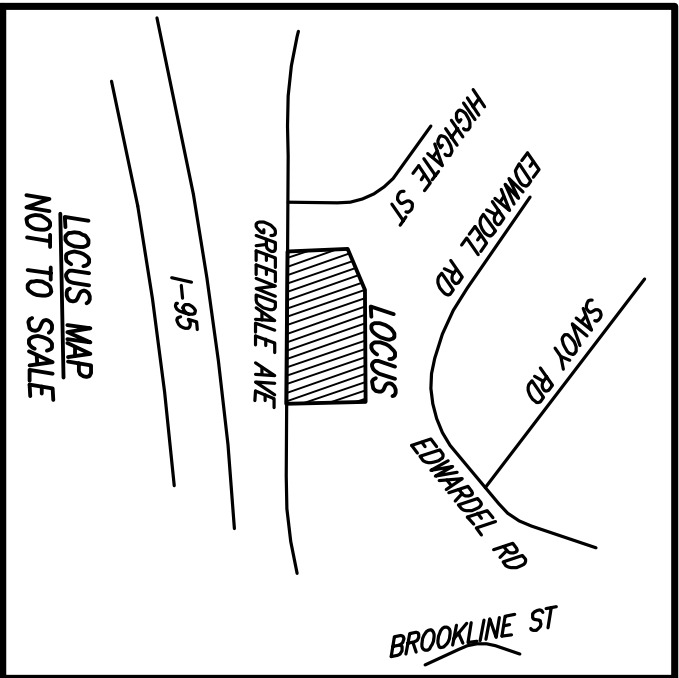
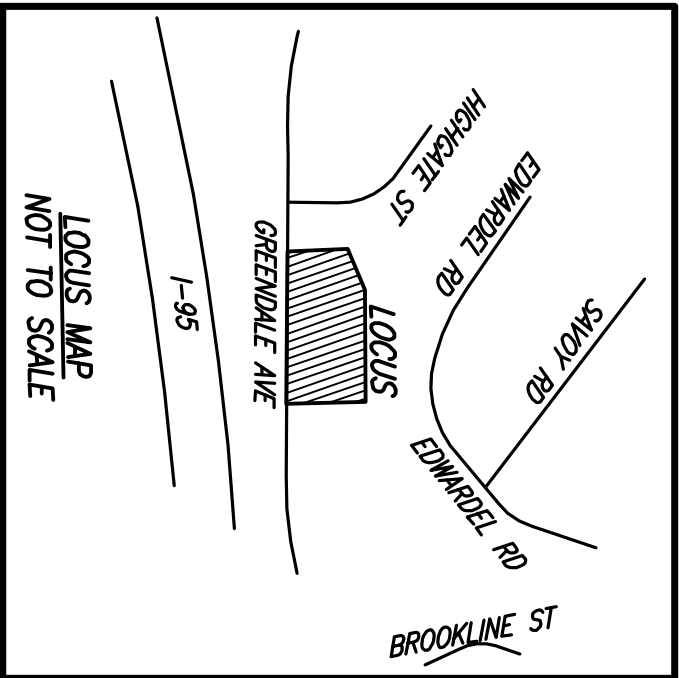
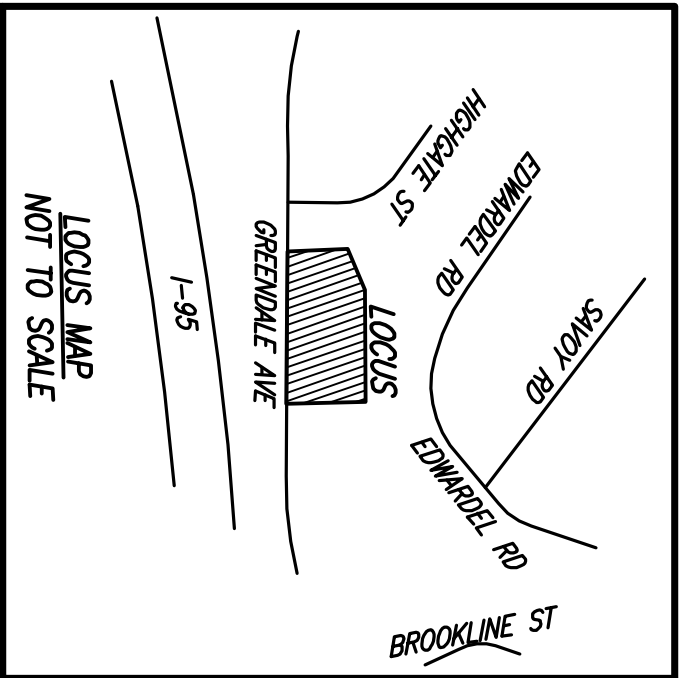
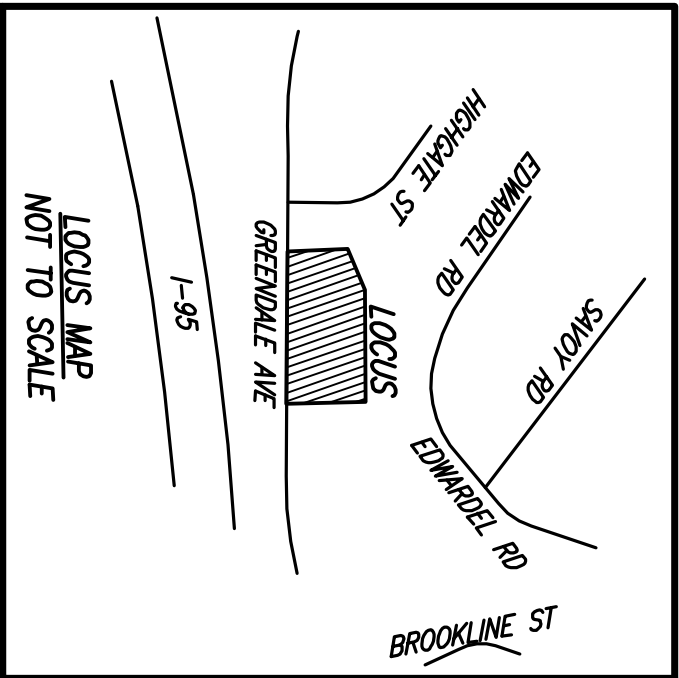
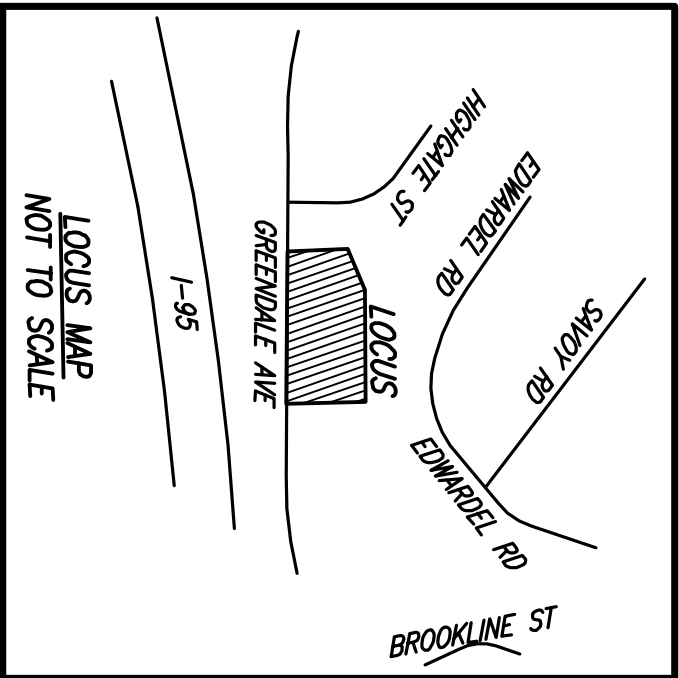
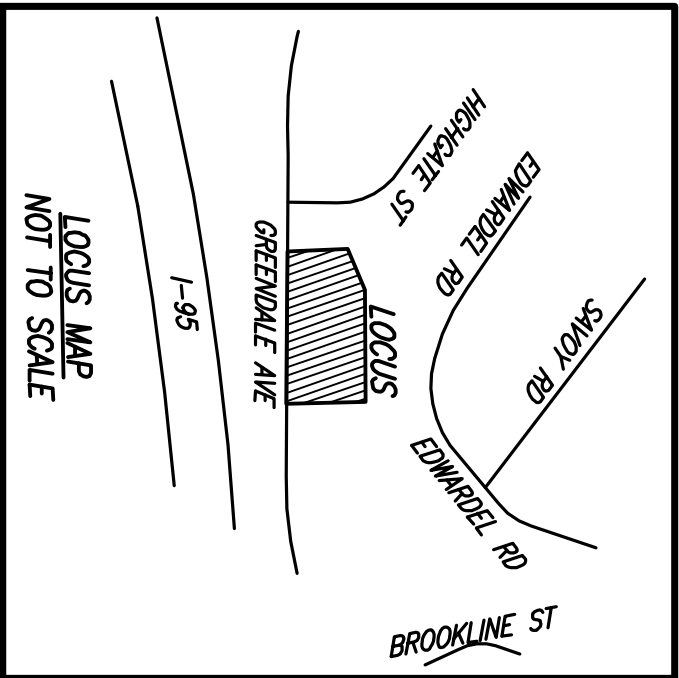
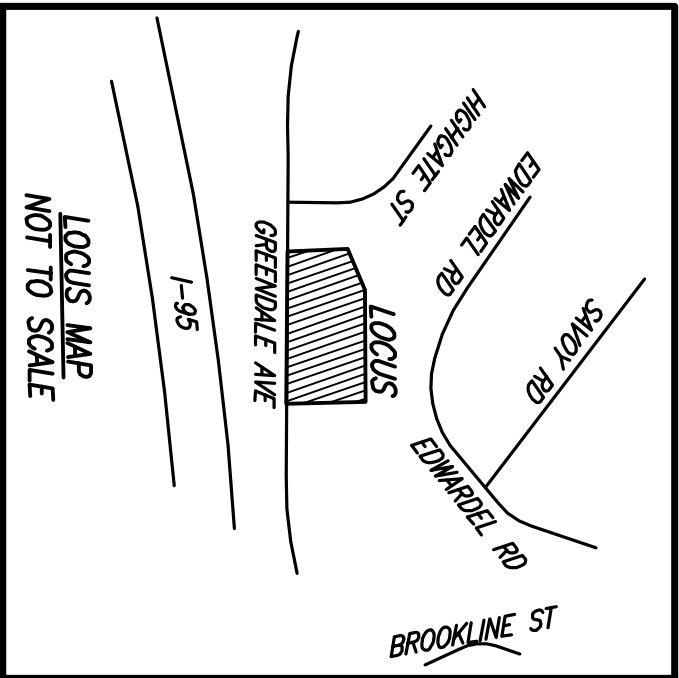
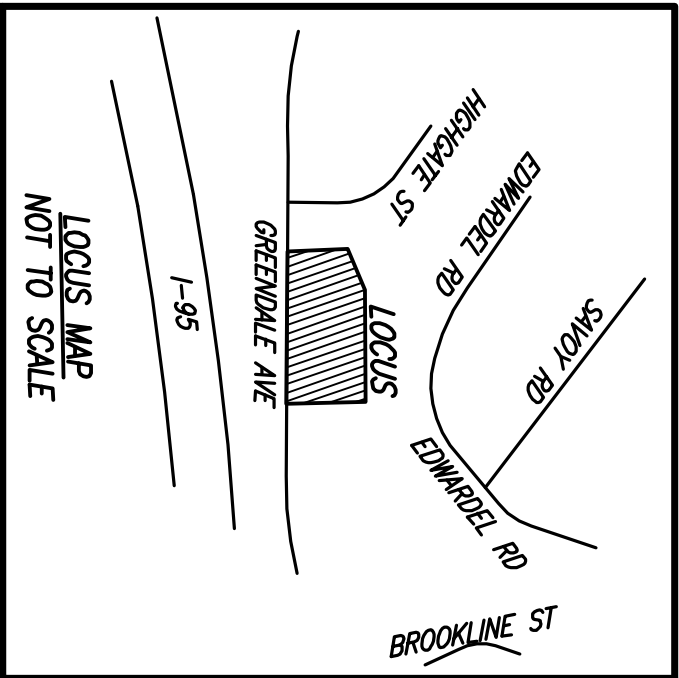
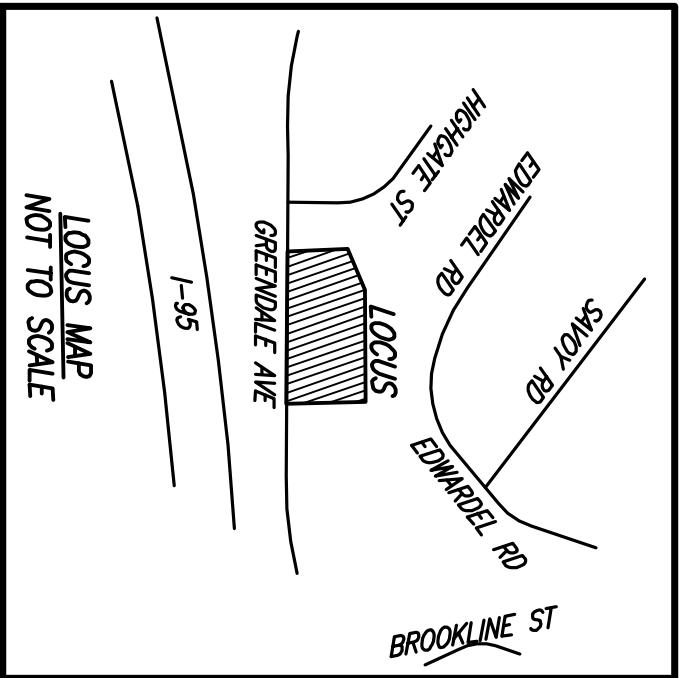
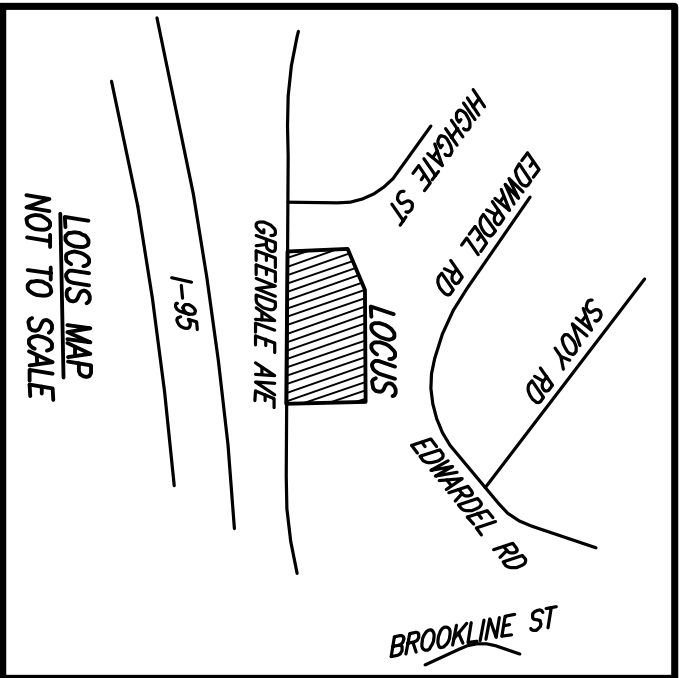
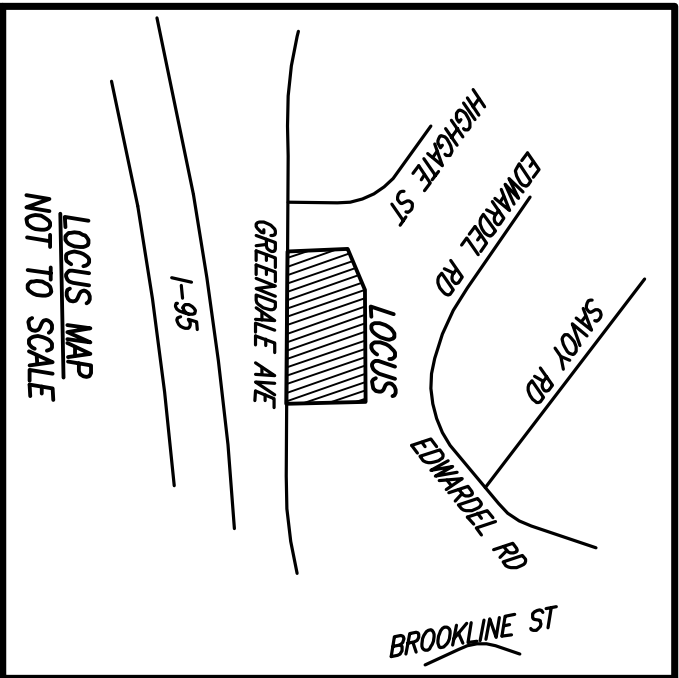
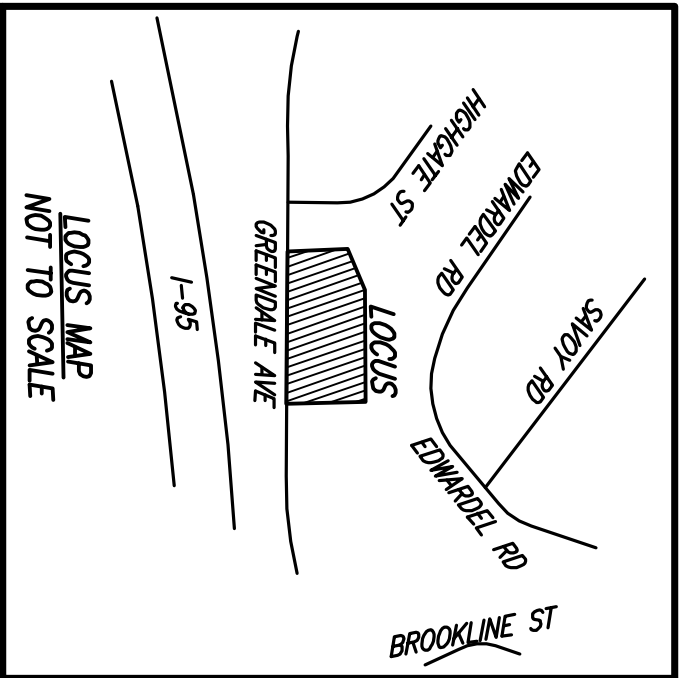
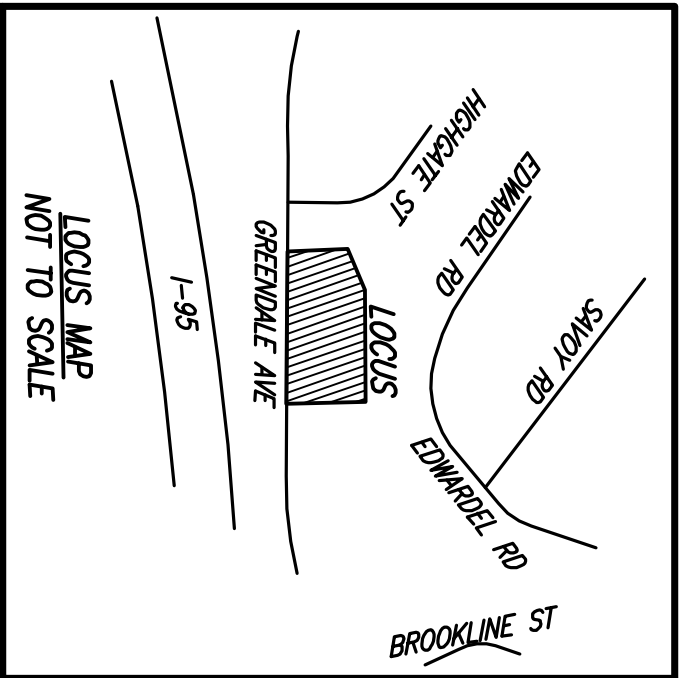
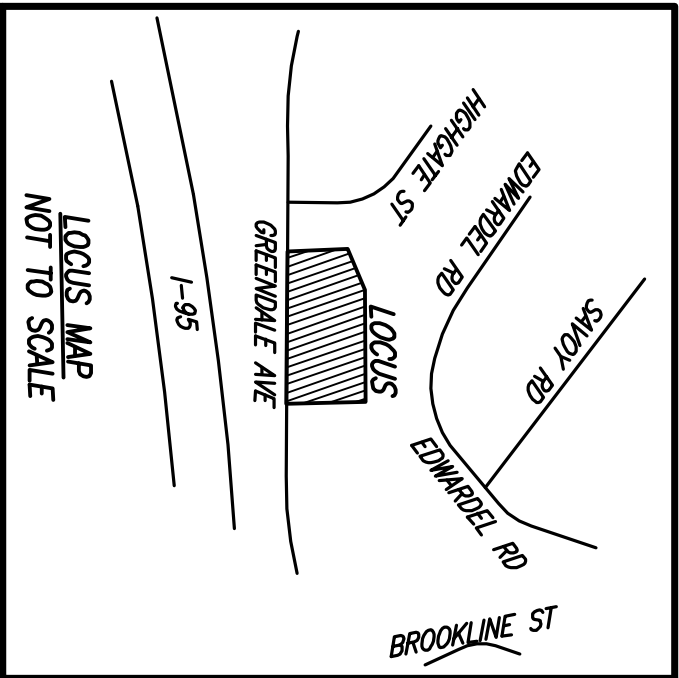
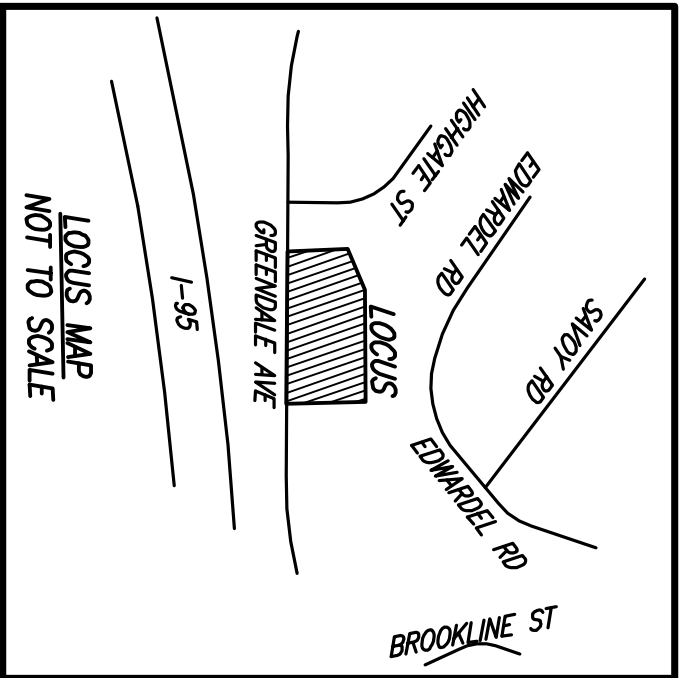
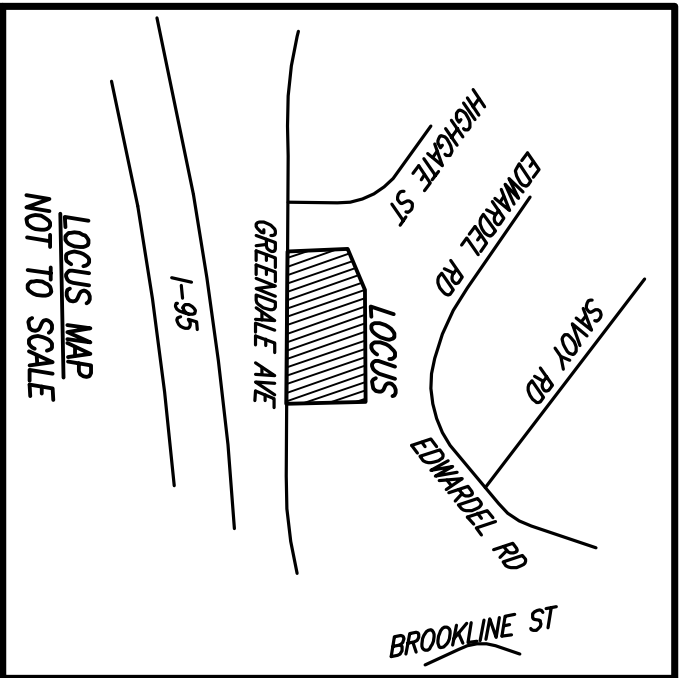
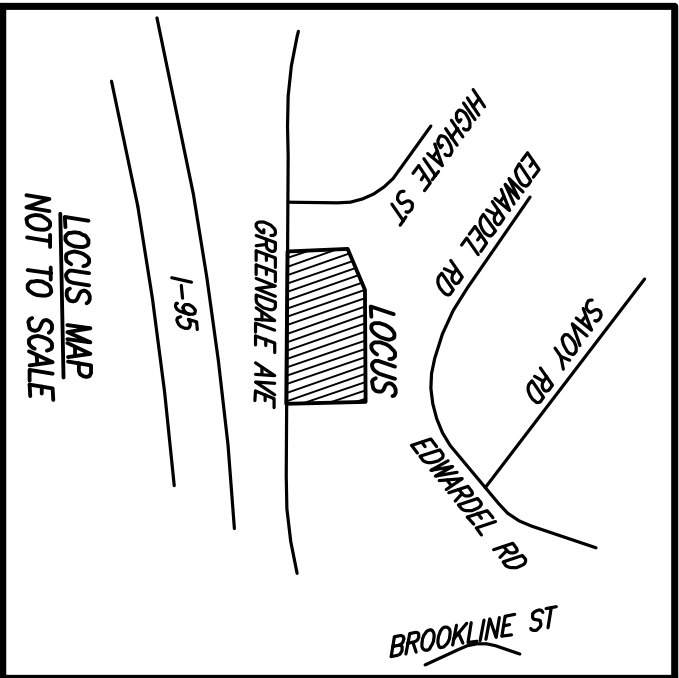
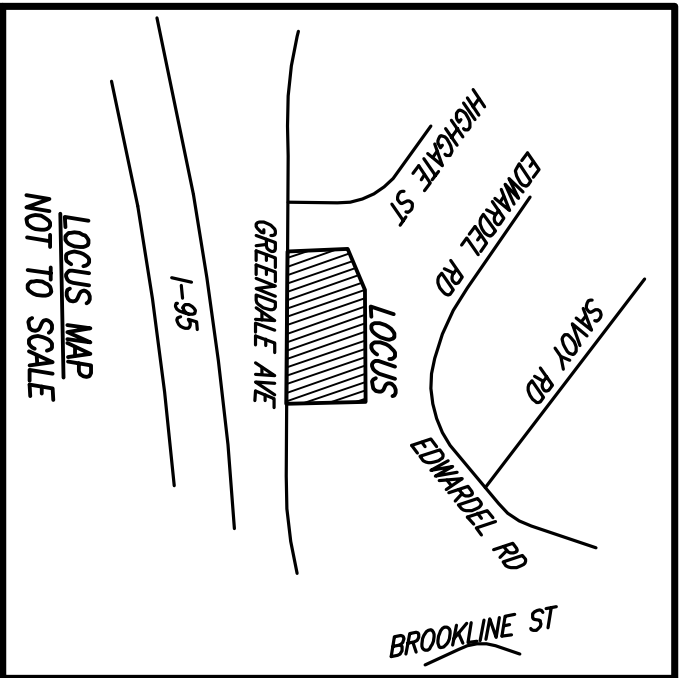
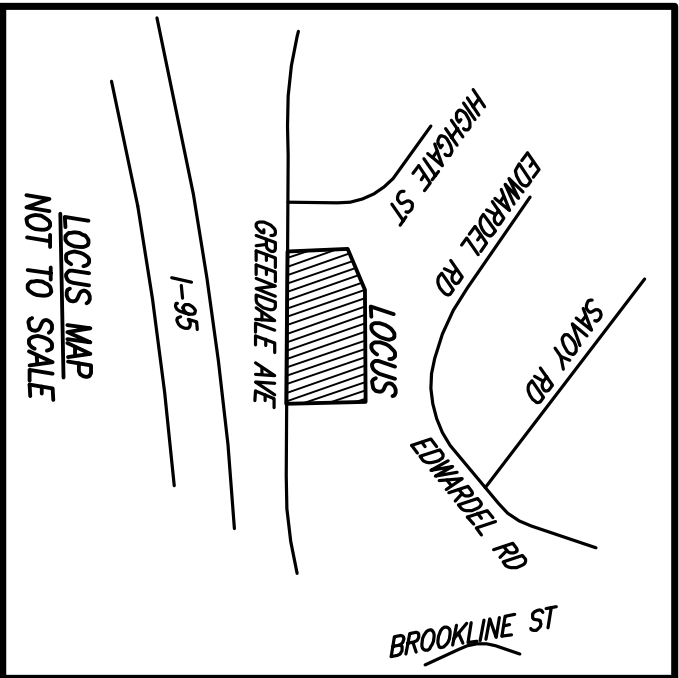
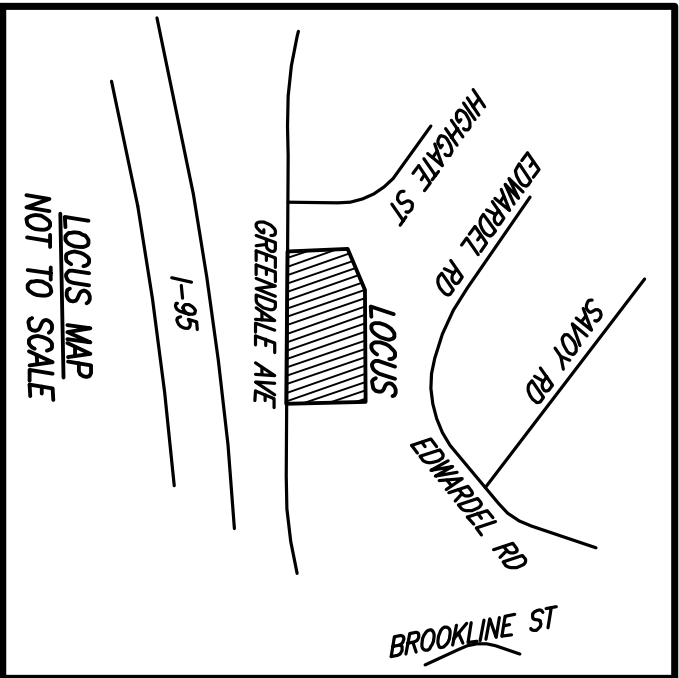
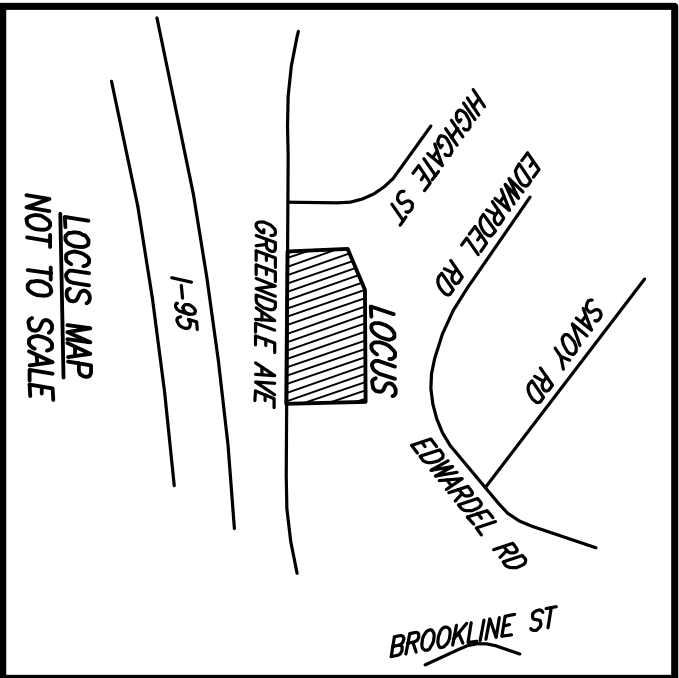
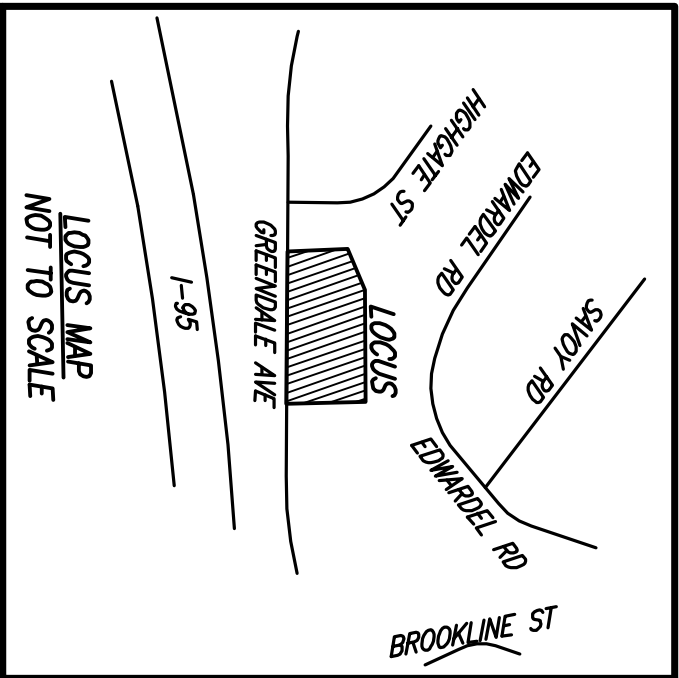
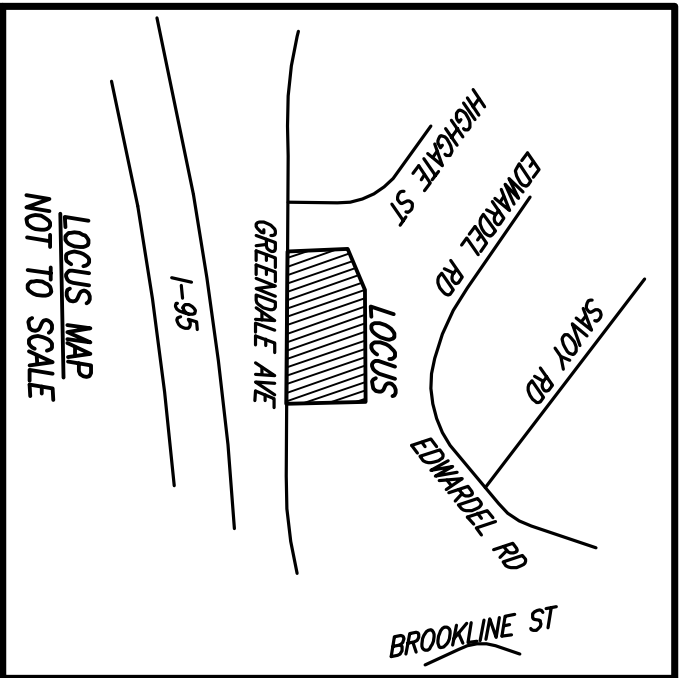
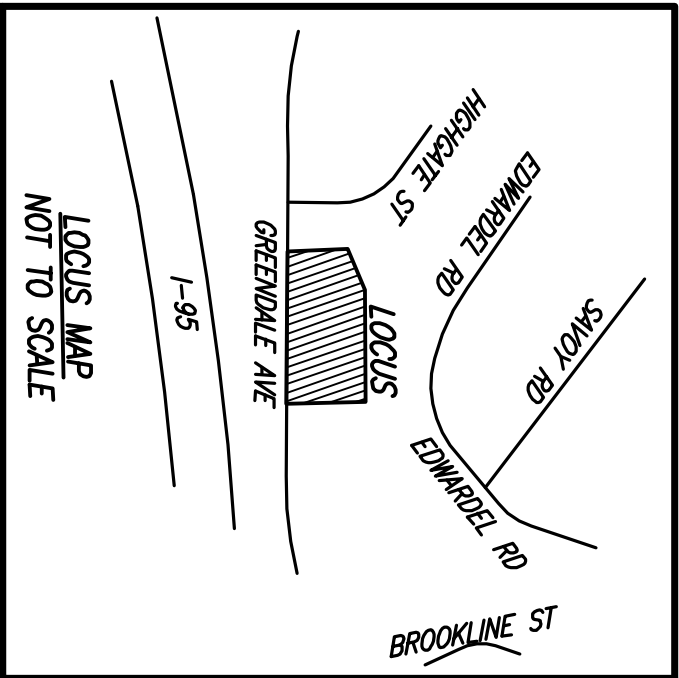
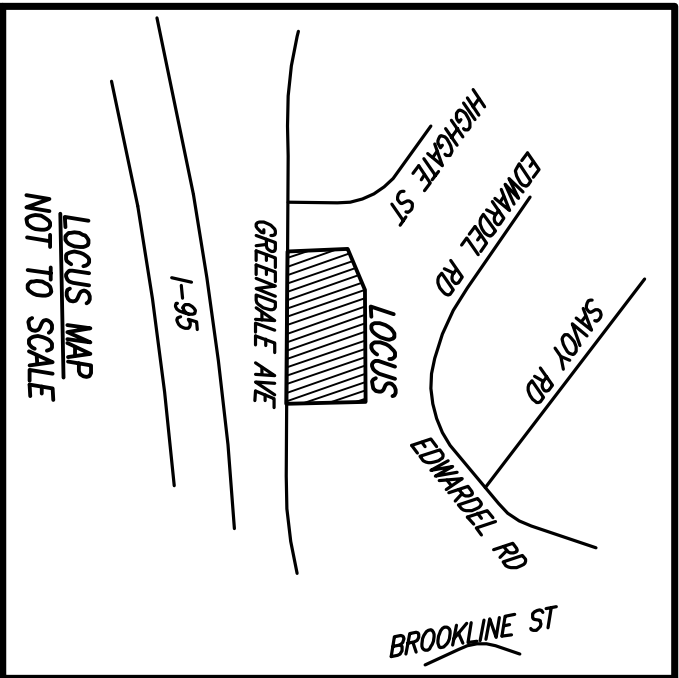
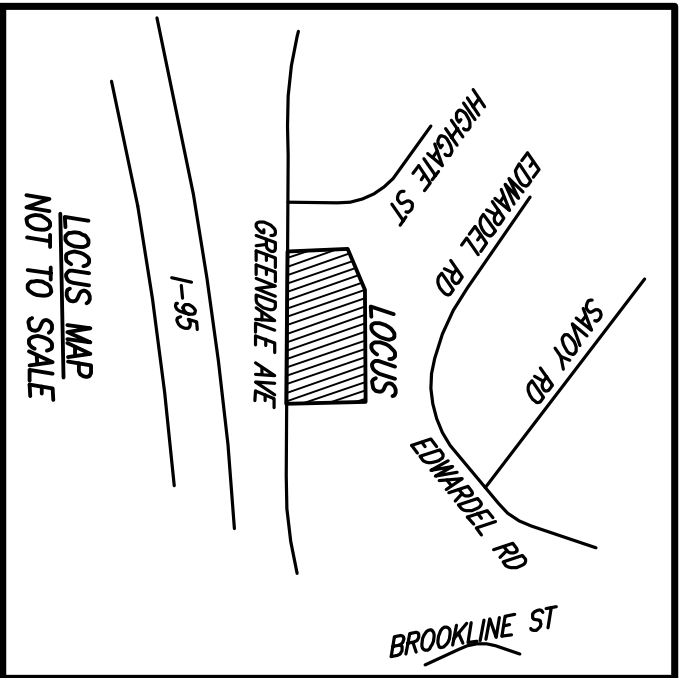
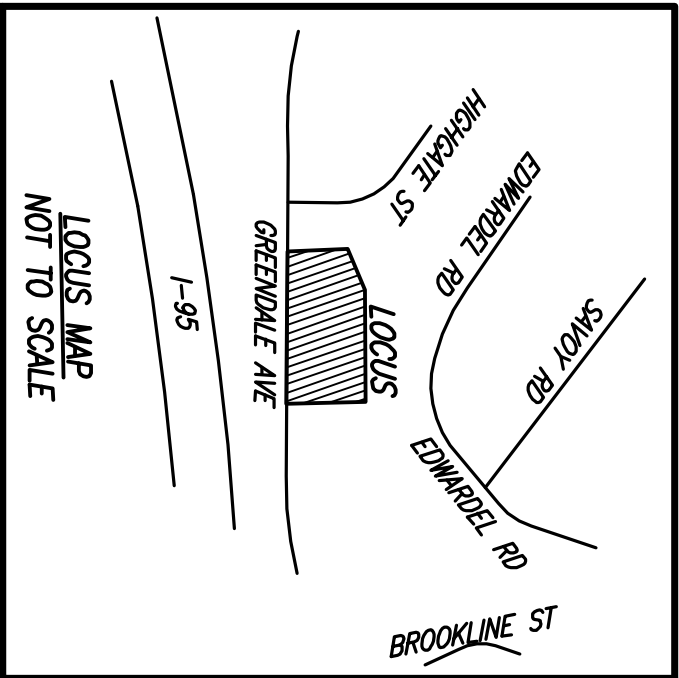
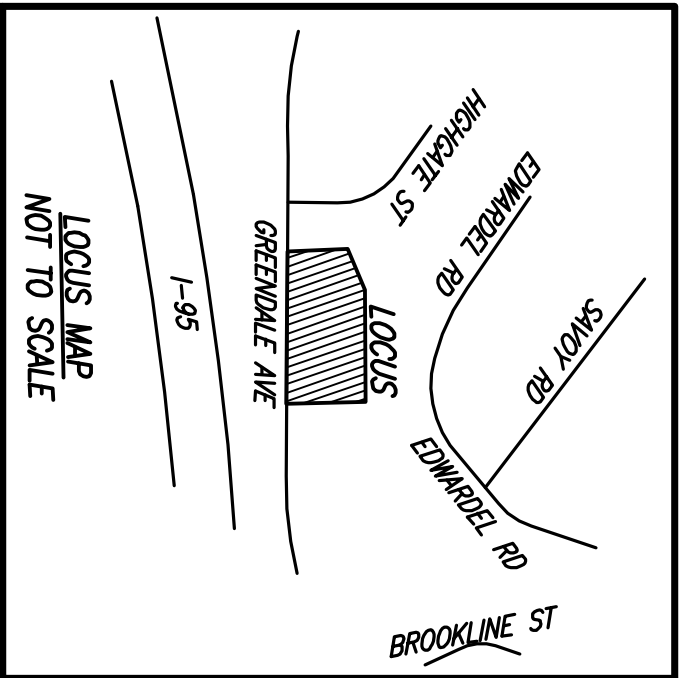
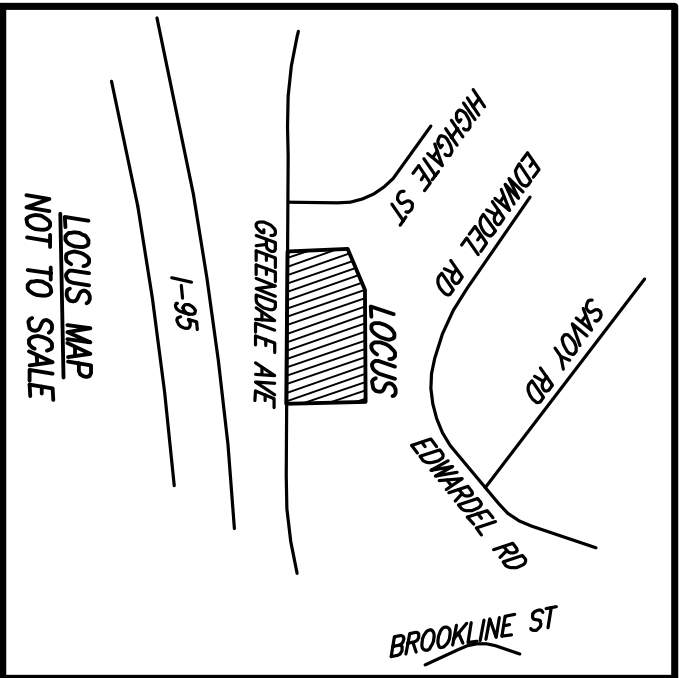
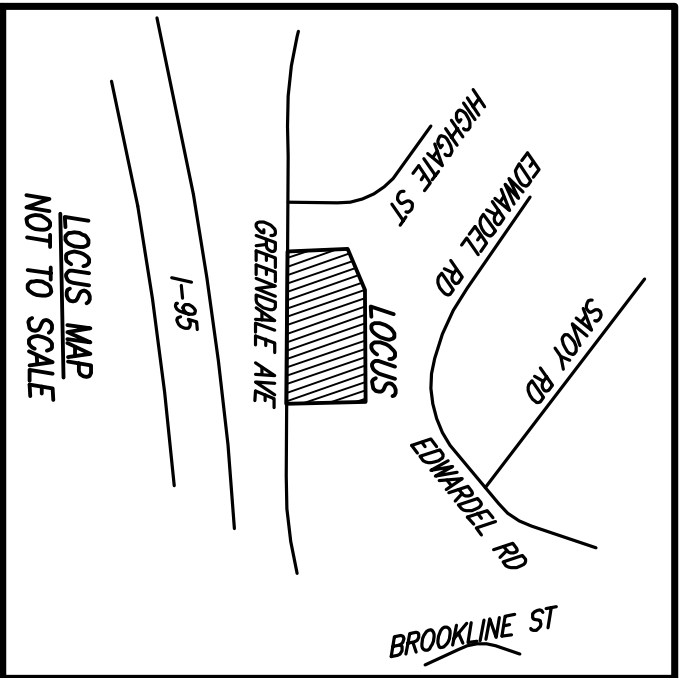
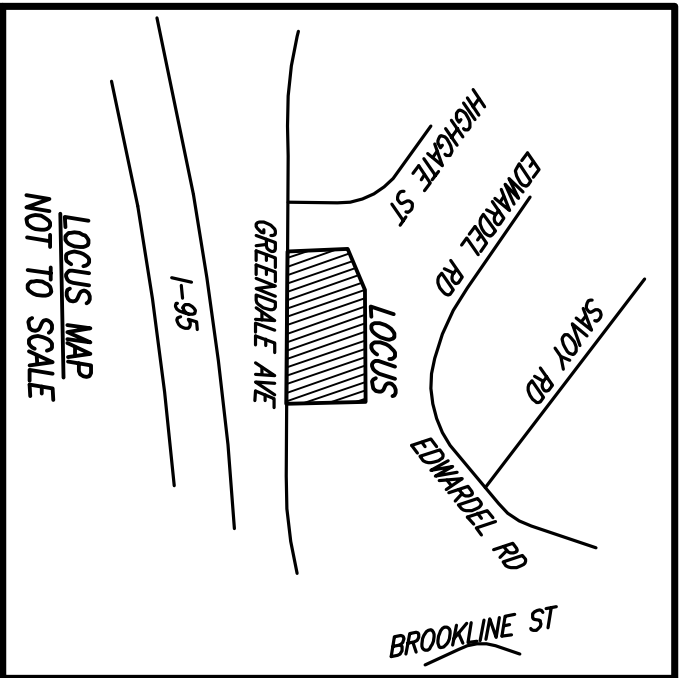
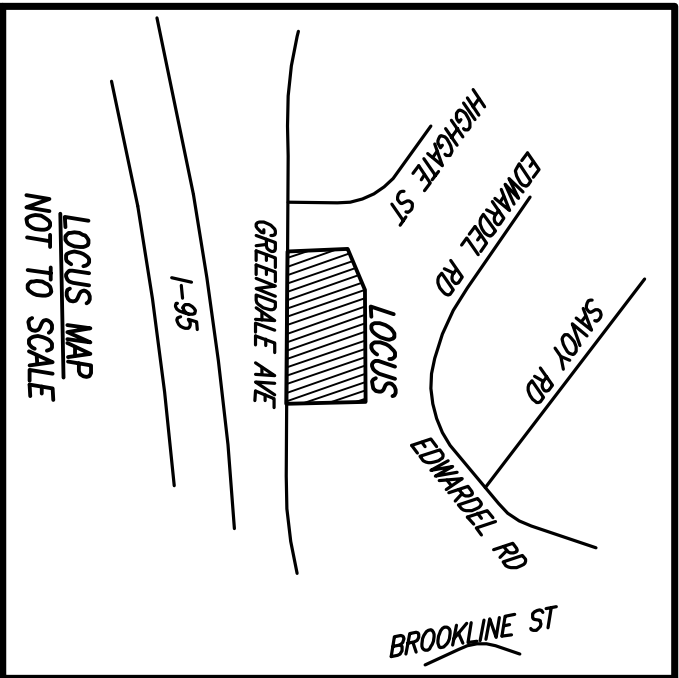
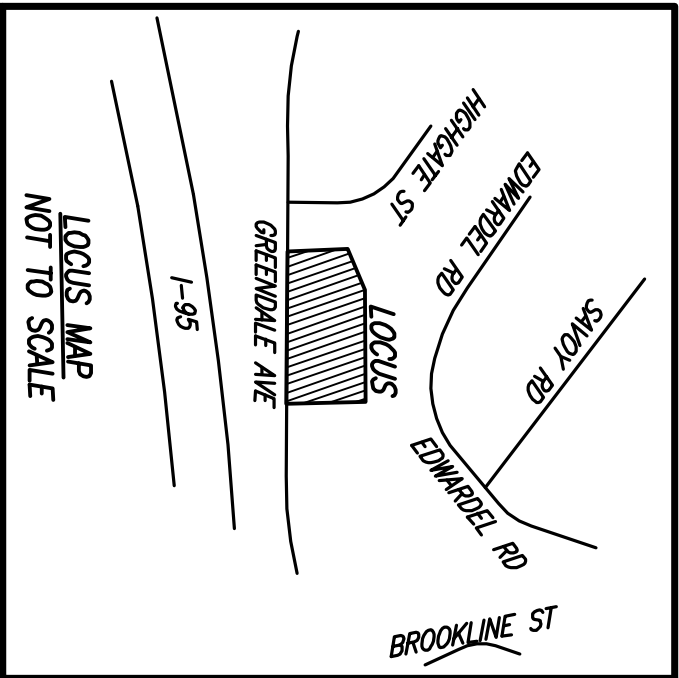
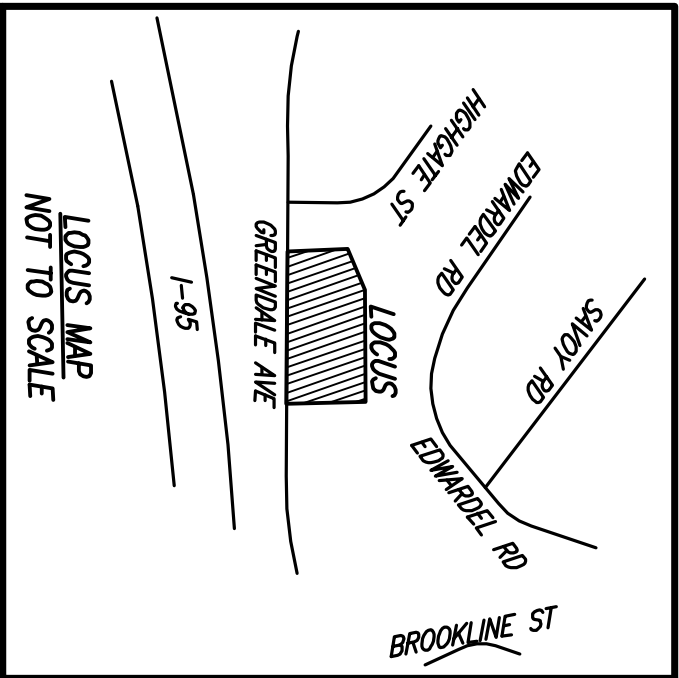
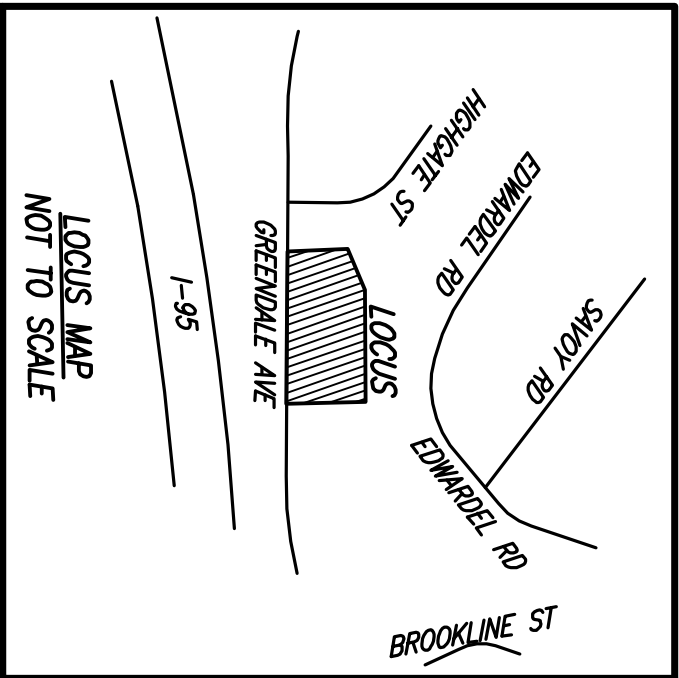
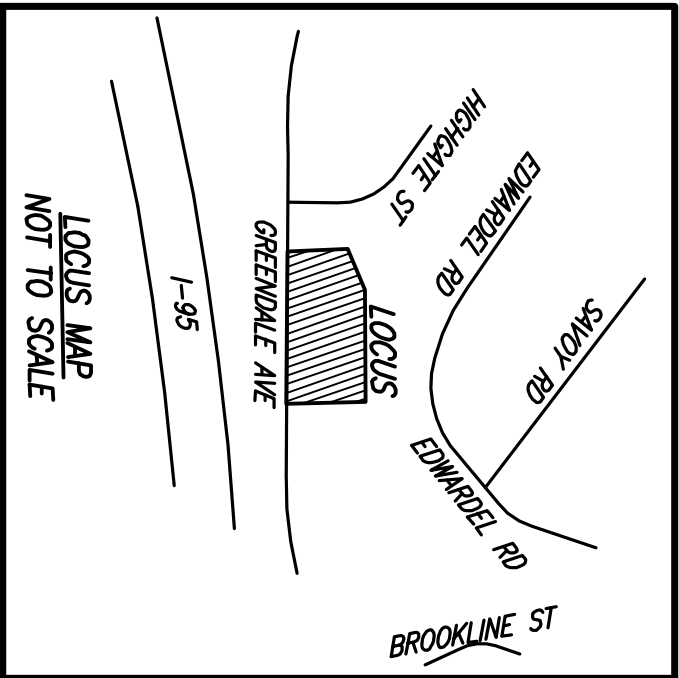
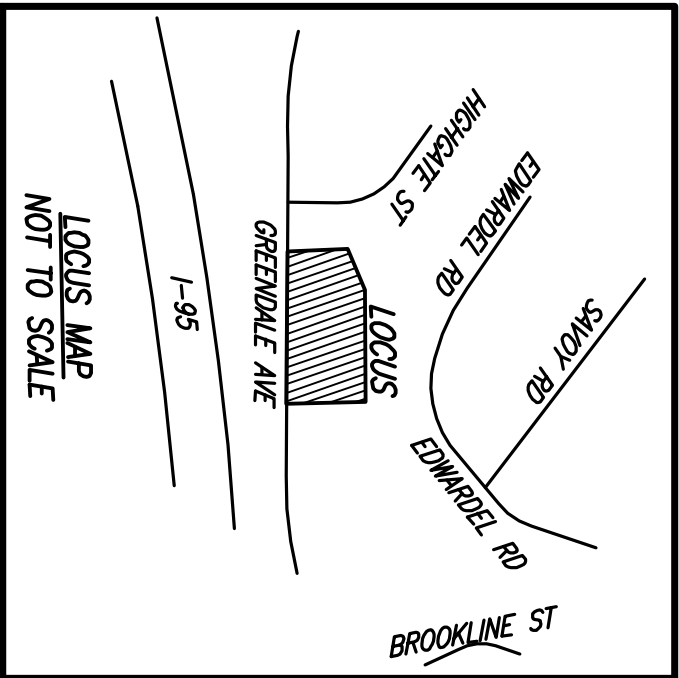
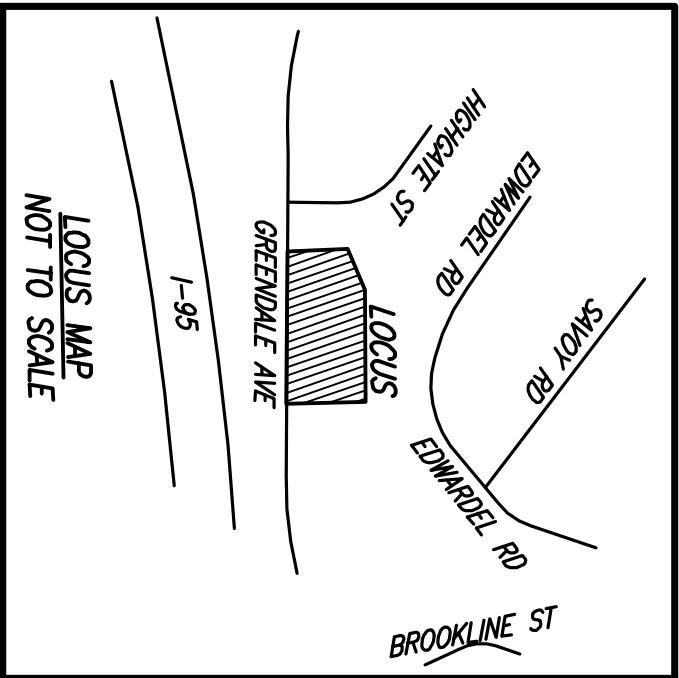
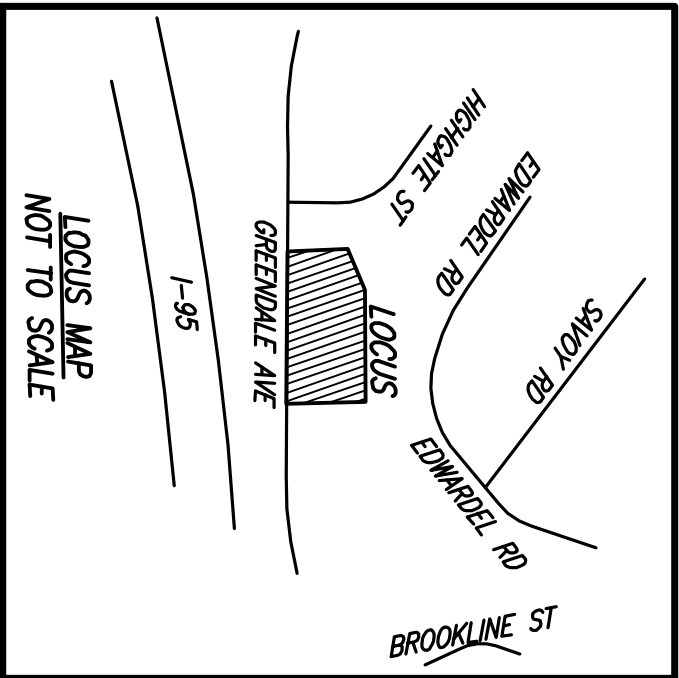
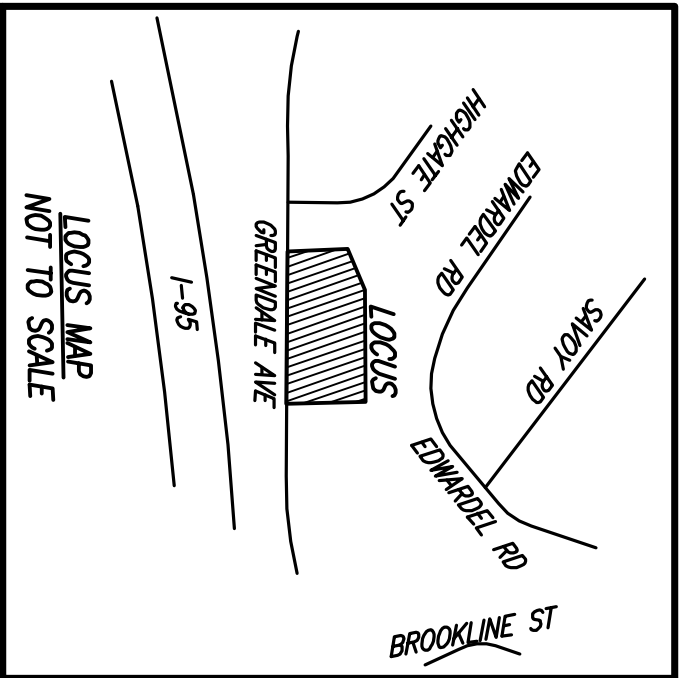
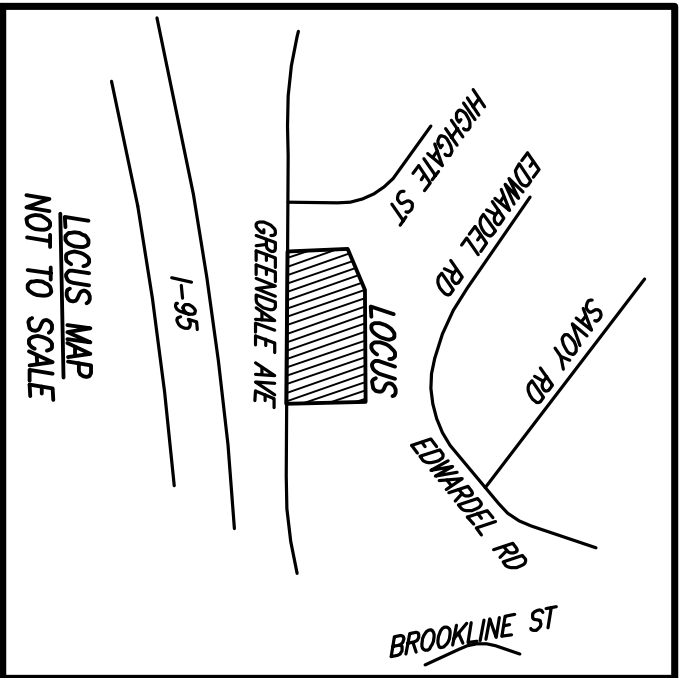
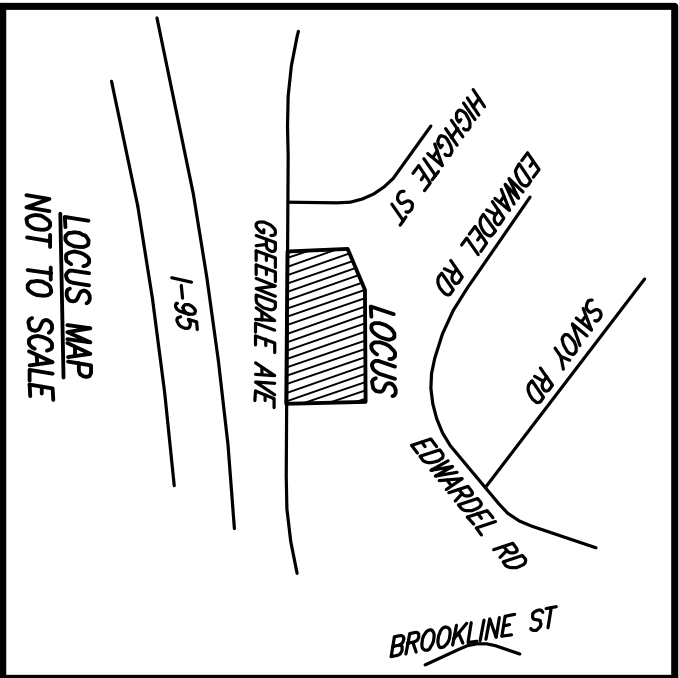
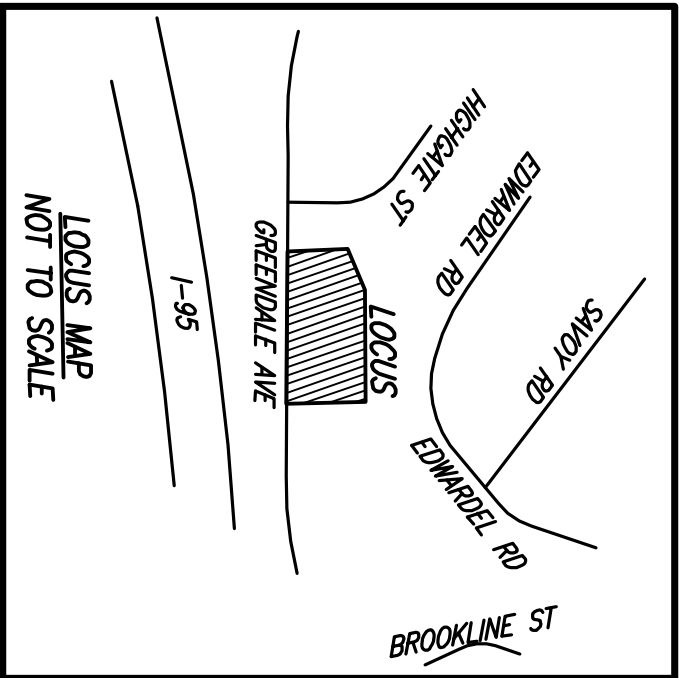
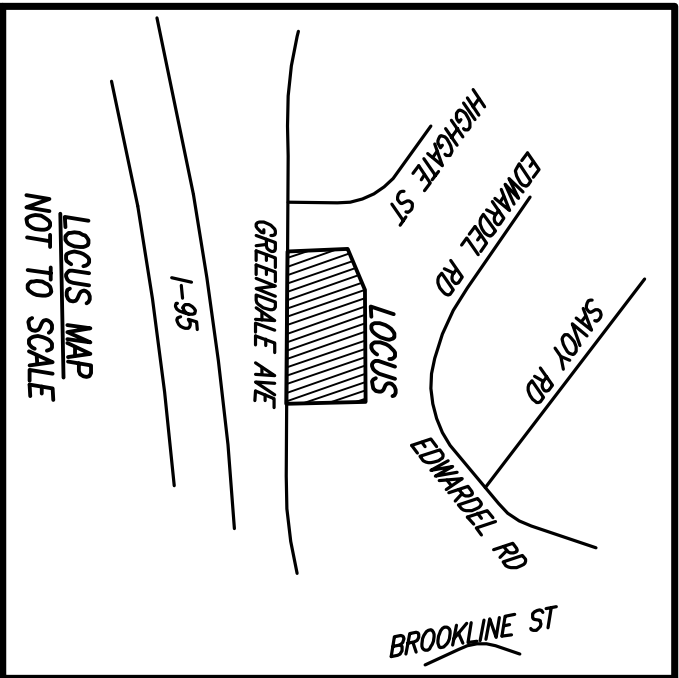
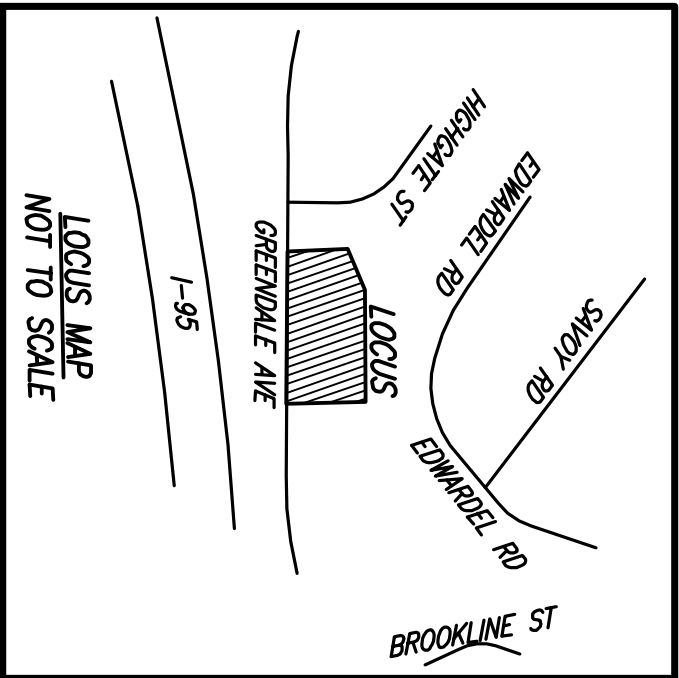
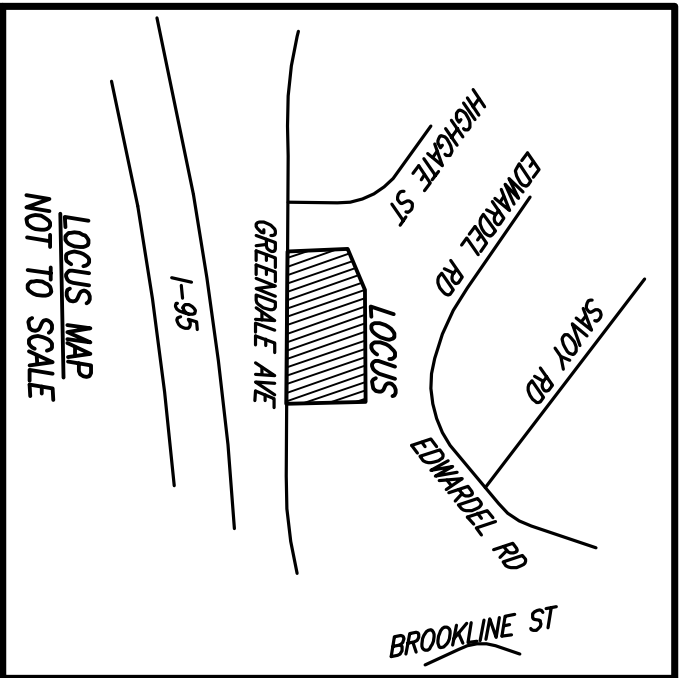
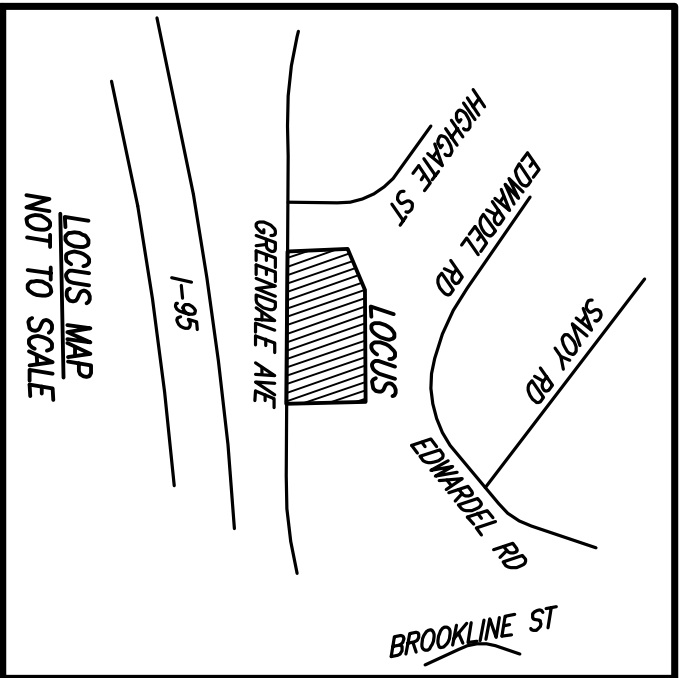
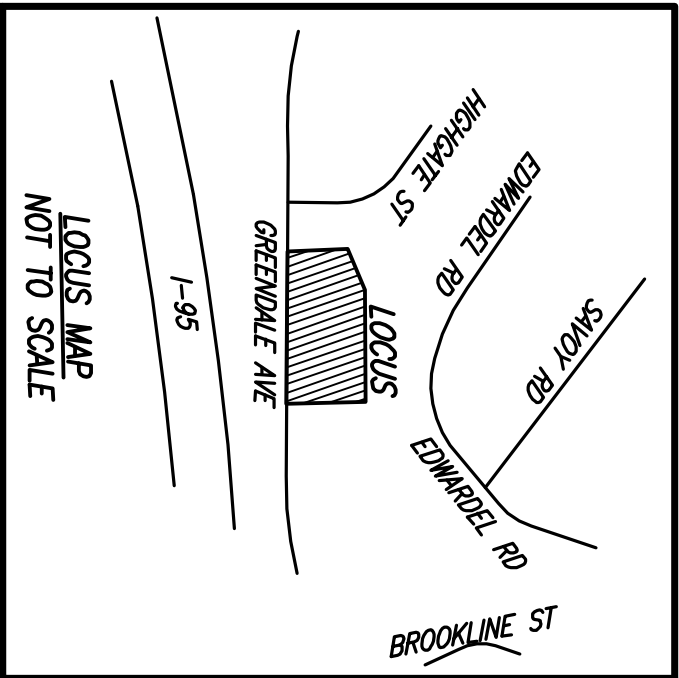
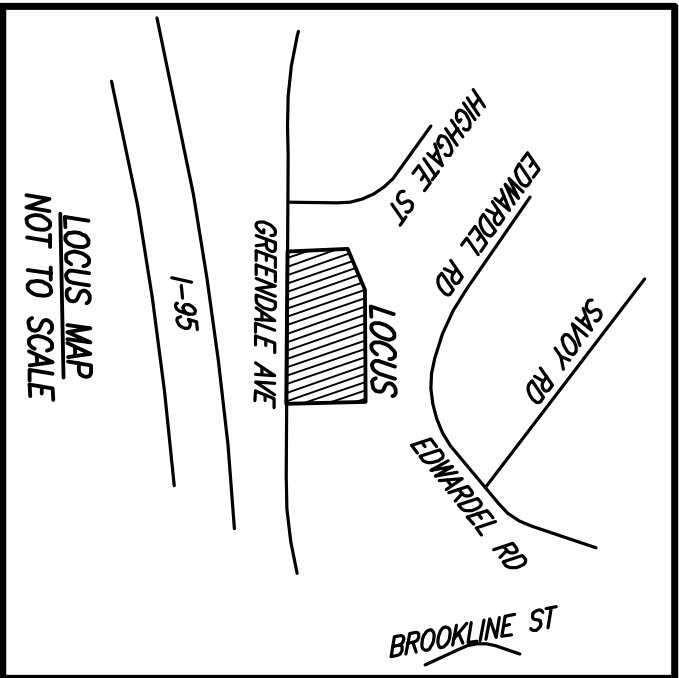
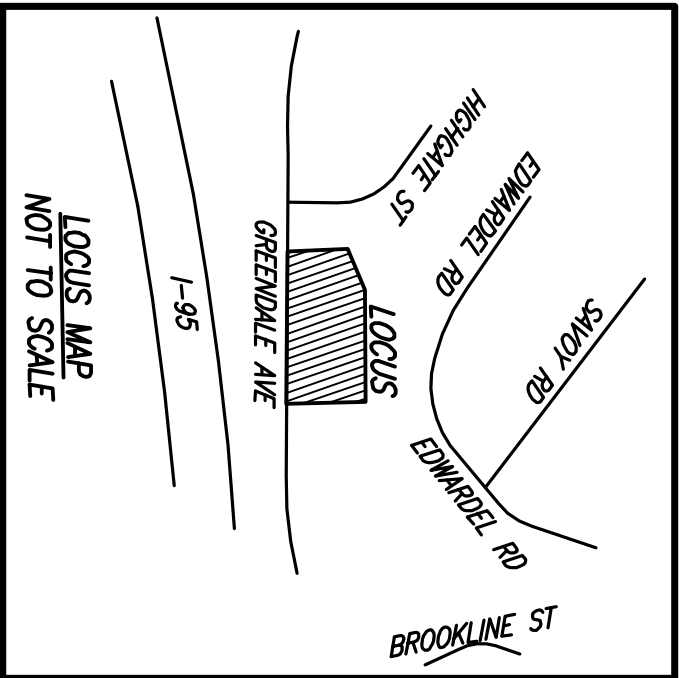
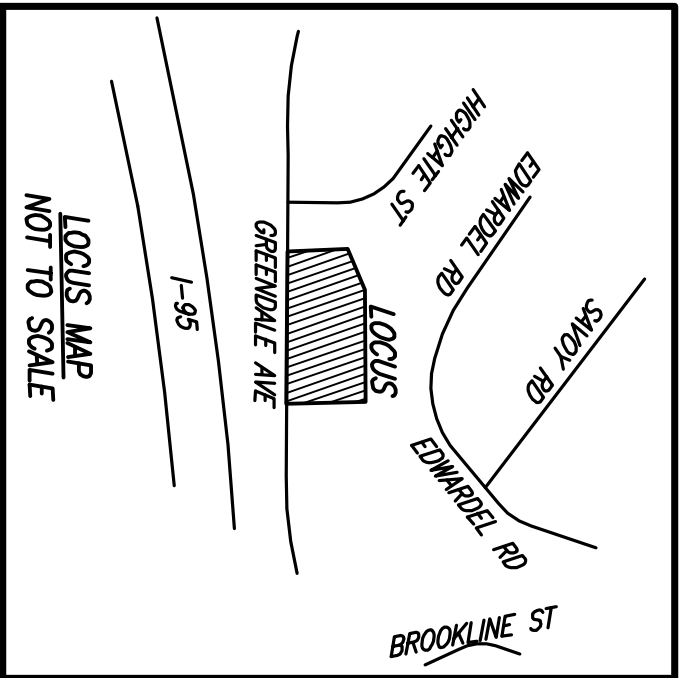
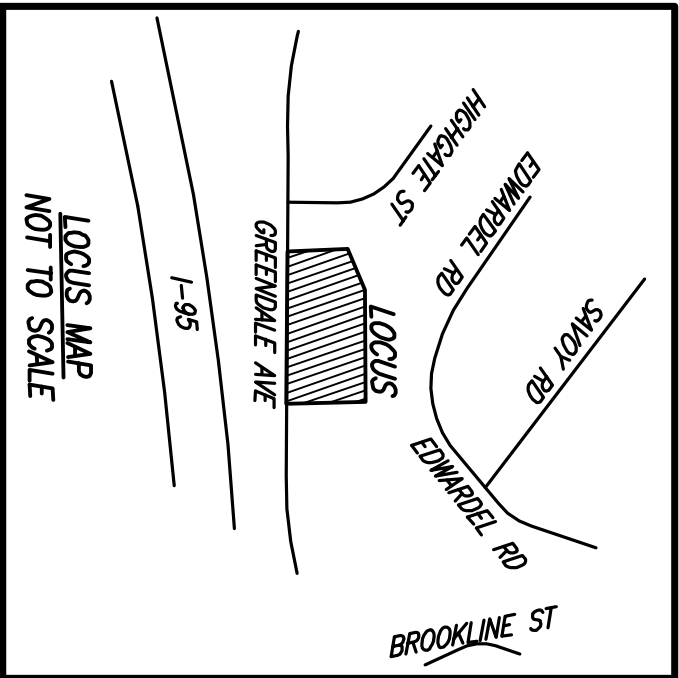
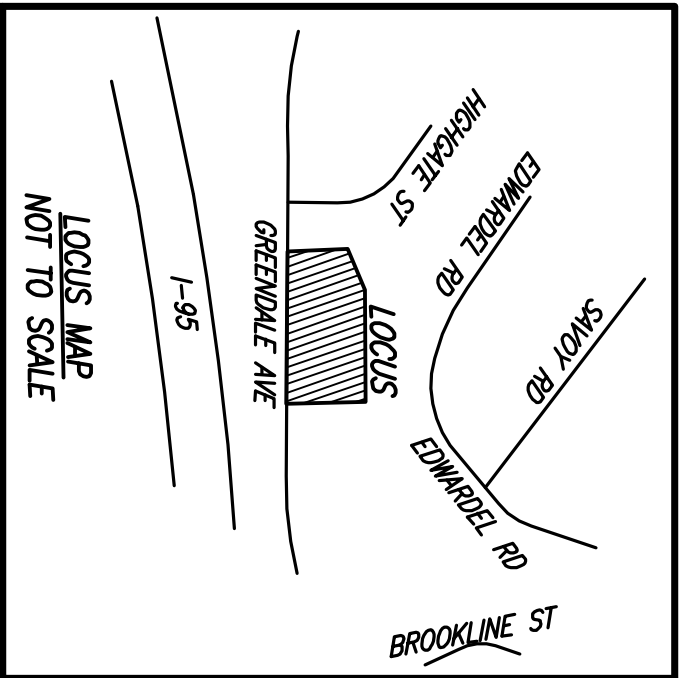
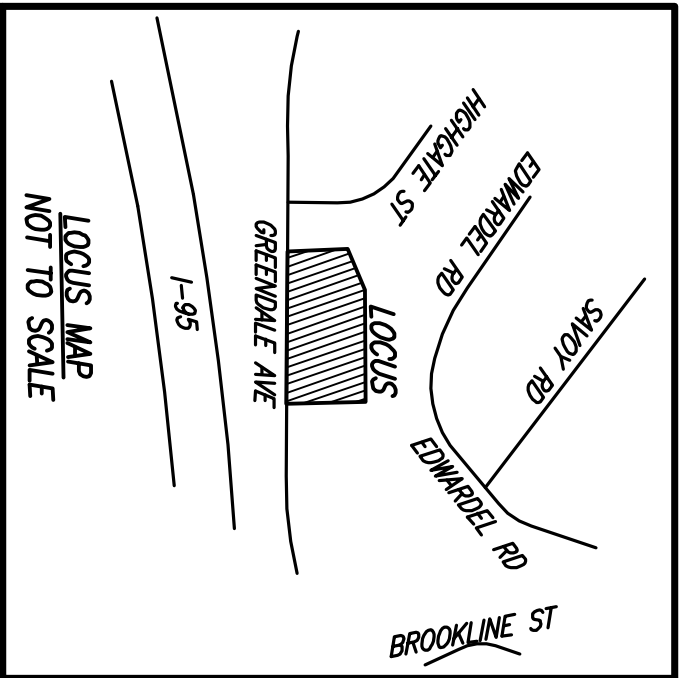
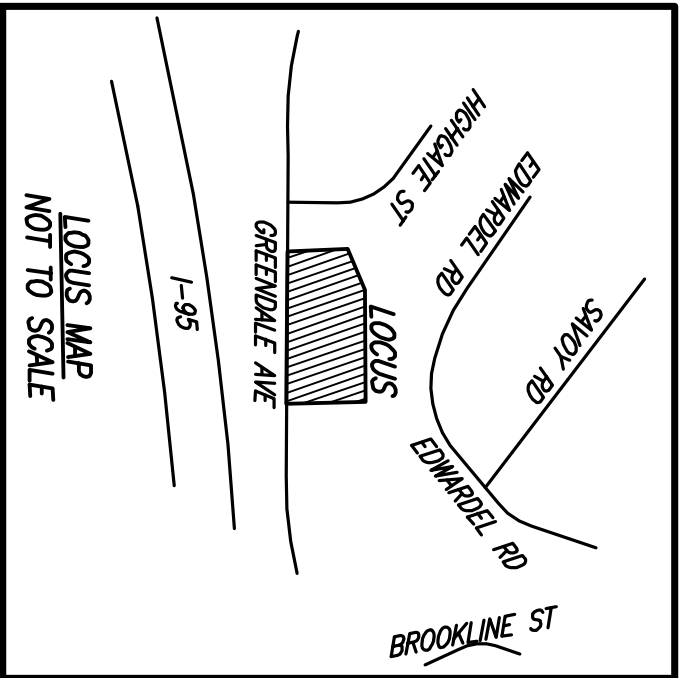
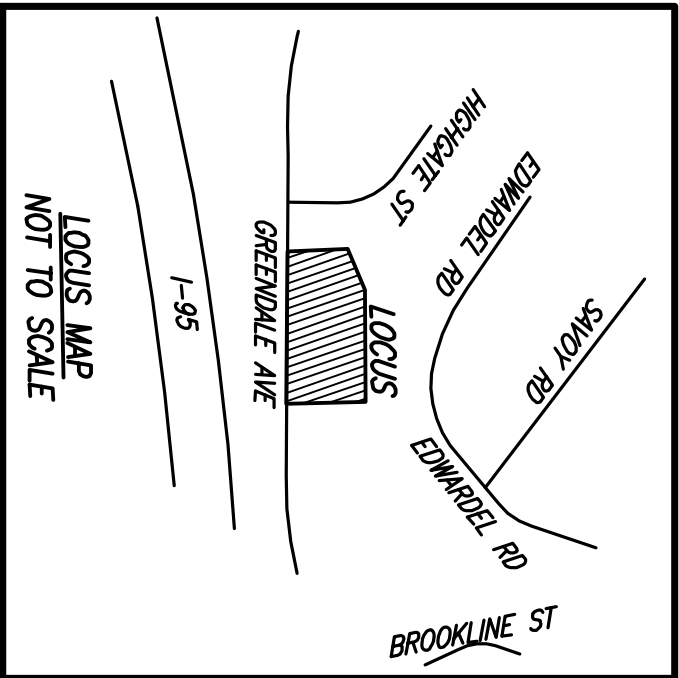
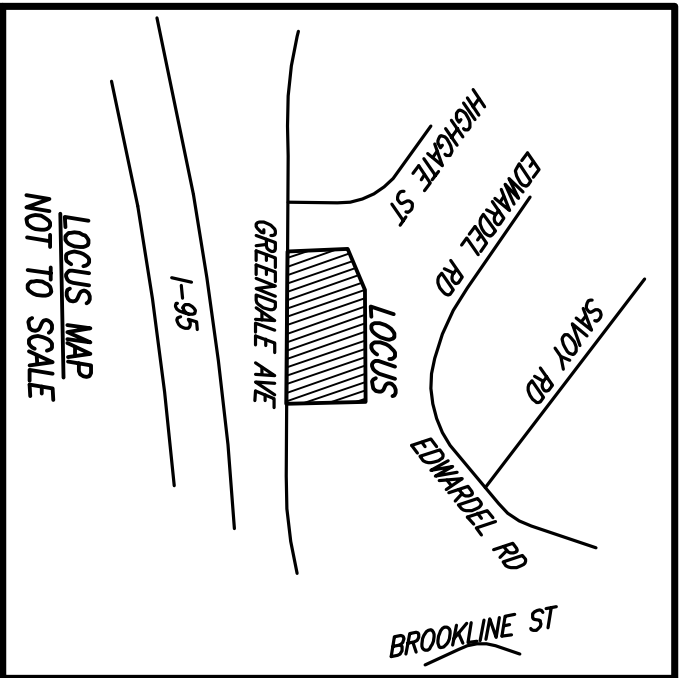
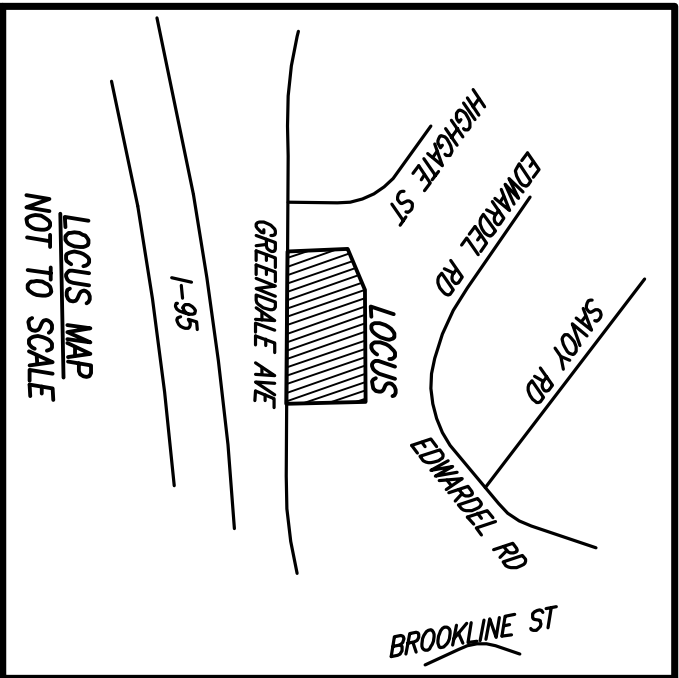
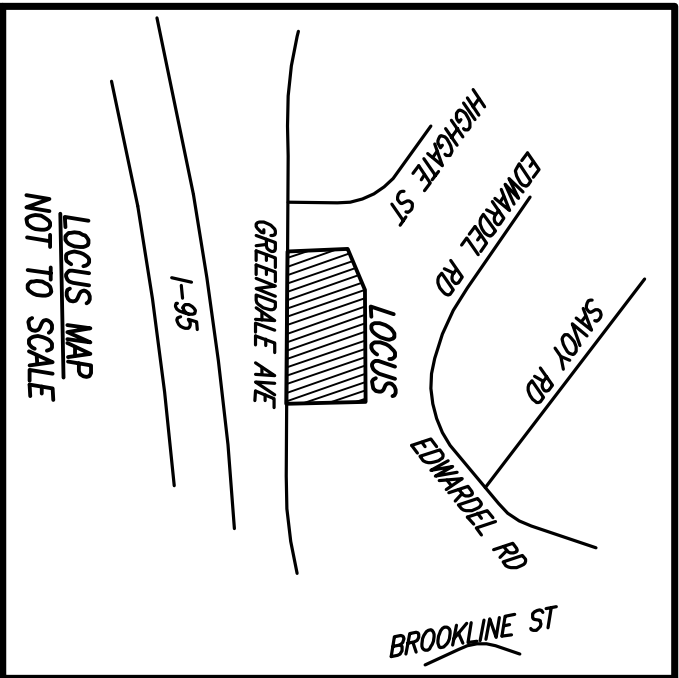
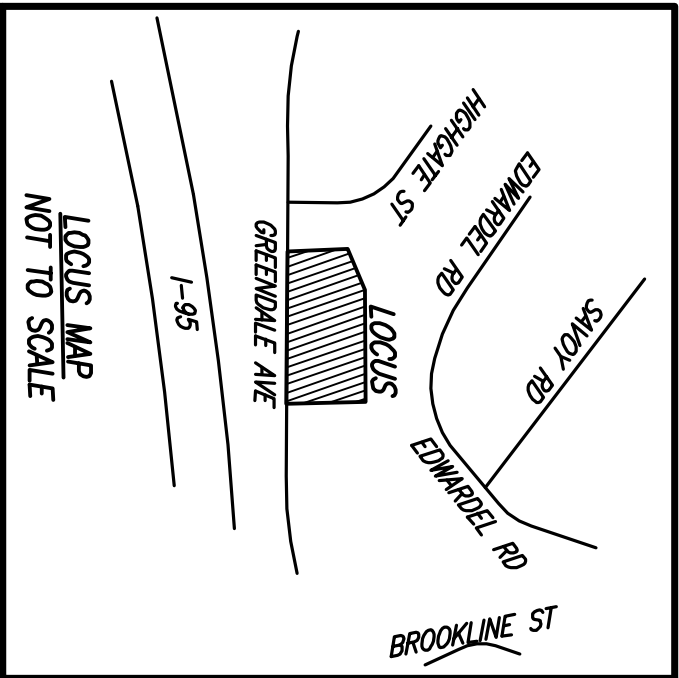
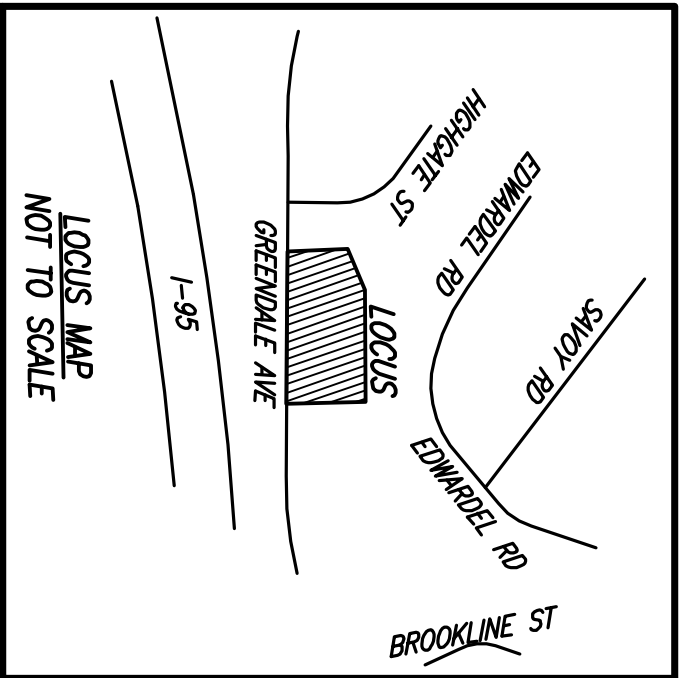
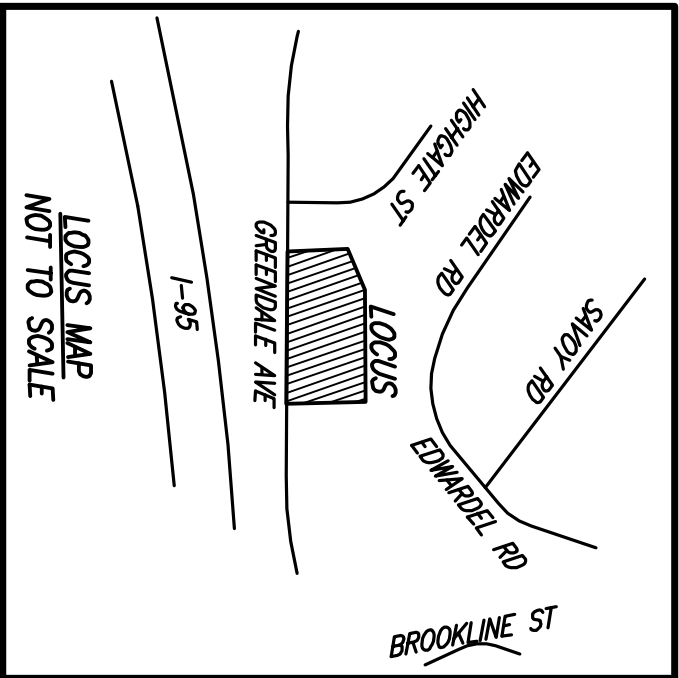
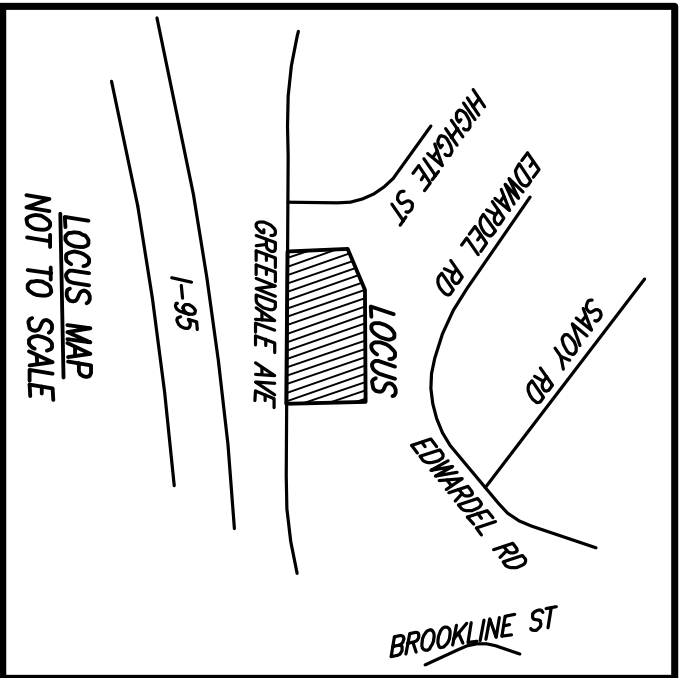
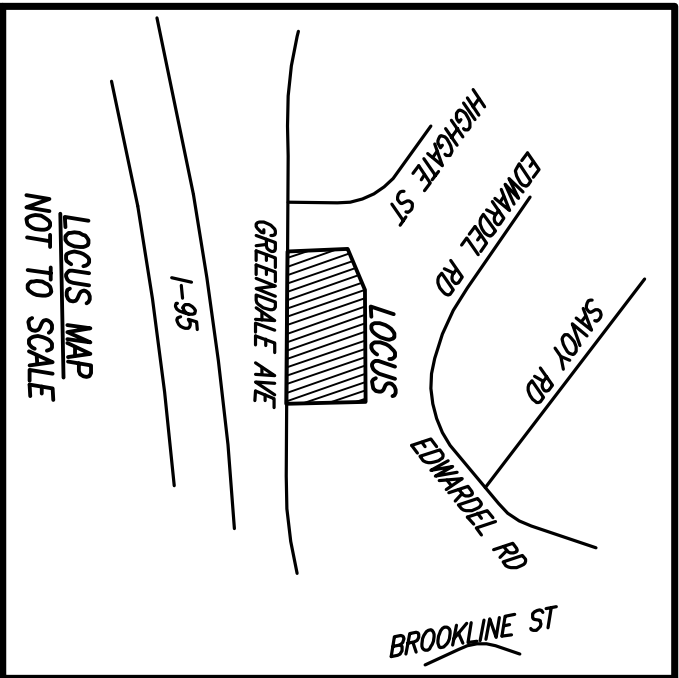
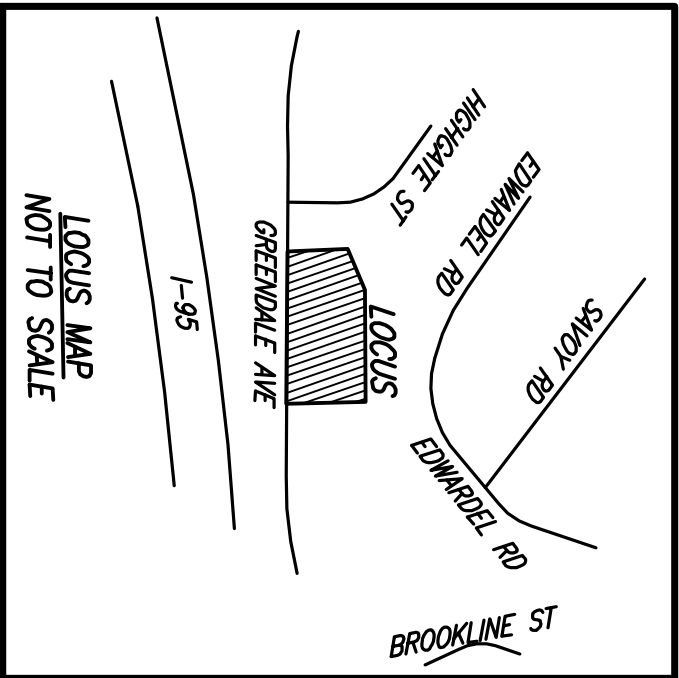
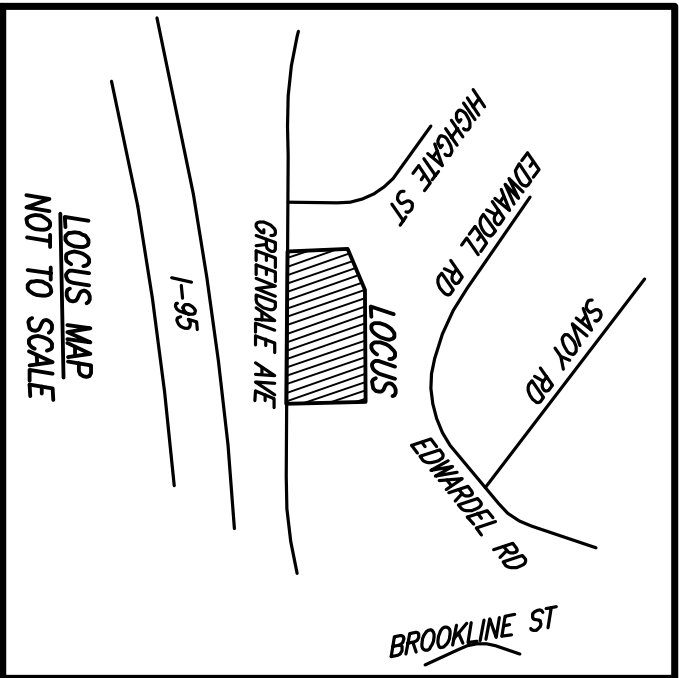
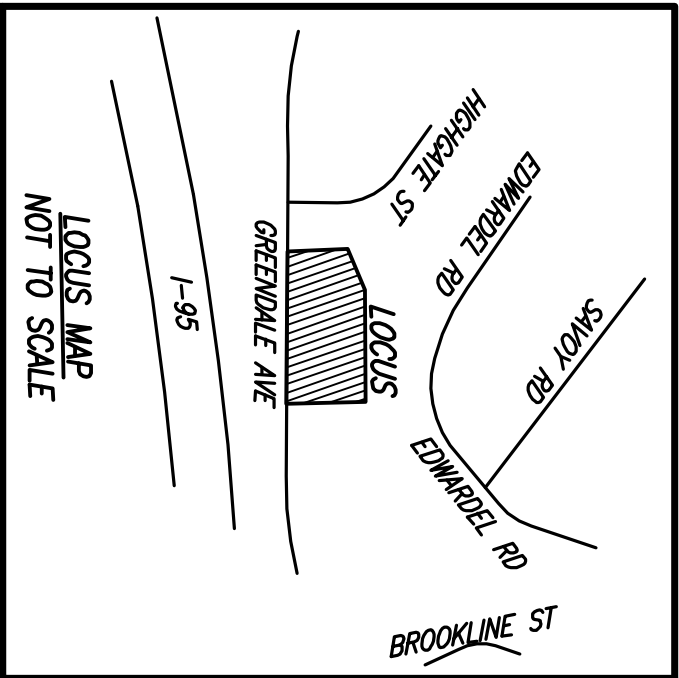
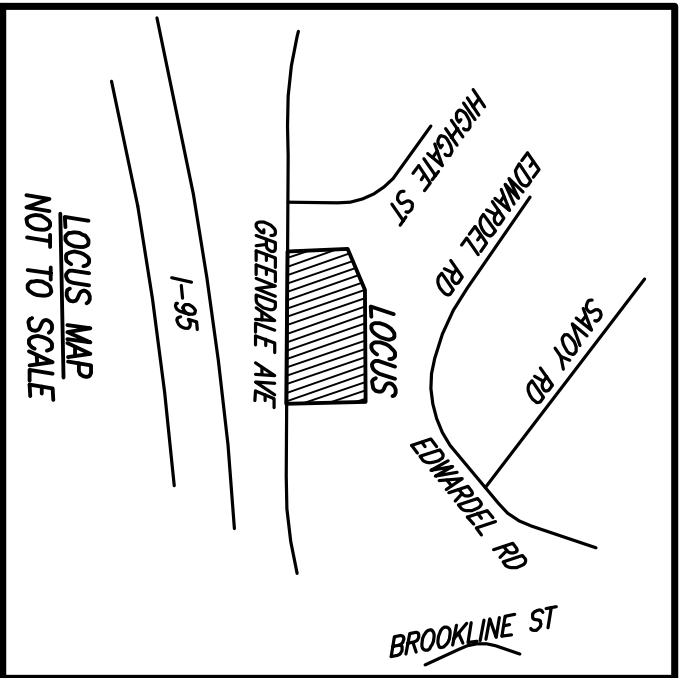
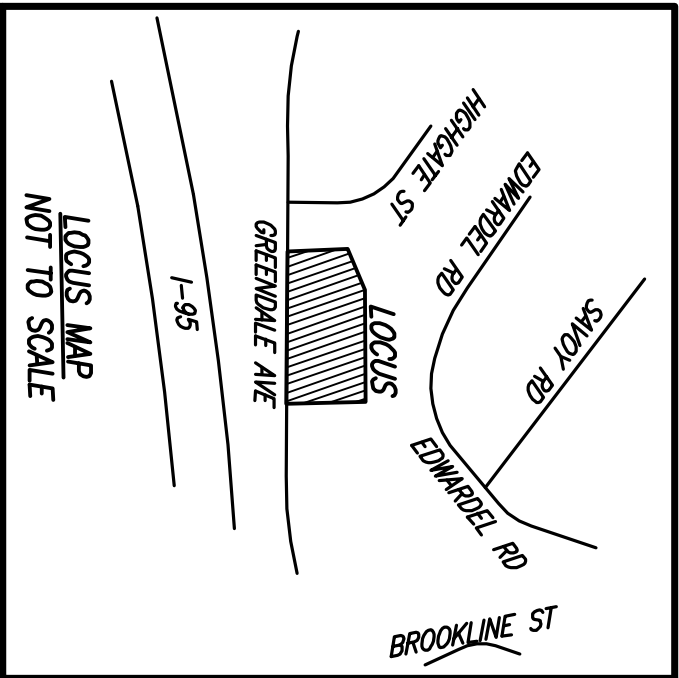
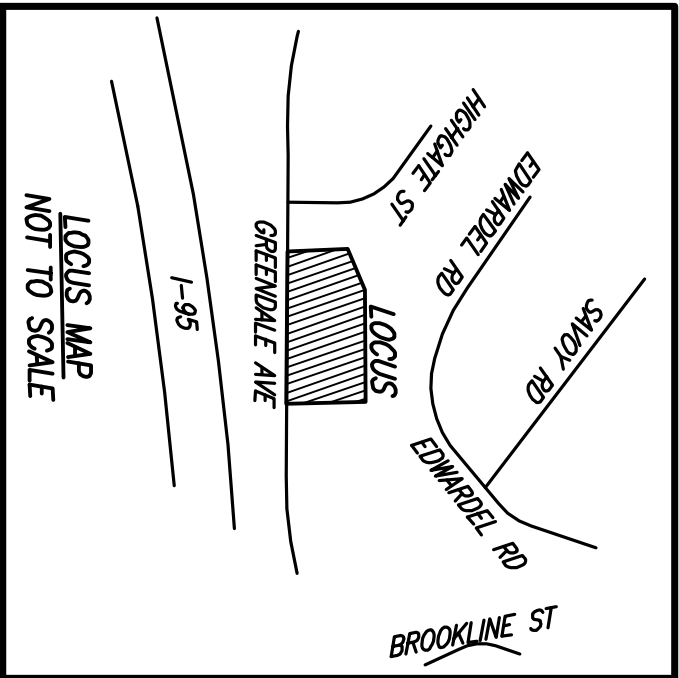
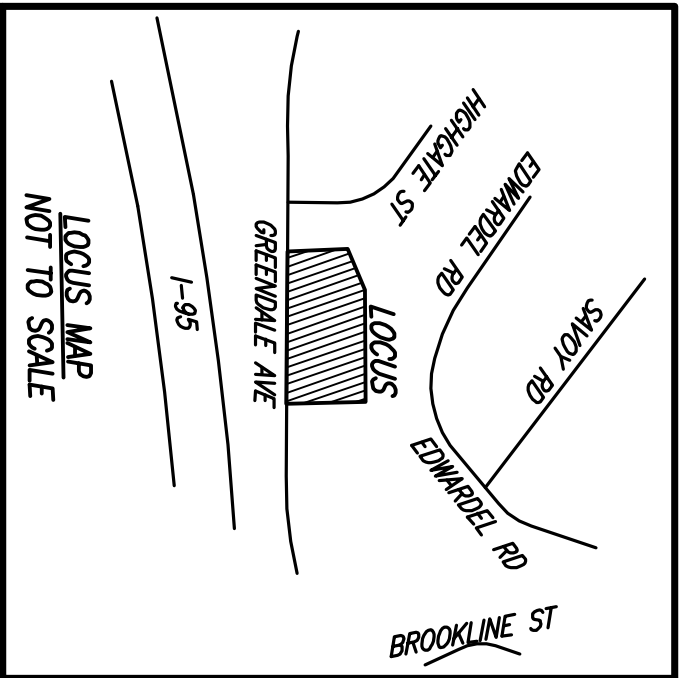
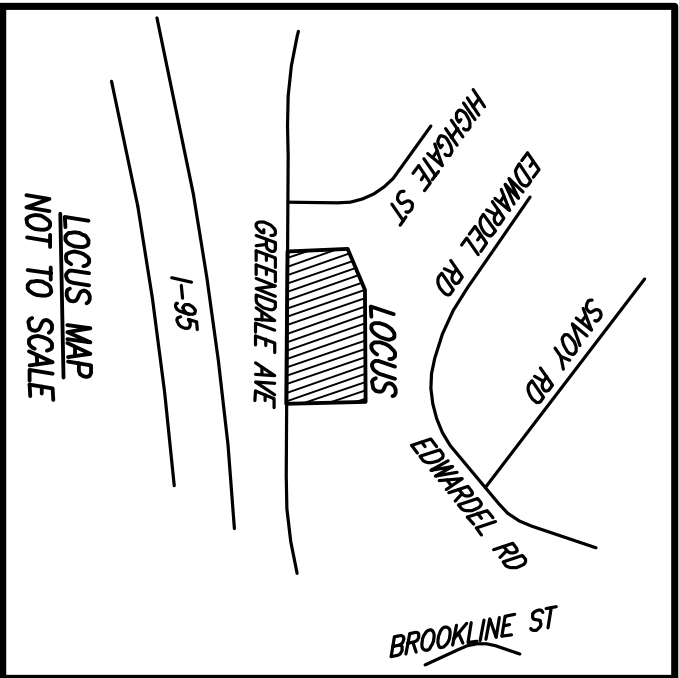
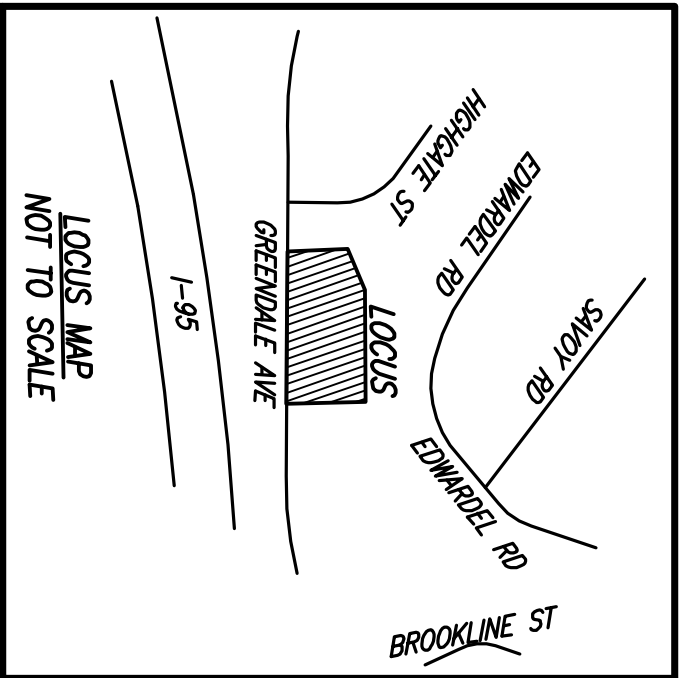
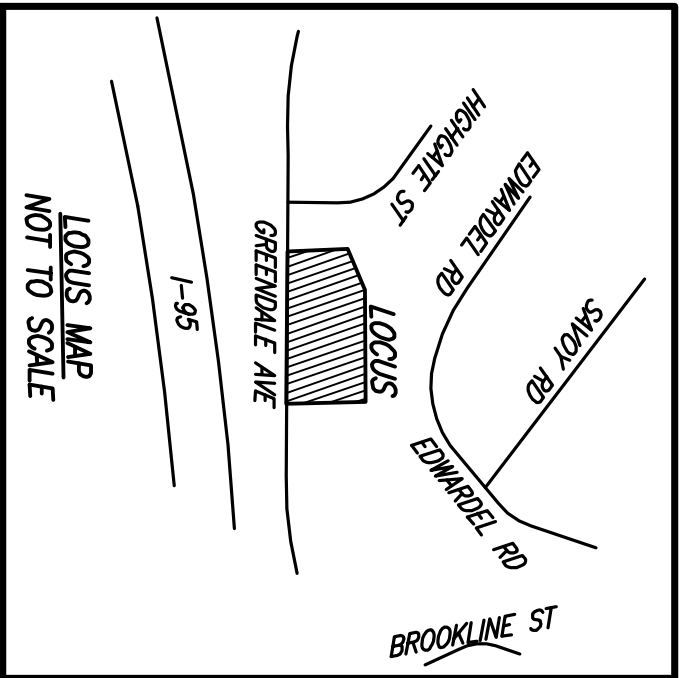
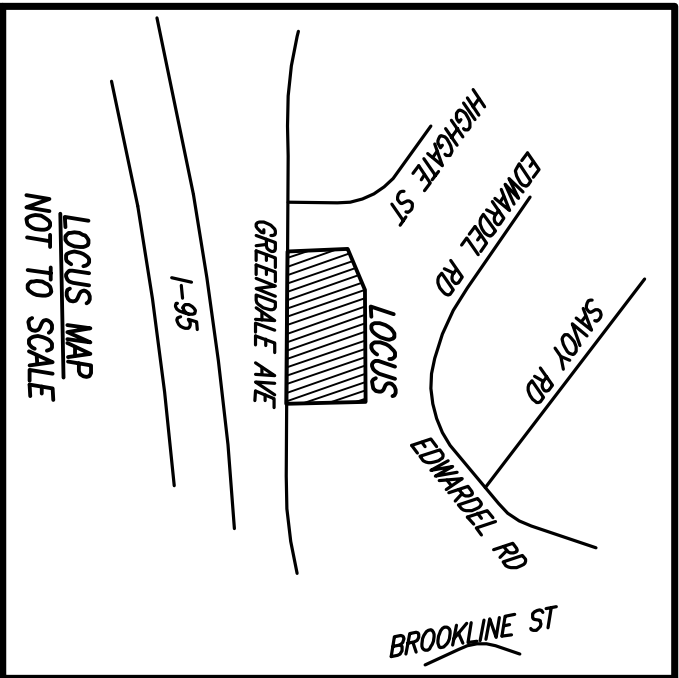
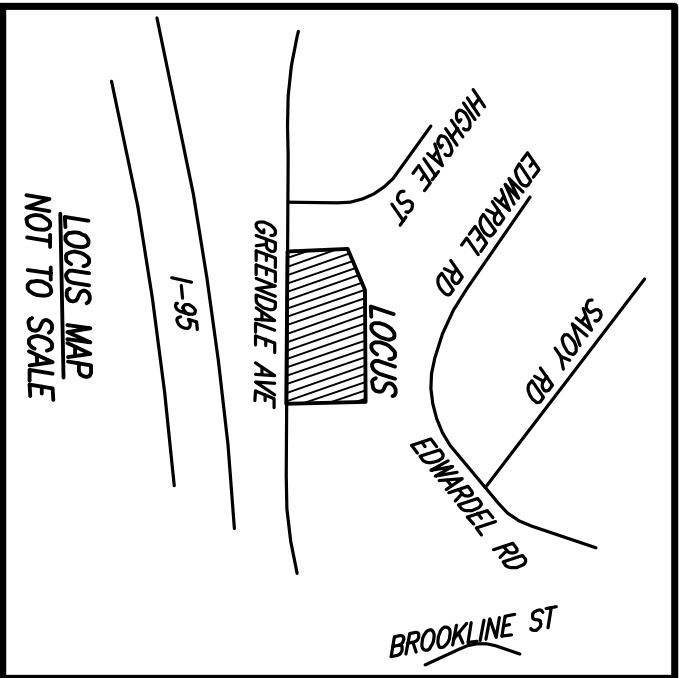
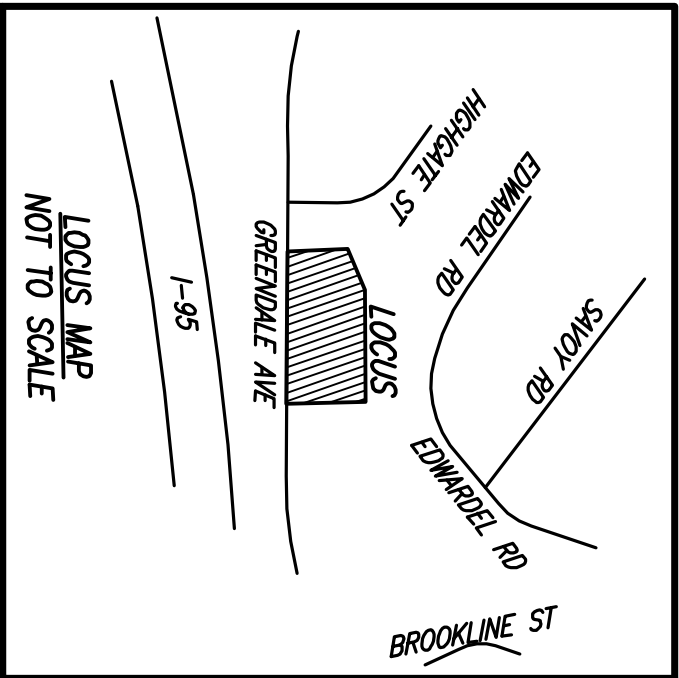
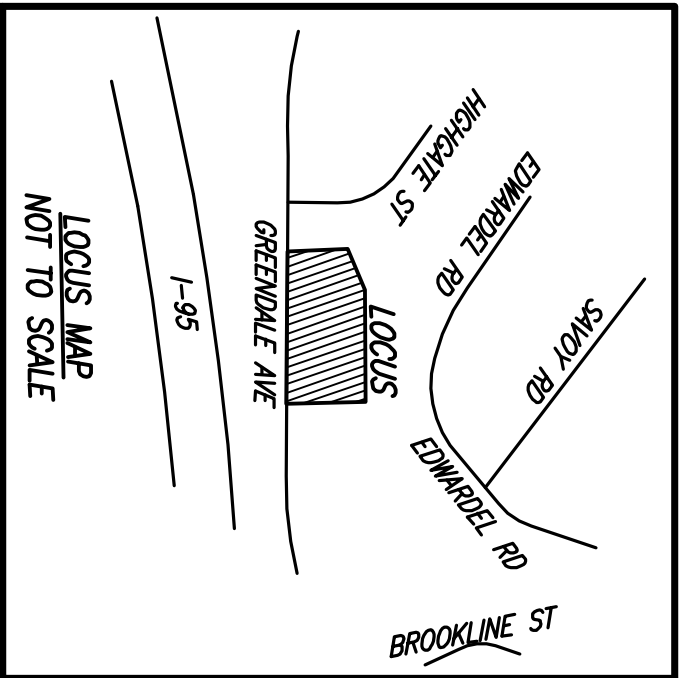
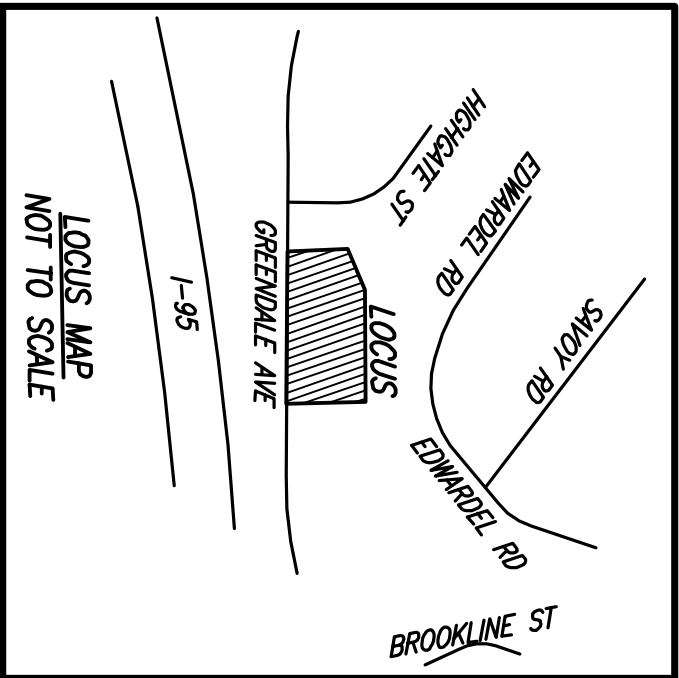
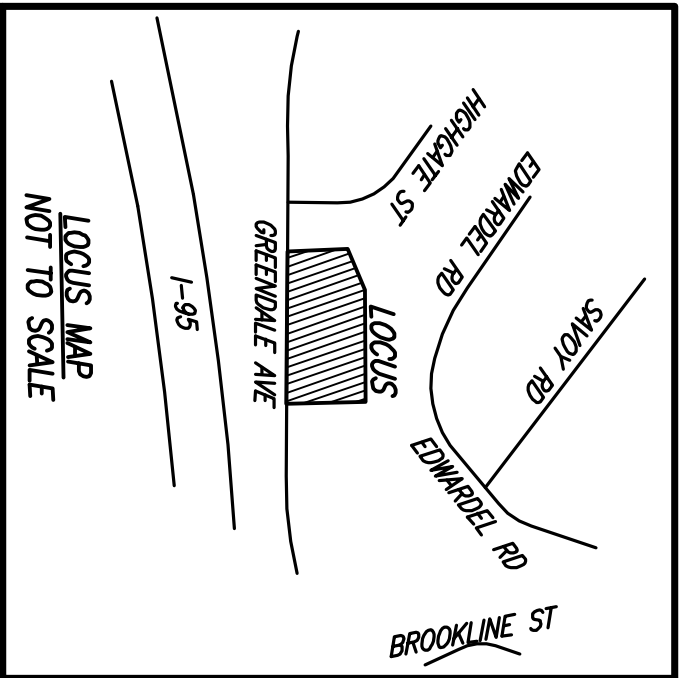
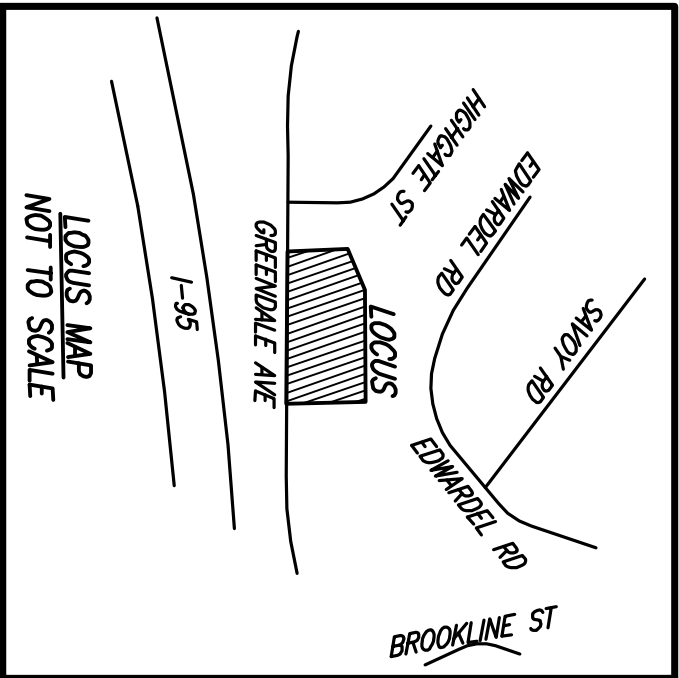
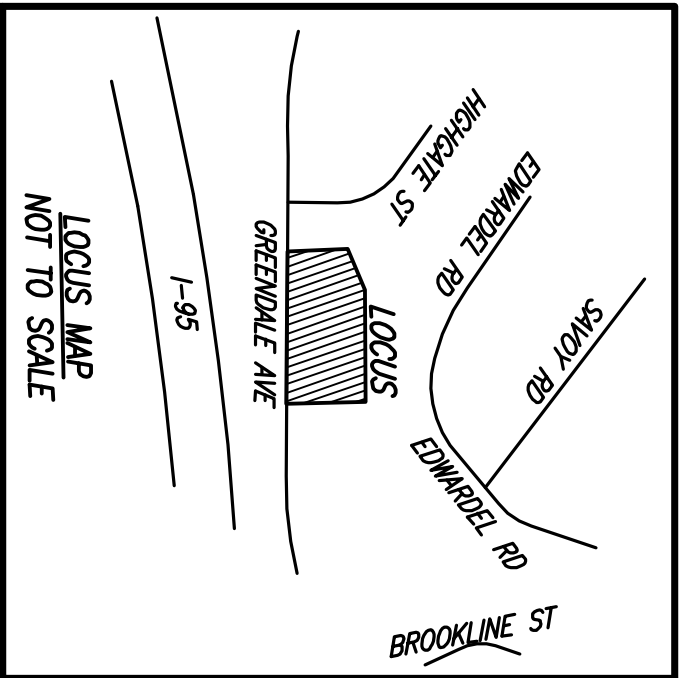
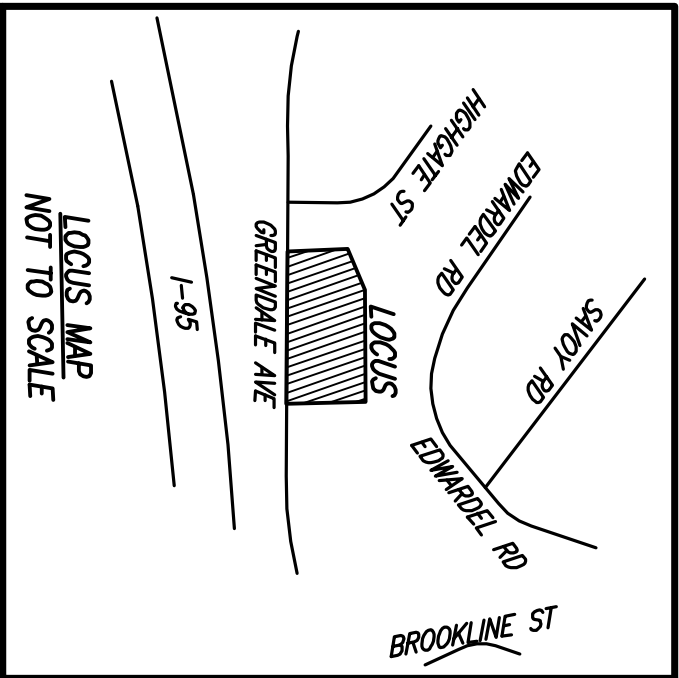
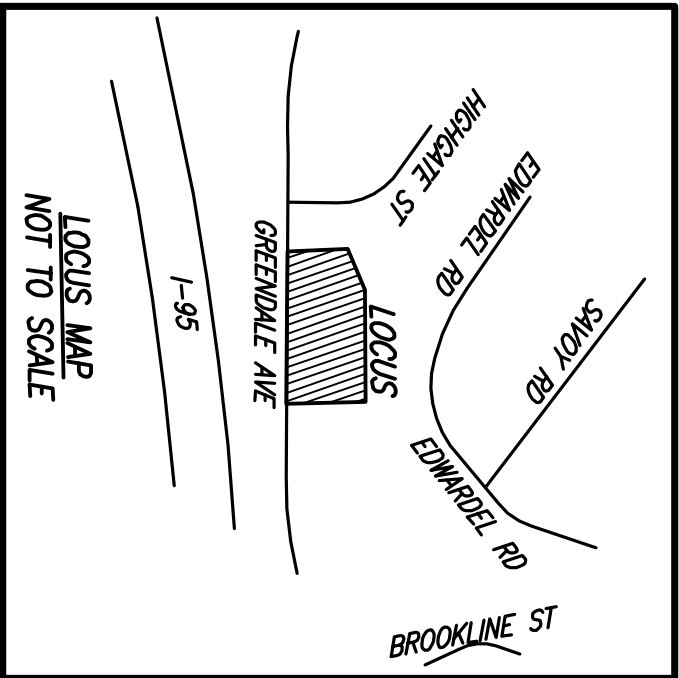
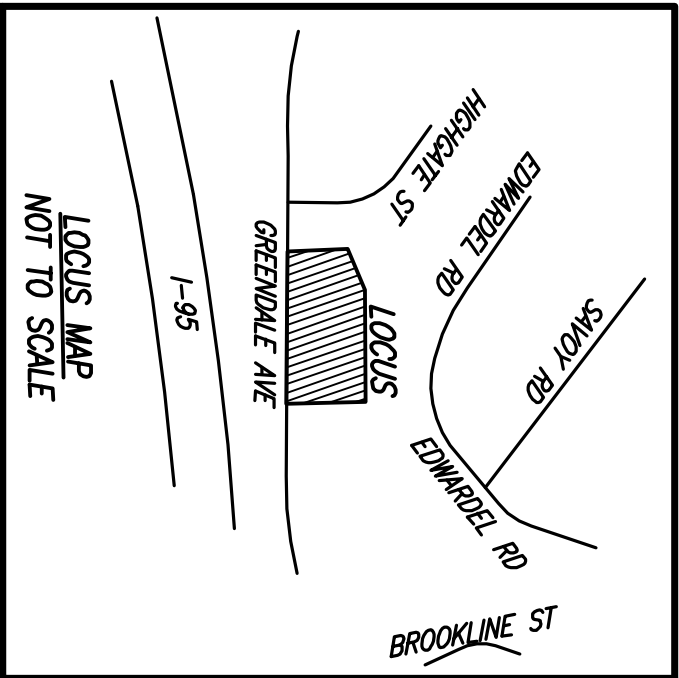
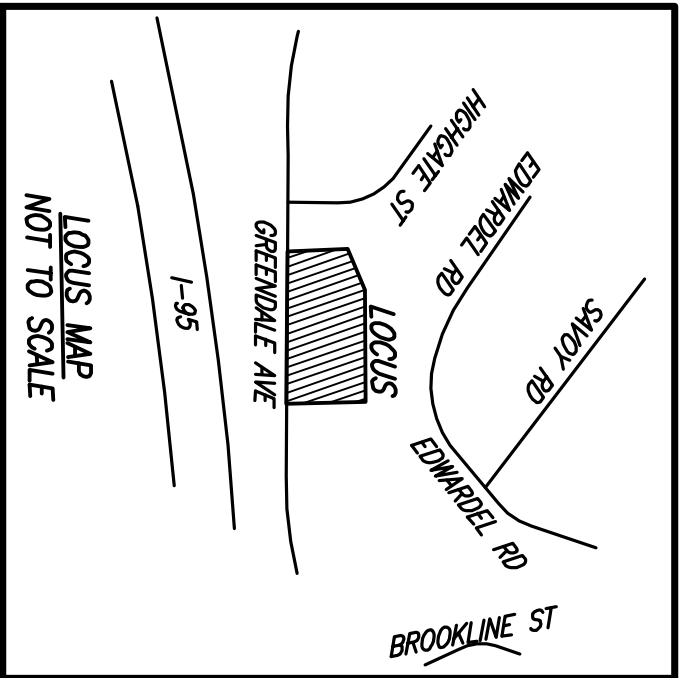
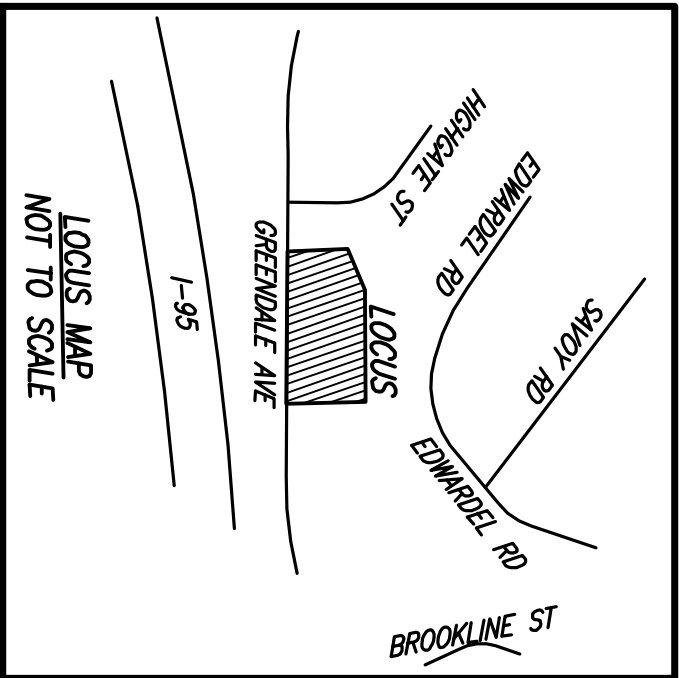
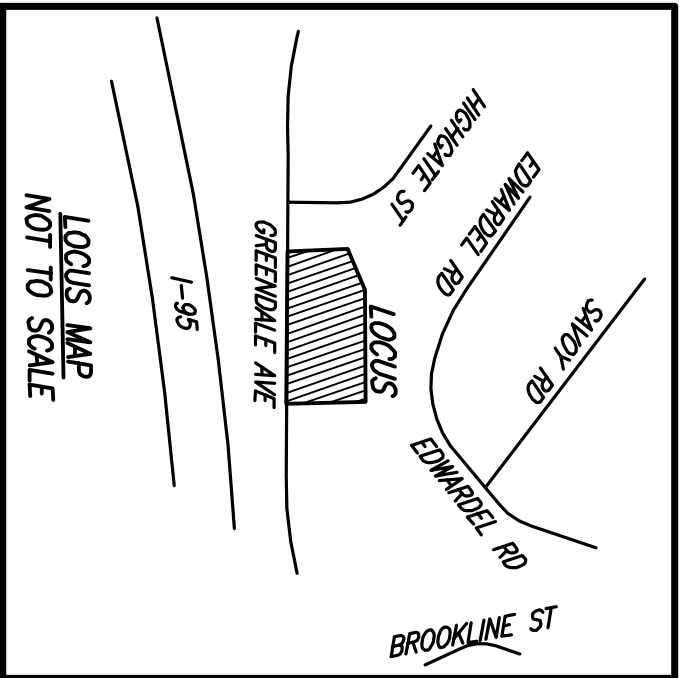
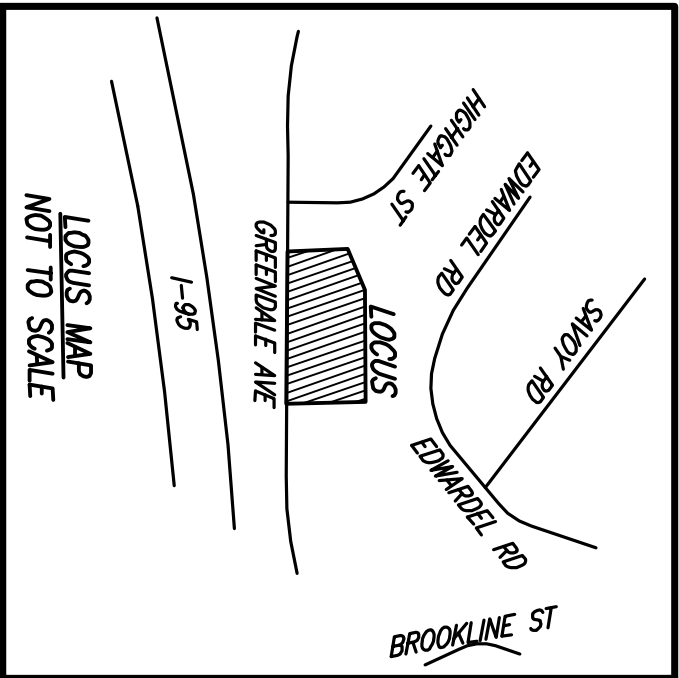
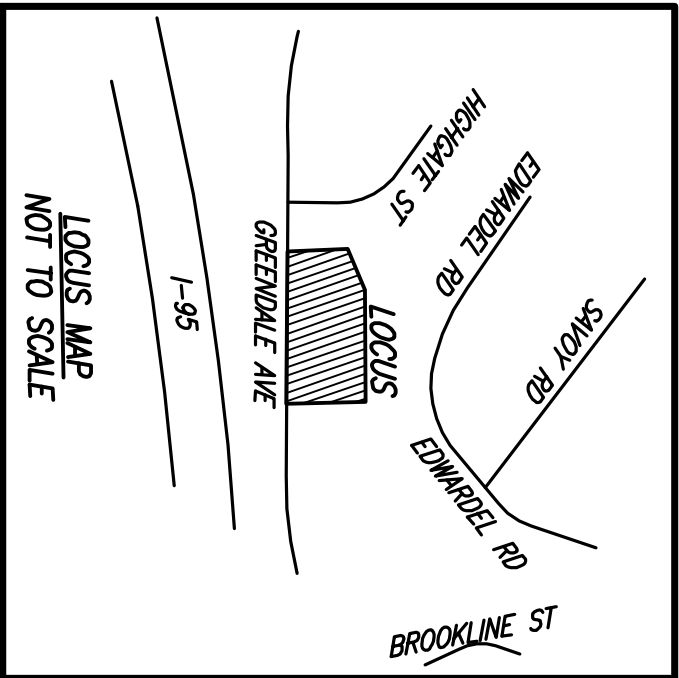
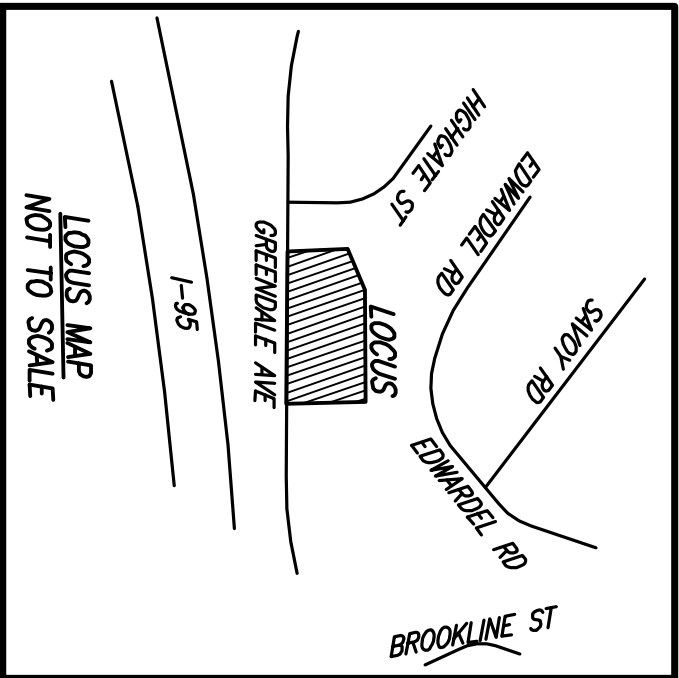
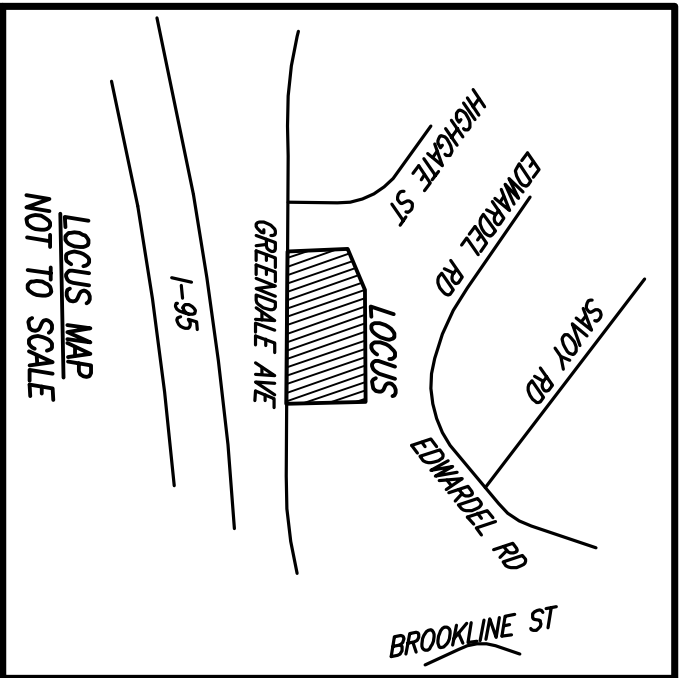
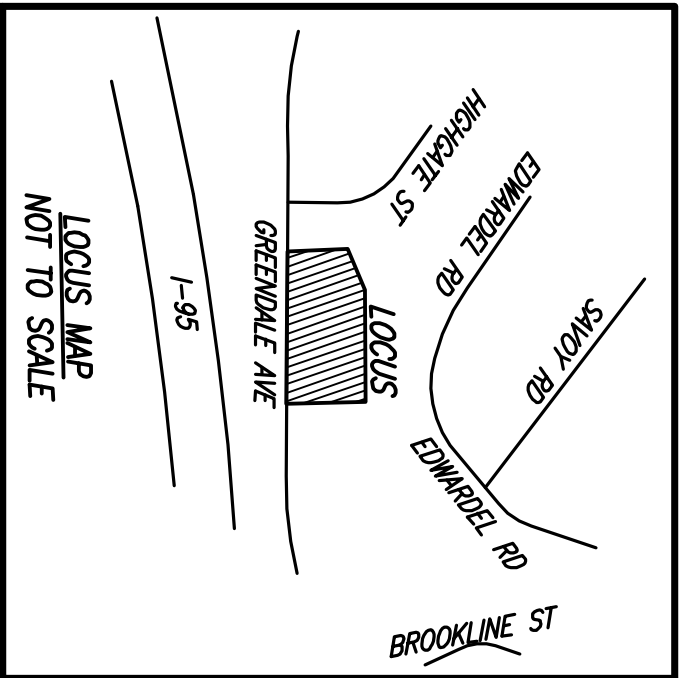
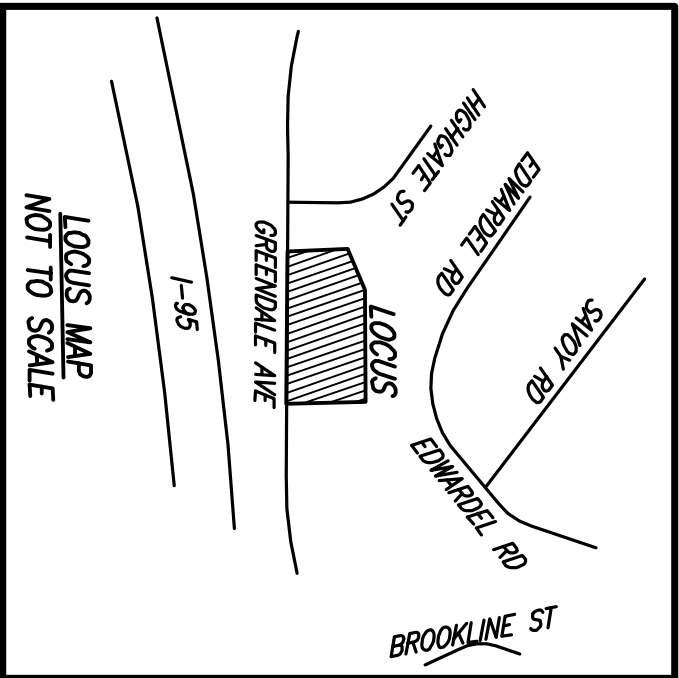
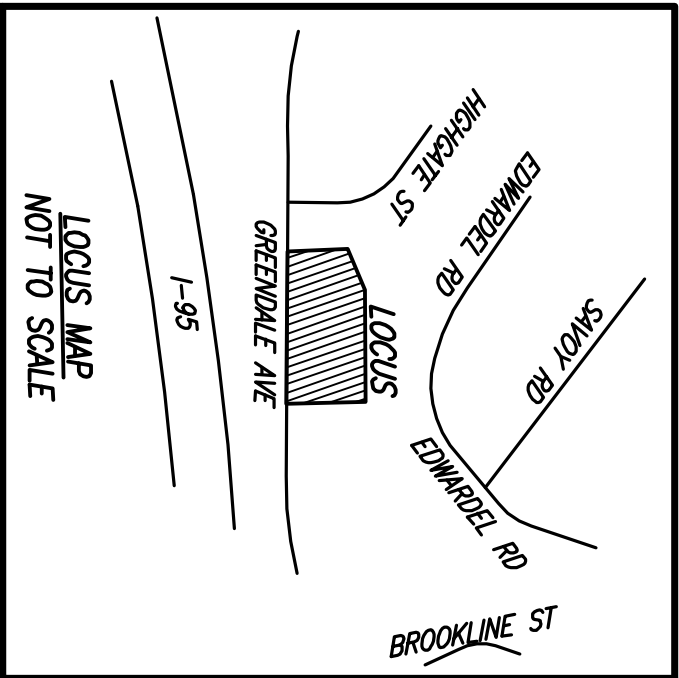
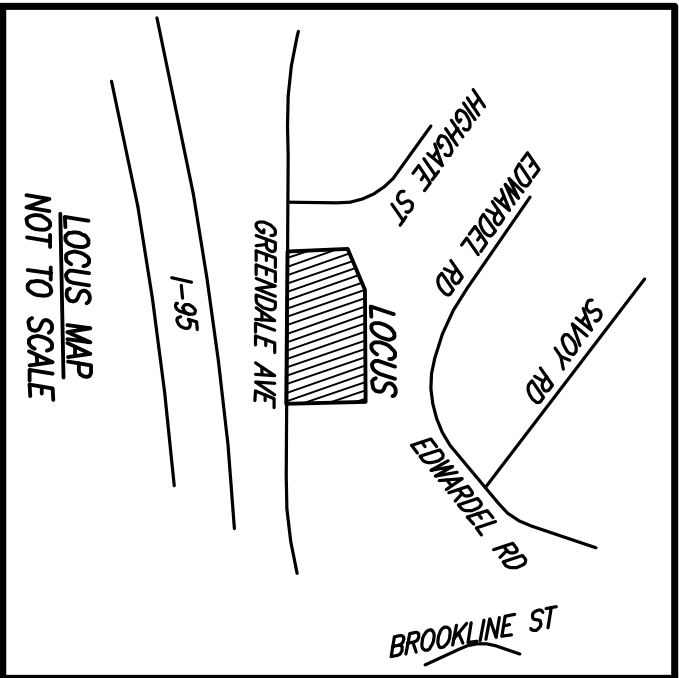
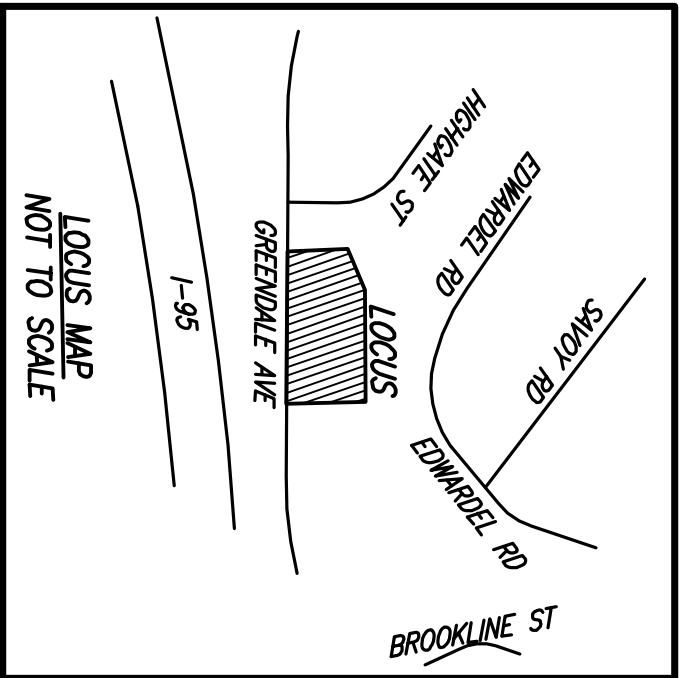
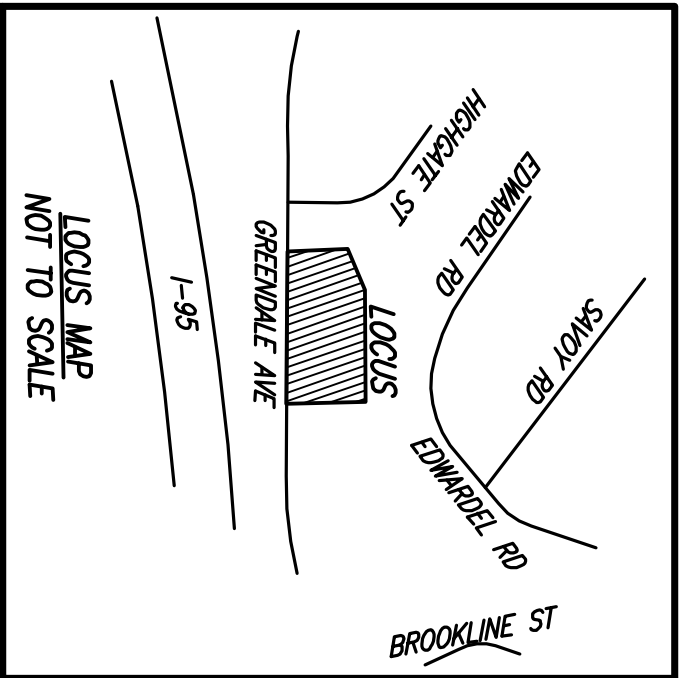
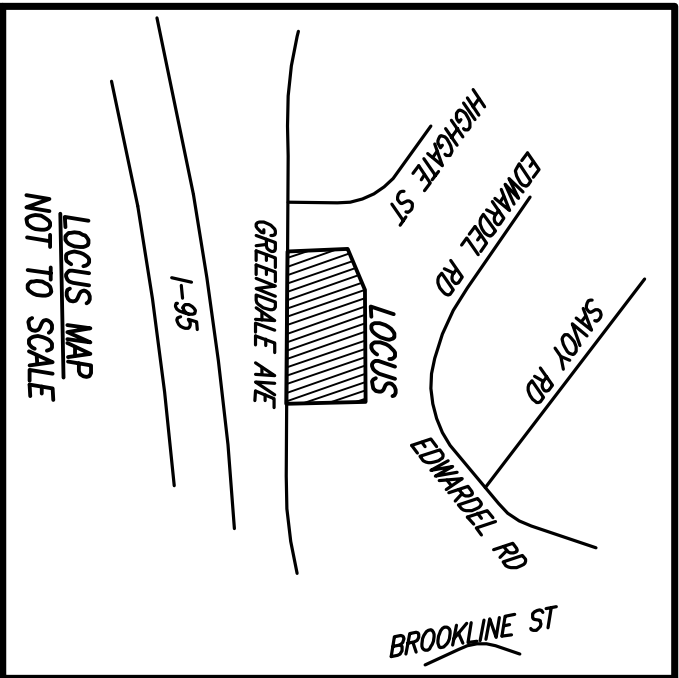
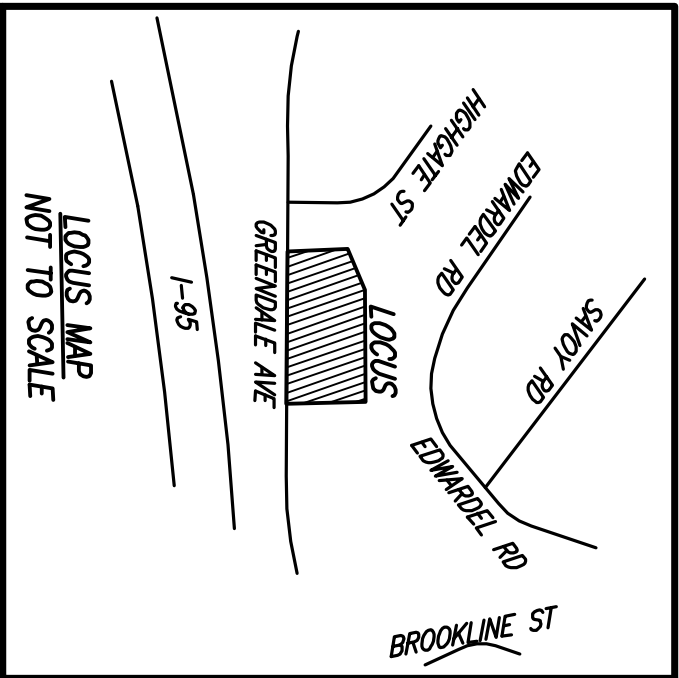
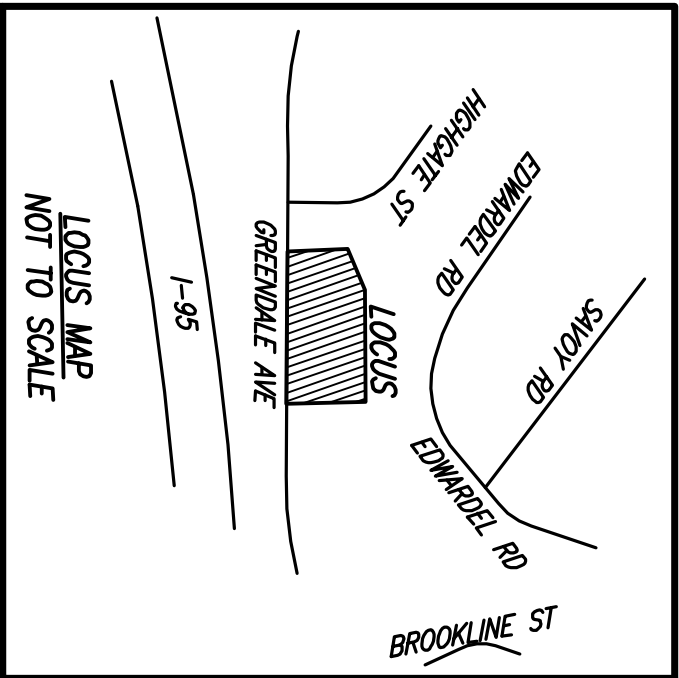
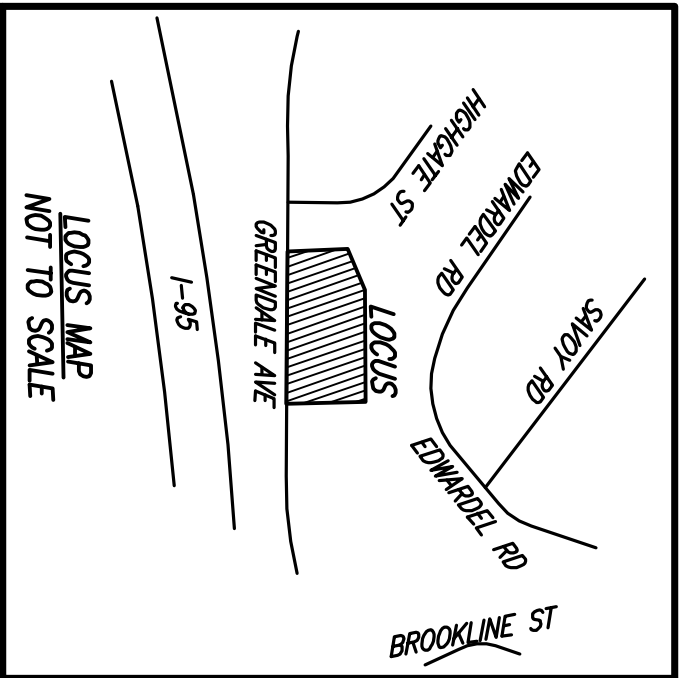
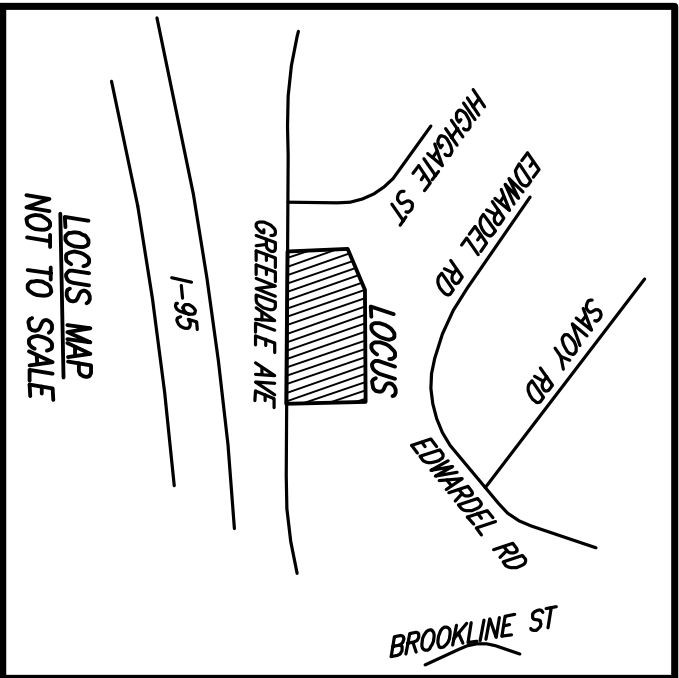
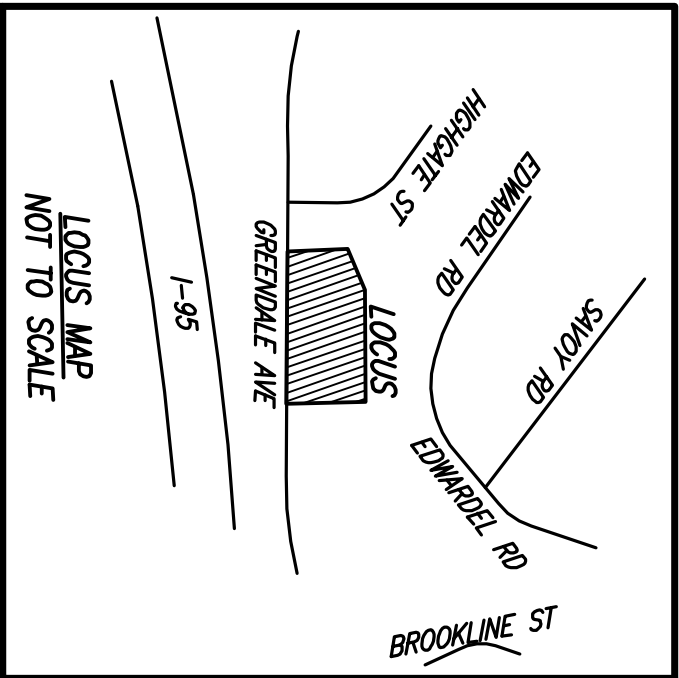
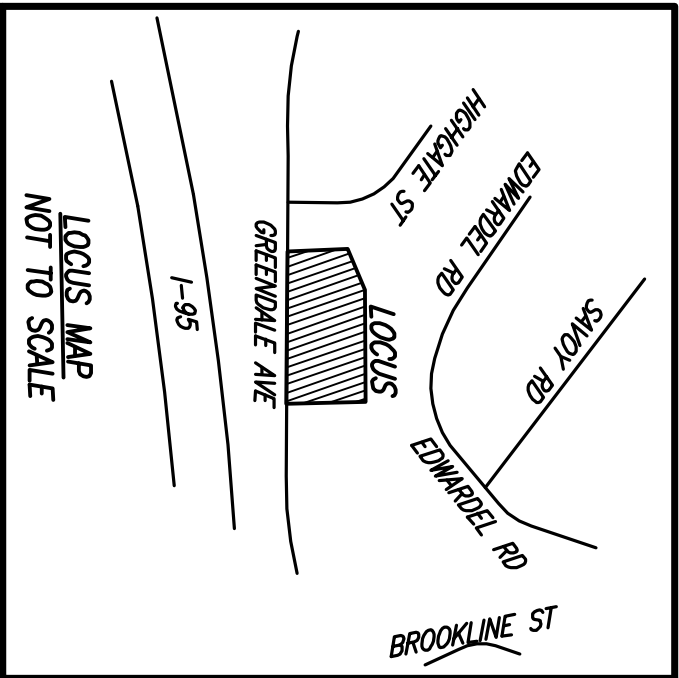
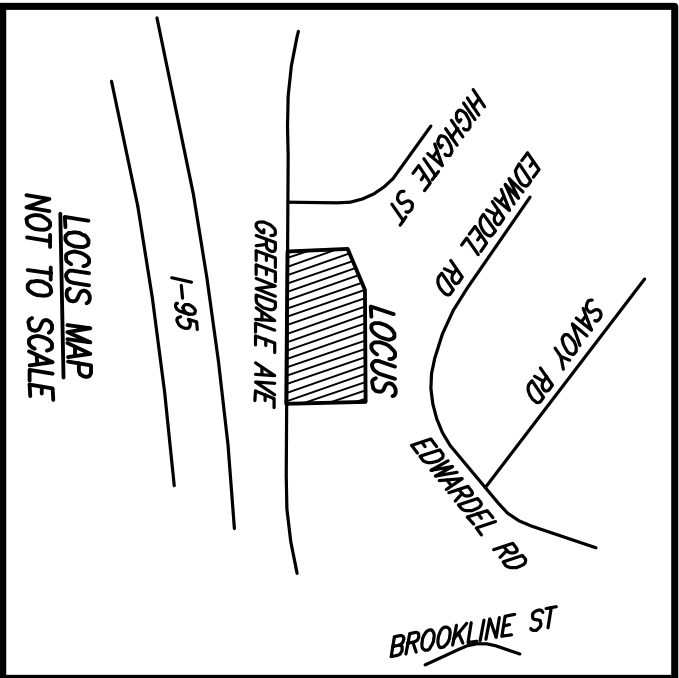
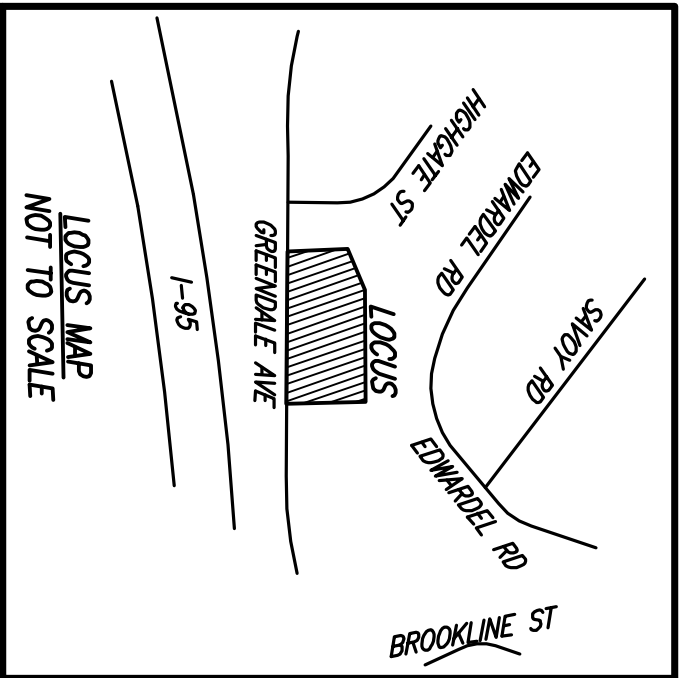
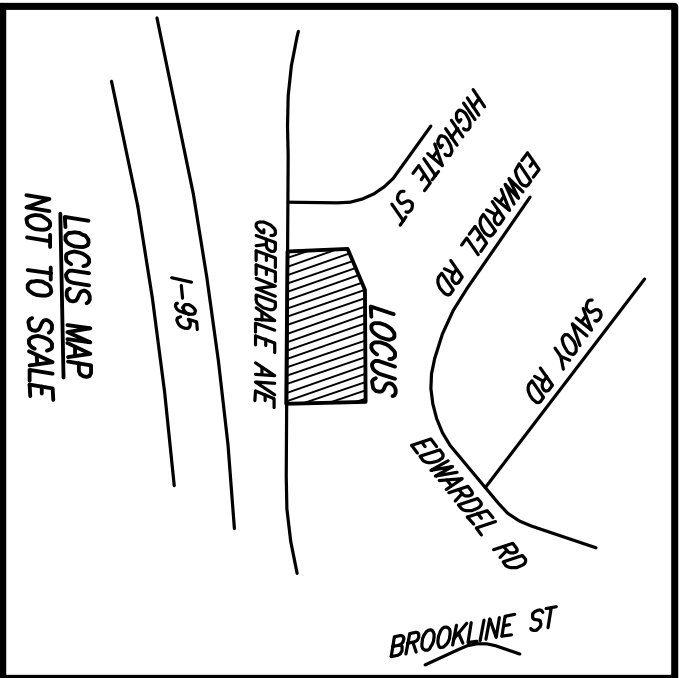
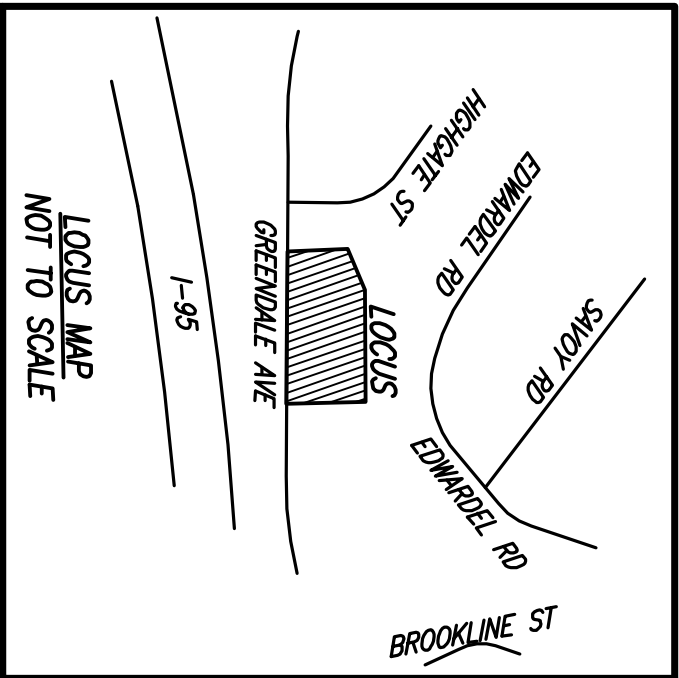
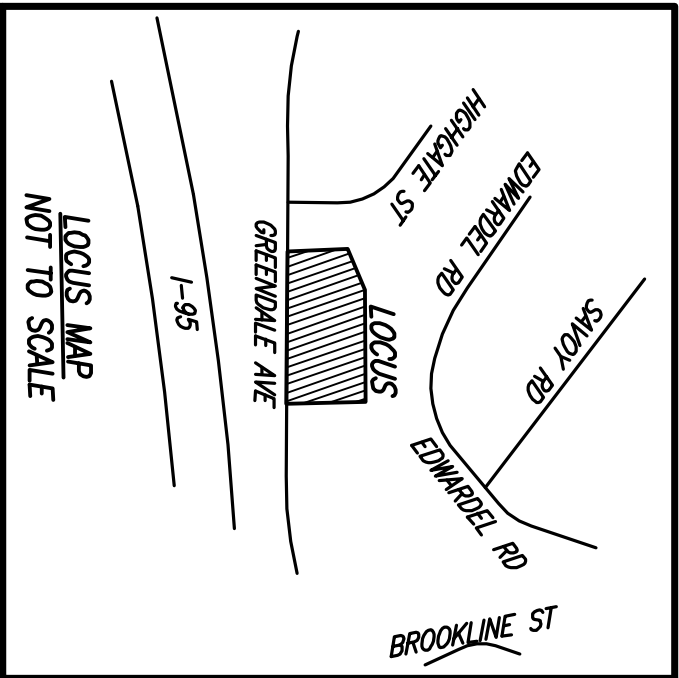
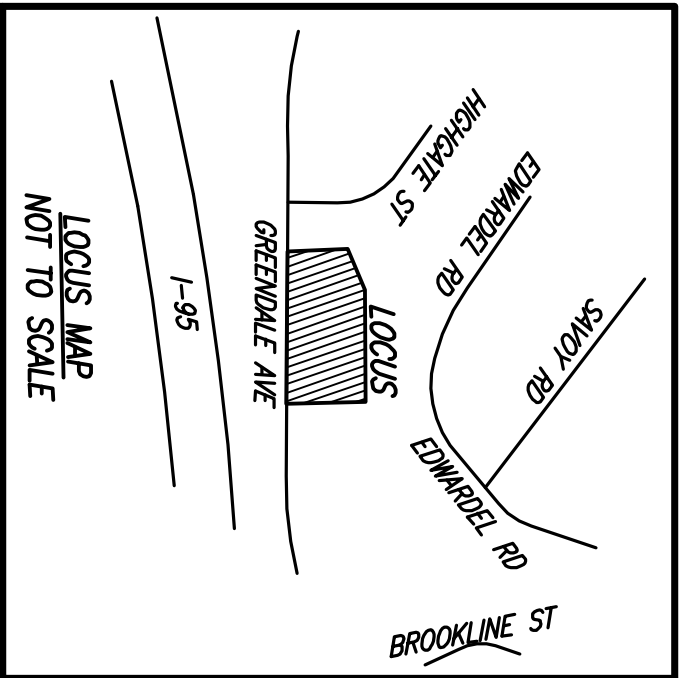
1. Name of Applicant Brendan Mota LLC
Address 259 Turnpike Rd Suite 110, Southborough, Ma 01772
2. Name of Engineer or Surveyor Field Resources
Address 281 Chestnut St, Needham, Ma 02492
3. Deed of property recorded in Norfolk County Registry,
Book 269, Page 577-1978
4. Location and description of property 543 Greendale Ave
5. Reasons approval is not required (check as applicable):
 - ☒ a) Every lot shown has the area and frontage required by the Zoning By-Law on a way, as defined by Section 81-L, Chapter 41 of the General Laws.
 - b) Land designated _____ shall not be used as separate building lot(s) but only together with adjacent lots having the required area and frontage.
 - c) Lot(s) having less than required frontage or area resulted from a taking for public purpose or have been recorded prior to 3/26/1925, no land is available to make up the deficiency and the frontage and land area of such lots are not being reduced by the plan.
 - d) _____

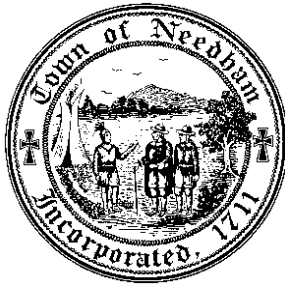
(If the applicant is not the owner, written authorization to act as agent must be attached)

Signature of Applicant [Signature], Manager
Address c/o Brendan Properties, LLC, 259 Turnpike Road
Suite 110, Southborough, MA 01772
By _____ (agent)

Application accepted this _____ day of _____, 20____
as duly submitted under the rules and regulations of the Planning Board.

By _____





PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

**AMENDMENT TO DECISION
December 19, 2023**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
117 Kendrick DE, LLC
Application No. 98-11
(Original Decision November 18, 1998,
amended January 21, 2003, January 10, 2006, June 5, 2007 and June 23, 2015)**

Decision of the Planning Board (hereinafter referred to as the “Board”) on the petition of 117 Kendrick DE, LLC, 116 Huntington Avenue, #600, Boston, MA 02116. Said property is shown on Needham Town Assessors Plan, No. 300 as Parcel 12 containing 526,611 square feet.

This Decision is in response to an application submitted to the Board on November 16, 2023, filed with the Town Clerk on December 1, 2023 by the Petitioner for a Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 3.2 of Major Project Special Permit No. 98-11, dated November 18, 1998, amended January 21, 2003, January 10, 2006, ~~and~~ June 5, 2007 and June 23, 2015. The Petitioner has requested permission to construct a loading dock bay to accommodate special deliveries to one of the office/life sciences suites from 3rd Avenue.

The changes requested are deemed minor in nature and extent and do not require public notice or public hearing. Testimony and documentary evidence were presented to the Board on December 5, 2023, in the Charles River Room of the Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the proceedings. After testimony and documentary evidence were presented the Board took action on the matter.

EVIDENCE

Submitted for the Board’s review were the following exhibits:

- Exhibit 1 - Application Form for Site Plan Review completed by the applicant’s representative dated December 1, 2023.
- Exhibit 2 - Letter from Timothy Sullivan, Attorney, dated November 14, 2023.
- Exhibit 3 - Plan Sheet C100, entitled “Existing Conditions Plan,” prepared by Highpoint Engineering, Inc., dated July 24, 2023, revised ~~August~~ June 21, 2023, and October 26, 2023.
- Exhibit 4 - Plan Sheet C002, entitled “Context Plan,” prepared by Highpoint Engineering, Inc., dated July 24, 2023, revised ~~August~~ June 21, 2023, and October 26, 2023.

- Exhibit 5 - Plan Sheet C300, entitled “Civil Site Plan,” prepared by Highpoint Engineering, Inc., dated July 24, 2023, revised ~~August~~~~June~~ 21, 2023, and October 26, 2023.
- Exhibit 6 - Memorandum regarding Transportation re: “Proposed Change of Use and New Loading Driveway Review,” prepared by Ryan White and Sean Manning, Vanasse Hangen Brustlin, Inc. (VHB), dated November 13, 2023.
- Exhibit 7 - Conceptual Elevations, not dated, consisting of 5 sheets: Sheet 1, no title; Sheet 2, “Exterior - Existing Condition (from Third Ave)”;
- Sheet 3, “Exterior - Proposed Condition (from Third Ave)”;
- Sheet 4, “Exterior - Existing Condition (from Third Ave)”;
- Sheet 5, “Exterior – Proposed Condition (from Third Ave)”.
- Exhibit 8 - Design Review Board Approval Plan, dated November 6, 2023 and Memorandum dated November 12, 2023.
- Exhibit 9 - Email from Timothy Sullivan, Attorney, dated November 30, 2023.
- Exhibit 10 - Inter Departmental Communication (IDC) to the Needham Planning Board from Thomas Ryder, Town Engineer, dated November 30, 2023 and December 4, 2023; IDC to the Needham Planning Board from the Needham Fire Department, Chief Tom Conroy, dated November 16, 2023; IDC to the Needham Planning Board from the Needham Police Department, Chief John Schlittler, dated November 28, 2023 and December 4, 2023; and IDC to the Needham Planning Board from Joe Prondak, Needham Building Commissioner, dated November 16, 2023.

Exhibits 1, 2, 3, 4, 5, 6 and 7 shall constitute the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 98-11, dated November 18, 1998, amended January 21, 2003, January 10, 2006, ~~and~~ June 5, 2007 and June 23, 2015 were ratified and confirmed except as follows:

1. The Petitioner is proposing to construct a loading dock bay to accommodate special deliveries to one of the office/life sciences suites from 3rd Avenue. The proposed loading bay is to be located approximately 325’ north of the signalized intersection of Third Avenue and Kendrick Street, as shown on the Plan.
2. The future tenant of this space is not known at this time. However, it is expected to require infrequent, special deliveries which need to be delivered directly to the laboratory area within the rear of the Suite.
3. 117 Kendrick Street is currently served by an existing dedicated loading dock that is located on the north face of the building and is accessed via the site’s parking lot. This existing loading dock is proposed to continue to service the building for normal deliveries (US Mail, FedEx, UPS, Amazon, other parcel delivery, paper goods, office supplies, etc.) and trash removal. The proposed new loading dock will be used solely by the office/life sciences tenant that it enters ~~into only~~, and only for specialized deliveries.

4. The new loading driveway and curb cut proposed along Third Avenue is to support those special life science deliveries that require specific handling and storage conditions to support research development/lab space. These deliveries could include medical gas, refrigerated and/or delicate items that cannot be efficiently managed without appropriate facilities and should not be ferried through office and common area corridors within the 117 Kendrick building. To ensure the smooth and safe receipt of these items, it is crucial to the success of this laboratory suite to establish a dedicated loading bay with direct access into the Suite.
5. To understand the frequency of these special deliveries and potential impacts to Third Avenue, observations were collected at similar peer research development/lab sites to collect data on the type and volume of anticipated loading activity. Locations with similar tenant uses and surrounding transportation infrastructure were selected.
6. The study and the collected data revealed loading dock operations typically occur from 6:00 AM to 2:00 PM, Monday through Friday. Observations indicated that most special deliveries are fulfilled via a commercial van, although some deliveries were also fulfilled via a 30-foot box truck. Accordingly, primarily vans (approximately 2/3 of the trips) and sometimes small (about 30' feet in length) trucks (approximately 1/3 of the trips) will utilize the new loading dock bay. No large trucks are proposed to utilize the new loading dock bay.
7. VHB has further estimated that the frequency of deliveries is likely to be approximately 1-2 times per week based upon a detailed assessment of similar tenant types and sizes with which the Petitioner has leases.
8. To understand if there might be impacts to the intersection's operation, queues were observed during the morning and evening peak hours. The Memorandum regarding Transportation Traffic Report showed that the queue at the traffic light at the intersection of Third Avenue and Kendrick Street is ~~are~~ short enough that the maneuvering at the new loading dock bay will not be impacted by queuing.
9. The Petitioner proposes that the loading dock will cease operation before the evening peak hour of traffic between 4:00PM and 6:00PM.
10. The proposed changes are deemed minor in nature and do not require public notice or hearing.

DECISION

NOW THEREFORE, by unanimous vote of the Planning Board, the Board votes that:

1. The proposed changes are minor in nature and do not require a public notice or a public hearing. No 20-day appeal period from this Amendment of Decision is required.
2. That the requested modifications are granted consistent with the Plan, subject to and with the benefit of the following conditions and limitations.

CONDITIONS AND LIMITATIONS

The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 98-11, dated November 18, 1998, amended January 21, 2003, January 10, 2006 and June 5, 2007 and June 23,

2015 are ratified and confirmed except as modified herein.

1. The existing loading dock shall continue to service the building for normal deliveries (US Mail, FedEx, UPS, Amazon, other parcel delivery, paper goods, office supplies, etc.) and trash removal. The new loading dock shall only be used by the office/life sciences tenant that it enters into, and only for specialized deliveries.
2. ~~One-third of the delivery trips shall be small trucks (about 30' feet in length); the rest of the trips (two-thirds) shall be vans. No medium or large trucks longer than 30 feet~~ shall be permitted to use the loading dock bay.
3. Vehicles shall not be permitted to drive in front-first, which would necessitate reversing out onto Third Avenue. All vehicles shall back in.
4. The loading dock shall cease operation before the evening peak hour of traffic between 4:00PM and 6:00PM.
5. The Petitioner shall require that the tenant limit the frequency of deliveries at the loading dock to no more than 2 deliveries per week.
6. This approval shall be recorded in the Norfolk District Registry of Deeds. This Major Site Plan Special Permit amendment shall not take effect until the Petitioner has delivered written evidence of recording to the Board.

Witness our hands this 19th day of December, 2023.

NEEDHAM PLANNING BOARD

Adam Block, Chairperson

Jeanne S. McKnight

Paul S. Alpert

Artie Crocker

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____, 2023

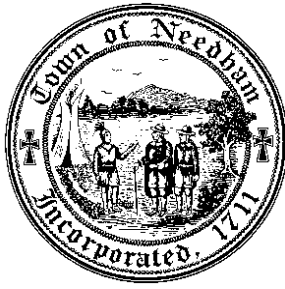
On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public:

My Commission Expires:_____

Copy sent to:

Petitioner
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission
Board of Selectmen
Engineering
Fire Department
Police Department
Timothy Sullivan



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

**AMENDMENT TO DECISION
December 19, 2023**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
117 Kendrick DE, LLC
Application No. 98-11
(Original Decision November 18, 1998,
amended January 21, 2003, January 10, 2006, June 5, 2007 and June 23, 2015)**

Decision of the Planning Board (hereinafter referred to as the “Board”) on the petition of 117 Kendrick DE, LLC, 116 Huntington Avenue, #600, Boston, MA 02116. Said property is shown on Needham Town Assessors Plan, No. 300 as Parcel 12 containing 526,611 square feet.

This Decision is in response to an application submitted to the Board on November 16, 2023, filed with the Town Clerk on December 1, 2023 by the Petitioner for a Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 3.2 of Major Project Special Permit No. 98-11, dated November 18, 1998, amended January 21, 2003, January 10, 2006, June 5, 2007 and June 23, 2015. The Petitioner has requested permission to construct a loading dock bay to accommodate special deliveries to one of the office/life sciences suites from 3rd Avenue.

The changes requested are deemed minor in nature and extent and do not require public notice or public hearing. Testimony and documentary evidence were presented to the Board on December 5, 2023, in the Charles River Room of the Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the proceedings. After testimony and documentary evidence were presented the Board took action on the matter.

EVIDENCE

Submitted for the Board’s review were the following exhibits:

- Exhibit 1 - Application Form for Site Plan Review completed by the applicant’s representative dated December 1, 2023.
- Exhibit 2 - Letter from Timothy Sullivan, Attorney, dated November 14, 2023.
- Exhibit 3 - Plan Sheet C100, entitled “Existing Conditions Plan,” prepared by Highpoint Engineering, Inc., dated July 24, 2023, revised August 21, 2023, and October 26, 2023.
- Exhibit 4 - Plan Sheet C002, entitled “Context Plan,” prepared by Highpoint Engineering, Inc., dated July 24, 2023, revised August 21, 2023, and October 26, 2023.

- Exhibit 5 - Plan Sheet C300, entitled “Civil Site Plan,” prepared by Highpoint Engineering, Inc., dated July 24, 2023, revised August 21, 2023, and October 26, 2023.
- Exhibit 6 - Memorandum regarding Transportation re: “Proposed Change of Use and New Loading Driveway Review,” prepared by Ryan White and Sean Manning, Vanasse Hangen Brustlin, Inc. (VHB), dated November 13, 2023.
- Exhibit 7 - Conceptual Elevations, not dated, consisting of 5 sheets: Sheet 1, no title; Sheet 2, “Exterior - Existing Condition (from Third Ave)”;
- Sheet 3, “Exterior - Proposed Condition (from Third Ave)”;
- Sheet 4, “Exterior - Existing Condition (from Third Ave)”;
- Sheet 5, “Exterior – Proposed Condition (from Third Ave)”.
- Exhibit 8 - Design Review Board Approval Plan, dated November 6, 2023 and Memorandum dated November 12, 2023.
- Exhibit 9 - Email from Timothy Sullivan, Attorney, dated November 30, 2023.
- Exhibit 10 - Inter Departmental Communication (IDC) to the Needham Planning Board from Thomas Ryder, Town Engineer, dated November 30, 2023 and December 4, 2023; IDC to the Needham Planning Board from the Needham Fire Department, Chief Tom Conroy, dated November 16, 2023; IDC to the Needham Planning Board from the Needham Police Department, Chief John Schlittler, dated November 28, 2023 and December 4, 2023; and IDC to the Needham Planning Board from Joe Prondak, Needham Building Commissioner, dated November 16, 2023.

Exhibits 1, 2, 3, 4, 5, 6 and 7 shall constitute the Plan.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 98-11, dated November 18, 1998, amended January 21, 2003, January 10, 2006, June 5, 2007 and June 23, 2015 were ratified and confirmed except as follows:

1. The Petitioner is proposing to construct a loading dock bay to accommodate special deliveries to one of the office/life sciences suites from 3rd Avenue. The proposed loading bay is to be located approximately 325’ north of the signalized intersection of Third Avenue and Kendrick Street, as shown on the Plan.
2. The future tenant of this space is not known at this time. However, it is expected to require infrequent, special deliveries which need to be delivered directly to the laboratory area within the rear of the Suite.
3. 117 Kendrick Street is currently served by an existing dedicated loading dock that is located on the north face of the building and is accessed via the site’s parking lot. This existing loading dock is proposed to continue to service the building for normal deliveries (US Mail, FedEx, UPS, Amazon, other parcel delivery, paper goods, office supplies, etc.) and trash removal. The proposed new loading dock will be used solely by the office/life sciences tenant that it enters, and only for specialized deliveries.

4. The new loading driveway and curb cut proposed along Third Avenue is to support those special life science deliveries that require specific handling and storage conditions to support research development/lab space. These deliveries could include medical gas, refrigerated and/or delicate items that cannot be efficiently managed without appropriate facilities and should not be ferried through office and common area corridors within the 117 Kendrick building. To ensure the smooth and safe receipt of these items, it is crucial to the success of this laboratory suite to establish a dedicated loading bay with direct access into the Suite.
5. To understand the frequency of these special deliveries and potential impacts to Third Avenue, observations were collected at similar peer research development/lab sites to collect data on the type and volume of anticipated loading activity. Locations with similar tenant uses and surrounding transportation infrastructure were selected.
6. The study and the collected data revealed loading dock operations typically occur from 6:00 AM to 2:00 PM, Monday through Friday. Observations indicated that most special deliveries are fulfilled via a commercial van, although some deliveries were also fulfilled via a 30-foot box truck. Accordingly, primarily vans (approximately 2/3 of the trips) and sometimes small (about 30' feet in length) trucks (approximately 1/3 of the trips) will utilize the new loading dock bay. No large trucks are proposed to utilize the new loading dock bay.
7. VHB has further estimated that the frequency of deliveries is likely to be approximately 1-2 times per week based upon a detailed assessment of similar tenant types and sizes with which the Petitioner has leases.
8. To understand if there might be impacts to the intersection's operation, queues were observed during the morning and evening peak hours. The Memorandum regarding Transportation showed that the queue at the traffic light at the intersection of Third Avenue and Kendrick Street is short enough that the maneuvering at the new loading dock bay will not be impacted by queuing.
9. The Petitioner proposes that the loading dock will cease operation before the evening peak hour of traffic between 4:00PM and 6:00PM.
10. The proposed changes are deemed minor in nature and do not require public notice or hearing.

DECISION

NOW THEREFORE, by unanimous vote of the Planning Board, the Board votes that:

1. The proposed changes are minor in nature and do not require a public notice or a public hearing. No 20-day appeal period from this Amendment of Decision is required.
2. That the requested modifications are granted consistent with the Plan, subject to and with the benefit of the following conditions and limitations.

CONDITIONS AND LIMITATIONS

The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 98-11, dated November 18, 1998, amended January 21, 2003, January 10, 2006 and June 5, 2007 and June 23,

2015 are ratified and confirmed except as modified herein.

1. The existing loading dock shall continue to service the building for normal deliveries (US Mail, FedEx, UPS, Amazon, other parcel delivery, paper goods, office supplies, etc.) and trash removal. The new loading dock shall only be used by the office/life sciences tenant that it enters into, and only for specialized deliveries.
2. No trucks longer than 30 feet shall be permitted to use the loading dock bay.
3. Vehicles shall not be permitted to drive in front-first, which would necessitate reversing out onto Third Avenue. All vehicles shall back in.
4. The loading dock shall cease operation before the evening peak hour of traffic between 4:00PM and 6:00PM.
5. The Petitioner shall require that the tenant limit the frequency of deliveries at the loading dock to no more than 2 deliveries per week.
6. This approval shall be recorded in the Norfolk District Registry of Deeds. This Major Site Plan Special Permit amendment shall not take effect until the Petitioner has delivered written evidence of recording to the Board.

Witness our hands this 19th day of December, 2023.

NEEDHAM PLANNING BOARD

Adam Block, Chairperson

Jeanne S. McKnight

Paul S. Alpert

Artie Crocker

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____, 2023

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public:

My Commission Expires:_____

Copy sent to:

Petitioner
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission
Board of Selectmen
Engineering
Fire Department
Police Department
Timothy Sullivan

DECISION
December 19, 2023

MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
Neehigh LLC
629-661 Highland Avenue, Needham, MA
Application No. 2023-03

Decision of the Planning Board (hereinafter referred to as the “Board”) on the petition of Neehigh LLC, 93 Union Street, Suite 315, Newton Center, MA, 02459 (hereinafter referred to as the “Petitioner”) for property located at 629-661 Highland Avenue, Needham, Massachusetts (hereinafter referred to as the “Property”). The Property is owned by the Petitioner. The Property is shown on the Needham Town Assessor's Plan No. 77 as Parcels 62 and 63 containing a total of 81,973 square feet in the Industrial Zoning District.

This Decision is in response to an application submitted to the Board on August 8, 2023, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the “By-Law”).

The requested Major Project Site Plan Review Special Permit, would, if granted, permit the Petitioner to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) parking spaces. The two stories of the building itself are located directly above a parking area that is partially above grade and thus for zoning purposes counts as an additional story; and a three-story building is proposed as allowed in this zoning district.

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, Adam Block, on Tuesday, September 5, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. The hearing was continued to Tuesday, October 3, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264, continued to Tuesday, October 17, 2023 at 7:30 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264, and further continued to Tuesday, November 7, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Artie Crocker, and Natasha Espada were present throughout the September 5, 2023, October 17, 2023, and November 7, 2023 proceedings. No testimony was taken at the October 3, 2023 meeting. The record of the proceedings and the submissions upon which the Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

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

- Exhibit 1 - Properly executed Application for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law, dated August 8, 2023.
- Exhibit 2 - Letter from Attorney Evans Huber, dated August 4, 2023.
- Exhibit 3 - Letter from James Curtin, Neehigh LLC, dated August 3, 2023.
- Exhibit 4 - Letter from Attorney Evans Huber, dated August 7, 2023.
- Exhibit 5 - Plan entitled "Highland Ave Medical Office Building," prepared by Mangel DeStefano Architects, Inc., 200 Ayer Road, Harvard, MA 01451, Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, Ground, Inc., 285 Washington Street, Unit G, Somerville, MA, 02143, consisting of 39 sheets: Sheet 1, Cover Sheet, dated August 4, 2023; Sheet 2, Existing Site Photographs, dated July 14, 2023; Sheet 3, Site Diagram, dated July 14, 2023; Sheet 4, Sheet SV1.00, entitled "Existing Conditions Plan of Land," dated August 4, 2023; Sheet 5, Sheet C1.01, entitled "Legend and General Notes," dated August 4, 2023; Sheet 6, Sheet C2.01, entitled "Site Preparation Plan," dated August 4, 2023; Sheet 7, Sheet C3.01, entitled "Layout and Materials Plan," dated August 4, 2023; Sheet 8, Sheet C4.01, entitled "Grading and Drainage Plan," dated August 4, 2023; Sheet 9, Sheet C5.01, entitled "Utilities Plan," dated August 4, 2023; Sheet 10, Sheet C6.01, entitled "Site Details 1," dated August 4, 2023; Sheet 11, Sheet C6.02, entitled "Site Details," dated August 4, 2023; Sheet 12, Sheet C6.03, entitled "Site Details 3," dated August 4, 2023; Sheet 13, Sheet L102, entitled "Rendered Material plan," dated August 4, 2023; Sheet 14, Sheet L103, entitled "Grading Plan," dated August 4, 2023; Sheet 15, Sheet L104, entitled "Planting Plan," dated August 4, 2023; Sheet 16, Sheet L501, entitled "Details," dated August 4, 2023; Sheet 17, Sheet L520, entitled "Planting Details," dated August 4, 2023; Sheet 18, Sheet L521, entitled "Planting Details," dated August 4, 2023; Sheet 19, entitled "Site Lighting Photometric Plan," dated July 14, 2023; Sheet 20, Sheet A.101, entitled "F-1 Lower Parking plan," dated August 4, 2023; Sheet 21, Sheet A.102, entitled "F-2 Upper parking Plan," dated August 4, 2023; Sheet 22, Sheet A.103, entitled "First Floor Plan," dated August 4, 2023; Sheet 23, Sheet A.104, entitled "Second Floor Plan," dated August 4, 2023; Sheet 24, Sheet A.105, entitled "Roof Plan," dated August 4, 2023; Sheet 25, Sheet A.201, entitled "Elevations," dated August 4, 2023; Sheet 26, Sheet A.301, entitled "Building Sections," dated August 4, 2023; Sheet 27, entitled "P-1 Lower Below Grade Parking," dated July 14, 2023; Sheet 28, entitled "P-2 Upper Parking," dated July 14, 2023; Sheet 29, entitled "First Floor Plan," dated July 14, 2023; Sheet 30, entitled "Second Floor Plan," dated July 14, 2023; Sheet 31, entitled "Roof Plan," dated July 14, 2023; Sheet 32, entitled "Materials of Major Architectural Elements," dated July 14, 2023; Sheet 33, entitled "Concept Renderings, View at Highland Ave & Cross Street" dated July 14, 2023; Sheet 34, entitled "Concept Renderings, View at P-2 parking Level (South)" dated July 14, 2023; Sheet 35, entitled "Concept Renderings, View at P-2 Parking Level (West)" dated July 14, 2023; Sheet 36, entitled "Concept Renderings, View along highland Ave (North)" dated July 14, 2023; Sheet 37, entitled "Concept Renderings, View at Cross Street Below Grade Garage Entrance" dated July 14, 2023; Sheet 38, entitled "Concept Renderings, View at Arbor Street Above Grade Parking Entrance" dated July 14, 2023; Sheet 39, entitled "Concept Renderings, View at Landscape Plaza" dated July 14, 2023.
- Exhibit 6 - Plan entitled "Highland Ave Medical Office Building," prepared by Mangel DeStefano Architects, Inc., 200 Ayer Road, Harvard, MA 01451, Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, Ground, Inc., 285 Washington Street, Unit G, Somerville, MA, 02143, consisting of 39 sheets: Sheet 1, Cover Sheet, dated August 4, 2023; Sheet 2, Existing Site Photographs, dated July 14, 2023; Sheet 3, Site Diagram, dated

July 14, 2023; Sheet 4, Sheet SV1.00, entitled “Existing Conditions Plan of Land,” dated August 4, 2023; Sheet 5, Sheet C1.01, entitled “Legend and General Notes,” dated August 4, 2023, revised October 31, 2023; Sheet 6, Sheet C2.01, entitled “Site Preparation Plan,” dated August 4, 2023; Sheet 7, Sheet C3.01, entitled “Layout and Materials Plan,” dated August 4, 2023, revised October 31, 2023; Sheet 8, Sheet C4.01, entitled “Grading and Drainage Plan,” dated August 4, 2023, revised October 31, 2023; Sheet 9, Sheet C5.01, entitled “Utilities Plan,” dated August 4, 2023, revised October 31, 2023; Sheet 10, Sheet C6.01, entitled “Site Details 1,” dated August 4, 2023; Sheet 11, Sheet C6.02, entitled “Site Details ,” dated August 4, 2023; Sheet 12, Sheet C6.03, entitled “Site Details 3,” dated August 4, 2023; Sheet 13, Sheet L102, entitled “Rendered Material plan,” dated August 4, 2023; Sheet 14, Sheet L103, entitled “Grading Plan,” dated August 4, 2023; Sheet 15, Sheet L104, entitled “Planting Plan,” dated August 4, 2023; Sheet 16, Sheet L501, entitled “Details,” dated August 4, 2023; Sheet 17, Sheet L520, entitled “Planting Details,” dated August 4, 2023; Sheet 18, Sheet L521, entitled “Planting Details,” dated August 4, 2023; Sheet 19, entitled “Site Lighting Photometric Plan,” dated July 14, 2023; Sheet 20, Sheet A.101, entitled “F-1 Lower Parking plan,” dated August 4, 2023 (received October 12, 2023); Sheet 21, Sheet A.102, entitled “F-2 Upper parking Plan,” dated August 4, 2023 (received November 2, 2023); Sheet 22, Sheet A.103, entitled “First Floor Plan,” dated August 4, 2023; Sheet 23, Sheet A.104, entitled “Second Floor Plan,” dated August 4, 2023; Sheet 24, Sheet A.105, entitled “Roof Plan,” dated August 4, 2023; Sheet 25, Sheet A.201, entitled “Elevations,” dated August 4, 2023; Sheet 26, Sheet A.301, entitled “Building Sections,” dated August 4, 2023; Sheet 27, entitled “P-1 Lower Below Grade Parking,” dated July 14, 2023; Sheet 28, entitled “P-2 Upper Parking,” dated July 14, 2023; Sheet 29, entitled “First Floor Plan,” dated July 14, 2023; Sheet 30, entitled “Second Floor Plan,” dated July 14, 2023; Sheet 31, entitled “Roof Plan,” dated July 14, 2023; Sheet 32, entitled “Materials of Major Architectural Elements,” dated July 14, 2023; Sheet 33, entitled “Concept Renderings, View at Highland Ave & Cross Street” dated July 14, 2023; Sheet 34, entitled “Concept Renderings, View at P-2 parking Level (South)” dated July 14, 2023; Sheet 35, entitled “Concept Renderings, View at P-2 Parking Level (West)” dated July 14, 2023; Sheet 36, entitled “Concept Renderings, View along highland Ave (North)” dated July 14, 2023; Sheet 37, entitled “Concept Renderings, View at Cross Street Below Grade Garage Entrance” dated July 14, 2023; Sheet 38, entitled “Concept Renderings, View at Arbor Street Above Grade Parking Entrance” dated July 14, 2023; Sheet 39, entitled “Concept Renderings, View at Landscape Plaza” dated July 14, 2023.

- Exhibit 7 - Transportation Impact Assessment, prepared by Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated July 2023.
- Exhibit 8 - Stormwater Report, prepared by Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, dated August 4, 2023.
- Exhibit 9 - Design Review Board Memorandum, dated Augst 8, 2023.
- Exhibit 10 - Email from Justin Mosca, Vanesse Hangen Brustlin, dated August 30, 2023, with attachment: Figure FT-1, entitled Fire Access Plan, prepared by Vanesse Hangen Brustlin, dated August 4, 2023.
- Exhibit 11 - Letter from Jeffrey S. Dirk, Managing Partner, Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated August 31, 2023.
- Exhibit 12 - Letter from Daniel Barton, Mangel Destefano Architects, dated August 31, 2023.

- Exhibit 13- Email from Justin Mosca, Vanesse Hangen Brustlin, dated September 8, 2023, with attachment: Figure FT-1, entitled Fire Access Plan, prepared by Vanesse Hangen Brustlin, dated September 8, 2023.
- Exhibit 14 - Presentation to Planning Board at public hearing of September 5, 2023.
- Exhibit 15 - Letter from Adriana Santiago, Project Engineer, Greenman-Pedersen, Inc., dated September 20, 2023.
- Exhibit 16 - Letter from Jeffrey S. Dirk, Managing Partner, Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated October 10, 2023.
- Exhibit 17 - Figure TT-1, entitled Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received October 20, 2023*.
- Exhibit 18 - Figure TT-2, entitled Garbage Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received October 20, 2023*.
- Exhibit 19 - Sheet A.101, prepared by Mangel DeStefano Architects, Inc., entitled “P-1 Lower Parking Plan,” dated August 4, 2023, *received October 12, 2023*.
- Exhibit 20- Sheet A.102, prepared by Mangel DeStefano Architects, Inc., entitled “P-2 Upper Parking Plan,” dated August 4, 2023, *received October 12, 2023*.
- Exhibit 21- Letter from Daniel Barton, Mangel Destefano Architects, dated October 10, 2023.
- Exhibit 22- Locus Figure, prepared by Vanesse Hangen Brustlin, dated September 21, 2023.
- Exhibit 23 - Transportation Impact Assessment, prepared by Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated July 2023, updated October, 2023.
- Exhibit 24 - Figure TT-1, entitled Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received November 2, 2023*.
- Exhibit 25- Figure TT-2, entitled Garbage Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received November 2, 2023*.
- Exhibit 26 - 4 revised plan sheets, prepared by Vanesse Hangen Brustlin: Sheet C1.01, entitled “Legend and General Notes,” dated August 4, 2023, revised October 31, 2023; Sheet C3.01, entitled “Layout and Materials Plan,” dated August 4, 2023, revised October 31, 2023; Sheet C4.01, entitled “Grading and Drainage Plan,” dated August 4, 2023, revised October 31, 2023; Sheet C5.01, entitled “Utilities Plan,” dated August 4, 2023, revised October 31, 2023.
- Exhibit 27 - Sheet A.102, prepared by Mangel DeStefano Architects, Inc., entitled “P-2 Upper Parking Plan,” dated August 4, 2023, *received November 2, 2023*.
- Exhibit 28 - Letter from Adriana Santiago, Project Engineer, Greenman-Pedersen, Inc., dated November 1, 2023.
- Exhibit 29 - Email from Daniel Barton, Mangel Destefano Architects, dated November 2, 2023, with Attachment: Conceptual Plan set, consisting of 8 sheets: Sheet 1, entitled “Landscape Site

Plan,” undated; Sheet 2, entitled “Walkway View 1,” undated; Sheet 3, entitled “Walkway View 2,” undated; Sheet 4, entitled “Walkway View 3,” undated; Sheet 5, entitled “Walkway View 4,” undated; Sheet 6, entitled “Walkway View 5,” undated; Sheet 7, entitled “Walkway View 6,” undated; Sheet 8, entitled “Walkway View 7,” undated.

- Exhibit 30 - Email from Glenn Mulno, dated August 31, 2023.
- Exhibit 31- Email from Wendy Ziao Herman, dated September 5, 2023.
- Exhibit 32 - Email from Michael Notkin, dated September 5, 2023.
- Exhibit 33 - Email from Joanie Friedman, dated September 8, 2023.
- Exhibit 34 - Inter Departmental Communication (IDC) to the Needham Planning Board from Thomas Ryder, Town Engineer, dated August 30, 2023; IDC to the Needham Planning Board from the Needham Fire Department, Chief Tom Conroy, dated August 30, 2023 and Jay Steeves, dated September 26, 2023; IDC to the Needham Planning Board from the Needham Police Department, Chief John Schlittler, dated August 15, 2023 and October 31, 2023; IDC to the Needham Planning Board from Joe Prondak, Needham Building Commissioner, dated August 31, 2022 [sic] and September 5, 2023; and IDC to the Needham Planning Board from Tara Gurge, Public Health Division, dated August 30, 2023.

Exhibits 6, 7, 8, 13, 15, 16, 19, 23, 24, 25, 26, 27, 28, and 29 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

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

- 1.1 The subject property is located in the Industrial Zoning District at 629-661 Highland Avenue, Needham, MA. The said property is shown on Needham Town Assessors Plan No. 77 as Parcels 62 and 63 and contains approximately 81,973 square feet. The property is owned by the Petitioner.
- 1.2 The site is presently fully developed comprising five existing buildings, together with associated driveways, walkways and parking.
- 1.3 The Petitioner proposes to demolish the five existing buildings on the property and to build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) parking spaces. The two stories of the building itself are located directly above a parking area that is partially above grade and thus for zoning purposes counts as an additional story; and a three-story building is proposed as allowed in this zoning district.
- 1.4 The property is bounded by 3 ways, as follows: Highland Avenue, a public way, to the southeast of the property; Cross Street, a private way, to the northeast, and Arbor Road, a private way, to the southwest.
- 1.5 In connection with the proposed redevelopment of the site, the Petitioner is also proposing a stormwater management system providing a treatment plan of Best Management Practices, including a heavy emphasis on stormwater infiltration that will serve to remove potential pollutants such as TSS and phosphorus, provide improved groundwater recharge, and manage stormwater

runoff to protect on-site facilities as well as adjacent properties. As a part of the site improvements, the Petitioner is proposing to install new landscaping on-site.

- 1.6 As indicated above, the proposed new building will be used for medical office purposes. Pursuant to Section 3.2.1 of the By-Law, the use of property in the Industrial District for medical office purposes – specifically “craft, consumer, professional or commercial service establishment dealing directly with the general public and not enumerated elsewhere in this section” – is permitted as of right. Therefore, the proposed use of the new building is allowed by right.
- 1.7 The By-Law, Section 4.6.1 requires that the minimum lot area be 10,000 square feet and the minimum lot frontage be 80 feet. The proposed development, having a lot with an area of approximately 81,973 square feet and 294.1 feet of frontage on Highland Avenue, complies with the minimum frontage and the minimum area requirements of the By-Law.
- 1.8 The By-Law, Section 4.7.1 (a) and Section 4.6.2 require a minimum front setback of 20 feet from Highland Avenue, and 10 feet from Arbor and Cross Streets, respectively. The proposed building is to have a front setback of 22 feet from Highland Avenue and 12 feet from Arbor Street and 16 feet from Cross Street. Therefore, the proposed new building complies with the applicable setback requirements of the By-Law.
- 1.9 The By-Law, Section 4.4.7, requires that whenever a business use as listed in Section 3.2. Schedule of Use Regulations is to be located or expanded in other than a business district (with the exception of the Industrial-1 District), whether permitted by a Board of Appeals Special Permit or variance or otherwise, the percentage area requirements specified in Table 1 in Section 4.4.2 shall be applicable, unless a variance has also been granted from the provisions of this Section 4.4.2. Table 1 in Section 4.4.2 for “Other Uses Permitted in Business Districts” having a corner lot type and a three-story building profile specifies a maximum lot coverage requirement of 35%. The proposed new building will have a lot coverage of 31% which is less than the maximum permitted. Therefore, the proposed new building complies with the lot coverage requirements of the By-Law.
- 1.10 Pursuant to Section 4.6.1 the maximum height allowed as of right in the Industrial District is 40 feet. Whereas the proposed new building is 40 feet, the proposed new building will comply with the height limitations of the By-Law.
- 1.11 The By-Law, Section 4.6.6, further requires that no more than two driveways be permitted for every 150 feet of frontage, and two-way driveways of the kind proposed for the premises must be no less than 18 feet wide and no more than 25 feet wide and one-way driveways of the kind proposed for the premises must be no less than 12 feet wide and no more than 18 feet wide unless vehicles greater than 30 feet in length will access the premises. Whereas two driveways are proposed on each Cross and Arbor Streets, and whereas the two-way driveways are 24 feet wide, and the one-way driveway into the Premises on Cross Street is 20 feet wide, same complies with the applicable driveway opening conditions of Section 4.6.6 as emergency vehicles in excess of 30 feet in length are expected to use the premises. Specifically, site driveways have been designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle as defined by the Needham Fire Department.
- 1.12 Under the By-Law, Section 5.1.2, 1 parking space per 200 square feet of floor area is required for the Medical Office use for a total of 250 parking spaces required (50,000 square feet / 200 = 250). The Petitioner is proposing to install a total of 250 parking spaces, including 8 accessible parking spaces and 15% EV-Ready, and 5% Level 2 Charging Stations.

- 1.13 The spaces as designed comply with all aspects of the Parking Plan and Design Requirements set forth at Section 5.1.3 of the By-Law. No waivers are requested.
- 1.14 The Petitioner has submitted a traffic analysis which evaluates the anticipated traffic impacts resulting from the proposed redevelopment of 629-661 Highland Avenue, to accommodate a medical office building. (See Exhibits 7, 16, and 23). The initial traffic report was issued in July 2023 (Exhibit 7) and was subsequently updated and revised in October 2023 (Exhibit 23). The submitted traffic analysis was peer reviewed by the Town's traffic consultant, Adriana Santiago, Project Engineer, of Greenman-Pedersen, Inc., GPI as detailed in Exhibit 15 and Exhibit 28.
- 1.15 The following traffic specific areas have been evaluated as they relate to the Project: i) access requirements; ii) potential off-site improvements; and iii) safety considerations; under existing and future conditions, both with and without the Project. Based on this assessment, the traffic analysis concludes the following with respect to the Project:
- a) Using trip-generation statistics published by the Institute of Transportation Engineers the Project is expected to generate approximately 1,800 vehicle trips on an average weekday (two-way volume over the operational day of the Project), with 129 vehicle trips expected during the weekday morning peak-hour and 200 vehicle trips expected during the weekday evening peak-hour.
 - b) In comparison to the existing uses that currently occupy the Project site, the Project is expected to generate approximately 1,770 additional vehicle trips on an average weekday, with 127 additional vehicle trips expected during the weekday morning peak-hour and 194 additional vehicle trips expected during the weekday evening peak-hour.
 - c) The Project will not result in a significant impact (increase) on motorist delays or vehicle queuing over anticipated future conditions without the Project (No-Build condition), with all movements at the signalized study area intersections expected to continue to operate at level-of-service (LOS) D or better, where an LOS of "D" or better is defined as "acceptable" traffic operations.
 - d) Highland Avenue at Webster Street. No changes in level of service were shown to occur at this signalized intersection because of the addition of Project-related traffic, with all movements shown to continue to operate at LOS C or better. As such, no improvements are required at this intersection to accommodate Project-related traffic.
 - e) Highland Avenue at Gould Street and Hunting Road. The addition of Project-related traffic to this signalized intersection was not shown to result in a change in the overall level of service, which was shown to be maintained at LOS C/D during the peak hours (no change over No-Build conditions), with all movements at the intersection continuing to operate at LOS D or better during the peak hours. As such, no improvements are required at this intersection to accommodate Project-related traffic.
 - f) Similar to other unsignalized driveways and side streets along the Highland Avenue corridor, motorists exiting Cross Street and Arbor Road to Highland Avenue were shown to experience delays during the peak hours because of the relatively large volume of conflicting traffic on Highland Avenue.
 - g) No apparent safety deficiencies were noted with respect to the motor vehicle crash history at the study area intersections.

- h) Lines of sight to and from the Project site driveway intersections were found to meet or exceed or could be made to meet or exceed the recommended minimum distances for safe operation based on the appropriate approach speed.
- 1.16 A detailed transportation improvement program has been developed that is designed to provide safe and efficient access to the Project site and address any deficiencies identified at off-site locations evaluated in conjunction with this study. The improvements detailed in Sections 1.17, 1.18 and 1.19 have been recommended as a part of the traffic evaluation and will be completed by the Petitioner in conjunction with the Project.
- 1.17 Project Access. Access to the Project site will be provided by way of three (3) driveways configured as follows: a one-way, entrance only driveway that will intersect the west side of Cross Street approximately 60 feet north of Highland Avenue that will serve the upper parking deck; a full access driveway that will intersect the east side of Arbor Road approximately 260 feet north of Highland Avenue that will also serve the upper parking deck; and a full access driveway that will intersect the north side of the Cross Street-Arbor Road connector drive that will be constructed at the north end of the Project site that will serve the lower parking deck. The following recommended Project site access and internal circulation design and operation strategies, many of which are reflected on the site plans, will be implemented.
- a) The two-way Project site driveways will be a minimum of 24-feet in width and designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle as defined by the Needham Fire Department.
 - b) Where perpendicular parking is proposed, the drive aisle behind the parking space will be a minimum of 24 feet to facilitate parking maneuvers.
 - c) Vehicles exiting the Project site will be placed under STOP-sign control with a marked STOP-line provided.
 - d) “One-Way”, “Do Not Enter” and “Entrance Only” signs will be provided to reinforce the one-way, entrance only operation of the Cross Street driveway.
 - e) Two egress alternatives were evaluated for the Project with the intent of limiting the potential for Project-related traffic to use Putnam Street: i) self-selection with Putnam Street restrictions; and ii) directed egress by parking deck in order to maintain an equal distribution of exiting traffic between Cross Street and Arbor Road. Based on the analyses presented as a part of the traffic assessment, the self-selection alternative will be implemented as it affords the ability to better manage traffic volume variations and vehicle queuing by allowing exiting traffic to seek balance between Cross Street and Arbor Road as conditions warrant. This method will be coupled with appropriate controls to restrict traffic from exiting the Project site from using Putnam Street.
 - f) Self-Selection Egress Alternative – In order to restrict the use of Putnam Street by traffic exiting the Project site, the Project proponent will provide funding that can be used to implement appropriate measures to restrict the use of Putnam Street by cut through traffic.
 - g) All signs and pavement markings to be installed within the Project site will conform to the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD).
 - h) To the extent allowed by MassDOT “Do Not Block” signs and pavement markings will be provided on Highland Avenue at the Cross Street/Mills Road intersection.
 - i) A sidewalk that links the proposed building to the sidewalk infrastructure along Highland Avenue and includes Americans with Disabilities Act (ADA)-compliant wheelchair ramps will be provided.

- j) Signs and landscaping to be installed as a part of the Project within the intersection sight triangle areas will be designed and maintained so as not to restrict lines of sight.
- k) Existing vegetation located along the Project site frontage on Arbor Road will be selectively trimmed or removed so that no portion of the vegetation is located within the sight triangle areas of the Project site driveway.
- l) Snow accumulations (windrows) within the sight triangle areas shall be promptly removed.

1.18 Transportation Demand Management: Regularly scheduled public transportation services are not currently provided in the immediate vicinity of the Project site. To the west of the Project site, the MBTA provides commuter rail service to South Station in Boston on the Needham Line by way of Needham Heights Station, which is located at 95 Avery Square in Needham (an approximate 3-minute driving distance of the Project site). To encourage the use of alternative modes of transportation to single-occupant vehicles, the following Transportation Demand Management (TDM) measures will be implemented as a part of the Project:

- a) The Project proponent will become a member of the Route 128 Business Council Transportation Management Association (TMA).
- b) A transportation coordinator will be assigned for the Project to coordinate the TDM program and to serve as the point of contact for the TMA.
- c) The Petitioner will facilitate a rideshare matching program for employees to encourage carpooling.
- d) A “guaranteed-ride-home” program will be offered to employees that use public transportation, carpool, vanpool, walk or bicycle to the Project site, and that register with the transportation coordinator and the TMA.
- e) A “welcome packet” will be provided to employees detailing available commuter options and will include the contact information for the transportation coordinator and information to enroll in the employee rideshare program.
- f) Tenants will provide specific amenities to discourage off-site trips which may include providing a breakroom equipped with a microwave and refrigerator; offering direct deposit of paychecks; and other such measures to reduce overall traffic volumes and travel during peak-traffic-volume periods.
- g) The Project proponent will encourage tenant(s) to offer a 50 percent transit subsidy based on the amount of an MBTA Monthly Link Pass (currently \$90) to employees that commute to the Project site using public transportation at least three (3) days per week and that register with the Transportation Coordinator.
- h) Secure bicycle parking will be provided for a minimum of 13 bicycles at an appropriate location within the Project site, which should be sufficient to accommodate the anticipated bicycle parking demands of the Project.
- i) A transit screen/display will be provided in the building lobby to display real-time transportation information (similar to <https://transitscreen.com/>).

1.19 The Project proponent will coordinate with the Town of Needham and the proponent of the nearby Highland Science Center project to assess the feasibility of participating in the shuttle service that will be operating as a part of that Highland Science Center development.

1.20 The Project will generate a total design wastewater flow of 3,750 GPD. The Petitioner has been in contact with Town of Needham representatives and understands the requirements to have a rate of two gallons for every one gallon of sewage added to the system removed through an I/I program. For the Project, two times the increased flow equates to a total of approximately 7,500 GPD I/I removal anticipated from the development. This requirement may be satisfied by either

undertaking a construction project or paying a fee to the Town's I&I program at a rate of \$8.00 per gallon required to be removed. The Petitioner has committed to satisfying this requirement prior to the issuance of the certificate of occupancy for the Project.

- 1.21 Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light and air has been assured. The Board finds that the use of the premises for medical office does not constitute "seriously detrimental use."

The Premises's stormwater management system has been designed to prevent adverse impacts to off-site areas. The system has been designed to meet the Town of Needham's requirements and the MassDEP Stormwater Standards, including no increase in peak runoff rates from the Premises between the existing and proposed conditions for the requisite storm events. The stormwater management system also provides a treatment plan of Best Management Practices, including a heavy emphasis on stormwater infiltration that will serve to remove potential pollutants such as TSS and phosphorus, provide improved groundwater recharge, and manage stormwater runoff to protect onsite facilities as well as adjacent properties.

With the exception of driveway or pedestrian entrances, the entire perimeter of the site has been comprehensively landscaped. Half of the parking is entirely below grade, and another 25% (approximately) is situated beneath the proposed building. The remainder of the at-grade parking is situated behind the proposed building, so that all of the upper level of parking is screened from Highland Avenue and minimally visible from Cross and Arbor Streets. Parking and deliveries below the building are enclosed behind solid walls or louvered screening and spaces behind the building have a 4-foot high perimeter wall for safety and to screen headlights. The parking spaces below the building itself are fully concealed in a parking structure, mostly below grade, and with its access/egress at the rear of the site and facing away from any residential properties. A loading/delivery area is concealed beneath the building. Site lighting has been kept to a minimum, with downward-facing light sources and zero light spill to neighboring properties (see photometric plan). The building and landscape plan significantly enhance the Highland Avenue corridor while also reducing street noise to the rear.

The proposed site plan provides for substantial landscape screening opportunities. Generous setbacks on Highland and Cross provide green space for shade trees, ornamental trees and landscape planting. The tree canopy on the site is currently less than 10 trees. The proposed plan would see over 50 trees added to the site, the majority of these between the building and adjacent properties improving views for abutters.

- 1.22 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets has been assured. The project has been designed to ensure that there will be safe vehicular and pedestrian circulation throughout the site. The access to the property will be via three (3) driveways configured as follows: a one-way, entrance only driveway that will intersect the west side of Cross Street approximately 60 feet north of Highland Avenue that will serve the upper parking deck; a full access driveway that will intersect the east side of Arbor Road approximately 260 feet north of Highland Avenue that will also serve the upper parking deck; and a full access driveway that will intersect the north side of the Cross Street-Arbor Road connector drive that will be constructed at the north end of the Project site that will serve the lower parking deck. Both Cross Street and Arbor Street have been reconstructed approaching Highland Avenue as a part of the recently completed Highland Avenue improvement project and include appropriate geometry to accommodate emergency vehicles and delivery trucks accessing the project site. The individual driveways that will serve the project have also been designed to accommodate safe and efficient access to the parking areas that will serve the project.

Available sight distances at the site driveways will exceed required sight distances for safe operation.

New sidewalks have been constructed along Highland Avenue as a part of the Highland Avenue improvement project that include ADA accommodations for crossing Cross Street and Arbor Street. A sidewalk has been provided within the project site that links the proposed building to the sidewalk along Highland Avenue, with additional sidewalks and pedestrian paths within the project site to convey pedestrians to the building entrances.

Handicap access and parking is provided in both the surface parking lot and in the below-grade garage, and bicycle parking will be provided.

The building and parking areas are designed to be fully accessible. Because the building will serve medical uses, the amount of accessible parking spaces exceeds the requirements of 521 CMR, Massachusetts Architectural Access Board Regulations. The building's main entrance is located below the building on the upper parking level. This sheltered entrance environment allows for safe and convenient drop-off and pick-up for building patrons and staff.

An accessible pathway is situated at the southeast corner of the site, providing accessible access to the building entrance for pedestrians from Highland Avenue, and a direct accessible connection to a landscaped outdoor plaza. There is also an accessible entrance on Highland Avenue. Sheltered parking for bicycles is provided near the building entrance.

- 1.23 The arrangement of parking and loading spaces is adequate, based on the layout, site, and proposed use for the building. The proposed parking areas comply with all design requirements of the Town of Needham By-Law, including those for lighting, landscaping, handicapped spaces, loading, layout, driveway openings, parking space size, maneuvering width in aisles, setbacks, compact vehicles, bumper overhangs, and bicycle racks. The parking areas include two hundred and fifty (250) parking spaces, which meets the requirements for number of spaces for this proposed 50,000 square foot building. Parking is distributed below and behind the proposed building. The majority of spaces are covered and protected from weather. The layout of parking and building access provides convenience for employees and visitors.
- 1.24 Adequate methods of disposal of refuse and other wastes resulting from the use of the site have been provided. A dumpster enclosure is located at the rear, ~~northeast corner~~ of the site, as indicated on the Plan, and is screened with solid walls and decorative louvers on three sides, and a louvered gate. Refuse and recycling will be removed from the site by a licensed hauler.
- 1.25 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area are in compliance with other requirements of this By-law and have been adequately addressed by this project. The proposed building is sited to enhance the Highland Avenue corridor, screen parking and deliveries, allow for extensive perimeter landscaping, and mitigate impact to neighboring properties. The development plan dramatically increases greenspace on the property (compared to existing conditions) and reduces paved areas by more than 30 percent. The project provides natural landscape and open space that do not currently exist on the property. Cross and Arbor streets are improved to provide better access, drainage, and softscape within the neighborhood.

The relationship of the proposed building to Highland Avenue greatly improves the landscape opportunities on the site. Setback of over fifty feet from the curb allows for generous accommodation of not only pedestrian and cycling circulation but also a row of canopy shade trees

as well as a row of ornamental flowering trees. The landscape is terraced up to the building with retaining walls creating more opportunities to add interest to the site with both hardscaping and planting. Similar terraced setbacks on both Arbor and Cross Street will make for consistently landscaped approaches to the building. The setback on Cross Street is generous enough to host an outdoor amenity space. This plaza will be paved with permeable pavers and will be furnished with movable tables as well as fixed seating. The plaza is over 2,400 square feet with the ability to host small groups or large gatherings.

- 1.26 The Project will not have an adverse effect on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. No adverse impacts to the Town's resources – such as the Town's water supply and distribution system, sewer collection, fire protection, or public streets – are anticipated as a result of the redevelopment of the Premises. The proposed utility design focuses on connecting services to existing utility infrastructure and minimizing impacts to the improvements along Highland Avenue recently performed by MassDOT. The Project proposes to connect domestic and fire water services to the Town's existing water system located in Cross Street. The proposed water service layout and design has been provided to the Engineering Department to confirm there are no concerns regarding water pressure and flow for this area. The project proposes to connect to an existing sewer service to route wastewater to the Town's sewer system via a sewer main located in Highland Avenue. As part of the Site Plan Review process, the site plans have been submitted to the Fire Department for review of the proposed fire truck access and hydrant coverage.

The proposed site layout plans will continue to maintain the existing access and circulation for emergency and fire protection vehicles.

The Project includes specific measures that are designed to reduce traffic and parking demands, and off-set the predicted impact of the project on the transportation infrastructure with consideration of approved development in the area. These measures include physical improvements and the implementation of a comprehensive Transportation Demand Management (TDM) program, and are more fully described in the Transportation Impact Assessment (TIA) that has been prepared by Vanasse & Associates, Inc. (VAI) and is included as a part of the Application. (See Exhibit 7 and Exhibit 23 of this Decision).

- 1.27 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted in the Industrial District, if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that the proposed development Plan, as conditioned and limited herein for the site plan review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law, as modified by this decision; subject to and with the benefit of the following Plan modifications, conditions, and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the

approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner 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 Commissioner to the Board prior to the issuance of a Building Permit.

2.0 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement.

a) The Plan set shall be modified so as to be consistent with the Email received from Daniel Barton, Mangel Destefano Architects, dated November 2, 2023, all as noted on the following revised plans: Conceptual Plan set, consisting of 8 sheets: Sheet 1, entitled "Landscape Site Plan," undated; Sheet 2, entitled "Walkway View 1," undated; Sheet 3, entitled "Walkway View 2," undated; Sheet 4, entitled "Walkway View 3," undated; Sheet 5, entitled "Walkway View 4," undated; Sheet 6, entitled "Walkway View 5," undated; Sheet 7, entitled "Walkway View 6," undated; and Sheet 8, entitled "Walkway View 7," undated.

~~b) The crosswalk at Arbor Street shall be updated to show the bicycle crossing consistent with the pavement markings recently installed by MassDOT at the Cross Street intersection as part of the Highland Avenue improvements project.~~

~~c) Additional landscaping shall be provided along the easterly side of Cross Street (opposite subject site) to limit the impact and views as was the planned approach for Arbor Street.~~

CONDITIONS

3.1 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 3.55 hereof.

3.2 The proposed building, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this decision. Any changes, revisions, or modifications to the Plan, as modified by this decision, shall require approval by the Board.

3.3 The proposed building and support services shall contain the dimensions and shall be located on that portion of the Property as shown on the Plan, as modified by this decision, and in accordance with the applicable dimensional requirements of the By-Law.

3.4 This permit is issued for a Medical Office Building. Any further changes of such described use shall be permitted only by amendment of this Approval by the Board.

3.5 The medical office building may be open for business six days per week: Monday through Saturday, 8:00 AM to 6:00 PM.

3.6 ~~Prior to the issuance of a building permit the Petitioner shall prepare an Approval Not Required Plan which shows the creation of a single Lot having an area of 81,973 square feet and comprising the Premises upon which the Project is proposed namely shall prepare and shall file with the Board and the Norfolk County Registry of Deeds a plan which shows assessor's Plan 77, Parcels 62 and 63d 63 merged, using customary surveyor's notation.~~ There shall be no further subdivision of the lot except by amendment of this approval by the Board. All buildings and land constituting the premises shall remain under single ownership.

- 3.7 Sufficient parking shall be provided on the site at all times in accordance with the Plan, as modified by this decision, and that there shall be no parking of motor vehicles off 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.
- 3.8 Two Hundred Fifty (250) parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this decision. All off-street parking shall comply with the requirements of Section 5.1.2 and Section 5.1.3 of the By-Law.
- 3.9 All required handicapped accessible parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words "Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed At Owners Expense". The quantity & design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.10 The Petitioner shall make available shuttle service between the Project and public transportation stations, including the Green Line D Branch at Newton Highlands during the hours of 7:00 a.m. – 9:00 a.m. and 4:00 p.m. – 6:00 p.m., Monday through Friday, such services to begin no later than issuance of the Certificate of Occupancy for the Project.
- 3.11 The Project proponent shall coordinate with the Town of Needham and the proponent of the nearby Highland Science Center project to assess the feasibility of participating in the shuttle service that will be operating as a part of that development.
- 3.12 The Petitioner shall undertake and implement a transportation demand management program (TDM) program to facilitate carpooling, transit usage, and parking management as described in Transportation Impact Assessment, prepared by Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated July 2023 (Exhibit 7).
- 3.13 Access to the Project site shall be provided by way of three (3) driveways configured as follows: a one-way, entrance only driveway that will intersect the west side of Cross Street approximately 60 feet north of Highland Avenue that will serve the upper parking deck; a full access driveway that will intersect the east side of Arbor Road approximately 260 feet north of Highland Avenue that will also serve the upper parking deck; and a full access driveway that will intersect the north side of the Cross Street-Arbor Road connector drive that will be constructed at the north end of the Project site that will serve the lower parking deck. Pedestrian universal building access shall be provided at two locations along Highland Avenue as shown on the Plan, as modified by this decision, one closer to Arbor Street, and the other at the corner of Cross Street to enter the building at the underground level.
- 3.14 The following recommended Project site access and internal circulation design and operation strategies, many of which are reflected on the site plans, shall be implemented.
- a) The site plan described in Exhibit 6 and Exhibit 26 which shows the site driveway on Cross Street operating as a one-way entrance to the P2 level parking deck shall be the plan implemented.
 - b) The "Self-Selection Alternative" egress plan shall be implemented. The "Self-Selection Alternative" proposes two-way travel through the Cross Street-Arbor Road connector to allow for drivers from either parking deck to exit onto Highland Avenue from Cross Street or from Arbor Road.

- c) The **two-way** Project site driveways shall be a minimum of 24-feet in width and designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle as defined by the Needham Fire Department.
- d) Where perpendicular parking is proposed, the drive aisle behind the parking space shall be a minimum of 24 feet in order to facilitate parking maneuvers.
- e) Vehicles exiting the Project site shall be placed under STOP-sign control with a marked STOP-line provided.
- f) “One-Way”, “Do Not Enter” and “Entrance Only” signs shall be provided to reinforce the one-way, entrance only operation of the Cross Street driveway.
- g) All signs and pavement markings to be installed within the Project site shall conform to the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD).
- h) To the extent allowed by MassDOT “Do Not Block” signs and pavement markings shall be provided on Highland Avenue at the Cross Street/Mills Road intersection.
- i) To the extent allowed by MassDOT signs and pavement markings shall be provided that say “No Drop Off and Pick Up” on Highland Avenue.
- j) Wayfinding signs shall be provided to indicate where patients, employees, and service vehicles should enter the site.
- k) A sidewalk that links the proposed building to the sidewalk infrastructure along Highland Avenue and includes Americans with Disabilities Act (ADA)-compliant wheelchair ramps shall be provided.
- l) Signs and landscaping to be installed as a part of the Project within the intersection sight triangle areas shall be designed and maintained so as not to restrict lines of sight.
- m) Existing vegetation located along the Project site frontage on Arbor Road shall be selectively trimmed or removed so that no portion of the vegetation is located within the sight triangle areas of the Project site driveway.
- n) Snow accumulations (windrows) within the sight triangle areas shall be promptly removed.

3.15 To encourage the use of alternative modes of transportation to single-occupant vehicles, the following Transportation Demand Management (TDM) measures shall be implemented as a part of the Project:

- a) The Project proponent shall become a member of the Route 128 Business Council Transportation Management Association (TMA).
- b) A transportation coordinator shall be assigned for the Project to coordinate the TDM program and to serve as the point of contact for the TMA.
- c) A rideshare matching program for employees to encourage carpooling shall be implemented.
- d) A “guaranteed-ride-home” program shall be offered to employees that use public transportation, carpool, vanpool, walk or bicycle to the Project site, and that register with the transportation coordinator and the TMA.
- e) A “welcome packet” shall be provided to employees detailing available commuter options and will include the contact information for the transportation coordinator and information to enroll in the employee rideshare program.
- f) Tenants shall provide specific amenities to discourage off-site trips which may include providing a breakroom equipped with a microwave and refrigerator; offering direct deposit of paychecks; and other such measures to reduce overall traffic volumes and travel during peak-traffic-volume periods.
- g) The Project proponent shall require tenant(s) to offer a 50 percent transit subsidy based on the amount of an MBTA Monthly Link Pass (currently \$90) to employees that commute to the Project site using public transportation at least three (3) days per week and that register with the Transportation Coordinator.
- h) Secure bicycle parking shall be provided for a minimum of 13 bicycles at an appropriate location within the Project site, which should be sufficient to accommodate the anticipated bicycle parking demands of the Project.

- i) A transit screen/display shall be provided in the building lobby to display real-time transportation information (similar to <https://transitscreen.com/>).
- 3.16 Petitioner shall coordinate with the neighbors to develop and pay for appropriate signage to be placed at the point of entry onto Putnam Street to the effect that this is private property and patients and employees of the Petitioner are expressly prohibited to access this private way and that violators shall be liable for all costs and expenses associated with a breach of this covenant.
- 3.17 Petitioner shall coordinate with the neighbors to develop and maintain modifications/barriers to Cross Street, at the location adjacent to Petitioner's building, to make access onto Putnam Street difficult for patients and employees of the Petitioner. No existing parking spaces on Cross Street shall be altered or eliminated.
- 3.18 Petitioner shall coordinate with the neighbors to develop and pay for appropriate signage, to be placed on Cross Street adjacent to parking by residents of Gateway Townhouses Condominium, that parking by patients and employees of the Petitioner is strictly prohibited and that violators shall be towed at the owner's expense.
- 3.19 Petitioner shall post ~~signage at appropriate locations in the parking area stating -express signage throughout its building stating~~ that access to Putnam Street is strictly prohibited ~~and shall insist upon compliance from its patients and staff.~~
- 3.20 Petitioner shall have a contact person for the neighbors to contact 24/7 to prevent the Petitioner's customers and staff from trespassing onto to Putnam Street, providing a cell and email address, in order to take immediate and sufficient response to prevent future encroachments onto Putnam Street. If cut through traffic from the medical facility continues, the neighbors may request a public hearing with the planning board, at which hearing the planning board shall consider eliminating all egress traffic onto Cross Street and to require that all egress traffic from the medical building flows onto Arbor Street.
- 3.21 The Petitioner shall manage parking and traffic flow as presented with the application, and shown on the Plan, so that parking is restricted to the Property and so that traffic from the Project is directed to Cross or Arbor Street. If parking off-site becomes a problem or if Putnam Street becomes a cut through to Highland Avenue, to avoid traffic exiting Cross Street, or Arbor Road, and if the two parties (neighbors on Putnam with adjacent Condominium Association and the Owners/Tenants of the property 629-661 Highland Avenue) are not able to agree on a resolution, then the Planning Board may schedule a hearing to modify this Decision by imposing additional conditions in accordance with the provisions of Section 4.2., where one possible change will be the elimination of access from the lower level of the parking garage to Cross Street.
- 3.22 The mechanical equipment to be installed on the roof and emergency diesel fueled generator to be installed at the back corner of the site near Arbor Street shall be designed and operated to comply with all applicable Federal, state, and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. The mechanical equipment and emergency diesel fueled generator shall also be installed and screened as far as practical to minimize the visibility of the mechanical equipment and emergency generator from Highland Avenue, Cross Street, and Arbor Street. The Petitioner shall deliver to the Building Commission for review and approval plans and specifications of said mechanical equipment and emergency diesel fueled generator, including sound attenuation components, if necessary, together with Petitioner's certification to the Building Commissioner that said mechanical equipment and emergency generator have been designed such that when they

are operated they will be in compliance with the regulations described above with respect to noise, and screened in accordance with the requirements described above.

- 3.23 Prior to project occupancy, an as-built plan of the mechanical equipment and emergency generator together with a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Building Commissioner, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards) shall be submitted to the Building Commissioner. The sound analysis shall demonstrate compliance with all applicable Federal, state, and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations.
- 3.24 Normal maintenance and testing of the emergency generator shall be limited to one occurrence per month between the weekday hours of 9:00 a.m. and 5:00 p.m. for a period not to exceed 2 hours. The emergency generator shall not operate more than 300 hours per rolling 12-month period, including the normal maintenance and testing procedure as recommended by the manufacturer and periods when the primary power source for the Project, has been lost during an emergency, such as a power outage, an on-site disaster, or an act of God.
- 3.25 For the new facility, two times the 3,750 GPD expected generated in wastewater flow equates to a total of 7,500 GPD I/I removal anticipated from the development. This shall be satisfied prior to the issuance of the Occupancy Permit by the project proponent either undertaking a construction project or paying a fee to the Town's I&I program at a rate of \$8~~.00~~-per gallon required to be removed.
- 3.26 Prior to demolition of the five structures on site, the Petitioner shall apply for the Board of Health Demolition reviews online, via their online permit application system. This form shall be completed for each separate structure to be demolished, along with the uploading of the required supplemental report documents for Board of Health review and approval. Pest control reports, along with the asbestos sampling reports, etc., shall be uploaded to the Board of Health online system for review for each structure to be demolished, prior to the issuance of the Demolition permits by the Building Department.
- 3.27 On-going pest control shall be conducted during demolition of the structures and on-going pest control must be conducted throughout construction of the new office building in accordance with Board of Health Regulations.
- 3.28 All medical waste shall be collected and stored within tenant space(s) and disposed of properly by outside vendors.
- 3.29 All deliveries and trash dumpster pick up shall occur only between the hours of 8:30 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. All deliveries to this medical building shall be directed to Arbor Street. The trash shall be picked up no less than two times per week or as necessary.
- 3.30 All lights shall be shielded during the evening hours to prevent annoyance to the neighbors and to minimize light pollution. The Petitioner shall reduce its parking lot and Garage lights during the night and early morning consistent with professional safety and security protocols. No later than 8:30 p.m., the Petitioner shall reduce the parking lot lights using the lights on the building to shine down and provide basic security. The building and Garage lights shall be set at a low light level to prevent excessive lighting of the area and/or annoyance to the neighbors to the extent reasonable and practicable, consistent with safety and security requirements.

- 3.31 Light blocking shades in the interior of building shall be provided to block interior building light in the late evening hours.
- 3.32 All new utility servicesies, 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.
- 3.33 All solid waste shall be removed from the Property by a private contractor. Snow shall also be removed or plowed by a private contractor. All snow shall be removed or plowed such that the total number and size of required parking spaces remain available for use. No snow shall be moved or dumped from the subject property onto Cross Street or onto Putnam Street.
- 3.34 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.
- 3.35 The Petitioner shall connect the sanitary sewer line only to known sources. All sources which cannot be identified shall be disconnected and properly sealed.
- 3.36 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.37 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit.
- 3.38 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit per Town Requirements.
- 3.39 The Petitioner shall secure a separate MassDOT approval for any work proposed within this section of the Highland Avenue right of way.
- 3.40 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.
- 3.41 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 Town's Stormwater By-Law.

3.42
~~3.42~~ The Petitioner shall implement the Operation and Maintenance Plan as detailed in the Stormwater Report, prepared by Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, dated August 4, 2023 (Exhibit 8).
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.~~

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- 3.43 As part of the NPDES requirements, the applicant shall comply with the Public Outreach & Education and Public Participation & Involvement control measures. The Petitioner shall submit a letter to the town identifying the measures selected and dates by which the measures will be completed.
- 3.44 The maintenance of parking lot landscaping and site landscaping, as shown on the Plan, shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.45 The six (6) Old growth Oak trees located ~~on~~ *in the Arbor Street right-of-way adjacent to* the Property shall be protected during demolition and construction and shall remain ~~on site~~, as long as they are healthy enough to do so.
- 3.46 In constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence be exercised and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.47 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the site, shall be removed from the site.
- 3.48 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 Commissioner.
- 3.49 The following interim safeguards shall be implemented during construction:
- a) The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b) The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site, which require excavation or otherwise pose a danger to public safety.
 - c) The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Commissioner, 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 Highland Avenue, Cross Street and Arbor Street.
 - d) The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Highland Avenue, Cross Street and Arbor Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.50 No building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:
- a) The final plans shall be in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Commissioner.

- b) A construction management and staging plan shall have been submitted to the Police Chief and Building Commissioner for their review and approval.

~~c) The Petitioner shall have recorded the Approval Not Required Plan pursuant to Section 3.6 of this Decision, prepared and filed with the Board and the Norfolk County Registry of Deeds a plan which shows assessor's Plan 77, Parcels 62 and 63 merged, using customary surveyor's notation.~~

~~c)~~

- d) The Petitioner shall have submitted a letter to the DPW identifying the measures selected and dates by which the NPDES requirements outlined in Section 3.43 of this decision will be completed.
- e) The Petitioner shall have delivered to the Building Commissioner for review and approval plans and specifications for the mechanical equipment and emergency diesel fueled generator, including sound attenuation components as described in paragraph 3.22 of this decision.
- f) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.

3.51 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:

- a) An as-built plan, supplied by the engineer of record certifying that the on-site and off-site project improvements were built according to the approved documents, has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, in their true relationship to the lot lines. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.
- b) There shall be filed with the Building Inspector and Board a statement by the Department of Public Works certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalks and curbing improvements on-site and off-site, have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved Plan.
- c) There shall be filed with the Board and Building Inspector a Final Construction Control Document signed by a registered architect upon completion of construction.
- d) There shall be filed with the Board and Building Inspector an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. Said plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.
- e) A copy of the TDM program for the Project as described in paragraphs 3.12 and 3.15 of this Decision shall have been submitted.

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- f) An as-built plan supplied by the engineer of record certifying that the off-site traffic improvements were completed according to the approved documents has been submitted to and approved by the Board and Department of Public Works.
- g) There shall be filed with the Building Inspector a statement by the Board approving the final off-site traffic improvements.
- i) The Petitioner shall have implemented the shuttle service as described in paragraph 3.12 of this Decision.
- j) The Petitioner shall have filed an as-built plan of the mechanical equipment and emergency generator and a sound level analysis prepared by an acoustical engineer as described in paragraph 3.23 of this Decision.

k) As described in paragraph 3.25 of this Decision, the Petitioner shall have either identified and removed infiltration and inflow ("I and I") from the sewer lines at a rate of 24 gallons to every gallon that is expected to be generated by the Project or to have paid the normal connection rate on a per gallon basis all in accordance with the Petitioner's sewer connection permit.

l) The Petitioner shall have prepared and filed with the Board and the Norfolk County Registry of Deeds a plan which shows assessor's Plan 77, Parcels 62 and 63 merged, using customary surveyor's notation.

k)

m) Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board surety in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.

- 3.52 In addition to the provisions of this Decision, the Petitioner must comply with all requirements of all state, federal, and local boards, commission, or other agencies, including, but not limited to the Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.53 The building or structure authorized for construction by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Commissioner.
- 3.54 The Petitioner, by accepting this permit Decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, that this information is true and valid to the best of the Petitioner's knowledge.
- 3.55 Violation of any of the conditions of this Approval 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 Approval, 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

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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 Commissioner 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 Approval 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 Approval if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site and off-site improvements, which are the subject of this petition. All construction to be conducted on-site and off-site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this Decision.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend, or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.
- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated **building** signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit Amendment shall lapse on December 19, 2025, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior December 19, 2025. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

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

The provisions of this Special Permit Amendment shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, in full force and effect for the benefit of and enforceable by the Town of Needham.

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

Witness our hands this 19th day of December, 2023.

NEEDHAM PLANNING BOARD

Adam Block, Chairperson

Jeanne S. McKnight

Paul S. Alpert

Artie Crocker

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____, 2023

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Amendment to Decision of the project proposed by Neehigh LLC, 93 Union Street, Suite 315, Newton Center, MA, 02459, for property located at the 629-661 Highland Avenue, Needham, Massachusetts, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Design Review Board
Building Commissioner
Conservation Commission
Evans Huber, Attorney

Select Board
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest

DECISION
December 19, 2023

MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
Neehigh LLC
629-661 Highland Avenue, Needham, MA
Application No. 2023-03

Decision of the Planning Board (hereinafter referred to as the “Board”) on the petition of Neehigh LLC, 93 Union Street, Suite 315, Newton Center, MA, 02459 (hereinafter referred to as the “Petitioner”) for property located at 629-661 Highland Avenue, Needham, Massachusetts (hereinafter referred to as the “Property”). The Property is owned by the Petitioner. The Property is shown on the Needham Town Assessor's Plan No. 77 as Parcels 62 and 63 containing a total of 81,973 square feet in the Industrial Zoning District.

This Decision is in response to an application submitted to the Board on August 8, 2023, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the “By-Law”).

The requested Major Project Site Plan Review Special Permit, would, if granted, permit the Petitioner to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) parking spaces. The two stories of the building itself are located directly above a parking area that is partially above grade and thus for zoning purposes counts as an additional story; and a three-story building is proposed as allowed in this zoning district.

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, Adam Block, on Tuesday, September 5, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. The hearing was continued to Tuesday, October 3, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264, continued to Tuesday, October 17, 2023 at 7:30 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264, and further continued to Tuesday, November 7, 2023 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Artie Crocker, and Natasha Espada were present throughout the September 5, 2023, October 17, 2023, and November 7, 2023 proceedings. No testimony was taken at the October 3, 2023 meeting. The record of the proceedings and the submissions upon which the Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

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

- Exhibit 1 - Properly executed Application for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law, dated August 8, 2023.
- Exhibit 2 - Letter from Attorney Evans Huber, dated August 4, 2023.
- Exhibit 3 - Letter from James Curtin, Neehigh LLC, dated August 3, 2023.
- Exhibit 4 - Letter from Attorney Evans Huber, dated August 7, 2023.
- Exhibit 5 - Plan entitled “Highland Ave Medical Office Building,” prepared by Mangel DeStefano Architects, Inc., 200 Ayer Road, Harvard, MA 01451, Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, Ground, Inc., 285 Washington Street, Unit G, Somerville, MA, 02143, consisting of 39 sheets: Sheet 1, Cover Sheet, dated August 4, 2023; Sheet 2, Existing Site Photographs, dated July 14, 2023; Sheet 3, Site Diagram, dated July 14, 2023; Sheet 4, Sheet SV1.00, entitled “Existing Conditions Plan of Land,” dated August 4, 2023; Sheet 5, Sheet C1.01, entitled “Legend and General Notes,” dated August 4, 2023; Sheet 6, Sheet C2.01, entitled “Site Preparation Plan,” dated August 4, 2023; Sheet 7, Sheet C3.01, entitled “Layout and Materials Plan,” dated August 4, 2023; Sheet 8, Sheet C4.01, entitled “Grading and Drainage Plan,” dated August 4, 2023; Sheet 9, Sheet C5.01, entitled “Utilities Plan,” dated August 4, 2023; Sheet 10, Sheet C6.01, entitled “Site Details 1,” dated August 4, 2023; Sheet 11, Sheet C6.02, entitled “Site Details ,” dated August 4, 2023; Sheet 12, Sheet C6.03, entitled “Site Details 3,” dated August 4, 2023; Sheet 13, Sheet L102, entitled “Rendered Material plan,” dated August 4, 2023; Sheet 14, Sheet L103, entitled “Grading Plan,” dated August 4, 2023; Sheet 15, Sheet L104, entitled “Planting Plan,” dated August 4, 2023; Sheet 16, Sheet L501, entitled “Details,” dated August 4, 2023; Sheet 17, Sheet L520, entitled “Planting Details,” dated August 4, 2023; Sheet 18, Sheet L521, entitled “Planting Details,” dated August 4, 2023; Sheet 19, entitled “Site Lighting Photometric Plan,” dated July 14, 2023; Sheet 20, Sheet A.101, entitled “F-1 Lower Parking plan,” dated August 4, 2023; Sheet 21, Sheet A.102, entitled “F-2 Upper parking Plan,” dated August 4, 2023; Sheet 22, Sheet A.103, entitled “First Floor Plan,” dated August 4, 2023; Sheet 23, Sheet A.104, entitled “Second Floor Plan,” dated August 4, 2023; Sheet 24, Sheet A.105, entitled “Roof Plan,” dated August 4, 2023; Sheet 25, Sheet A.201, entitled “Elevations,” dated August 4, 2023; Sheet 26, Sheet A.301, entitled “Building Sections,” dated August 4, 2023; Sheet 27, entitled “P-1 Lower Below Grade Parking,” dated July 14, 2023; Sheet 28, entitled “P-2 Upper Parking,” dated July 14, 2023; Sheet 29, entitled “First Floor Plan,” dated July 14, 2023; Sheet 30, entitled “Second Floor Plan,” dated July 14, 2023; Sheet 31, entitled “Roof Plan,” dated July 14, 2023; Sheet 32, entitled “Materials of Major Architectural Elements,” dated July 14, 2023; Sheet 33, entitled “Concept Renderings, View at Highland Ave & Cross Street” dated July 14, 2023; Sheet 34, entitled “Concept Renderings, View at P-2 parking Level (South)” dated July 14, 2023; Sheet 35, entitled “Concept Renderings, View at P-2 Parking Level (West)” dated July 14, 2023; Sheet 36, entitled “Concept Renderings, View along highland Ave (North)” dated July 14, 2023; Sheet 37, entitled “Concept Renderings, View at Cross Street Below Grade Garage Entrance” dated July 14, 2023; Sheet 38, entitled “Concept Renderings, View at Arbor Street Above Grade Parking Entrance” dated July 14, 2023; Sheet 39, entitled “Concept Renderings, View at Landscape Plaza” dated July 14, 2023.
- Exhibit 6 - Plan entitled “Highland Ave Medical Office Building,” prepared by Mangel DeStefano Architects, Inc., 200 Ayer Road, Harvard, MA 01451, Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, Ground, Inc., 285 Washington Street, Unit G, Somerville, MA, 02143, consisting of 39 sheets: Sheet 1, Cover Sheet, dated August 4, 2023; Sheet 2, Existing Site Photographs, dated July 14, 2023; Sheet 3, Site Diagram, dated

July 14, 2023; Sheet 4, Sheet SV1.00, entitled “Existing Conditions Plan of Land,” dated August 4, 2023; Sheet 5, Sheet C1.01, entitled “Legend and General Notes,” dated August 4, 2023, revised October 31, 2023; Sheet 6, Sheet C2.01, entitled “Site Preparation Plan,” dated August 4, 2023; Sheet 7, Sheet C3.01, entitled “Layout and Materials Plan,” dated August 4, 2023, revised October 31, 2023; Sheet 8, Sheet C4.01, entitled “Grading and Drainage Plan,” dated August 4, 2023, revised October 31, 2023; Sheet 9, Sheet C5.01, entitled “Utilities Plan,” dated August 4, 2023, revised October 31, 2023; Sheet 10, Sheet C6.01, entitled “Site Details 1,” dated August 4, 2023; Sheet 11, Sheet C6.02, entitled “Site Details ,” dated August 4, 2023; Sheet 12, Sheet C6.03, entitled “Site Details 3,” dated August 4, 2023; Sheet 13, Sheet L102, entitled “Rendered Material plan,” dated August 4, 2023; Sheet 14, Sheet L103, entitled “Grading Plan,” dated August 4, 2023; Sheet 15, Sheet L104, entitled “Planting Plan,” dated August 4, 2023; Sheet 16, Sheet L501, entitled “Details,” dated August 4, 2023; Sheet 17, Sheet L520, entitled “Planting Details,” dated August 4, 2023; Sheet 18, Sheet L521, entitled “Planting Details,” dated August 4, 2023; Sheet 19, entitled “Site Lighting Photometric Plan,” dated July 14, 2023; Sheet 20, Sheet A.101, entitled “F-1 Lower Parking plan,” dated August 4, 2023 (received October 12, 2023); Sheet 21, Sheet A.102, entitled “F-2 Upper parking Plan,” dated August 4, 2023 (received November 2, 2023); Sheet 22, Sheet A.103, entitled “First Floor Plan,” dated August 4, 2023; Sheet 23, Sheet A.104, entitled “Second Floor Plan,” dated August 4, 2023; Sheet 24, Sheet A.105, entitled “Roof Plan,” dated August 4, 2023; Sheet 25, Sheet A.201, entitled “Elevations,” dated August 4, 2023; Sheet 26, Sheet A.301, entitled “Building Sections,” dated August 4, 2023; Sheet 27, entitled “P-1 Lower Below Grade Parking,” dated July 14, 2023; Sheet 28, entitled “P-2 Upper Parking,” dated July 14, 2023; Sheet 29, entitled “First Floor Plan,” dated July 14, 2023; Sheet 30, entitled “Second Floor Plan,” dated July 14, 2023; Sheet 31, entitled “Roof Plan,” dated July 14, 2023; Sheet 32, entitled “Materials of Major Architectural Elements,” dated July 14, 2023; Sheet 33, entitled “Concept Renderings, View at Highland Ave & Cross Street” dated July 14, 2023; Sheet 34, entitled “Concept Renderings, View at P-2 parking Level (South)” dated July 14, 2023; Sheet 35, entitled “Concept Renderings, View at P-2 Parking Level (West)” dated July 14, 2023; Sheet 36, entitled “Concept Renderings, View along highland Ave (North)” dated July 14, 2023; Sheet 37, entitled “Concept Renderings, View at Cross Street Below Grade Garage Entrance” dated July 14, 2023; Sheet 38, entitled “Concept Renderings, View at Arbor Street Above Grade Parking Entrance” dated July 14, 2023; Sheet 39, entitled “Concept Renderings, View at Landscape Plaza” dated July 14, 2023.

- Exhibit 7 - Transportation Impact Assessment, prepared by Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated July 2023.
- Exhibit 8 - Stormwater Report, prepared by Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, dated August 4, 2023.
- Exhibit 9 - Design Review Board Memorandum, dated Augst 8, 2023.
- Exhibit 10 - Email from Justin Mosca, Vanesse Hangen Brustlin, dated August 30, 2023, with attachment: Figure FT-1, entitled Fire Access Plan, prepared by Vanesse Hangen Brustlin, dated August 4, 2023.
- Exhibit 11 - Letter from Jeffrey S. Dirk, Managing Partner, Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated August 31, 2023.
- Exhibit 12 - Letter from Daniel Barton, Mangel Destefano Architects, dated August 31, 2023.

- Exhibit 13- Email from Justin Mosca, Vanesse Hangen Brustlin, dated September 8, 2023, with attachment: Figure FT-1, entitled Fire Access Plan, prepared by Vanesse Hangen Brustlin, dated September 8, 2023.
- Exhibit 14 - Presentation to Planning Board at public hearing of September 5, 2023.
- Exhibit 15 - Letter from Adriana Santiago, Project Engineer, Greenman-Pedersen, Inc., dated September 20, 2023.
- Exhibit 16 - Letter from Jeffrey S. Dirk, Managing Partner, Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated October 10, 2023.
- Exhibit 17 - Figure TT-1, entitled Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received October 20, 2023*.
- Exhibit 18 - Figure TT-2, entitled Garbage Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received October 20, 2023*.
- Exhibit 19 - Sheet A.101, prepared by Mangel DeStefano Architects, Inc., entitled “P-1 Lower Parking Plan,” dated August 4, 2023, *received October 12, 2023*.
- Exhibit 20- Sheet A.102, prepared by Mangel DeStefano Architects, Inc., entitled “P-2 Upper Parking Plan,” dated August 4, 2023, *received October 12, 2023*.
- Exhibit 21- Letter from Daniel Barton, Mangel Destefano Architects, dated October 10, 2023.
- Exhibit 22- Locus Figure, prepared by Vanesse Hangen Brustlin, dated September 21, 2023.
- Exhibit 23 - Transportation Impact Assessment, prepared by Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated July 2023, updated October, 2023.
- Exhibit 24 - Figure TT-1, entitled Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received November 2, 2023*.
- Exhibit 25- Figure TT-2, entitled Garbage Truck Turning Movements, prepared by Vanesse Hangen Brustlin, dated October, 2023, *received November 2, 2023*.
- Exhibit 26 - 4 revised plan sheets, prepared by Vanesse Hangen Brustlin: Sheet C1.01, entitled “Legend and General Notes,” dated August 4, 2023, revised October 31, 2023; Sheet C3.01, entitled “Layout and Materials Plan,” dated August 4, 2023, revised October 31, 2023; Sheet C4.01, entitled “Grading and Drainage Plan,” dated August 4, 2023, revised October 31, 2023; Sheet C5.01, entitled “Utilities Plan,” dated August 4, 2023, revised October 31, 2023.
- Exhibit 27 - Sheet A.102, prepared by Mangel DeStefano Architects, Inc., entitled “P-2 Upper Parking Plan,” dated August 4, 2023, *received November 2, 2023*.
- Exhibit 28 - Letter from Adriana Santiago, Project Engineer, Greenman-Pedersen, Inc., dated November 1, 2023.
- Exhibit 29 - Email from Daniel Barton, Mangel Destefano Architects, dated November 2, 2023, with Attachment: Conceptual Plan set, consisting of 8 sheets: Sheet 1, entitled “Landscape Site

Plan,” undated; Sheet 2, entitled “Walkway View 1,” undated; Sheet 3, entitled “Walkway View 2,” undated; Sheet 4, entitled “Walkway View 3,” undated; Sheet 5, entitled “Walkway View 4,” undated; Sheet 6, entitled “Walkway View 5,” undated; Sheet 7, entitled “Walkway View 6,” undated; Sheet 8, entitled “Walkway View 7,” undated.

- Exhibit 30 - Email from Glenn Mulno, dated August 31, 2023.
- Exhibit 31- Email from Wendy Ziao Herman, dated September 5, 2023.
- Exhibit 32 - Email from Michael Notkin, dated September 5, 2023.
- Exhibit 33 - Email from Joanie Friedman, dated September 8, 2023.
- Exhibit 34 - Inter Departmental Communication (IDC) to the Needham Planning Board from Thomas Ryder, Town Engineer, dated August 30, 2023; IDC to the Needham Planning Board from the Needham Fire Department, Chief Tom Conroy, dated August 30, 2023 and Jay Steeves, dated September 26, 2023; IDC to the Needham Planning Board from the Needham Police Department, Chief John Schlittler, dated August 15, 2023 and October 31, 2023; IDC to the Needham Planning Board from Joe Prondak, Needham Building Commissioner, dated August 31, 2022 [sic] and September 5, 2023; and IDC to the Needham Planning Board from Tara Gurge, Public Health Division, dated August 30, 2023.

Exhibits 6, 7, 8, 13, 15, 16, 19, 23, 24, 25, 26, 27, 28, and 29 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

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

- 1.1 The subject property is located in the Industrial Zoning District at 629-661 Highland Avenue, Needham, MA. The said property is shown on Needham Town Assessors Plan No. 77 as Parcels 62 and 63 and contains approximately 81,973 square feet. The property is owned by the Petitioner.
- 1.2 The site is presently fully developed comprising five existing buildings, together with associated driveways, walkways and parking.
- 1.3 The Petitioner proposes to demolish the five existing buildings on the property and to build a single two-story 50,000 square foot Medical Office Building (25,000 square foot footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) parking spaces. The two stories of the building itself are located directly above a parking area that is partially above grade and thus for zoning purposes counts as an additional story; and a three-story building is proposed as allowed in this zoning district.
- 1.4 The property is bounded by 3 ways, as follows: Highland Avenue, a public way, to the southeast of the property; Cross Street, a private way, to the northeast, and Arbor Road, a private way, to the southwest.
- 1.5 In connection with the proposed redevelopment of the site, the Petitioner is also proposing a stormwater management system providing a treatment plan of Best Management Practices, including a heavy emphasis on stormwater infiltration that will serve to remove potential pollutants such as TSS and phosphorus, provide improved groundwater recharge, and manage stormwater

runoff to protect on-site facilities as well as adjacent properties. As a part of the site improvements, the Petitioner is proposing to install new landscaping on-site.

- 1.6 As indicated above, the proposed new building will be used for medical office purposes. Pursuant to Section 3.2.1 of the By-Law, the use of property in the Industrial District for medical office purposes – specifically “craft, consumer, professional or commercial service establishment dealing directly with the general public and not enumerated elsewhere in this section” – is permitted as of right. Therefore, the proposed use of the new building is allowed by right.
- 1.7 The By-Law, Section 4.6.1 requires that the minimum lot area be 10,000 square feet and the minimum lot frontage be 80 feet. The proposed development, having a lot with an area of approximately 81,973 square feet and 294.1 feet of frontage on Highland Avenue, complies with the minimum frontage and the minimum area requirements of the By-Law.
- 1.8 The By-Law, Section 4.7.1 (a) and Section 4.6.2 require a minimum front setback of 20 feet from Highland Avenue, and 10 feet from Arbor and Cross Streets, respectively. The proposed building is to have a front setback of 22 feet from Highland Avenue and 12 feet from Arbor Street and 16 feet from Cross Street. Therefore, the proposed new building complies with the applicable setback requirements of the By-Law.
- 1.9 The By-Law, Section 4.4.7, requires that whenever a business use as listed in Section 3.2. Schedule of Use Regulations is to be located or expanded in other than a business district (with the exception of the Industrial-1 District), whether permitted by a Board of Appeals Special Permit or variance or otherwise, the percentage area requirements specified in Table 1 in Section 4.4.2 shall be applicable, unless a variance has also been granted from the provisions of this Section 4.4.2. Table 1 in Section 4.4.2 for “Other Uses Permitted in Business Districts” having a corner lot type and a three-story building profile specifies a maximum lot coverage requirement of 35%. The proposed new building will have a lot coverage of 31% which is less than the maximum permitted. Therefore, the proposed new building complies with the lot coverage requirements of the By-Law.
- 1.10 Pursuant to Section 4.6.1 the maximum height allowed as of right in the Industrial District is 40 feet. Whereas the proposed new building is 40 feet, the proposed new building will comply with the height limitations of the By-Law.
- 1.11 The By-Law, Section 4.6.6, further requires that no more than two driveways be permitted for every 150 feet of frontage, and two-way driveways of the kind proposed for the premises must be no less than 18 feet wide and no more than 25 feet wide and one-way driveways of the kind proposed for the premises must be no less than 12 feet wide and no more than 18 feet wide unless vehicles greater than 30 feet in length will access the premises. Whereas two driveways are proposed on each Cross and Arbor Streets, and whereas the two-way driveways are 24 feet wide, and the one-way driveway into the Premises on Cross Street is 20 feet wide, same complies with the applicable driveway opening conditions of Section 4.6.6 as emergency vehicles in excess of 30 feet in length are expected to use the premises. Specifically, site driveways have been designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle as defined by the Needham Fire Department.
- 1.12 Under the By-Law, Section 5.1.2, 1 parking space per 200 square feet of floor area is required for the Medical Office use for a total of 250 parking spaces required (50,000 square feet / 200 = 250). The Petitioner is proposing to install a total of 250 parking spaces, including 8 accessible parking spaces and 15% EV-Ready, and 5% Level 2 Charging Stations.

- 1.13 The spaces as designed comply with all aspects of the Parking Plan and Design Requirements set forth at Section 5.1.3 of the By-Law. No waivers are requested.
- 1.14 The Petitioner has submitted a traffic analysis which evaluates the anticipated traffic impacts resulting from the proposed redevelopment of 629-661 Highland Avenue, to accommodate a medical office building. (See Exhibits 7, 16, and 23). The initial traffic report was issued in July 2023 (Exhibit 7) and was subsequently updated and revised in October 2023 (Exhibit 23). The submitted traffic analysis was peer reviewed by the Town's traffic consultant, Adriana Santiago, Project Engineer, of Greenman-Pedersen, Inc., GPI as detailed in Exhibit 15 and Exhibit 28.
- 1.15 The following traffic specific areas have been evaluated as they relate to the Project: i) access requirements; ii) potential off-site improvements; and iii) safety considerations; under existing and future conditions, both with and without the Project. Based on this assessment, the traffic analysis concludes the following with respect to the Project:
- a) Using trip-generation statistics published by the Institute of Transportation Engineers the Project is expected to generate approximately 1,800 vehicle trips on an average weekday (two-way volume over the operational day of the Project), with 129 vehicle trips expected during the weekday morning peak-hour and 200 vehicle trips expected during the weekday evening peak-hour.
 - b) In comparison to the existing uses that currently occupy the Project site, the Project is expected to generate approximately 1,770 additional vehicle trips on an average weekday, with 127 additional vehicle trips expected during the weekday morning peak-hour and 194 additional vehicle trips expected during the weekday evening peak-hour.
 - c) The Project will not result in a significant impact (increase) on motorist delays or vehicle queuing over anticipated future conditions without the Project (No-Build condition), with all movements at the signalized study area intersections expected to continue to operate at level-of-service (LOS) D or better, where an LOS of "D" or better is defined as "acceptable" traffic operations.
 - d) Highland Avenue at Webster Street. No changes in level of service were shown to occur at this signalized intersection because of the addition of Project-related traffic, with all movements shown to continue to operate at LOS C or better. As such, no improvements are required at this intersection to accommodate Project-related traffic.
 - e) Highland Avenue at Gould Street and Hunting Road. The addition of Project-related traffic to this signalized intersection was not shown to result in a change in the overall level of service, which was shown to be maintained at LOS C/D during the peak hours (no change over No-Build conditions), with all movements at the intersection continuing to operate at LOS D or better during the peak hours. As such, no improvements are required at this intersection to accommodate Project-related traffic.
 - f) Similar to other unsignalized driveways and side streets along the Highland Avenue corridor, motorists exiting Cross Street and Arbor Road to Highland Avenue were shown to experience delays during the peak hours because of the relatively large volume of conflicting traffic on Highland Avenue.
 - g) No apparent safety deficiencies were noted with respect to the motor vehicle crash history at the study area intersections.

- h) Lines of sight to and from the Project site driveway intersections were found to meet or exceed or could be made to meet or exceed the recommended minimum distances for safe operation based on the appropriate approach speed.
- 1.16 A detailed transportation improvement program has been developed that is designed to provide safe and efficient access to the Project site and address any deficiencies identified at off-site locations evaluated in conjunction with this study. The improvements detailed in Sections 1.17, 1.18 and 1.19 have been recommended as a part of the traffic evaluation and will be completed by the Petitioner in conjunction with the Project.
- 1.17 Project Access. Access to the Project site will be provided by way of three (3) driveways configured as follows: a one-way, entrance only driveway that will intersect the west side of Cross Street approximately 60 feet north of Highland Avenue that will serve the upper parking deck; a full access driveway that will intersect the east side of Arbor Road approximately 260 feet north of Highland Avenue that will also serve the upper parking deck; and a full access driveway that will intersect the north side of the Cross Street-Arbor Road connector drive that will be constructed at the north end of the Project site that will serve the lower parking deck. The following recommended Project site access and internal circulation design and operation strategies, many of which are reflected on the site plans, will be implemented.
- a) The two-way Project site driveways will be a minimum of 24-feet in width and designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle as defined by the Needham Fire Department.
 - b) Where perpendicular parking is proposed, the drive aisle behind the parking space will be a minimum of 24 feet to facilitate parking maneuvers.
 - c) Vehicles exiting the Project site will be placed under STOP-sign control with a marked STOP-line provided.
 - d) “One-Way”, “Do Not Enter” and “Entrance Only” signs will be provided to reinforce the one-way, entrance only operation of the Cross Street driveway.
 - e) Two egress alternatives were evaluated for the Project with the intent of limiting the potential for Project-related traffic to use Putnam Street: i) self-selection with Putnam Street restrictions; and ii) directed egress by parking deck in order to maintain an equal distribution of exiting traffic between Cross Street and Arbor Road. Based on the analyses presented as a part of the traffic assessment, the self-selection alternative will be implemented as it affords the ability to better manage traffic volume variations and vehicle queuing by allowing exiting traffic to seek balance between Cross Street and Arbor Road as conditions warrant. This method will be coupled with appropriate controls to restrict traffic from exiting the Project site from using Putnam Street.
 - f) Self-Selection Egress Alternative – In order to restrict the use of Putnam Street by traffic exiting the Project site, the Project proponent will provide funding that can be used to implement appropriate measures to restrict the use of Putnam Street by cut through traffic.
 - g) All signs and pavement markings to be installed within the Project site will conform to the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD).
 - h) To the extent allowed by MassDOT “Do Not Block” signs and pavement markings will be provided on Highland Avenue at the Cross Street/Mills Road intersection.
 - i) A sidewalk that links the proposed building to the sidewalk infrastructure along Highland Avenue and includes Americans with Disabilities Act (ADA)-compliant wheelchair ramps will be provided.

- j) Signs and landscaping to be installed as a part of the Project within the intersection sight triangle areas will be designed and maintained so as not to restrict lines of sight.
 - k) Existing vegetation located along the Project site frontage on Arbor Road will be selectively trimmed or removed so that no portion of the vegetation is located within the sight triangle areas of the Project site driveway.
 - l) Snow accumulations (windrows) within the sight triangle areas shall be promptly removed.
- 1.18 Transportation Demand Management: Regularly scheduled public transportation services are not currently provided in the immediate vicinity of the Project site. To the west of the Project site, the MBTA provides commuter rail service to South Station in Boston on the Needham Line by way of Needham Heights Station, which is located at 95 Avery Square in Needham (an approximate 3-minute driving distance of the Project site). To encourage the use of alternative modes of transportation to single-occupant vehicles, the following Transportation Demand Management (TDM) measures will be implemented as a part of the Project:
- a) The Project proponent will become a member of the Route 128 Business Council Transportation Management Association (TMA).
 - b) A transportation coordinator will be assigned for the Project to coordinate the TDM program and to serve as the point of contact for the TMA.
 - c) The Petitioner will facilitate a rideshare matching program for employees to encourage carpooling.
 - d) A “guaranteed-ride-home” program will be offered to employees that use public transportation, carpool, vanpool, walk or bicycle to the Project site, and that register with the transportation coordinator and the TMA.
 - e) A “welcome packet” will be provided to employees detailing available commuter options and will include the contact information for the transportation coordinator and information to enroll in the employee rideshare program.
 - f) Tenants will provide specific amenities to discourage off-site trips which may include providing a breakroom equipped with a microwave and refrigerator; offering direct deposit of paychecks; and other such measures to reduce overall traffic volumes and travel during peak-traffic-volume periods.
 - g) The Project proponent will encourage tenant(s) to offer a 50 percent transit subsidy based on the amount of an MBTA Monthly Link Pass (currently \$90) to employees that commute to the Project site using public transportation at least three (3) days per week and that register with the Transportation Coordinator.
 - h) Secure bicycle parking will be provided for a minimum of 13 bicycles at an appropriate location within the Project site, which should be sufficient to accommodate the anticipated bicycle parking demands of the Project.
 - i) A transit screen/display will be provided in the building lobby to display real-time transportation information (similar to <https://transitscreen.com/>).
- 1.19 The Project proponent will coordinate with the Town of Needham and the proponent of the nearby Highland Science Center project to assess the feasibility of participating in the shuttle service that will be operating as a part of that Highland Science Center development.
- 1.20 The Project will generate a total design wastewater flow of 3,750 GPD. The Petitioner has been in contact with Town of Needham representatives and understands the requirements to have a rate of two gallons for every one gallon of sewage added to the system removed through an I/I program. For the Project, two times the increased flow equates to a total of approximately 7,500 GPD I/I removal anticipated from the development. This requirement may be satisfied by either

undertaking a construction project or paying a fee to the Town's I&I program at a rate of \$8.00 per gallon required to be removed. The Petitioner has committed to satisfying this requirement prior to the issuance of the certificate of occupancy for the Project.

- 1.21 Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light and air has been assured. The Board finds that the use of the premises for medical office does not constitute "seriously detrimental use."

The Premises's stormwater management system has been designed to prevent adverse impacts to off-site areas. The system has been designed to meet the Town of Needham's requirements and the MassDEP Stormwater Standards, including no increase in peak runoff rates from the Premises between the existing and proposed conditions for the requisite storm events. The stormwater management system also provides a treatment plan of Best Management Practices, including a heavy emphasis on stormwater infiltration that will serve to remove potential pollutants such as TSS and phosphorus, provide improved groundwater recharge, and manage stormwater runoff to protect onsite facilities as well as adjacent properties.

With the exception of driveway or pedestrian entrances, the entire perimeter of the site has been comprehensively landscaped. Half of the parking is entirely below grade, and another 25% (approximately) is situated beneath the proposed building. The remainder of the at-grade parking is situated behind the proposed building, so that all of the upper level of parking is screened from Highland Avenue and minimally visible from Cross and Arbor Streets. Parking and deliveries below the building are enclosed behind solid walls or louvered screening and spaces behind the building have a 4-foot high perimeter wall for safety and to screen headlights. The parking spaces below the building itself are fully concealed in a parking structure, mostly below grade, and with its access/egress at the rear of the site and facing away from any residential properties. A loading/delivery area is concealed beneath the building. Site lighting has been kept to a minimum, with downward-facing light sources and zero light spill to neighboring properties (see photometric plan). The building and landscape plan significantly enhance the Highland Avenue corridor while also reducing street noise to the rear.

The proposed site plan provides for substantial landscape screening opportunities. Generous setbacks on Highland and Cross provide green space for shade trees, ornamental trees and landscape planting. The tree canopy on the site is currently less than 10 trees. The proposed plan would see over 50 trees added to the site, the majority of these between the building and adjacent properties improving views for abutters.

- 1.22 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets has been assured. The project has been designed to ensure that there will be safe vehicular and pedestrian circulation throughout the site. The access to the property will be via three (3) driveways configured as follows: a one-way, entrance only driveway that will intersect the west side of Cross Street approximately 60 feet north of Highland Avenue that will serve the upper parking deck; a full access driveway that will intersect the east side of Arbor Road approximately 260 feet north of Highland Avenue that will also serve the upper parking deck; and a full access driveway that will intersect the north side of the Cross Street-Arbor Road connector drive that will be constructed at the north end of the Project site that will serve the lower parking deck. Both Cross Street and Arbor Street have been reconstructed approaching Highland Avenue as a part of the recently completed Highland Avenue improvement project and include appropriate geometry to accommodate emergency vehicles and delivery trucks accessing the project site. The individual driveways that will serve the project have also been designed to accommodate safe and efficient access to the parking areas that will serve the project.

Available sight distances at the site driveways will exceed required sight distances for safe operation.

New sidewalks have been constructed along Highland Avenue as a part of the Highland Avenue improvement project that include ADA accommodations for crossing Cross Street and Arbor Street. A sidewalk has been provided within the project site that links the proposed building to the sidewalk along Highland Avenue, with additional sidewalks and pedestrian paths within the project site to convey pedestrians to the building entrances.

Handicap access and parking is provided in both the surface parking lot and in the below-grade garage, and bicycle parking will be provided.

The building and parking areas are designed to be fully accessible. Because the building will serve medical uses, the amount of accessible parking spaces exceeds the requirements of 521 CMR, Massachusetts Architectural Access Board Regulations. The building's main entrance is located below the building on the upper parking level. This sheltered entrance environment allows for safe and convenient drop-off and pick-up for building patrons and staff.

An accessible pathway is situated at the southeast corner of the site, providing accessible access to the building entrance for pedestrians from Highland Avenue, and a direct accessible connection to a landscaped outdoor plaza. There is also an accessible entrance on Highland Avenue. Sheltered parking for bicycles is provided near the building entrance.

- 1.23 The arrangement of parking and loading spaces is adequate, based on the layout, site, and proposed use for the building. The proposed parking areas comply with all design requirements of the Town of Needham By-Law, including those for lighting, landscaping, handicapped spaces, loading, layout, driveway openings, parking space size, maneuvering width in aisles, setbacks, compact vehicles, bumper overhangs, and bicycle racks. The parking areas include two hundred and fifty (250) parking spaces, which meets the requirements for number of spaces for this proposed 50,000 square foot building. Parking is distributed below and behind the proposed building. The majority of spaces are covered and protected from weather. The layout of parking and building access provides convenience for employees and visitors.
- 1.24 Adequate methods of disposal of refuse and other wastes resulting from the use of the site have been provided. A dumpster enclosure is located at the rear of the site, as indicated on the Plan, and is screened with solid walls and decorative louvers on three sides, and a louvered gate. Refuse and recycling will be removed from the site by a licensed hauler.
- 1.25 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area are in compliance with other requirements of this By-law and have been adequately addressed by this project. The proposed building is sited to enhance the Highland Avenue corridor, screen parking and deliveries, allow for extensive perimeter landscaping, and mitigate impact to neighboring properties. The development plan dramatically increases greenspace on the property (compared to existing conditions) and reduces paved areas by more than 30 percent. The project provides natural landscape and open space that do not currently exist on the property. Cross and Arbor streets are improved to provide better access, drainage, and softscape within the neighborhood.

The relationship of the proposed building to Highland Avenue greatly improves the landscape opportunities on the site. Setback of over fifty feet from the curb allows for generous accommodation of not only pedestrian and cycling circulation but also a row of canopy shade trees

as well as a row of ornamental flowering trees. The landscape is terraced up to the building with retaining walls creating more opportunities to add interest to the site with both hardscaping and planting. Similar terraced setbacks on both Arbor and Cross Street will make for consistently landscaped approaches to the building. The setback on Cross Street is generous enough to host an outdoor amenity space. This plaza will be paved with permeable pavers and will be furnished with movable tables as well as fixed seating. The plaza is over 2,400 square feet with the ability to host small groups or large gatherings.

- 1.26 The Project will not have an adverse effect on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. No adverse impacts to the Town's resources – such as the Town's water supply and distribution system, sewer collection, fire protection, or public streets – are anticipated as a result of the redevelopment of the Premises. The proposed utility design focuses on connecting services to existing utility infrastructure and minimizing impacts to the improvements along Highland Avenue recently performed by MassDOT. The Project proposes to connect domestic and fire water services to the Town's existing water system located in Cross Street. The proposed water service layout and design has been provided to the Engineering Department to confirm there are no concerns regarding water pressure and flow for this area. The project proposes to connect to an existing sewer service to route wastewater to the Town's sewer system via a sewer main located in Highland Avenue. As part of the Site Plan Review process, the site plans have been submitted to the Fire Department for review of the proposed fire truck access and hydrant coverage.

The proposed site layout plans will continue to maintain the existing access and circulation for emergency and fire protection vehicles.

The Project includes specific measures that are designed to reduce traffic and parking demands, and off-set the predicted impact of the project on the transportation infrastructure with consideration of approved development in the area. These measures include physical improvements and the implementation of a comprehensive Transportation Demand Management (TDM) program, and are more fully described in the Transportation Impact Assessment (TIA) that has been prepared by Vanasse & Associates, Inc. (VAI) and is included as a part of the Application. (See Exhibit 7 and Exhibit 23 of this Decision).

- 1.27 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted in the Industrial District, if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that the proposed development Plan, as conditioned and limited herein for the site plan review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law, as modified by this decision; subject to and with the benefit of the following Plan modifications, conditions, and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the

approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner 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 Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement.
- a) The Plan set shall be modified so as to be consistent with the Email received from Daniel Barton, Mangel Destefano Architects, dated November 2, 2023, all as noted on the following revised plans: Conceptual Plan set, consisting of 8 sheets: Sheet 1, entitled “Landscape Site Plan,” undated; Sheet 2, entitled “Walkway View 1,” undated; Sheet 3, entitled “Walkway View 2,” undated; Sheet 4, entitled “Walkway View 3,” undated; Sheet 5, entitled “Walkway View 4,” undated; Sheet 6, entitled “Walkway View 5,” undated; Sheet 7, entitled “Walkway View 6,” undated; and Sheet 8, entitled “Walkway View 7,” undated.
 - b) Additional landscaping shall be provided along the easterly side of Cross Street (opposite subject site) to limit the impact and views as was the planned approach for Arbor Street.

CONDITIONS

- 3.1 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 3.55 hereof.
- 3.2 The proposed building, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this decision. Any changes, revisions, or modifications to the Plan, as modified by this decision, shall require approval by the Board.
- 3.3 The proposed building and support services shall contain the dimensions and shall be located on that portion of the Property as shown on the Plan, as modified by this decision, and in accordance with the applicable dimensional requirements of the By-Law.
- 3.4 This permit is issued for a Medical Office Building. Any further changes of such described use shall be permitted only by amendment of this Approval by the Board.
- 3.5 The medical office building may be open for business six days per week: Monday through Saturday, 8:00 AM to 6:00 PM.
- 3.6 The Petitioner shall prepare an Approval Not Required Plan which shows the creation of a single Lot having an area of 81,973 square feet and comprising the Premises upon which the Project is proposed namely assessor’s Plan 77, Parcels 62 and 63. There shall be no further subdivision of the lot except by amendment of this approval by the Board. All buildings and land constituting the premises shall remain under single ownership.
- 3.7 Sufficient parking shall be provided on the site at all times in accordance with the Plan, as modified by this decision, and that there shall be no parking of motor vehicles off 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.

- 3.8 Two Hundred Fifty (250) parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this decision. All off-street parking shall comply with the requirements of Section 5.1.2 and Section 5.1.3 of the By-Law.
- 3.9 All required handicapped accessible parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words “Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed At Owners Expense”. The quantity & design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.10 The Petitioner shall make available shuttle service between the Project and public transportation stations, including the Green Line D Branch at Newton Highlands during the hours of 7:00 a.m. – 9:00 a.m. and 4:00 p.m. – 6:00 p.m., Monday through Friday, such services to begin no later than issuance of the Certificate of Occupancy for the Project.
- 3.11 The Project proponent shall coordinate with the Town of Needham and the proponent of the nearby Highland Science Center project to assess the feasibility of participating in the shuttle service that will be operating as a part of that development.
- 3.12 The Petitioner shall undertake and implement a transportation demand management program (TDM) program to facilitate carpooling, transit usage, and parking management as described in Transportation Impact Assessment, prepared by Vanasse & Associates, 35 New England Business Center Drive, Suite 140, Andover, MA 01810, dated July 2023 (Exhibit 7).
- 3.13 Access to the Project site shall be provided by way of three (3) driveways configured as follows: a one-way, entrance only driveway that will intersect the west side of Cross Street approximately 60 feet north of Highland Avenue that will serve the upper parking deck; a full access driveway that will intersect the east side of Arbor Road approximately 260 feet north of Highland Avenue that will also serve the upper parking deck; and a full access driveway that will intersect the north side of the Cross Street-Arbor Road connector drive that will be constructed at the north end of the Project site that will serve the lower parking deck. Pedestrian universal building access shall be provided at two locations along Highland Avenue as shown on the Plan, as modified by this decision, one closer to Arbor Street, and the other at the corner of Cross Street to enter the building at the underground level.
- 3.14 The following recommended Project site access and internal circulation design and operation strategies, many of which are reflected on the site plans, shall be implemented.
- a) The site plan described in Exhibit 6 and Exhibit 26 which shows the site driveway on Cross Street operating as a one-way entrance to the P2 level parking deck shall be the plan implemented.
 - b) The “Self-Selection Alternative” egress plan shall be implemented. The “Self-Selection Alternative” proposes two-way travel through the Cross Street-Arbor Road connector to allow for drivers from either parking deck to exit onto Highland Avenue from Cross Street or from Arbor Road.
 - c) The two-way Project site driveways shall be a minimum of 24-feet in width and designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle as defined by the Needham Fire Department.
 - d) Where perpendicular parking is proposed, the drive aisle behind the parking space shall be a minimum of 24 feet in order to facilitate parking maneuvers.

- e) Vehicles exiting the Project site shall be placed under STOP-sign control with a marked STOP-line provided.
 - f) “One-Way”, “Do Not Enter” and “Entrance Only” signs shall be provided to reinforce the one-way, entrance only operation of the Cross Street driveway.
 - g) All signs and pavement markings to be installed within the Project site shall conform to the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD).
 - h) To the extent allowed by MassDOT “Do Not Block” signs and pavement markings shall be provided on Highland Avenue at the Cross Street/Mills Road intersection.
 - i) To the extent allowed by MassDOT signs and pavement markings shall be provided that say “No Drop Off and Pick Up” on Highland Avenue.
 - j) Wayfinding signs shall be provided to indicate where patients, employees, and service vehicles should enter the site.
 - k) A sidewalk that links the proposed building to the sidewalk infrastructure along Highland Avenue and includes Americans with Disabilities Act (ADA)-compliant wheelchair ramps shall be provided.
 - l) Signs and landscaping to be installed as a part of the Project within the intersection sight triangle areas shall be designed and maintained so as not to restrict lines of sight.
 - m) Existing vegetation located along the Project site frontage on Arbor Road shall be selectively trimmed or removed so that no portion of the vegetation is located within the sight triangle areas of the Project site driveway.
 - n) Snow accumulations (windrows) within the sight triangle areas shall be promptly removed.
- 3.15 To encourage the use of alternative modes of transportation to single-occupant vehicles, the following Transportation Demand Management (TDM) measures shall be implemented as a part of the Project:
- a) The Project proponent shall become a member of the Route 128 Business Council Transportation Management Association (TMA).
 - b) A transportation coordinator shall be assigned for the Project to coordinate the TDM program and to serve as the point of contact for the TMA.
 - c) A rideshare matching program for employees to encourage carpooling shall be implemented.
 - d) A “guaranteed-ride-home” program shall be offered to employees that use public transportation, carpool, vanpool, walk or bicycle to the Project site, and that register with the transportation coordinator and the TMA.
 - e) A “welcome packet” shall be provided to employees detailing available commuter options and will include the contact information for the transportation coordinator and information to enroll in the employee rideshare program.
 - f) Tenants shall provide specific amenities to discourage off-site trips which may include providing a breakroom equipped with a microwave and refrigerator; offering direct deposit of paychecks; and other such measures to reduce overall traffic volumes and travel during peak-traffic-volume periods.
 - g) The Project proponent shall require tenant(s) to offer a 50 percent transit subsidy based on the amount of an MBTA Monthly Link Pass (currently \$90) to employees that commute to the Project site using public transportation at least three (3) days per week and that register with the Transportation Coordinator.
 - h) Secure bicycle parking shall be provided for a minimum of 13 bicycles at an appropriate location within the Project site, which should be sufficient to accommodate the anticipated bicycle parking demands of the Project.
 - i) A transit screen/display shall be provided in the building lobby to display real-time transportation information (similar to <https://transitscreen.com/>).
- 3.16 Petitioner shall coordinate with the neighbors to develop and pay for appropriate signage to be placed at the point of entry onto Putnam Street to the effect that this is private property and patients

and employees of the Petitioner are expressly prohibited to access this private way and that violators shall be liable for all costs and expenses associated with a breach of this covenant.

- 3.17 Petitioner shall coordinate with the neighbors to develop and maintain modifications/barriers to Cross Street, at the location adjacent to Petitioner's building, to make access onto Putnam Street difficult for patients and employees of the Petitioner. No existing parking spaces on Cross Street shall be altered or eliminated.
- 3.18 Petitioner shall coordinate with the neighbors to develop and pay for appropriate signage, to be placed on Cross Street adjacent to parking by residents of Gateway Townhouses Condominium, that parking by patients and employees of the Petitioner is strictly prohibited and that violators shall be towed at the owner's expense.
- 3.19 Petitioner shall post signage at appropriate locations in the parking area stating that access to Putnam Street is strictly prohibited.
- 3.20 Petitioner shall have a contact person for the neighbors to contact 24/7 to prevent the Petitioner's customers and staff from trespassing onto Putnam Street, providing a cell and email address, in order to take immediate and sufficient response to prevent future encroachments onto Putnam Street. If cut through traffic from the medical facility continues, the neighbors may request a public hearing with the planning board, at which hearing the planning board shall consider eliminating all egress traffic onto Cross Street and to require that all egress traffic from the medical building flows onto Arbor Street.
- 3.21 The Petitioner shall manage parking and traffic flow as presented with the application, and shown on the Plan, so that parking is restricted to the Property and so that traffic from the Project is directed to Cross or Arbor Street. If parking off-site becomes a problem or if Putnam Street becomes a cut through to Highland Avenue, to avoid traffic exiting Cross Street, or Arbor Road, and if the two parties (neighbors on Putnam with adjacent Condominium Association and the Owners/Tenants of the property 629-661 Highland Avenue) are not able to agree on a resolution, then the Planning Board may schedule a hearing to modify this Decision by imposing additional conditions in accordance with the provisions of Section 4.2., where one possible change will be the elimination of access from the lower level of the parking garage to Cross Street.
- 3.22 The mechanical equipment to be installed on the roof and emergency diesel fueled generator to be installed at the back corner of the site near Arbor Street shall be designed and operated to comply with all applicable Federal, state, and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. The mechanical equipment and emergency diesel fueled generator shall also be installed and screened as far as practical to minimize the visibility of the mechanical equipment and emergency generator from Highland Avenue, Cross Street, and Arbor Street. The Petitioner shall deliver to the Building Commission for review and approval plans and specifications of said mechanical equipment and emergency diesel fueled generator, including sound attenuation components, if necessary, together with Petitioner's certification to the Building Commissioner that said mechanical equipment and emergency generator have been designed such that when they are operated they will be in compliance with the regulations described above with respect to noise, and screened in accordance with the requirements described above.
- 3.23 Prior to project occupancy, an as-built plan of the mechanical equipment and emergency generator together with a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Building Commissioner, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards) shall be submitted to the Building Commissioner. The

sound analysis shall demonstrate compliance with all applicable Federal, state, and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations.

- 3.24 Normal maintenance and testing of the emergency generator shall be limited to one occurrence per month between the weekday hours of 9:00 a.m. and 5:00 p.m. for a period not to exceed 2 hours. The emergency generator shall not operate more than 300 hours per rolling 12-month period, including the normal maintenance and testing procedure as recommended by the manufacturer and periods when the primary power source for the Project, has been lost during an emergency, such as a power outage, an on-site disaster, or an act of God.
- 3.25 For the new facility, two times the 3,750 GPD expected generated in wastewater flow equates to a total of 7,500 GPD I/I removal anticipated from the development. This shall be satisfied prior to the issuance of the Occupancy Permit by the project proponent either undertaking a construction project or paying a fee to the Town's I&I program at a rate of \$8 per gallon required to be removed.
- 3.26 Prior to demolition of the five structures on site, the Petitioner shall apply for the Board of Health Demolition reviews online, via their online permit application system. This form shall be completed for each separate structure to be demolished, along with the uploading of the required supplemental report documents for Board of Health review and approval. Pest control reports, along with the asbestos sampling reports, etc., shall be uploaded to the Board of Health online system for review for each structure to be demolished, prior to the issuance of the Demolition permits by the Building Department.
- 3.27 On-going pest control shall be conducted during demolition of the structures and on-going pest control must be conducted throughout construction of the new office building in accordance with Board of Health Regulations.
- 3.28 All medical waste shall be collected and stored within tenant space(s) and disposed of properly by outside vendors.
- 3.29 All deliveries and trash dumpster pick up shall occur only between the hours of 8:30 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. All deliveries to this medical building shall be directed to Arbor Street. The trash shall be picked up no less than two times per week or as necessary.
- 3.30 All lights shall be shielded during the evening hours to prevent annoyance to the neighbors and to minimize light pollution. The Petitioner shall reduce its parking lot and Garage lights during the night and early morning consistent with professional safety and security protocols. No later than 8:30 p.m., the Petitioner shall reduce the parking lot lights using the lights on the building to shine down and provide basic security. The building and Garage lights shall be set at a low light level to prevent excessive lighting of the area and/or annoyance to the neighbors to the extent reasonable and practicable, consistent with safety and security requirements.
- 3.31 Light blocking shades in the interior of building shall be provided to block interior building light in the late evening hours.
- 3.32 All new utility services, 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.

- 3.33 All solid waste shall be removed from the Property by a private contractor. Snow shall also be removed or plowed by a private contractor. All snow shall be removed or plowed such that the total number and size of required parking spaces remain available for use. No snow shall be moved or dumped from the subject property onto Cross Street or onto Putnam Street.
- 3.34 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.
- 3.35 The Petitioner shall connect the sanitary sewer line only to known sources. All sources which cannot be identified shall be disconnected and properly sealed.
- 3.36 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.37 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit.
- 3.38 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit per Town Requirements.
- 3.39 The Petitioner shall secure a separate MassDOT approval for any work proposed within this section of the Highland Avenue right of way.
- 3.40 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.
- 3.41 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 Town's Stormwater By-Law.
- 3.42 The Petitioner shall implement the Operation and Maintenance Plan as detailed in the Stormwater Report, prepared by Vanesse Hangen Brustlin, 101 Walnut Street, Watertown, MA 02472, dated August 4, 2023 (Exhibit 8).
- 3.43 As part of the NPDES requirements, the applicant shall comply with the Public Outreach & Education and Public Participation & Involvement control measures. The Petitioner shall submit a letter to the town identifying the measures selected and dates by which the measures will be completed.
- 3.44 The maintenance of parking lot landscaping and site landscaping, as shown on the Plan, shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.45 The six (6) Old growth Oak trees located in the Arbor Street right-of-way adjacent to the Property shall be protected during demolition and construction and shall remain, as long as they are healthy enough to do so.
- 3.46 In constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence be exercised and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.

- 3.47 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the site, shall be removed from the site.
- 3.48 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 Commissioner.
- 3.49 The following interim safeguards shall be implemented during construction:
- a) The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b) The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site, which require excavation or otherwise pose a danger to public safety.
 - c) The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Commissioner, 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 Highland Avenue, Cross Street and Arbor Street.
 - d) The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Highland Avenue, Cross Street and Arbor Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.50 No building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:
- a) The final plans shall be in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Commissioner.
 - b) A construction management and staging plan shall have been submitted to the Police Chief and Building Commissioner for their review and approval.
 - c) The Petitioner shall have recorded the Approval Not Required Plan pursuant to Section 3.6 of this Decision.
 - d) The Petitioner shall have submitted a letter to the DPW identifying the measures selected and dates by which the NPDES requirements outlined in Section 3.43 of this decision will be completed.
 - e) The Petitioner shall have delivered to the Building Commissioner for review and approval plans and specifications for the mechanical equipment and emergency diesel fueled generator, including sound attenuation components as described in paragraph 3.22 of this decision.
 - f) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate

reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.

3.51 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:

- a) An as-built plan, supplied by the engineer of record certifying that the on-site and off-site project improvements were built according to the approved documents, has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, in their true relationship to the lot lines. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.
- b) There shall be filed with the Building Inspector and Board a statement by the Department of Public Works certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalks and curbing improvements on-site and off-site, have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved Plan.
- c) There shall be filed with the Board and Building Inspector a Final Construction Control Document signed by a registered architect upon completion of construction.
- d) There shall be filed with the Board and Building Inspector an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. Said plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.
- e) A copy of the TDM program for the Project as described in paragraphs 3.12 and 3.15 of this Decision shall have been submitted.
- f) An as-built plan supplied by the engineer of record certifying that the off-site traffic improvements were completed according to the approved documents has been submitted to and approved by the Board and Department of Public Works.
- g) There shall be filed with the Building Inspector a statement by the Board approving the final off-site traffic improvements.
- i) The Petitioner shall have implemented the shuttle service as described in paragraph 3.12 of this Decision.
- j) The Petitioner shall have filed an as-built plan of the mechanical equipment and emergency generator and a sound level analysis prepared by an acoustical engineer as described in paragraph 3.23 of this Decision.
- k) As described in paragraph 3.25 of this Decision, the Petitioner shall have either identified and removed infiltration and inflow ("I and I") from the sewer lines at a rate of 2 gallons to every gallon that is expected to be generated by the Project or to have paid the normal connection rate on a per gallon basis all in accordance with the Petitioner's sewer connection permit.

- l) The Petitioner shall have prepared and filed with the Board and the Norfolk County Registry of Deeds a plan which shows assessor's Plan 77, Parcels 62 and 63 merged, using customary surveyor's notation.
 - m) Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board surety in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.
- 3.52 In addition to the provisions of this Decision, the Petitioner must comply with all requirements of all state, federal, and local boards, commission, or other agencies, including, but not limited to the Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.53 The building or structure authorized for construction by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Commissioner.
- 3.54 The Petitioner, by accepting this permit Decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, that this information is true and valid to the best of the Petitioner's knowledge.
- 3.55 Violation of any of the conditions of this Approval 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 Approval, 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 Commissioner 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 Approval 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 Approval if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site and off-site improvements, which are the subject of this petition. All construction to be conducted on-site and off-site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this Decision.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or

otherwise modify, amend, or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.

- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated building signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit Amendment shall lapse on December 19, 2025, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior December 19, 2025. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

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

The provisions of this Special Permit Amendment shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, in full force and effect for the benefit of and enforceable by the Town of Needham.

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

Witness our hands this 19th day of December, 2023.

NEEDHAM PLANNING BOARD

Adam Block, Chairperson

Jeanne S. McKnight

Paul S. Alpert

Artie Crocker

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____, 2023

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Amendment to Decision of the project proposed by Neehigh LLC, 93 Union Street, Suite 315, Newton Center, MA, 02459, for property located at the 629-661 Highland Avenue, Needham, Massachusetts, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Design Review Board
Building Commissioner
Conservation Commission
Evans Huber, Attorney

Select Board
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest

From: [Stephen Frail](#)
To: [Planning](#)
Subject: Ground-based solar arrays in front yards / Parking structure canopies
Date: Tuesday, November 28, 2023 9:38:32 PM

Planning Board:

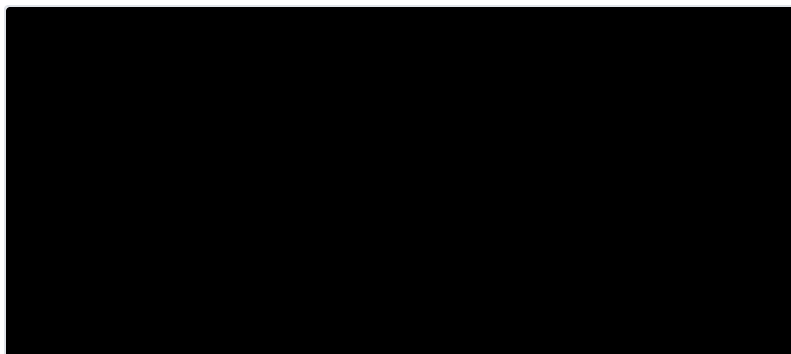
Thank you for the time and consideration on solar zoning. I have been following the discussion with great interest. I wanted to weigh in on the topic of ground-based solar arrays in front yards. My comments are my own but informed by discussions we've had on this topic in the Climate Action Planning Committee.

Before I do, I wanted to also pass along one argument in favor of adding solar canopies over parking garage structures that was made by our previous Building Commissioner: safety. His argument in favor of solar canopies on those structures is that during the winter the rooftops of parking structures fill up with snow and become significant safety hazards for kids who may go up there and try to sled down the snow piles. For that reason, top levels in parking garages often get closed off during snow events. Solar canopies would allow the snow to more effectively shed off the roof and minimize the snow piles. This was one reason that the discussion led to a recommendation that we offer canopies over parking garage structures (and exempt them from the height restrictions for the garage). Canopies over the top level of the garage also provide shade for cars in the summer. Commercial buildings don't have the same safety or convenience issues, so we didn't recommend adding a full canopy over rooftop mechanicals and instead discussed exempting the solar panels from the 25% roof coverage restriction that exists in some zoning districts.

Regarding ground-based solar arrays, speaking only for myself, I favor the idea of special permit for ground-mounted front yards. A special permit process would allow the Town to say *no* to, for example a ground-based array that is two feet off the ground along the front of the property, but yes to, for example, a covered walkway leading up the front door or a solar-covered carport. To help ground the Planning Board's discussion, below are some images that show creative architectural approaches to solar canopies doing double duty for covered walkways, patios, pool decks, car ports, and in the last case, landscape art. I would urge the PB to keep it simple: if our zoning bylaws allow an accessory structure in front, side, or front yards, allow solar arrays on those structures, subject to same height and setback restrictions. Building permit in side yards and back yards, special permit for front yards. Site plan review for all medium-solar arrays.

Stephen Frail
29 Powers Street

[Solar Design Awards | Architectural Solar Projects - Lumos Solar](#)

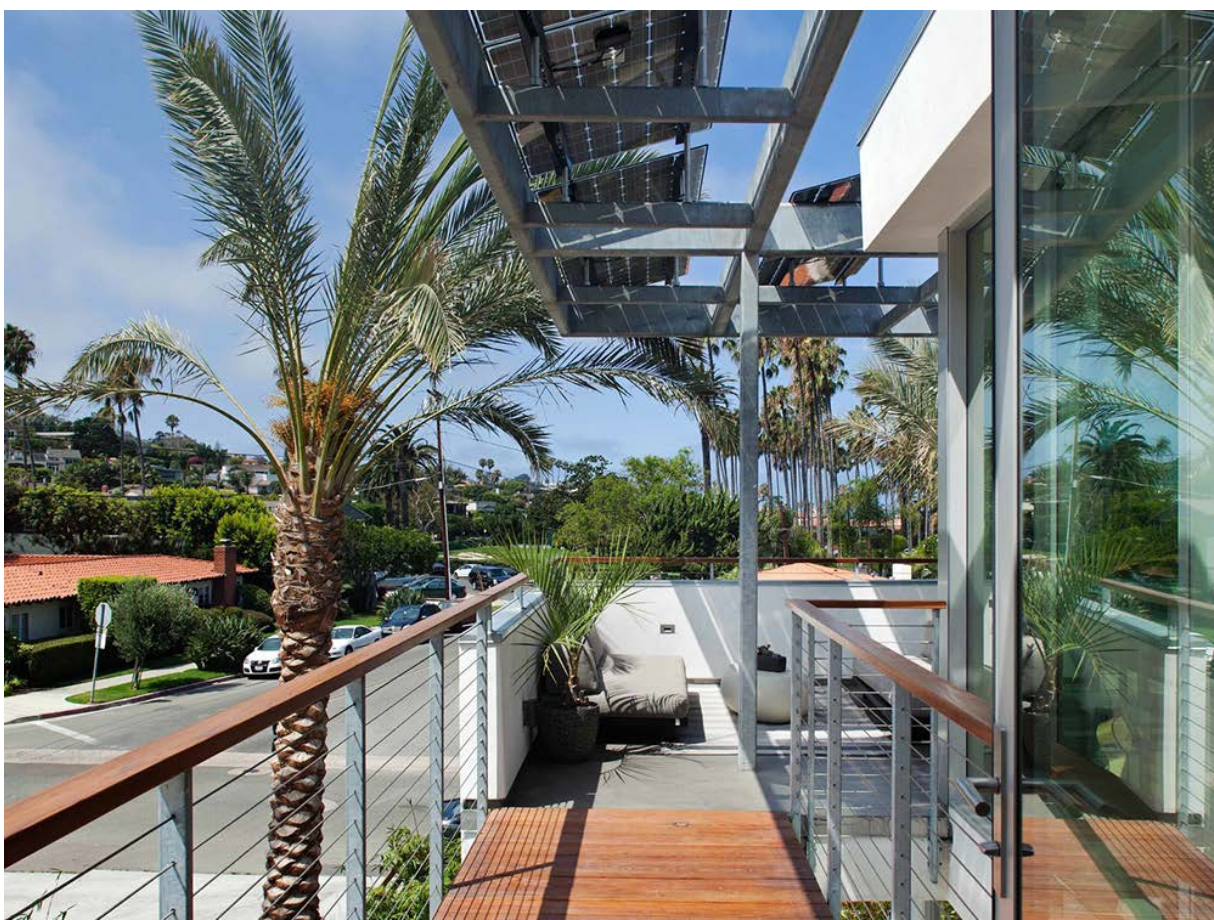


Solar Design Awards | Architectural Solar Projects - Lumos Solar

Our cutting edge, highest efficiency Solar Panels win awards for architectural aesthetics, product innovation, f...













From: [Paula Dickerman](#)
To: [Planning](#); [Board Chairman](#)
Subject: 12/6 NHA/PB Meeting
Date: Thursday, December 7, 2023 12:37:57 PM

Dear Board members,

1. I am in full support of rezoning the Linden and Chambers site to allow the NHA to preserve and redevelop the properties on that site.
2. We must keep our eyes on the prize. The question is not whether we support the NHA's plan, but how to do it in the best way possible.
3. The comments made by the attendees last night were illuminating and extremely useful - those made in favor of the project and those made to voice concerns.
4. Knowing how carefully and deliberately our Town boards and committees make decisions, I have confidence that all concerns will be studied and addressed as much as possible by the NHA's development team and the Planning Board.
5. Lastly, Needham has an opportunity to be a leader in providing modern, quality housing for its neighbors in Community Housing and to ADD desperately-needed units to the state's inventory. I feel proud to live in such a community.

Thank you for a well-run meeting and for your tireless work on this important project.

Paula Dickerman
20 Burnside Road
TMM, Precinct J

MEMORANDUM

TO: Planning Board

FROM: Lee Newman, Director of Planning and Community Development

DATE: September 16, 2023, last revised November 27, 2023

SUBJECT: **Zoning for Solar Energy Systems**

I am attaching to this memo a draft zoning approach for solar energy systems. Briefly the approach taken defines the types of solar energy systems to be authorized and then establishes a new by-law section for Solar Energy Accessory Uses which names the districts where the use would be permitted and details the terms under which the defined use would be authorized. I have highlighted in the attached zoning approach the key provisions which require further Planning Board policy discussion. A brief overview of the key components found in the zoning approach are below.

1. Key defined accessory uses being permitted are as follows:

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:

- a. Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
- b. Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
- c. Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
- d. Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,750 square feet of surface area or less. (Equivalent to a rated nameplate capacity of about 10 kW DC or less).
- e. Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,750 square feet, but less than 40,000 square feet of surface area. (Equivalent to a rated nameplate capacity of about 10 – 250 kW DC).
- f. Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
- g. Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.

- h. Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

DOER Model By-Law: Definitions used in the draft zoning article follow the DOER Model except that the following additional terms have been added as they were not specifically regulated in the DOER Model. Solar Energy System, Building-mounted; Solar Parking Canopy; Solar Energy System, Building-integrated Photovoltaic (BIPV); and Solar Energy System, Surface-integrated.

2. Named districts where a specified use would be permitted and circumstances where a site plan review would be required.

- a. Roof-mounted Solar Energy Systems would be permitted as-of-right in all use districts.
- b. In residential districts: Small-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies would be permitted as-of-right in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems would be permitted subject to site plan review by the Special Permit Granting Authority.
- c. In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems would be permitted as-of-right in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies would be permitted subject to site plan review by the Special Permit Granting Authority. The same regulations would apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.

DOER Model By-Law:

The DOER model allows roof-mounted solar energy systems, regardless of size, as-of-right throughout the community. The draft zoning approach follows this same standard of as-of-right siting, meaning that such development may proceed without the need for a Special Permit, variance, amendment, waiver, or other discretionary approval. These projects cannot be prohibited, and as such can be built once a building permit has been issued by the building commissioner.

Under the DOER Model for ground-mounted systems, there is a distinction between how small-scale, medium-scale and large-scale systems are treated and where each are allowed as-of-right, via site plan review, or by special permit. The draft zoning follows the same protocol.

The DOER model zoning allows small-scale ground-mounted systems as-of-right throughout the community. These are of a size that would service a house, small businesses, or small municipal building. The draft zoning follows this approach.

The DOER model zoning allows medium-scale ground-mounted systems as-of-right in all districts except residential zoning districts; in these districts Site Plan Review is required. The draft zoning deviates from the DOER model by requiring Site Plan Review for all medium-scale ground-mounted installations in non-residential districts as well as those required in residential districts under the DOER model.

The DOER model zoning requires Site Plan Review for large-scale ground-mounted systems within most zoning districts, a special permit in one residential district, and prohibits such systems in another residential district. Needham's current zoning by-law requires a Special Permit to install a large-scale ground mounted solar facility in a designated and mapped Overlay District. While a special permit is discretionary and language expressing uncertainty and cautioning communities about the lack of case law

regarding Chapter 40A Section 3 has been included, the Attorney General's Office has approved local zoning using this permitting mechanism. No change to this current zoning is proposed under this draft zoning approach.

Finally, the draft zoning establishes rules for Solar Parking Canopies which are not addressed in the DOER model as follows: In residential districts: Solar Parking Canopies would be permitted as-of-right in rear and side yards. In nonresidential districts: Solar Parking Canopies would be permitted subject to site plan review by the Special Permit Granting Authority.

3. Lot Coverage

- a. Active Solar Energy Systems are not treated as buildings as defined in the Needham Zoning By-Law. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems is counted toward the Maximum Percentage (%) Lot Coverage as defined in the Intensity Regulations provided in the Needham Zoning By-Laws for the affected district.
- b. Active Solar Energy System contribution toward the Maximum Percentage (%) Lot Coverage is calculated as the total area of the system's panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system's contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- c. A Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed counts toward Maximum Percentage (%) Lot Coverage.
- d. For Ground-mounted Solar Energy Systems the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Lot Coverage.
- e. To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface is not included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

DOER Model By-Law recognizes that several communities use "maximum lot coverage" or "maximum impervious surface" as one of their dimensional standards. While such features as buildings or driveways would be included in any lot coverage or impervious surface calculation the model by-law recommends that solar systems with grass or another pervious surface under them be exempted from lot coverage or impervious surface calculations. The above noted exemption is not provided in the draft zoning approach.

4. Height for Building-Mounted Solar Energy Systems in all Districts:

- a. Roof Mounted Solar Energy System where roof pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)- Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.
- b. Roof Mounted Solar Energy System where roof pitch is less than 3.2:12 (a fifteen (15) degree angle)- Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar

Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.

- c. Other Building-mounted Solar Energy System (e.g., awnings)- No greater than the highest point of the roof.

DOER Model By-Law recommends that for purposes of height, roof-mounted solar energy systems should be considered similar to chimneys, television antennae, roof-top mechanical equipment and other appurtenances that are usually either allowed a much higher maximum height (e.g., 100 feet instead of 35 feet) or are exempted altogether from building height requirements. This approach was not followed. Like the approach taken in Natick maximum height standards were established for roof-mounted installations varied by roof pitch and for building mounted installations.

5. Height for Ground-Mounted Solar Energy Systems:

- a. Small-Scale Ground-mounted Solar Energy System in all Districts - Ten (10) vertical feet from grade.
- b. Medium-Scale Ground-mounted Solar Energy System in all Districts - Ten (10) vertical feet from grade.
- c. Solar Parking Canopy in Residential Districts - The maximum height allowed on the lot or the height of the principal structure, whatever is less.
- d. Solar Parking Canopy in Non-Residential Districts – Subject to Site Plan Review by Special Permit Granting Authority.

DOER Model By-Law recommends that existing zoning district height limitations apply for all ground-mounted solar energy systems. If the ground-mounted solar energy system is accessory to a principal building or structure on a lot, then the height restriction for accessory structures would apply. If the ground-mounted solar energy system is the principal structure on a lot, then the height restriction for principal structures would apply. Needham's zoning by-law does not establish a maximum height for an accessory structure. A standard of 10 feet was applied in the draft zoning for height for both the small scale and medium scale ground mounted systems across all zoning districts. This standard was used in Natick for similar systems. For a Solar Parking Canopy in a residential district the maximum height on the lot or the height of the principal structure, whatever is less, was used. In Non-Residential Districts Solar Canopies are governed by the height requirement of the district.

6. Setbacks

- a. Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment's reach at all angles falls within the setback requirements.
- b. Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- c. Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees should be met elsewhere on the lot.

- d. All other Ground-mounted Solar Energy Systems shall meet requirements for District-level setbacks as defined in the Needham Zoning By-Laws.
- e. Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

DOER Model By-Law recommends for urban communities having required side and rear yard setback standards of 20 feet or less that the existing shorter setback distances should remain for small and medium scale ground mounted solar energy systems. This regulatory framework was implemented in the draft zoning approach.

The DOER Model also recommends that the placement of solar energy systems in front yards should be avoided if possible. The draft zoning approach prohibits such solar energy system installations in the front yard.

7. Supplemental Regulations

- a. BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b. The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

The DOER Model does not address these systems. The draft zoning approach requires that BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. Additionally, the impervious portion of any Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

8. Section 7.4 Site Plan Review

- a. Site Plan Review is required for all Medium-scale Ground-mounted Solar Energy Systems in all districts and Solar Parking Canopies in non-residential districts. The Planning Board would serve as the Special Permit Granting Authority for these systems.
- b. In addition to the site plan review submittal requirements of Section 7.4 of the Needham Zoning By-law the following additional information is required:
 - 1) Name, address, and contact information for proposed system installer.
 - 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - 3) The name, contact information and signature of any agents representing the project proponent.

- 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
- 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
- 6) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
- 7) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- 8) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
- 9) Locations of local or National Historic Districts in relation to the site.

DOER Model limits Site Plan Review of medium-scale ground mounted solar energy systems to residential zoning districts. The draft zoning approach also applies Site Plan Review of medium-scale ground mounted solar energy systems to non-residential zoning districts.

c. In addition to the site plan review criteria and standards of Section 7.4 of the Needham Zoning By-law the following additional criteria is to be considered:

- 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
- 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
- 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
- 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
- 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible,

lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

DOER Model By-Law: Criteria used in the draft zoning article follow the DOER Model By-law except that the following additional criteria have been added as they were not specifically regulated in the DOER Model. Height and Layout and Lighting. These provisions are similar to those utilized in Natick.

Solar Energy Systems Zoning Approach

Key Policy Decision Points Highlighted

ARTICLE 1: AMEND ZONING BY-LAW – SOLAR ENERGY SYSTEMS

To see if the Town will vote to amend the Zoning By-Law as follows:

1. In Section 1.3 Definitions, by adding the following term and definition in the appropriate alphabetical location as follows:

“Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:

- a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
- b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
- c) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
- d) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies **1,750 square feet of surface area or less**. (Equivalent to a rated nameplate capacity of about 10 kW DC or less).
- e) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies **more than 1,750 square feet, but less than 40,000 square feet of surface area**. (Equivalent to a rated nameplate capacity of about 10 – 250 kW DC).
- f) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
- g) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
- h) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.”

2. Amend Section 6, Special Regulations, by redesignating Subsection 6.2 Boats, Motor Homes and Trailers as Subsection 6.3, by redesignating Subsection 6.3 Filling Stations and Commercial Garages as Subsection 6.4, by redesignating Subsection 6.4 Outdoor Parking of Vehicles as Subsection 6.5, by redesignating Subsection 6.5 Limited Heliports as Subsection 6.6, and by redesignating Subsection 6.6 Complex Developments as Subsection 6.7.
3. Amend Section 6, Special Regulations, by adding a new Subsection 6.2 Accessory Uses – Solar Energy Systems, to read as follows:

“6.2 Accessory Uses – Solar Energy System

6.2.1 Basic Requirements

- a) Roof-mounted Solar Energy Systems shall be permitted in all use districts. The installation of Roof-mounted Solar Energy Systems that:
 - 1) comply with the regulations provided in this section; and
 - 2) are located on properties with nonconforming uses or structures; and
 - 3) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.
- b) In residential districts: Small-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies shall be permitted in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems shall be permitted subject to site plan review by the Special Permit Granting Authority.
- c) In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.
- d) Where Solar Energy Systems would be installed in a Historic District, the system shall require approval by the Historic District Commission.

6.2.2 Dimensional Requirement

- a) Maximum Percentage (%) Lot Coverage
 - 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems shall count toward the

Maximum Percentage (%) Lot Coverage as defined in the Intensity Regulations provided in the Needham Zoning By-Laws.

- 2) An Active Solar Energy System's contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system's panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system's contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.

Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.
Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.

2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	All districts	Ten (10) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	All districts	Ten (10) vertical feet from grade.
Solar Parking Canopy	Residential	The maximum height allowed on the lot or the height of the principal structure, whatever is less.
Solar Parking Canopy	Non-residential	Subject to site plan review by Special Permit Granting Authority.

c) Setbacks

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment's reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees should be met elsewhere on the lot.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for District-level setbacks as defined in the Needham Zoning By-Laws.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6.2.3 Supplemental Regulations

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

6.2.4 Site Plan Review

- a) Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts and Solar Parking Canopies in non-residential districts are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan Review. The Planning Board will serve as the Special Permit Granting Authority for these systems.
 - 1) Site Plan Document Requirements: The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants should submit the following:
 - i. Name, address, and contact information for proposed system installer.
 - ii. Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.

- iii. The name, contact information and signature of any agents representing the project proponent.
 - iv. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - v. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - vi. Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - vii. Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - viii. Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
 - ix. Locations of local or National Historic Districts in relation to the site.
- b) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section 7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:
- 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

- 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
- 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
- 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
- 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.”

Or take any other action relative thereto.

From: [Gregg Darish](#)
To: openmeeting@massmail.state.ma.us
Cc: [Christopher Heep](#); [Planning](#); [Theodora Eaton](#)
Subject: PB Open Meeting Law complaint
Date: Saturday, December 9, 2023 9:23:45 AM
Attachments: [Response to OML Complaint dated October 11, 2023 - Needham Planning Board.pdf](#)
[Response to OML Complaint dated October 11, 2023 - Needham Planning Board.pdf](#)

Dear Office of the Attorney General,

I am writing to submit the attached October 11, 2023 Open Meeting complaint and the Needham Planning Board response to the Division of Open Government regarding an executive session held on September 11, 2023.

I am not satisfied with the response of the Planning Board to my complaint because:

1. Notice of a Joint Meeting was not Posted by the Planning Board.

It is true, as the Planning Board points out in its response, that the same notice may be used for a joint meeting of two boards. However, the Select Board's notice of a Joint Meeting with the Planning Board is not sufficient to fulfill the Planning Board's notice requirements in this case.

First, the notice itself is misleading and deficient. The Select Board's notice did not identify the particular litigation to be discussed and, in fact, mis-characterized the topic to be considered as "potential litigation" when the matter at hand was addressing specific, existing ongoing litigation. The meeting was meant to discuss next steps in light of the adverse judgment entered by the Land Court, including whether a notice of appeal should be filed in the Land Court. The Planning Board notice needed to clearly identify that the two boards were discussing the specific Land Court case by citing its name instead of implying that the subject matter to be discussed was other "potential litigation involving 1688 Central Avenue."

Further, the notice was posted only on the Select Board's webpage. It was not posted to the Planning Board's webpage. Link to Planning Board Agenda webpage: [Agendas, Minutes, Meeting Packets, Application Submissions, Legal Notices & Decisions | Needham, MA](#) A notice of Joint Meeting posted only on the Select Board's agenda/meeting notice webpage does not constitute proper notice for the Planning Board.

Needham's process for notice of its meetings requires all Boards to post an accurate agenda notice on its webpage. The case cited by the Planning Board is inapplicable here because that case involved a town that used a different process for notices. In Falmouth in 2011, the method of notice for both boards was the same - to file with the Town Clerk. Therefore, in the cited case, it was sufficient notice by both boards for the one notice of a joint meeting to be filed with the Town Clerk. In Needham in 2023, notices of meeting agendas are filed on a Board's own dedicated webpages;

they are not filed on the same webpage for all boards. Because of that, notice must be filed on both boards' webpages. OML 2023-128 (Notice of a joint meeting posted only on one board's webpage is insufficient notice for the second board). Posting as it does in the normal course is not a difficult task for the boards, but it is necessary because without it the public is left uninformed.

Anyone following the Planning Board would have had no notice of the Joint Meeting and could not anticipate it because it was held out of the ordinary schedule; notice was not posted on the webpage where all Planning Board meeting agendas are posted; and the subscription email notification system did not send an email to those residents who had subscribed to receive Planning Board notices. Additionally, anyone looking at the history of Planning Board meetings would not know that this Joint Meeting happened because, even today, there is no record of the meeting or its minutes to be found on Planning Board's webpages.

2. Minutes

Although the Planning Board suggests in its response that minutes of the meeting will be created, as of the date of this letter, no minutes are posted for this meeting on the webpage dedicated to posting Planning Board minutes. Additionally, a review of the packets for all Planning Board meetings between September 11 and December 5, 2023 (four meetings after the date of the Planning Board's letter committing to creating minutes and seven meetings after the joint meeting itself) does not evidence any minutes to be approved by the Planning Board for the September 11, 2023 meeting. This is a violation of open meeting law because minutes have not been created and approved in a reasonable time from the date of the meeting.

3. Deliberation Outside of a Public Meeting

The complaint is not that the Planning Board did not vote to go into executive session during open session on September 11. The complaint is that the Planning Board never publicly discussed and decided upon an intention to invite the Select Board (or accept the Select Board's invitation) to deliberate with it about litigation strategy for the 1688 Central Avenue lawsuit in a Joint Executive Session.

Deciding to invite another Board to participate in the deliberation of your Board's litigation strategy and deciding to have that joint deliberation take place in executive session are substantive acts that should be decided in public by the entire Board before notice of such a joint executive session is posted. The Select Board posted a notice of the joint meeting. That could not have been done unless the foregoing decisions had been made. Since the decisions were not discussed or made at a public meeting, they must have been discussed and made outside of a public meeting in violation of OML.

This is not merely a scheduling matter. These are significant decisions and the

public is entitled to know how those decisions came about and the reasoning behind them. Why did the Planning Board decide to take the extraordinary step of holding or participating in a joint meeting with the Select Board on this case? Why did the Planning Board decide to privately discuss litigation strategy with the Select Board, a board that had previously publicly disavowed any jurisdiction or influence over the matter and whose (now former) member had a financial interest in the litigation strategy chosen by the Planning Board? Why did the Planning Board decide that whatever thoughts or opinions it aimed to get from the Select Board should be obtained in Executive Session and concealed from the public eye? These are the types of decisions that the Planning Board should be making as a board in public. Residents are entitled to have access and an understanding of the reasoning behind those decisions.

For these reasons, I am unsatisfied with the Planning Board response to my open meeting complaint and I wish to have the Attorney General's office review this matter in full.

Sincerely,

Gregg Darish