

BOARD OF SELECTMEN

October 27, 2015

Needham Town Hall

Agenda

Note: Agenda subject to revision, start times are approximate and agenda items may be discussed at earlier or later times.

	6:45	Informal Meeting with Citizens <i>One or more members of the Board of Selectmen will be available between 6:45 and 7:00 p.m. for informal discussion with citizens. While not required, citizens are encouraged to call the Selectmen's Office at (781) 455-7500 extension 204 in advance to arrange for an appointment. This enables the Board to better assure opportunities for participation and respond to citizen concerns.</i>
1.	7:00	Proclamation-Needham League of Women Voters
2.	7:00	Joint Meeting with Planning Board • Housing Strategies • Special Town Meeting Zoning • Pending Legislation
3.	7:45	Siting for new Hillside School • Daniel Gutekanst, Superintendent of Schools • Steve Popper, Director of Design & Construction
4.	8:00	RTS Rate Setting Hearing & Solid Waste Disposal & Recycling Advisory Committee Update • Jeffrey Heller, Chairman • Committee Members • David Davison, Assistant Town Manager/Director of Finance • Rick Merson, Director of Public Works • Greg Smith, Solid Waste Superintendent
5.	8:30	Department of Public Works • Traffic Regulation- Brookline Street • Traffic Regulation- Damon Road & Tanglewood Road
6.	8:40	Town Manager • Positions on Warrant Articles
7.	8:50	Board Discussion • Committee Reports
8.	9:00	Executive Session Exception 6

CONSENT AGENDA *=Backup attached

1.	Accept a \$500 donation from the Congregational Church of Needham made to Needham Youth Services VIP program.
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2.	Ratify a request from the Sheraton Needham to extend the liquor license for a function on October 23, 2015 until 1:00 a.m. for the New England Association of Columbian Children Gala. This request was approved by the Chief of Police.
3.	Accept a \$100 donation from the Community Center of Needham, Inc. made to the Needham Community Revitalization Trust Fund Committee for Needham Light Banners.
4.	Accept a donation of \$35 made to the Needham Police Department's Car Safety Seat Installation Program from Vivian Bendix, a Framingham resident.
5.*	Ratify a Special One Day All Alcoholic Beverages license from Stephen Pitocchelli, of The Village Club, who held its MDA fundraiser on October 10, 2015 from 11:00 a.m. to 8:00 p.m. at The Village Club, 83 Morton Street, Needham.
6.*	Approve a Special One Day All Alcoholic Beverages License for Stephen Pitocchelli of the Village Club to host the Class of 1990's Reunion event on November 27, 2015 from 6:00 p.m. to 11:00 p.m. The event will be held at the Village Club, 83 Morton Street, Needham.
7.*	Approve a Special One Day All Alcoholic Beverages License for Stephen Pitocchelli of the Village Club to host the Class of 1985's Reunion event on November 28, 2015 from 6:00 p.m. to 11:00 p.m. The event will be held at the Village Club, 83 Morton Street, Needham.
8.*	Ratify a Special One Day All Alcoholic Beverages License for Mary Grace Summergrad, of Needham Community Education who held its Whiskey Tasting event on October 25, 2015 from 2:30 p.m. to 5:30 p.m. at the Needham Historical Society, 1147 Central Avenue, Needham.
9.*	Approve minutes from September 21, 2015 (open and executive session).

PROCLAMATION

- WHEREAS:** The Needham League of Women Voters was formed in 1940, when Needham's population was just 12,000; and
- WHEREAS:** The Needham League of Women Voters, while a political entity, is non-partisan; it never supports political parties or candidates but does study issues, develop consensus positions and then works actively to support those positions; and
- WHEREAS:** Our democracy depends on the informed and active participation of its residents. The Needham League of Women Voters' membership is very active, open to all Needham residents, and is comprised of both men and women over the age of 18; and
- WHEREAS:** Civic education and engagement lead to informed and active participation in government and the Needham League of Women Voters holds educational forums on a variety of subjects throughout the year; and
- WHEREAS:** All residents should understand public policy issues at the local, state and national levels and the Needham League of Women Voters provides opportunities for residents to learn about candidates and issues before all elections; and
- WHEREAS:** The Needham League of Women Voters is dedicated to voter education as well as influencing public policy through study and advocacy;

NOW THEREFORE BE IT PROCLAIMED that the Needham Board of Selectmen, and the people of Needham extend their warmest congratulations to the Needham League of Women Voters on the occasion of its 75th anniversary.

Signed this 27th day of October 2015

Maurice P. Handel, Chairman

Matthew D. Borrelli, Vice Chairman

Marianne B. Cooley, Clerk

Daniel P. Matthews

John A. Bulian



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/27/2015

Agenda Item	Joint Meeting with the Planning Board
Presenter(s)	Planning Board Members Lee Newman, Director of Planning & Community Development Karen Sunnarborg, Community Housing Specialist

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
	Ms. Newman and Ms. Sunnarborg will make a brief presentation about the development of the draft Needham Housing Strategy document, and the board members will discuss housing strategies, zoning articles contained on the Special Town Meeting Warrant, and pending legislation.		
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
	No vote required at this meeting.		
3.	BACK UP INFORMATION ATTACHED	YES	NO
	a. PowerPoint: Needham Housing Strategies b. Needham Housing Strategy dated August 25, 2015 c. Senate Bill #122 – An Act Promoting the Planning and Development of Sustainable Communities d. MMA Testimony on Senate Bill #122 dated September 15, 2015 e. Special Town Meeting Warrant forwarded previously		



NEEDHAM HOUSING STRATEGIES

Joint Meeting Board of Selectmen and
Planning Board October 27, 2015

Demographic & Economic Status

- 31% of all households in Needham earned more than \$200,000 based on 2013 U.S. census estimates.
- Median household income of \$127,753 is approximately twice the State median of \$66,866.
- More than 20% of all households including seniors earned less than \$25,000.
- An estimated 11% of owners, 18% of all households, and 65% of all renters earned less than \$50,000 per year.
- 7.3% of population has been identified as having some type of disability (2,088) including 27% of all those 65 years or older.

Demographic & Economic Status

- The community experienced increasing levels of poverty between 2000 and 2013 as defined as \$11,490 annual income for an individual and \$23,550 for a 4-person household:
 - 2.5% to 3.5% for all individuals
 - 1.6% to 2.4% for families
 - 0.7% to 6.0% for those 65 years of age or older
- An estimated 3,044 households, or 29% of all Needham households, were spending more than 30% of their income on housing.

Housing Trends - Ownership

- The homeownership market remains robust and resilient, representing 84% of the total occupied housing units.
- Approximately 81% of owner-occupied units were valued above \$500,000, & 16.3% were valued above \$1 million based on 2013 census estimates.
- 4.5% of housing units were valued below \$300,000.
- The median single-family home sales price was reported at \$670,000 in 2012, \$802,500 in 2014, and \$857,000 in 2015.
- A 3-person household earning 80% of Area Median Income (AMI) can afford a maximum purchase price of \$270,000 assuming 95% financing and spending no more than 30% of income on housing costs (among other assumptions).

Housing Trends - Rental

- Rental units represent 16% of all occupied units – a reduction from 20% in 1990. This is a net loss of 392 units.
- Multi-family housing of 5 or more units represents 12% of all housing units, with more than 1/3 of these units under Housing Authority jurisdiction.
- In 2013, the median gross rent was \$1,453 with more than half of rentals involving subsidized rents.
- Market rents are typically \$2,500 or higher.
- A renter household earning 80% AMI (\$62,750) should spend no more than \$1,400 in rent based on spending 30% of income on rent and utility costs.

Priority Initiatives



- Promote mixed-income rental housing in appropriate areas through the Local Initiative Program (LIP “friendly 40B process”)
- Redevelop Linden-Chambers Project

Priority Initiatives Continued

- Monitor and assure compliance of SHI
- Utilize the Town's 40B Guidelines for new affordable housing proposals
- Study and make recommendations regarding a Municipal Affordable Housing Trust



Other Initiatives

- Support scattered-site development
- Preserve existing rental housing
- Explore updating and expanding multi-family zoning consistent with smart growth



Other Initiatives Continued

- Expand inclusionary zoning
- Explore the creation of a 40R/40S District, smart growth planning
- Review affordable housing options for suitable Town or other surplus publicly owned property
- Continue community outreach on housing issues



Needham Housing Strategy

INTRODUCTION

Needham is a developed Boston suburb with a population of approximately 29,000 and a housing stock of approximately 11,000 units. Given pending and approved development proposals, it is expected that Needham will surpass the 10% affordability threshold set under MGL Chapter 40B, achieving a total countable Subsidized Housing Inventory (SHI) of approximately 1,344 units (12.2%) by the end of calendar 2016.

Notwithstanding achievement of this statutory and policy goal, the Town will continue to explore opportunities to promote affordable housing development. The purposes of this effort are to strengthen the community by supporting economic diversity, having available housing across a range of needs and incomes, and maintaining the community's control over its own zoning.

A focus of this Housing Strategy is the development and preservation of permanently affordable rental housing, both subsidized and at relatively moderate market prices.

Needham's stock of rental housing has diminished as a result of the conversion of two-family dwellings to single-family use or condominium ownership. Owner-occupied single family homes constitute a majority of existing housing the town. The gap between what market housing costs in Needham and what many individuals and families can afford has widened and thus eroded some of the community's social and economic diversity. The Town believes that availability of rental housing can increase affordability and flexibility options, even when not specifically regulated as means tested housing. The availability of rental housing across income ranges is an identified community need.

The principal constraints for affordable housing development are that the Town is largely built-out under current zoning; buildable land is expensive, even by comparison with other Boston-area communities; Town government has insufficient undeveloped land for its foreseeable non-housing needs; there are community concerns regarding potential increased public school costs associated with additional housing development; and there is neighborhood and community apprehension regarding specific affordable developments.

The following actions are proposed to continue to address local housing needs, categorized according to level of priority:

PRIORITY INITIATIVES

Develop permanently affordable and SHI countable rental housing in mixed-income developments in Needham Crossing and other densely developed areas using the Local Initiative Project (LIP/"Friendly 40B") process.

Lead Entities: Board of Selectmen, Zoning Board of Appeals, Planning Board, and Council on Economic Advisors

There are opportunities for large-scale, mixed-income, rental housing development in Needham Crossing and Needham's Mixed Use 128 zone. Given the success of Charles River Landing, a Local Initiative Program (LIP) "friendly 40B" development built in Needham Crossing, opportunities to replicate this model are being pursued. The Board of Selectmen is supporting a 390-unit LIP rental development, Second Avenue Residences, also to be located in Needham Crossing. Consistent with the Town's Chapter 40B guidelines, Needham's Council of Economic Advisors is working with the Board of Selectmen and Planning Board to explore changes to the Mixed Use-128 zoning district to allow apartment development in that otherwise commercial area.

Redevelop Linden-Chambers Project

Lead Entity: Needham Housing Authority

The Needham Housing Authority's Linden-Chambers apartments include 152 units for the elderly and younger disabled. The NHA seeks to redevelop this area and adjacent land which it owns off Yurick Road to upgrade the existing apartments and construct additional units. The Town has provided CPA funding to support some preliminary feasibility work. The Selectmen and other Town boards will continue to work with NHA in exploring opportunities for this project.

Monitor and Assure Compliance of Subsidized Housing Inventory (SHI)

Lead Entities: Department of Planning and Community Development (DPCD), Needham Housing Authority (NHA)

Going forward, Needham expects to have over thirteen hundred SHI countable units. It is important that affordable and market rate SHI units within the town be well-maintained, well-managed, and operated in compliance with applicable statutes and regulations, including those related to income standards, means testing, assuring continued SHI accountability, and fair housing requirements. In addition to general laws and regulations, individual developments are typically subject to specific conditions or regulations. The Needham Housing Authority will be the lead entity for assuring compliance with respect to units under its ownership or jurisdiction, and the Planning and Community Development will be the Town government's lead entity with respect to compliance of privately owned units. Existing documentation including recorded instruments will be reviewed to assure that the lead agencies will have the necessary information and authority to monitor compliance and take appropriate actions when necessary.

Utilize the Town's Chapter 40B Guidelines in planning and evaluation of new affordable housing proposals.

Department of Planning and Community Development (DPCD)

The town's Chapter 40B Guidelines (2012) provide an important summary of the Town's policies, procedures, goals, and requirements for Ch. 40B comprehensive permits. Features include encouraging early meetings and exchange of information between developers and relevant town agencies, and identification of planning and development considerations, including permanent affordability of new units, preference for rental development, priorities for location, density, architectural/design, historical, and environmental values, preferences for local tenancy and ownership applicants, and the importance

of neighborhood support, among others. The guidelines should be used as a framework for affordable housing planning, and may be updated going forward.

Study and Make Recommendations Regarding a Municipal Affordable Housing Trust

Lead Entity: Board of Selectmen

Massachusetts General Laws Chapter 44 section 55C authorizes the establishment of a Municipal Affordable Housing Trust Fund by a city or town to support affordable housing initiatives in the community.

Creation of the trust would require Town Meeting acceptance of section 55C. Under the statute, the trust would be overseen by a board appointed by the Selectmen and chaired by the Town Manager, and could receive, hold, and disburse both property and funds for affordable housing purposes.

The Board of Selectmen will study creation of such a trust. Issues to be addressed include:

- Preferred qualifications, appointment process, and length of term for trustees.
- Potential funding sources, which could include but not necessarily be limited to requests for Community Preservation Act (CPA) funding, dedicated funding from inclusionary zoning or other permitting fees, or affordable housing related revenues such as Chapter 40B compliance fees.
- Guidelines for management and use of affordable housing trust funds and resources.

OTHER INITIATIVES

Support Scattered-site Development

Lead Entities: Planning Board and Zoning Board of Appeals

The Town will continue to work with for profit and non-profit developers on opportunities to develop small scale affordable housing on available sites scattered in existing neighborhoods throughout the community. Successful projects have included Chapter 40B homeownership developments consistent with the Town's affordable housing guidelines, a Habitat for Humanity house on land provided by the Town, and a group home for developmentally disabled adults.

Preserve Existing Rental Housing

Lead Entity: Board of Selectmen, Planning Board

The Town will seek to preserve its level of existing currently non-SHI rental housing inventory. Needham's existing stock of rental housing has diminished by over 300 units as a result of the conversion of two-family dwellings to single-family use or condominium ownership. The Town's housing inventory includes apartment developments which may be subject to market pressures for condominium conversion. As noted above, the Town believes that market priced rental housing can increase affordability and flexibility in the housing market.

The town will consider or pursue options including review of zoning and permitting requirements to encourage continued availability of two-family rental housing, zoning or permitting changes to encourage development of additional rental housing, and possible purchase or acquisition of affordability covenants or other rights within existing developments that would add individual units to the SHI and/or assure continued availability of developments as rental housing.

Explore Updating and Expanding Multi-family Zoning Consistent with Smart Growth

Lead Entity: Planning Board

Needham has relatively little developable vacant land that is zoned to permit two-family or other small multi-family housing. Some development of multi-family housing has occurred through the redevelopment of already developed sites, rezoning by Town Meeting (such as special zoning districts in Needham Center, Chestnut Street, Garden Street and the Elder Services District at Highland Avenue and Gould Street), a variance from zoning, or a Chapter 40B override of applicable zoning.

Zoning and permitting barriers to redevelopment of existing multi-family housing should be examined. Barriers to new multi-family housing could be reduced by revising rules in some existing zoning districts to allow multi-family development and/or revising the zoning map to expand areas for such development. Appropriate areas for consideration might be those in proximity to existing apartment developments, commuter rail stations, and commercial areas.

Expand Inclusionary Zoning

Lead Entity: Planning Board

Inclusionary zoning is a zoning ordinance or bylaw that requires a developer to include affordable housing as part of a development or under some conditions to contribute to a fund for such housing. The Town of Needham has incorporated inclusionary zoning mandates into several recently-enacted bylaws. For independent living units in a new Elder Services Zoning District and new housing in the Needham Center, Lower Chestnut Street, and Garden Street Overlay Districts, at least 10% of the units must be affordable to those earning at or below 80% of area median income and meet all other state requirements for inclusion in the Subsidized Housing Inventory (SHI), with one (1) unit affordable for developments of less than ten (10) units. Inclusionary provisions are also being considered as part of new zoning for a Mixed-use District parallel to Highland Avenue.

The Planning Board will consider options for expanding inclusionary zoning. Examples might include a requirement of least 15% of the units as affordable for projects of six or more units, payments of fees in-lieu to the town's affordable housing fund, or providing density bonuses for developments including affordable units.

Explore the Creation of a 40R/40S District, Smart Growth Planning

Lead Entity: Planning Board

Approved by the state legislature in 2004, Chapter 40R provides financial incentives to communities that pass Smart Growth Overlay Zoning Districts that allow the building of mixed-income housing at higher densities. The key components of 40R include the following:

- Allows a municipality to adopt a smart growth zoning district near transit, areas of concentrated development, commercial districts, rural village districts, and other suitable locations;
- Allows “as-of-right” residential development meeting specified densities with a range of housing types;
- Requires that at least 20% of the units be affordable;
- Allows mixed-use and infill development;
- Provides two types of subsidies to municipalities, one based on how many units are estimated to be permitted in the zoning district and the other involving payments of \$3,000 for each residential unit issued a building permit; and
- Permits preservation of specific amounts of open space and the protection of historic districts.

MGL Chapter 40S provides additional benefits intended to assure towns that build affordable housing under 40R that they will not be overburdened with school costs for children who might move into the additional housing. In effect, 40S is intended to hold those communities participating in 40R harmless from costs added to school budgets as a result of any 40R-related development.

Another available resource is the State Department of Housing and Community Development (DHCD)’s Planning Assistance Toward Housing (PATH) Program that provides grants to municipalities in support of necessary technical assistance for promoting affordable housing, including changes to zoning such as chapter 40R Smart Growth Zoning Districts.

The Planning Board will explore the option such smart growth zoning in parts of Needham, including business areas and areas near transit.

Review Affordable Housing Options for suitable Town or other surplus publicly owned property.

Lead Entity: Board of Selectmen

In recent years the Town has reviewed the status of property it owns to determine what might be surplus or available for alternate uses. In the past, some parcels have been converted to housing uses, but at present further such options are limited. Reuse of property may be complicated by no-net-loss open space regulatory requirements. However, consideration should be given to suitable properties, as well as instances of suitable parcels owned by other public agencies within the town. If a recommended plan for a town owned parcel is developed, Town Meeting approval could be requested to declare the property surplus and convey it for the purpose of developing affordable or mixed-income housing.

Continued Community Outreach on Housing Issues

Lead Entity: Department of Planning and Community Development (DPCD), Needham Housing Authority (NHA)

Needham's town government and the Needham Housing Authority will continue efforts to inform the public about affordable housing policies and planning as well as opportunities and options for developers and applicants.

The following outreach efforts will be pursued in regard to housing:

- *Enhanced Website*
The Town will include an Affordable Housing Section to its website to provide information and links on affordable housing information, programs and services.
- *Publications*
The Town will post informational documents such as this plan, the Town's Chapter 40B Guidelines, and relevant zoning and permitting documents to the Town website, and the Town and NHA will make hard copy informational brochures available to the public through the Library, town departments including Community Development and the Assessors Office, and the NHA.
- *Forums on specific new initiatives*
As new housing initiatives are proposed (e.g., special programs, new zoning, development projects, etc.), the sponsoring entity and/or DPCD will hold community meetings to insure the inclusive and transparent presentation of these efforts to other local housing stakeholders and residents, provide important information on what is being proposed and opportunities for feedback before local approvals are formally requested.
- *Educational opportunities for board and committee members*
The town will seek to improve understanding of affordable housing policies, planning, and issues among town boards and staff. These efforts may include seminars and training opportunities. The Department of Planning and Community Development will help keep key staff up-to-date on important new developments, best practices and regulations.
- *Fair Housing*
The Federal Fair Housing Act and similar state statutes and regulations are intended to protect people from discrimination when they are renting, buying, or securing financing for housing. The Federal prohibitions specifically cover discrimination because of race, color, national origin, religion, sex, disability and the presence of children. The town will support fair housing practices and seek insure it is a welcoming place. The DPCD will continue efforts to reduce housing discrimination. Working with the West Metro HOME Consortium, the DPCD will provide the community with information on fair housing regulations, develop a system for the intake and referral of fair housing complaints, and designate the Community Housing Specialist as the local contact with respect to fair housing related complaints.

SENATE No. 122**The Commonwealth of Massachusetts**

PRESENTED BY:

Daniel A. Wolf

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting the planning and development of sustainable communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>

<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>

SENATE No. 122

By Mr. Wolf, a petition (accompanied by bill, Senate, No. 122) of Daniel A. Wolf, Stephen Kulik, Chris Walsh, Louis L. Kafka and other members of the General Court for legislation to promote the planning and development of sustainable communities. Community Development and Small Businesses.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act promoting the planning and development of sustainable communities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 WHEREAS, Article 89 of the Amendments to the Massachusetts Constitution, which
2 was ratified by the voters in 1966, empowers municipalities to “exercise any power or function
3 which the general court has power to confer upon it, which is not inconsistent with the
4 constitution or laws enacted by the general court”;

5 WHEREAS, statutes governing municipal zoning, subdivision control, and planning in
6 Massachusetts have not been updated in over thirty-five years;

7 WHEREAS, credible studies and reports have documented that Massachusetts’
8 antiquated and confusing framework of municipal, zoning, subdivision control, and planning
9 laws promotes inefficient land use practices that are contrary to smart growth;

10 WHEREAS, poorly planned residential, commercial, and industrial development
11 exacerbates the affordable housing shortage and threatens the natural and cultural heritage of
12 Massachusetts;

13 WHEREAS, the Massachusetts legislature provided in 2000 through the passage of the
14 Community Preservation Act a new funding tool for municipal open space protection, affordable
15 housing, and historic preservation;

16 NOW, THEREFORE, the time has arrived for the Massachusetts legislature to enhance
17 and modernize the planning regulatory tools for municipal zoning, subdivision control, and
18 master planning to guide local growth through the following bill.

19 SECTION 1. Section 1A of chapter 40A of the General Laws, as appearing in the 2012
20 Official Edition, is hereby amended by striking the definition of “permit granting authority” and
21 inserting the following definition:-

22 “Permit granting authority”, means the board of appeals, zoning administrator, board of
23 selectmen, city council, or planning board as designated by zoning ordinance or by-law for the
24 issuance of permits, or as otherwise provided by charter.

25 SECTION 2. Said section 1A of chapter 40A, as so appearing, is hereby amended by
26 inserting the following definitions:-

27 “Affordable housing”, means a dwelling unit restricted for purchase or rent by a
28 household with an income at or below 80 per cent of the area median income for the applicable
29 metropolitan or non-metropolitan area, as determined by the U.S. Department of Housing and
30 Urban Development (HUD). Affordable housing shall be subject to an affordable housing

31 restriction in accordance with sections 31-33 of chapter 184, or, if ineligible under said sections,
32 restricted by other means as required in an ordinance or by-law.

33 “By-right” or “as of right”, means that development may proceed under a zoning
34 ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver,
35 or other discretionary zoning approval. As of right development may be subject to site plan
36 review under section 9D this chapter.

37 “Cluster development”, means a class of residential development in which reduced
38 dimensional requirements allow the developed areas to be concentrated in order to permanently
39 preserve natural, agricultural, or cultural resources elsewhere on the plot. In any case where such
40 preserved land is not conveyed solely to the city, town, or other governmental agency as
41 dedicated open space, a restriction under sections 31-33 of chapter 184 shall be recorded. This
42 general class of development may also be referred to in local zoning by other names such as
43 open space design, open space residential design, conservation design/development, or flexible
44 development.

45 “Density divisor”, means the number of net acres of land required to support a specified
46 unit of development, but does not necessarily mean a lot size.

47 “Development agreement”, means a contract entered into between a municipality or
48 municipalities and a holder of property development rights, the principal purpose of which is to
49 establish the development regulations that will apply to the subject property during the term of
50 the agreement and to establish the conditions to which the development will be subject including,
51 without limitation, a schedule of development impact fees.

52 “Development impact fee”, means a fee imposed by city zoning ordinance or town
53 zoning by-law for the purpose of offsetting the impacts of a development, and in accordance with
54 the provisions of section 9E of this chapter.

55 “Form-based zoning”, means text and graphics in a zoning ordinance or by-law that
56 specify the built form of the community, general intensity of use, and the relationship between
57 buildings and the outdoor public spaces they shape. Notwithstanding any provision of any
58 general or special law, form-based codes may regulate building type, exterior building materials,
59 minimum and maximum building heights, frontage type, build-to lines, street type, street and
60 streetscape design, public open spaces, and any other parameter of the built or natural
61 environment which gives form to the exterior of buildings and the spaces between them. Form-
62 based codes may combine in a single document standards for new subdivision streets, existing
63 and new public streets and sidewalks, and use and dimensional standards. Such combined
64 standards may be in the form of a “regulating plan” that integrates building, dimensional, use,
65 street, sidewalk, and parking requirements. Form-based zoning may also specify lot-by-lot in a
66 detailed regulating plan, building forms and allowed use mixes, even if such specification is not
67 uniform throughout a zoning district, provided that it is based upon a plan for the area subject to
68 the code. Form-based codes may specify prescribed future lot division lines which will be
69 allowed as of right in any future division of land.

70 “Inclusionary housing ”, means an affordable housing unit or a housing unit restricted for
71 purchase or rent by a household with an income at or below 120 per cent of the median family
72 income determined by the U.S. Department of Housing and Urban Development for the
73 applicable metropolitan or non-metropolitan area.

74 “Inclusionary zoning”, means zoning ordinances or by-laws that require, or provide
75 incentives for, the creation of affordable housing or inclusionary housing .

76 “Natural resource protection zoning” (or “NRPZ”), means zoning ordinances or by-laws
77 enacted principally to protect natural resources by establishing higher underlying density divisors
78 relative to other areas, a formulaic method to calculate development rights, and compact patterns
79 of development so that a significant majority of the land remains permanently undeveloped and
80 available for agriculture, forestry, recreation, watershed management, carbon sequestration,
81 wildlife habitat, or other natural resource values. In any case where such preserved land is not
82 solely conveyed to the city, town, or other governmental agency as dedicated open space, a
83 restriction under section 31-33 of chapter 184 shall be recorded.

84 “Site plan”, means the submission made to a municipality that includes documents and
85 drawings required by an ordinance or by-law to determine whether a proposed use of land or
86 structures or development is in compliance with applicable local ordinances or by-laws, to
87 evaluate the impacts of the proposed use of land or structures on the neighborhood or
88 community, and to evaluate and propose site or structural design modifications or required
89 conditions that will lessen those impacts. Such site plan may be required independently of or as
90 a required component of a special permit, variance, or other discretionary zoning approval.

91 “Site plan review,” means the review and approval of a site plan by a designated
92 municipal board or local official pursuant to section 9D of this chapter. Site plan review may be
93 required independently for specified uses permitted by-right, or as a required component of a
94 special permit, variance, or other discretionary zoning approval.

95 “Transfer of development rights”, means the regulatory procedure whereby the owner of
96 a parcel may convey development rights to the owner of another parcel, and where the
97 development rights so conveyed are extinguished on the first parcel and may be exercised on the
98 second parcel in addition to the development rights already existing regarding that parcel.

99 “Unified development ordinance or by-law”, means an ordinance or bylaw that combines
100 in a single document standards and procedures for land use approvals that derive from different
101 chapters of the General Laws, including but not limited to chapters 40A, 40B, 40C, and 41,
102 combining procedures for subdivision, comprehensive permits, historic districts, streets and
103 sidewalks, as well as the use and dimensional standards typically found in zoning.

104 SECTION 3. Said chapter 40A, as so appearing, is hereby amended by inserting after
105 section 1A, the following section:-

106 40A:2. Authority

107 Section 2. The authority of cities and towns to act with respect to land use planning,
108 zoning, and regulation is grounded in Article 89 of the Articles of Amendment to the
109 Constitution of the Commonwealth, the “Home Rule Amendment.” This chapter shall be
110 construed to give full effect to the home rule authority of cities and towns. Nothing in this
111 chapter shall be construed as limiting the constitutional authority of cities and towns unless the
112 language in this chapter expressly so states. Wherever the language of this chapter purports to
113 authorize or enable, it shall be so construed only where such authority is not otherwise available
114 to cities and towns under the constitution or laws of the commonwealth, and in all other cases
115 such language shall be deemed illustrative only.

116 Powers Enumerated: To resolve uncertainty regarding the authority of cities and towns to
117 assert powers conferred by Article 89 of the Articles of Amendment to the Constitution of the
118 Commonwealth and by general or special laws, this chapter confers or confirms the following
119 zoning powers: (A) to impose development impact fees subject to the requirements set forth in
120 section 9E; (B) to use inclusionary zoning techniques, subject to the requirements set forth in
121 section 9F; (C) to enact unified development ordinances or by-laws and form-based zoning, as
122 defined herein, which are based upon multiple sources of statutory authority to regulate land use;
123 (D) to provide for the transfer of development rights, including the inter-municipal transfer of
124 development rights between or among municipalities with complementary ordinances or by-laws
125 by special permit or by other methods, including, but not limited to, the applicable provisions of
126 sections 81K-81GG, inclusive, of chapter 41, and in accordance with a planning board's rules
127 and regulations governing subdivision control, and provided that prior to adoption, any inter-
128 municipal transfer of development rights ordinance or by-law shall be submitted to the
129 Department of Housing and Community Development to assess whether it is consistent with
130 federal and state fair housing laws, and provided that such ordinance or bylaw shall be deemed
131 consistent unless the Department makes a written finding of inconsistency within 30 days of
132 submission; and (E) to provide for cluster development or natural resource protection zoning,
133 which may proceed by right or by other methods, including, but not limited to, the applicable
134 provisions of sections 81K-81GG, inclusive, of chapter 41, and in accordance with a planning
135 board's rules and regulations governing subdivision control.

136 Rule of Construction: To the extent that the powers enumerated in this section are
137 construed to be inherent in the constitutional and existing statutory authority of cities and towns

138 and not pre-empted by other state laws, such enumeration is hereby deemed to be merely
139 confirmatory or illustrative.

140 Special Acts: Nothing in this chapter shall be construed as limiting the authority of the
141 regional planning agencies under St. 1989, c. 716, as amended, entitled “An Act Establishing the
142 Cape Cod Commission,” chapter 561 of the Acts of 1973, as amended, entitled “An Act
143 Establishing the Nantucket Planning and Economic Development Commission, and St. 1977, c.
144 831, as amended, entitled “An Act Further Regulating the Protection of the Land and Waters of
145 the Island of Martha’s Vineyard,” or any municipality within Barnstable, Nantucket, or Dukes
146 county acting pursuant to these special acts, including but not limited to the designation of
147 districts of critical planning concern, the adoption of regulations for such districts, the review of
148 developments of regional impact, and the imposition development impact fees. Where the
149 provisions of this chapter conflict with these special acts and any regulations, ordinances,
150 regional policy plans, or decisions issued or adopted thereunder, the latter shall control.

151 SECTION 4. Section 5 of said chapter 40A, as so appearing, is hereby amended by
152 inserting, at the beginning of the fifth paragraph, the following words:- Except where a different
153 majority vote has been prescribed in a zoning ordinance or by-law,

154 SECTION 5. Said section 5 of said chapter 40A, as so appearing, is hereby amended by
155 inserting, at the end of the fifth paragraph, the following sentence:- Any local change in the
156 majority vote required shall be limited to a range anywhere between a simple majority and a two-
157 thirds majority, shall be made by the vote majority then in effect, and shall not become effective
158 until six months have elapsed after such vote. Any majority vote of less than two-thirds shall not
159 be allowed for a specific zoning amendment unless the planning board, in its report required

160 above, includes its having voted that such amendment is not inconsistent with a master plan
161 under section 81D of chapter 41, if any in effect; and that such amendment is not the subject of a
162 landowner protest as hereinbefore provided.

163 SECTION 6. Section 6 of said chapter 40A, as so appearing, is hereby amended by
164 striking out, in the first sentence of the first paragraph, the words “or to a building or special
165 permit issued before the first publication of notice of the public hearing on such ordinance or by-
166 law required by section five,”.

167 SECTION 7. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
168 striking out, in the first sentence of the first paragraph, the words “to a building or special permit
169 issued after the first notice of said public hearing,”.

170 SECTION 8. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
171 striking out the second paragraph and inserting in place thereof the following paragraph:-

172 If a complete application for a building permit or special permit is duly submitted and
173 received, including receipt of payment for any applicable fees, and written notice of such
174 submission has been given to the city or town clerk before the first publication of notice of the
175 public hearing on such ordinance or by-law required by section five, the permit shall be governed
176 by the applicable provisions of the zoning ordinance or by-law, if any, in effect at the time of the
177 first such submission and receipt while such permit or permits are being processed, and, if such
178 permit or an amendment thereof is finally approved, for two years in the case of a building
179 permit and three years in the case of a special permit from the date of the granting of such
180 approval. Such period of two or three years shall be extended by a period equal to the time which

181 a city or town imposes or has imposed upon it by a state, a federal agency, or a court, a
182 moratorium on construction, the issuance of permits, or utility connections.

183 SECTION 9. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
184 striking out the second sentence in the fourth paragraph.

185 SECTION 10. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
186 striking out the fifth paragraph and inserting in place thereof the following paragraph:-

187 If a complete application for a definitive plan is duly submitted to a planning board for
188 approval under the subdivision control law, and written notice of such submission has been given
189 to the city or town clerk before the first publication of notice of the public hearing on such
190 ordinance or by-law required by section five, the plan shall be governed by the applicable
191 provisions of the zoning ordinance or by-law, if any, in effect at the time of the first such
192 submission while such plan or plans are being processed under the subdivision control law, and,
193 if such definitive plan or an amendment thereof is finally approved, for eight years from the date
194 of the endorsement of such approval. For the purposes of this section the term definitive
195 subdivision plan shall include a minor subdivision under section 81L and 81P of chapter 41,
196 provided the planning board has adopted rules and regulations for minor subdivisions under
197 section 81Q of said chapter. In such cases, the aforesaid provisions shall apply but the period of
198 time shall be four years from the date of the endorsement of such approval. Such period of eight
199 or four years shall be extended by a period equal to the time which a city or town imposes or has
200 imposed upon it by a state, a federal agency, or a court, a moratorium on construction, the
201 issuance of permits, or utility connections.

202 SECTION 11. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
203 striking out the sixth paragraph.

204 SECTION 12. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
205 striking out, in the second sentence of the seventh paragraph, the words “land shown on”.

206 SECTION 13. Section 9 of said chapter 40A, as so appearing, is hereby amended by
207 striking out the words “Special Permits” in the title and inserting in place thereof the following
208 words in the title:- Special Provisions

209 SECTION 14. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
210 striking out the third, fourth, fifth, sixth, seventh, eighth, and ninth paragraphs.

211 SECTION 15. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
212 striking out the last sentence in the twelfth paragraph and inserting in place thereof the following
213 sentence:- Unless a greater majority is specified in the zoning ordinance or by-law, issuance of a
214 special permit under this section shall require an affirmative vote of a simple majority of the
215 special permit granting authority. A greater majority vote requirement shall not exceed a vote of
216 two-thirds of the special permit granting authority in the case of a board with more than five
217 members, a vote of at least four members of a five member board, or a unanimous vote of a three
218 member board.

219 SECTION 16. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
220 striking out the fourteenth paragraph and inserting in place thereof the following paragraphs:-

221 A special permit granted under this section shall state that it will lapse within a period of
222 time specified by the special permit granting authority, not less than three years, if a substantial

223 use thereof has not sooner commenced except for good cause or, in the case of a permit for
224 construction, if construction has not begun by such date except for good cause. The aforesaid
225 minimum period of three years may, by ordinance or by-law, be increased to a longer minimum
226 period. The period of time before which a special permit shall lapse shall not include the time
227 required to pursue or await the determination of an appeal from the grant thereof referred to in
228 section seventeen.

229 Upon written application by the grantee of a special permit, the special permit granting
230 authority in its discretion after notice and a public hearing, unless under local ordinance or by-
231 law a public hearing is not required, may by the vote majority currently required to approve a
232 special permit, extend the time for the exercise of such special permit for a period of time not to
233 exceed the original duration of the special permit. Such application must be filed no later than
234 65 days prior to the lapse of the special permit. If the permit granting authority does not grant
235 the extension within 65 days of the date of application therefor, upon the lapse of the special
236 permit, the special permit may only be re-established pursuant to the requirements of this section.

237 SECTION 17. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
238 inserting after the word “zoned”, in line 190, the following word:- principally

239 SECTION 18. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
240 inserting after the word “zoned”, in line 204, the following word:- principally

241 SECTION 19. Said chapter 40A, as so appearing, is hereby amended by inserting after
242 section 9C, the following section:-

243 40A:9D. Site Plan Review

244 Section 9D. Requirements: This section shall apply to any zoning ordinance or by-law
245 that requires site plan review for uses allowed by-right. Such ordinance or by-law shall:
246 establish which uses of land or structures or development are subject to site plan review; specify
247 the local boards or officials charged with reviewing and approving site plans, which may differ
248 for different types, scales, or categories of uses of land or structures; set forth what constitutes a
249 complete application; establish the submission, review, and approval process, which may or may
250 not include a requirement for a public hearing under section 11; establish standards and criteria
251 by which the use of land or structures and its impact on the neighborhood shall be evaluated; and
252 contain provisions that make the terms, conditions, and content of the approved site plan
253 enforceable by the municipality, which may include the requirement of performance guarantees.

254 Approval: Approval of a site plan under this section, if reviewed by a board, shall require
255 no greater than a simple majority vote of the full board and shall be made within the time limits
256 prescribed by ordinance or by-law, not to exceed 95 days from the filing of a complete
257 application. Procedures for the review and approval of a site plan by staff or other municipal
258 official or officials shall be as specified in the ordinance or by-law, but the aforesaid 95 day time
259 limit for a decision may not be increased. If no decision is issued within the time limit
260 prescribed and no written extension of the time limit has been granted by the person seeking the
261 site plan review, the site plan shall be deemed constructively approved as provided in section 9
262 of this chapter.

263 Approval Criteria for Uses Allowed By-right: A site plan submitted for the use of specific
264 land or structures allowed by-right shall be approved unless the plan fails to meet one of the
265 following criteria: satisfies the procedural and submission requirements of the site plan review
266 process applicable to the specific land or structures; complies with the regulations applicable to

267 such land or structures in the local zoning ordinance or by-law; and meets such standards and
268 criteria as the local zoning ordinance or by-law provides by which the use of land or structures
269 and its impact on the neighborhood shall be evaluated, or may be conditioned to meet such
270 standards and criteria.

271 Conditions, Safeguards, and Limitations: A site plan approved hereunder may include
272 reasonable conditions, safeguards, and limitations to mitigate the impacts of a specific use of
273 land or structures on the neighborhood. The permit granting authority may adopt such conditions
274 which are directly related to standards and criteria described in the site plan review ordinance or
275 by-law, provided such conditions do not conflict with or waive any other applicable requirement
276 of the zoning ordinance or by-law. The permit granting authority, in the record of its decision,
277 shall state its reasons for any conditions it imposes. If the permit granting authority adopts
278 conditions pursuant to this paragraph, the site plan shall be revised to include such conditions
279 before the development permit is issued.

280 Mitigation: Site plan review may not require the payment for or performance of any off-
281 site mitigation, except to mitigate any directly attributable adverse impacts of the project on
282 properties or public infrastructure in the neighborhood, or when the site plan approval is subject
283 to development impact fees imposed in accordance with the provisions of section 9E of this
284 chapter, or when a site plan is required in connection with the issuance of a special permit or
285 variance.

286 Appeals: Except where site plan review is required in connection with the issuance of a
287 special permit or variance, decisions made under site plan review may be appealed by a civil
288 action in the nature of certiorari pursuant to section 4 of chapter 249, and not otherwise. Such

289 civil action may be brought in the superior court or in the land court and shall be commenced
290 within 20 days after the filing of the decision of the site plan review approving authority with the
291 city or town clerk, with notice of such appeal required to be given to such city or town clerk so
292 as to be received within such 20 days. A complaint by a plaintiff challenging a site plan
293 approval under this section shall allege the specific reasons why the project fails to satisfy the
294 requirements of this section, the zoning ordinance or by-law, or other applicable law, and shall
295 allege specific facts establishing how the plaintiff is aggrieved by such decision. A complaint by
296 an applicant for site plan review challenging the denial or conditioned approval of a site plan
297 shall similarly allege the specific reasons why the project properly satisfies the requirements of
298 this section, the zoning ordinance or by-law, or other applicable law. All issues in any
299 proceeding under this section shall have precedence over all other civil actions and proceedings.

300 Recordation of Site Plans: A site plan, or any extension, modification or renewal thereof,
301 shall not take effect until it is recorded in the registry of deeds for the county and district in
302 which the land is located and indexed in the grantor index under the name of the owner of record
303 or is recorded and noted on the owner's certificate of title.

304 Duration, Lapse, Extensions: Zoning ordinances or by-laws shall provide that a site plan
305 approval for a use allowed by-right shall lapse within a specified period of time, not less than
306 two years from the date of the filing of such approval with the city or town clerk, if a building
307 permit has not been obtained or substantial use or construction has not yet begun, except as
308 extended for good cause by the permit granting authority either with or without a public hearing
309 as provided in the zoning ordinance or bylaw. Such period of time shall not include time
310 required to pursue or await the determination of an appeal.

311 Discretionary Approvals: Where an ordinance or by-law provides that a variance, special
312 permit, or other discretionary zoning approval shall also require site plan review, the review of
313 the site plan shall be integrated into the processing of the variance, special permit, or other
314 discretionary zoning approval and not made the subject of a separate proceeding, hearing, or
315 decision. In such case, the content requirements and approval criteria for a site plan as specified
316 in the zoning ordinance or by-law shall be followed, but this section 9D shall not otherwise
317 apply.

318 Transition Provision: Any city or town that had adopted a zoning ordinance or by-law
319 requiring a form of site plan review prior to the effective date of this Act, shall within three years
320 of that effective date revise the provisions thereof to conform to this Act. After three years from
321 the effective date of this Act, any provision of such preexisting site plan review ordinance or
322 bylaw that does not conform to the provisions of this Act may only apply to the extent and
323 manner consistent with this Act.

324 SECTION 20. Said chapter 40A, as so appearing, is hereby amended by inserting after
325 section 9D, the following section:-

326 40A:9E. Development Impact Fees

327 Section 9E. Authority: Any city or town that adopts or has adopted a local ordinance or
328 by-law requiring the payment of a development impact fee as a requirement of any permit or
329 approval otherwise required for any proposed development having development impacts as
330 defined in the ordinance or by-law shall do so in accordance with this section or any authority
331 conferred by a special act. The development impact fee may be imposed only on construction,
332 enlargement, expansion, substantial rehabilitation, or change of use of a development that results

333 in a net increase of demand or service units. The development impact fee shall be used solely for
334 the purposes of defraying the costs of off-site public capital facilities to be provided or paid for
335 by the city or town and which are either caused by or necessary to support or compensate for the
336 proposed development, or, in the case of a city or town authorized to impose such fees under the
337 provisions of a special act, then such fees may be used for the purposes set forth in the special
338 act.

339 Such off-site public capital facilities may include the provision of or the payment of debt
340 service on infrastructure, facilities, land, or studies including master plans under section 81D of
341 chapter 41 and any impact fee studies as described herein, associated with the following: water
342 supply, treatment, and distribution, both potable and for suppression of fires; wastewater
343 treatment and sanitary sewerage; drainage, stormwater management and treatment; solid waste;
344 roads, intersections, traffic improvements, public transportation, pedestrian ways, and bicycle
345 paths; and parks, and recreational facilities.

346 Limitations: No development impact fee under this section shall be imposed for any
347 agricultural use or structure as defined by the provisions of section 1A of chapter 128, nor any
348 affordable housing dwelling unit, regardless of how created or permitted, which is subject to a
349 restriction on sale price or rent under the provisions of sections 31-33 of chapter 184 as amended
350 ensuring that the unit will remain affordable for a period of at least 30 years. The foregoing
351 limitation shall not apply to cities and towns with the authority to impose development impact
352 fees on such units under a special ac

353 The fee shall not be expended for personnel costs, normal operation and maintenance
354 costs, or to remedy deficiencies in existing facilities, except where such deficiencies are

355 exacerbated by the new development, in which case the fee may be assessed only in proportion
356 to the deficiency so exacerbated.

357 Nothing in this section shall prohibit a city or town from imposing other fees or
358 requirements for mitigation of development impacts which it may otherwise impose under state
359 or local law, provided however, that a fee imposed under this section 9E, or other fees or
360 requirements for mitigation of development impacts, may not be assessed more than once for the
361 same impact. If and to the extent that a city or town receives funds from state, federal, or other
362 grants or contributions, including from the applicant undertaking the development, for mitigation
363 of development impacts, those funds shall be accounted for in the development impact fee study.

364 Requirements: A development impact fee shall have a rational nexus to, and shall be
365 roughly proportionate to the impacts created by the development and it shall be applied to
366 affected development in a consistent manner. The purposes for which the fee is expended shall
367 reasonably benefit the proposed development. Notwithstanding the foregoing, a city or town
368 authorized to impose development impact fees pursuant to a special act shall comply with the
369 standards set forth in such special act.

370 Prior to the imposition of development impact fees under this section, a study shall be
371 completed that establishes the proportionate-share development impact fees authorized under this
372 section in accordance with a methodology described in the study. The scope of the study may be
373 jurisdiction-wide or limited to a geographic area or the category or categories of public capital
374 facilities that development impact fees may be intended to address. A municipality may rely
375 upon credible and professionally recognized methodologies for the study. The study shall be
376 updated periodically, at intervals of not greater than 10 years, to reflect actual development

377 activity, actual costs of infrastructure improvements completed or underway, plan changes, or
378 amendments to the zoning ordinance or by-law.

379 Administration: The ordinance or by-law may waive or reduce the development impact
380 fee for any category of development that furthers an overriding public purpose as determined in a
381 master plan adopted by the city or town under section 81D of chapter 41 or other plan designed
382 to set goals for the development of land within the city or town.

383 If the proposed development is located in more than one municipality, the impact fee
384 shall be apportioned among the municipalities in accordance with the service units or other
385 equitable measure of the impacts of the proposed development in each city or town.

386 Any development impact fee assessed under this section shall be due and payable upon
387 commencement of construction, which shall include site preparation work. The developer and
388 the city or town may agree to modify the payment schedule or provide for incremental payments
389 when construction or site preparation is proposed in phases. The fee shall be deposited to a
390 separate, interest-bearing account in the city or town in which the proposed development is
391 located. Unless a payment of debt service on an eligible capital facility or subject to the next
392 paragraph, no development impact fee shall be paid to the general treasury or used as general
393 revenues of the city or town subject to the provisions of section 53 of chapter 44.

394 Any funds not expended or encumbered by the end of the calendar quarter immediately
395 following 10 years from the date the development impact fee was paid shall, upon request of the
396 applicant or its assigns, be returned with interest provided that an application for a refund
397 prescribed in the ordinance or by-law has been submitted within one 180 calendar days prior to
398 the expiration of the 10 year period. If no application for refund is received by the city or town

399 within said period, any funds not expended or encumbered by the end of the calendar quarter
400 shall be deposited into an enterprise fund under section 53F1/2 of chapter 44 or other such
401 dedicated fund, the use of which is limited to defraying costs of the off-site public capital
402 facilities listed in the ordinance or by-law. In the event of any disagreement relative to who shall
403 receive the refund, the city or town may retain said development impact fee pending instructions
404 given in writing by the parties involved or by a court of competent jurisdiction. Notwithstanding
405 the foregoing, a city or town authorized to impose development impact fees pursuant to a special
406 act shall comply with the requirements set forth in such special act.

407 The applicant and the municipality may agree that the applicant shall construct the public
408 capital facility or a portion thereof for which the development impact fee was assessed in lieu of
409 paying, or in exchange for a refund of, the development impact fee to the municipality, provided
410 that the applicant shall not be required to construct such improvement if it chooses to pay the
411 assessed development impact fee.

412 Transition Provision: Any city or town that had adopted a zoning ordinance or by-law
413 requiring a form of development impact fee prior to the effective date of this Act, shall within
414 two years of that effective date revise the provisions thereof to conform to this Act. After two
415 years from the effective date of this Act, any provision of such preexisting development impact
416 fee ordinance or by-law that does not conform to the provisions of this Act may only apply to the
417 extent and in a manner consistent with this Act.

418 SECTION 21. Said chapter 40A, as so appearing, is hereby amended by inserting after
419 section 9E, the following section:-

420 40A:9F. Inclusionary Zoning

421 Section 9F. Authority: In furtherance of the purposes of zoning ordinances and by-laws
422 and in the exercise of their home rule powers, a city or town, by ordinance or by-law, is not
423 prohibited from requiring the applicant for a residential or mixed use development to provide
424 inclusionary housing units within such development. Such a requirement shall have a rational
425 nexus to, and shall be roughly proportionate to the impacts on the affordable housing assets of
426 the town created by the development and it shall be applied to affected development in a
427 consistent manner.

428 Off-Site Units, Land Dedications, Payment of Funds: In lieu of constructing the required
429 inclusionary housing units on-site, the ordinance or by-law may provide for the construction of
430 such units off-site, the dedication of land for such purpose, or the payment of funds to a separate
431 account created by the city or town sufficient for and dedicated to the provision of inclusionary
432 housing, provided the applicant demonstrates to the satisfaction of the local approving authority
433 that the units cannot be otherwise provided on-site or that an alternative proposal better meets the
434 needs of the city or town with respect to the provision of inclusionary housing. Off-site units,
435 land dedication, or payment in-lieu of units shall, in the opinion of the board or official
436 designated by ordinance or by-law to administer the provisions of this section, and in
437 consideration of local needs, provide inclusionary housing benefits substantially equivalent to the
438 provision of on-site units.

439 Dedicated Accounts: Cities and towns are authorized to establish a separate dedicated
440 account for the deposit of funds received under this section, including Municipal Housing Trust
441 Fund accounts under section 55C of chapter 44 or other dedicated accounts of similar purpose.
442 Said funds shall be deposited with the treasurer and disbursed for inclusionary housing purposes
443 in accordance with the ordinances, by-laws, or regulations of the city or town. Where the

444 application of this section results in less than a full dwelling unit, the board may accept a
445 prorated payment of funds in lieu of unit creation.

446 Price or Rent Restriction: The inclusionary housing units shall be subject to an affordable
447 housing restriction in accordance with sections 31-33 of chapter 184 or, if ineligible under said
448 sections, restricted by other means as required in an ordinance or by-law for a period of not less
449 than 30 years.

450 Eligibility for Subsidized Housing Inventory: The ordinance or by-law may further
451 require some or all of the inclusionary housing units to be low- or moderate-income housing as
452 defined in sections 20-23 of chapter 40B, and be eligible for inclusion on the local subsidized
453 housing inventory subject to and in accordance with applicable regulations and guidelines of the
454 Department of Housing and Community Development or successor agency. Nothing in this
455 section shall be construed to require said agency to include affordable units created hereunder on
456 the subsidized housing inventory.

457 Transition Provision: Any city or town that had adopted a zoning ordinance or by-law
458 requiring a form of inclusionary zoning prior to the effective date of this Act, shall within three
459 years of that effective date revise the provisions thereof to conform to this Act. After three years
460 from the effective date of this Act, any provision of such preexisting inclusionary zoning
461 ordinance or bylaw that does not conform to the provisions of this Act may only apply to the
462 extent and in a manner consistent with this Act.

463 SECTION 22. Said chapter 40A, as so appearing, is hereby amended by inserting after
464 section 9F, the following section:-

465 40A:9G. Land Use Dispute Avoidance

466 Section 9G. Applicability: As an optional means of avoiding or minimizing land use
467 disputes, the owner of land or structures who has applied or intends to apply for a building
468 permit, any permit or approval required under this chapter, an approval under sections 81K-GG
469 of chapter 41, or a comprehensive permit under sections 20-23 of chapter 40B, may request of
470 the public official or local board charged with acting on the application to undertake a land use
471 dispute avoidance process as hereinafter provided.

472 Initial Conflict Evaluation: The dispute avoidance process may include an initial conflict
473 evaluation to determine if a further resolution effort is advisable, and if so, whether there should
474 be subsequent resolution efforts to avoid or minimize disputes relating to the application.

475 Participation: Both the conflict evaluation and any later resolution effort shall be
476 voluntary for those participating requiring the joint written agreement of both the applicant and
477 public official or local board which shall be filed with the city or town clerk.

478 Neutral Mediator/Facilitator: The conflict evaluation and any later resolution effort may
479 be conducted by a neutral mediator as defined in section 23C of chapter 233 or by a neutral
480 facilitator, selected from a list prepared by the Massachusetts Office of Public Collaboration or
481 its successor agency or its designee, or as chosen jointly by the applicant and the public official
482 or local board. The mediator or facilitator and any associate assisting the facilitator shall comply
483 with the standards of conduct of the Association for Conflict Resolution or as promulgated by
484 the Massachusetts Office of Public Collaboration or its successor agency or its designee.

485 Costs: Funding for any conflict evaluation or resolution effort under this section may be
486 as the applicant and the public official or local board may agree, or the public official or local
487 board may provide for the imposition of reasonable fees for the employment of outside

488 consultants, including the mediator or facilitator, in the same manner as set forth in section 53G
489 of chapter 44.

490 Rules: Public officials or local boards may adopt, and from time to time amend, after a
491 public hearing, rules to implement the conflict evaluation or resolution efforts undertaken
492 pursuant to this section. For this rule-making, public officials and local boards may seek the
493 assistance of the Massachusetts Office of Public Collaboration or its successor agency or its
494 designee in developing best practices for land use dispute avoidance. Notice of the hearing on the
495 proposed rules, including the location, date, and time of the hearing shall be filed with the city or
496 town clerk and published once in a newspaper of general circulation in the city or town at least
497 14 days before the public hearing.

498 Process of Conflict Evaluation: As part of the conflict evaluation, the mediator or
499 facilitator may solicit information and opinions relating to the application, and may identify and
500 notify those members of the public likely to be interested in or affected by the application. The
501 mediator or facilitator may clarify the issues and investigate the willingness of all interested
502 parties to work together with the applicant to resolve those issues. The mediator or facilitator
503 may identify measures or community-enhancing features that would benefit the neighborhood,
504 the larger community, and the project itself. Based upon the evaluation, the mediator or
505 facilitator may determine whether further resolution efforts would be productive in reaching a
506 consensus of those participating, with the understanding that the outcome may be the withdrawal
507 or substantial modification of the application.

508 Special Provisions, Meetings: The mediator or facilitator may convene meetings or
509 conduct interviews that shall be confidential and privileged from discovery under section 23C of

chapter 233. The mediator or facilitator shall have the protections provided under section 23C of chapter 233. To the extent that public agencies are participants, their deliberations shall be subject to the provisions of section 21(a)(9) of chapter 30A.

Report on Conflict Evaluation: In preparing a report on conflict evaluation, or on a later resolution effort, the mediator or facilitator shall not attribute statements, positions, ideas, or interests to specific individuals, organizations, or persons interviewed, and shall distribute copies of the report to those participating. The conflict evaluation report shall indicate whether and how a subsequent resolution effort might be appropriate for the application involved, including elaborating on how it might be undertaken and by whom.

Conflict Resolution: Based upon the conflict evaluation, the applicant and the public official or local board may determine if a further resolution effort regarding an application is worth undertaking in accordance with the procedures set out in this section, or as they may otherwise in writing jointly agree. The applicant and the public official or local board may, by an agreement in writing filed with the city or town clerk, stipulate and agree to extend any otherwise applicable time requirements of state or local law.

Conclusion of Process: At the conclusion of any conflict evaluation or resolution efforts, the application which initiated the conflict evaluation and resolution efforts may go forward in the ordinary course in accordance with the applicable statute, ordinance, or by-law, reflecting if possible the result of any resolution effort, including the opportunity for public hearing and comment if so provided by the applicable statute, ordinance, or by-law. If the parties so agree, any resolution may be incorporated into the action taken by the local board or official. Whether or not a resolution results, the applicant may nevertheless proceed with the application without

532 prejudice for having participated in a conflict evaluation or resolution effort, and the application
533 process shall proceed in due course as otherwise provided by statute, ordinance, or by-law.

534 SECTION 23. Said chapter 40A, as so appearing, is hereby amended by striking out
535 section 10 and inserting in place thereof the following section:-

536 40A:10. Variances

537 Section 10. Authority: Where a literal enforcement of the provisions of the zoning
538 ordinance or by-law would cause substantial hardship, financial or otherwise, to the petitioner,
539 upon appeal or upon petition with respect to particular land or structures, the permit granting
540 authority shall have the discretionary authority to grant a variance from the terms of the
541 applicable zoning ordinance or by-law following a public hearing for which notice has been
542 given by publication and posting as provided in section 11 and by mailing to the planning board
543 and all parties in interest. Such hardship must relate to the physical characteristics or location of
544 the site or of the structures thereon.

545 Standards: In making its determination, the permit granting authority shall take into
546 consideration the benefit to the applicant if the variance is granted provided the grant will not
547 unduly derogate from the benefits to be derived from uniform application of the zoning
548 ordinance or bylaw, including avoiding detriments to the health, safety and welfare of the
549 neighborhood or community by such grant. The permit granting authority may also take into
550 consideration the extent to which the claimed hardship is self-created, and may base a denial
551 solely upon such a finding. In order to grant a variance the permit granting authority shall make
552 all of the following findings: (a) the benefit sought by the applicant cannot be achieved by some
553 method, feasible for the applicant to pursue, other than a variance; (b) the variance will not have

554 a disproportionately adverse effect on nearby properties, or the character of the neighborhood, or
555 on the environment; (c) the variance will not nullify or substantially derogate from the intent or
556 purpose of such ordinance or by-law or a master plan under section 81D of chapter 41, if any in
557 effect; and (d) the claimed hardship relating to the property in question is unique, and does not
558 also apply to a substantial portion of the district or neighborhood. In the granting of variances,
559 the permit granting authority shall grant the minimum variance that it shall deem necessary to
560 relieve the hardship.

561 Use Variances: Use variances are not allowed unless expressly so authorized by an
562 ordinance or by-law. If so authorized, use variances shall be subject to all the provisions of this
563 section and to any additional more stringent criteria contained in the ordinance or by-law.

564 Conditions, Safeguards, and Limitations: The permit granting authority may impose
565 conditions, safeguards and limitations both of time and of use, including the continued existence
566 of any particular structures.

567 Duration: Once exercised, variances shall run with the land, but a use variance may run
568 with the land only if so determined by the permit granting authority acting pursuant to an
569 ordinance or by-law enabling such a determination. Any variance granted prior to the effective
570 date of this Act shall be governed by the provisions of such variance and shall run with the land
571 unless a condition, safeguard, or limitation contained therein has prescribed otherwise.

572 Recording of Variance: No variance, or any extension, modification or renewal thereof,
573 shall take effect until a copy of the decision bearing the certification of the city or town clerk that
574 20 days have elapsed after the decision has been filed in the office of the city or town clerk is
575 recorded in the registry of deeds for the county and district in which the land is located and

576 indexed in the grantor index under the name of the owner of record or is recorded and noted on
577 the owner's certificate of title. The certification shall include either a statement that no appeal has
578 been filed or that if such appeal has been filed, that it has been dismissed or denied; or if it is a
579 variance which has been approved by reason of the failure of the permit granting authority to act
580 thereon within the time prescribed, a copy of the petition for the variance accompanied by the
581 statement of the city or town clerk stating the fact that the permit granting authority failed to act
582 within the time prescribed, and no appeal has been filed, and that the grant of the petition
583 resulting from such failure to act has become final or that if such appeal has been filed, that it has
584 been dismissed or denied. The fee for recording or registering shall be paid by the owner or
585 applicant.

586 Lapse, Extension: If the rights authorized by a variance are not exercised within two
587 years of the date of the grant of the variance such variance shall lapse; provided, however, that
588 upon written application by the grantee of such variance, the permit granting authority in its
589 discretion may extend, either with or without a public hearing as provided in the zoning
590 ordinance or bylaw, the time for exercise of such rights for a period not to exceed one year. Such
591 application must be filed no later than 65 days prior to the lapse of the variance. If the permit
592 granting authority does not grant the extension within 65 days of the date of application therefor,
593 upon the lapse of the variance, the variance may be re-established only after notice and a new
594 hearing pursuant to the provisions of this section.

595 Transition Provision: Any city or town that had adopted a zoning ordinance or by-law
596 relating to zoning variances prior to the effective date of this Act, shall within three years of that
597 effective date revise the provisions thereof to conform to this Act. After three years from the
598 effective date of this Act, any provision of such preexisting variance zoning ordinance or bylaw

599 that does not conform to the provisions of this Act may only apply to the extent and in a manner
600 consistent with this Act.

601 SECTION 24. Section 11 of said chapter 40A, as so appearing, is hereby amended by
602 inserting, in the third sentence of the first paragraph, after the words “the planning board of the
603 city or town,” the following words:- the board of health of the city or town,

604 SECTION 25. The General Laws, as appearing in the 2012 Official Edition, are hereby
605 amended by inserting after Chapter 40W the following chapter: -- CHAPTER 40X
606 CONSOLIDATED PERMITTING

607 CHAPTER 40X

608 CONSOLIDATED PERMITTING

609 1. Definitions

610 2. Concurrent Applications

611 3. Consolidated Hearing and Notice

612 4. Decisions

613 40X:1. Definitions

614 Section 1. As used in this chapter, the following words shall have the following
615 meanings:

616 “Concurrent Application” means a complete consolidated application prepared by the
617 proponent of an Eligible Project for submission to all Local Boards requesting all required Local
618 Permits, together with payment of any applicable fees for such permits.

619 “Eligible Project” means a development project that consists of the construction,
620 reconstruction, or alteration of 25,000 square feet or more of gross floor area or the construction,
621 reconstruction, or alteration of 25 dwelling units or more, and that requires more than one Local
622 Permit from more than one Local Board.

623 “Hearing Officer” means the chair, or any one or more other members of a Local Board
624 collectively, designated to participate on behalf of such Local Board in a consolidated hearing
625 under this chapter. The Hearing Officer shall attend and participate as the board’s representative
626 at the consolidated hearing, and thereafter shall report to the Local Board represented together
627 with such summaries of testimony, copies of relevant exhibits, and preliminary
628 recommendations, if any, as the Hearing Officer and the relevant Local Board determine may be
629 helpful to reach a decision, or seek further information from the applicant and others as the Local
630 Board may deem appropriate.

631 “Local Board” means any agency, department, commission, or other instrumentality of a
632 municipal government that has the authority to issue a required Local Permit for an Eligible
633 Project that is the subject of a Concurrent Application.

634 “Local Permit” means any permit, site plan review, certificate, order (excluding
635 enforcement orders), license, certification, determination, exemption, variance, waiver, or other
636 approval or determination of rights by any Local Board concerning the use or development of
637 real property that is issued or made under chapter 40, chapter 40A to 40C, inclusive, chapter

638 40R, chapter 41, chapter 43D, chapter 131, chapter 131A, or any local by-law or ordinance,
639 regardless of whether a public hearing is required by law.

640 40X:2. Concurrent Applications

641 Section 2. Notwithstanding any general or special law to the contrary, the proponent of
642 an Eligible Project may elect to submit a Concurrent Application. The Concurrent Application
643 shall be filed with the city or town clerk, and a copy of said application, including the date and
644 time of filing, certified by the city or town clerk, shall be transmitted forthwith by the proponent
645 to each Local Board from which a Local Permit is being sought, and to the local board of health,
646 whether or not a Local Permit is being sought from said board. Cities and towns may accept
647 filing of a Concurrent Application electronically, with a return receipt by electronic mail being
648 an acceptable form of certification of receipt by the city or town clerk, including payment of
649 applicable fees.

650 The Concurrent Application shall contain an introductory section that contains general
651 project information that will be used by all of the Local Boards from which a Local Permit is
652 sought, as provided in the local ordinance or bylaw regarding concurrent applications, as well as
653 additional sections that contain the information required by individual Local Boards for review
654 of each applicable Local Permit required for the project. The general project information shall
655 include the following information: project name; address; assessors map/parcel information;
656 proponent name, mailing address, phone/fax/email; existing site description; project description,
657 including proposed use, dimensional attributes, and operational information; proposed
658 construction schedule, including details on any proposed phasing of the project; and a list of all
659 Local Permits being sought.

660 The proponent shall include any local forms required by the Local Board for review of
661 the Local Permit as part of the Concurrent Application.

662 40X:3. Consolidated Hearing and Notice

663 Section 3. A consolidated hearing shall be held jointly by the Local Boards from which a
664 Local Permit is sought within 65 days of the filing of a Concurrent Application. The notice
665 requirements for such hearing shall be as set forth in chapter 40A, section 11, but may be
666 consolidated to appear and be published as one notice representing all participating Local
667 Boards.

668 Unless represented by a Hearing Officer a quorum of each Local Board is required to
669 attend the consolidated hearing. The chairs of the Local Boards shall jointly open the hearing
670 and forthwith designate one of them to preside over the consolidated hearing. A Local Board
671 may elect to continue a public hearing, and said continued public hearing may be held as a
672 consolidated hearing with other consenting Local Boards or apart from the other Local Boards
673 from which a Local Permit is sought. Local Boards may also close a public hearing either as a
674 consolidated hearing with other consenting Local Boards or apart from the other Local Boards,
675 and not be required to attend continued sessions of a consolidated hearing.

676 Any Local Board represented by a Hearing Officer shall thereafter convene to receive the
677 Hearing Officer's report before deliberating and voting. The Hearing Officer's report may be
678 used by the board as an evidentiary basis for the board to act, in lieu of direct evidence and
679 testimony. The report may be accepted in whole or in part, or the Local Board may call for such
680 other evidence and testimony as it deems necessary or the applicant may wish to introduce.

681 To facilitate efficient review and use of resources, the Local Boards may consolidate staff
682 reviews and any required peer reviews. Any municipal department or board may provide
683 advisory comments to a Local Board from which a Local permit is being sought.

684 A Local Permit sought from a Local Board that does not attend the initial consolidated
685 hearing, or does not designate a Hearing Officer to attend, shall be deemed to be constructively
686 approved with respect to the Eligible Project which is the subject of the consolidated hearing.

687 40X:4. Decisions

688 Section 4. Each Local Board shall issue its Local Permit based on the substantive criteria
689 and procedural requirements established by the applicable statutes and bylaws or ordinances
690 pertaining to the Local Permit being sought. The timing of these decisions shall be issued
691 according to applicable requirements of the underlying statutes and bylaws or ordinances.

692 Prior to the issuance of its Local Permit, each Local Board must submit a draft decision
693 to each other Local Board from which a required Local Permit is sought.

694 To the extent feasible, Local Boards shall consolidate forms of approval and decisions,
695 with the goal of issuing coordinated decisions with consistent approval periods and without
696 overlapping or conflicting conditions.

697 SECTION 26. The General Laws, as appearing in the 2012 Official Edition, are hereby
698 amended by inserting after Chapter 40X the following chapter: -- CHAPTER 40Y PLANNING
699 AHEAD FOR GROWTH ACT

700 CHAPTER 40Y

701 PLANNING AHEAD FOR GROWTH ACT

- 702 1. Preamble
- 703 2. Definitions
- 704 3. Elements of implementing regulations
- 705 4. Certification and adoption of implementing regulations
- 706 5. Effect of certified community status on zoning and land use regulation
- 707 6. Review of certification by regional planning agency
- 708 7. Expiration and renewal of certified community status; amendments
- 709 8. Priorities for state investments; consistency of state investments
- 710 9. Regulations

711 40Y:1 Preamble

712 Section 1. The sections in this chapter shall be known and may be cited as the “Planning
713 Ahead for Growth Act”. The purposes of the act shall be to advance the state’s economic,
714 environmental, and social well-being through enhanced planning for economic growth,
715 workforce housing creation, land conservation, and public health, consistent with the state’s
716 Sustainable Development Principles.

717 40Y:2 Definitions

718 Section 2. As used in this chapter, the following words shall, unless the context clearly
719 requires otherwise, have the following meanings:-

720 “By-right” or “As of right” means that development may proceed under zoning and other
721 local land use regulations without the need for a special permit, variance, amendment, waiver or
722 other discretionary approval. As of right development may be subject to site plan review under
723 section 9D chapter 40A.

724 “Certified community” means a community for which implementing regulations have
725 been certified by the applicable regional planning agency, adopted by the municipality, and
726 remain in effect.

727 “Constructively approved” means deemed approved by the failure of the approving
728 agency to issue a decision or determination within the time prescribed, as it may be extended by
729 written agreement between the applicant and the approving agency; provided that an applicant
730 who seeks approval by reason of the failure of the approving agency to act within such time
731 prescribed, shall so notify the city or town clerk, and parties in interest, in writing within 14 days
732 from the expiration of the time prescribed or extended time, if applicable, of such approval.

733 “Development agreement” means a contract entered into between a municipality or
734 municipalities and a holder of property development rights, the principal purpose of which is to
735 establish the development regulations that will apply to the subject property during the term of
736 the agreement and to establish the conditions to which the development will be subject including,
737 but not limited to, a schedule of development impact fees. Under a development agreement the
738 holder may agree to contribute public capital facilities to serve the proposed development and the
739 municipality or both, to build affordable housing either on site or off site, to dedicate or reserve
740 land for open space community facilities or recreational use, or to contribute funds for any of
741 these purposes. The development agreement shall function as a bona fide local land use

742 regulation, establishing the permitted uses and densities within the development, and any other
743 terms or conditions mutually agreed upon between the applicant and the municipality. A
744 development agreement shall vest land use and development rights in the property, and such
745 rights would not be subject to subsequent changes in development laws or regulations for the
746 duration of the agreement.

747 “Economic development district” means a zoning district that permits or allows
748 commercial or industrial use or permits or allows mixed use including commercial or residential
749 or industrial use, and is an eligible location.

750 “Eligible location” means an area that by virtue of its physical and regulatory suitability
751 for development, the adequacy of transportation and other infrastructure and the compatibility of
752 proximate land uses is, in the determination of the regional planning agency, a suitable location
753 for development of the type contemplated by the implementing regulations. Any area that would
754 qualify as an “eligible location” under chapter 40R shall automatically qualify as an “eligible
755 location” for a residential development district. Any area that has been designated as a priority
756 development site under chapter 43D shall automatically qualify as an “eligible location” for an
757 economic development district.

758 “Housing target number” means a number equal to five per cent of the total number of
759 year-round housing units enumerated for the municipality in the latest available United States
760 census as of the date on which the implementing regulations are submitted to the regional
761 planning agency. Where the housing target number is calculated on a region-wide or multi-
762 municipal basis pursuant to Section 3(E) of this chapter, it shall be equal to five per cent of the
763 total number of year-round housing units enumerated for all participating municipalities in the

764 latest decennial United States census as of the date on which certification is sought pursuant to
765 Section 4 of this chapter.

766 “Implementing regulations” means the local zoning or general ordinances or by-laws,
767 subdivision rules and regulations, and other local land use regulations, or amendments thereof,
768 necessary to effectuate the purposes of this chapter.

769 “Low impact development techniques” means stormwater management techniques
770 appropriate to the size, scale, and location of the development proposal that limit off-site
771 stormwater runoff (both peak and non-peak flows) to levels substantially similar to natural
772 hydrology (or, in the case of a redevelopment site, that reduce such flows from pre-existing
773 conditions), by emphasizing decentralized management practices and the protection of on-site
774 natural features.

775 “Municipality’s effective date” means the date upon which a municipality has adopted or
776 renewed certified implementing regulations pursuant to this chapter.

777 “Natural resource protection zoning” (or “NRPZ”) shall have the meaning ascribed to it
778 in section 1A of chapter 40A and, for the purposes of this chapter, additionally means a form of
779 zoning that further protects natural resources by limiting development in areas designated by the
780 state, the regional planning agency, or the city or town as having significant natural or cultural
781 resource values by requiring density divisors of five or more acres per dwelling unit and
782 percentages of preserved land of eighty percent or greater.

783 “Open space residential design” means a process for the cluster development of land as
784 defined in section 1A of chapter 40A that, for the purposes of this chapter, additionally: requires
785 identification of the significant natural features of the land and concentrates development by use

786 of reduced dimensional requirements in order to preserve those natural features; preserves at
787 least 50 per cent of the land's developable area in a natural, scenic or open condition, or in
788 agricultural, farming or forestry use; and permits the development of a number of new housing
789 units at least equal to the quotient of the land's developable area divided by the minimum lot
790 area per housing unit required by the zoning ordinance or by-law. For the purposes of this
791 definition, the land's developable area shall be determined pursuant to applicable state and local
792 land use and environmental laws and regulations, and the zoning ordinance or by-law, without
793 regard in either case to the suitability of soils or groundwater for on-site wastewater disposal.

794 "Other local land use regulations" means all local legislative, regulatory, or other actions
795 or requirements which are more restrictive than those of the state, if any, including subdivision
796 and board of health regulations, local wetlands ordinances or by-laws, and other local
797 ordinances, by-laws, codes, and regulations.

798 "Planning board" means a municipal planning board established or authorized pursuant to
799 chapter 41, section 81A.

800 "Prompt and predictable permitting" means that zoning and other local land use
801 regulations allow development to proceed as of right by permitting processes that are designed to
802 result in final decisions on all local permits and approvals in less than 180 days. For commercial
803 and industrial development, local permitting pursuant to chapter 43D shall also be deemed
804 "prompt and predictable permitting." Where a development permit application is referred to the
805 Cape Cod Commission, the Nantucket Planning and Economic Development Commission, or the
806 Martha's Vineyard Commission under chapter 716 of the Acts of 1989, chapter 561 of the Acts
807 of 1973, or chapter 831 of the Act of 1977, respectively, as those acts may be amended, or the

808 review of a development permit application is suspended by the operation of those acts, the
809 zoning and other local land use regulations shall still be considered “prompt and predictable
810 permitting” if, but for such referral or suspension, they otherwise would meet the requirements of
811 this definition.

812 “Rate of development measures” means local legislative or regulatory measures adopted
813 by cities and towns under this chapter to regulate the number of permits for new construction or
814 approvals of new building lots issued in a defined period of time or otherwise in accordance with
815 defined standards and criteria. Rate of development measures shall not include otherwise
816 permissible building moratoria enacted for defined periods of time during which planning,
817 zoning, health, wetlands, or subdivision control studies are underway.

818 “Regional planning agency” means the regional or district planning commission
819 established pursuant to chapter 40B for the region within which a municipality is located. The
820 term shall also mean the Martha’s Vineyard Commission, as described in chapter 831 of the Acts
821 of 1977, the Nantucket Planning and Economic Development Commission, as described in
822 chapter 561 of the Acts of 1973, the Cape Cod Commission, as described in chapter 716 of the
823 Acts of 1989, the Franklin Council of Governments, as described in chapter 151 of the Acts of
824 1996, and the Northern Middlesex Council of Governments, as described in chapter 420 of the
825 Acts of 1989.

826 “Residential development district” means a zoning district that: permits or allows through
827 prompt and predictable permitting residential use at a density of not less than four units per acre
828 of developable land for single-family residential use, not less than eight units per acre of
829 developable land for two- and three-family and attached townhouse residential use, or not less

830 than twelve units per acre of developable land for multi-family residential use, or permits or
831 allows mixed use including residential use at such density; is an eligible location; and does not
832 impose other requirements that add unreasonable costs or otherwise unreasonably impair the
833 economic feasibility of residential development at such density. A zoning district that permits or
834 allows mixed use may qualify as both an economic development district and a residential
835 development district, if the standards for both districts are met. The implementing regulations
836 for any residential development district that permits or allows mixed use shall contain adequate
837 provisions to ensure that any contemplated contribution towards the housing target number to be
838 provided by such district will be achieved. The foregoing minimum density for single-family
839 residential use may be reduced to not less than two units per acre of developable land upon a
840 determination by the regional planning agency that the lack of adequate water supply or
841 wastewater infrastructure within the municipality prevents full compliance with the minimum
842 density standard. If there is no public water supply or public wastewater infrastructure existing
843 anywhere within the municipality, then the minimum density for single-family residential use
844 may be reduced to not less than two units per acre of developable land without the need for a
845 determination by the regional planning agency.

846 “Secretary” means the secretary of the Executive Office of Housing and Economic
847 Development.

848 40Y:3 Elements of Implementing Regulations

849 Section 3. The municipality may prepare, and from time to time amend or renew,
850 implementing regulations for a municipality, to be submitted to the regional planning agency for
851 certification. The implementing regulations shall:

852 (A) Establish prompt and predictable permitting of commercial or industrial development
853 within one or more identified economic development districts. This standard may be waived or
854 modified upon a determination by the regional planning agency that adequate alternatives for
855 economic development exist elsewhere in the region and are more appropriately located there.

856 (B) Establish prompt and predictable permitting of residential development within one or
857 more identified residential development districts that can collectively accommodate, in the
858 determination of the regional planning agency, a number of new housing units (excluding new
859 housing units which are restricted, through zoning or other legal means, as to the number of
860 bedrooms or as to the age of their residents) equal to the housing target number. For the initial
861 certification of implementing regulations, a municipality's housing target number shall be
862 reduced by the number of new housing units for which building permits were issued within two
863 years prior to the municipality's effective date, to the extent such building permits were issued
864 within residential development districts for which there was prompt and predictable permitting at
865 the time of building permit issuance.

866 (C) Require that, for any zoning district that requires a minimum lot area of greater than
867 40,000 square feet for single-family residential development, development of five or more new
868 housing units utilize open space residential design, except upon a determination by the regional
869 planning agency that open space residential design is not feasible or the land and natural resource
870 conservation objectives of open space residential design are achieved through alternate means
871 such as the transfer of development rights or natural resource protection zoning. Open space
872 residential design may be found infeasible due to adoption of development limitations necessary
873 to qualify for zero rate of interest state revolving fund loans, or due to the requirements of an
874 area-wide plan, management program or other plan or program implemented pursuant to section

875 208 of the federal Clean Water Act, 33 United States Code section 1251, et seq. In districts
876 requiring minimum lot areas of between 40,000 and 80,000 square feet where Title 5 of the
877 Environmental Code is in effect, the minimum preservation requirement of 50 per cent set forth
878 in section 2, open space residential design, shall be modified to equal the percentage resulting
879 from the subtraction of 40,000 square feet from the lot size requirement, divided by the lot size
880 requirement, and multiplied by 100, except to the extent inconsistent with requirements adopted
881 by a regional planning agency under chapter 716 of the Acts of 1989 or chapter 831 of the Acts
882 of 1977, as those acts may be amended.

883 (D) Require, through zoning or general ordinances or by-laws, that all development that
884 disturbs more than one acre of land, including development by-right, utilize low impact
885 development techniques.

886 (E) Contiguous municipalities may also satisfy the requirements of this Section 3 on a
887 regional or multi-municipal basis under the following conditions: (i) the number of new housing
888 units (excluding new housing units which are restricted, through zoning or other legal means, as
889 to the number of bedrooms or as to the age of their residents) provided by these residential
890 development districts, in the aggregate, must equal the housing target number, as calculated by
891 summing the target numbers of all participating municipalities; and (ii) each municipality must
892 satisfy the requirements of subsections (A), (C), and (D). For municipalities within Barnstable
893 and Dukes counties, municipalities must also be consistent with any regional policy plans and
894 districts of critical planning concern adopted by, and local comprehensive plans certified by, the
895 regional planning agency under chapter 716 of the Acts of 1989 or chapter 831 of the Acts of
896 1977, respectively, as those acts may be amended.

40Y:4 Certification and adoption of implementing regulations

Section 4. The chief executive officer of the municipality may submit the implementing regulations to the regional planning agency for certification. Within 90 days of receiving a submission, the regional planning agency shall determine whether the implementing regulations are consistent with the requirements of this chapter. The implementing regulations shall be deemed consistent with this chapter if they effectuate the commitments established in section 3 herein. Implementing regulations shall have the benefit of a presumption of consistency with the requirements for eligible locations of this chapter if the regulations are consistent with a process of mapping priority development and preservation areas within the municipality, undertaken by municipal planning officials in collaboration with the regional planning agency. If the regional planning agency determines that the implementing regulations are consistent with this chapter, then the agency shall issue a written certification to that effect. If the regional planning agency determines that it is unable to issue such a certification, then the agency shall provide the municipality with a written statement of the reasons for its determination. A municipality may re-submit for certification at any time modified implementing regulations that address the issues set forth in the agency's statement of reasons. If the regional planning agency does not issue a certification or provide a statement of reasons within 90 days after receiving implementing regulations (including re-submitted implementing regulations), then the implementing regulations shall be deemed certified. Where implementing regulations are submitted for certification on a regional or multi-municipal basis pursuant to Section 3(E) of this chapter, they shall be submitted jointly by the chief executive officer of each municipality.

Following certification by the regional planning agency, the implementing regulations may be adopted by the municipality or municipalities. On the date of receipt by the regional

920 planning agency of proof of adoption of the certified implementing regulations, a municipality
921 shall be deemed a “certified community.” Such date shall be deemed the “municipality’s
922 effective date.”

923 40Y:5 Effect of certified community status on zoning and land use regulation

924 Section 5. (A) Following the municipality’s effective date, local zoning or general
925 ordinances or by-laws, subdivision rules and regulations, and other local land use regulations
926 (other than certified implementing regulations) which are determined to be inconsistent with the
927 certified implementing regulations shall be invalid as applied within the areas subject to the
928 certified implementing regulations. Such a determination may be sought and obtained through
929 any means otherwise available by statute for the determination of the validity of such land use
930 regulations. Any material amendment to certified implementing regulations that has not been
931 prepared, certified and adopted in accordance with the provisions hereof shall be presumed to be
932 inconsistent with this chapter.

933 (B) If a municipality has issued, at the time of the municipality’s effective date, a special
934 permit that in itself allows new housing units equal to one-half or more of the municipality’s
935 housing target number, and if such special permit remains in effect for at least two years after the
936 municipality’s effective date, then residential development under such special permit which
937 otherwise qualifies hereunder shall also be deemed as of right.

938 (C) If at any time more than two years after the municipality’s effective date the total
939 number of housing units for which building permits have been applied for within the residential
940 development districts since the municipality’s effective date is greater than the housing target
941 number (adjusted pro rata if the number of years since the municipality’s effective date is less

942 than ten), but the total number of housing units for which building permits have been issued
943 within the residential development districts is less than the pro rata housing target number, then
944 the provisions of this subsection shall be in effect. During such time period, any applications for
945 building permits or other local land use permits for residential development within such
946 residential development districts shall be deemed constructively approved if not acted upon
947 within 180 days after receipt of permit applications. In addition, an application received under
948 this section shall be subject only to those conditions that are necessary to ensure substantial
949 compliance of the proposed development project with applicable laws and regulations; and it
950 may be denied only on the grounds that: the proposed development project does not substantially
951 comply with applicable laws and regulations; or the applicant failed to submit information and
952 fees required by applicable laws and regulations and necessary for an adequate and timely review
953 of the development project. The foregoing provisions shall no longer be in effect once the total
954 number of housing units for which building permits have been issued within such residential
955 development districts equals or exceed the pro rata housing target number. The provisions of
956 this subsection shall not apply where a development permit application is referred to the Cape
957 Cod Commission or the Martha's Vineyard Commission under chapter 716 of the Acts of 1989
958 or chapter 831 of the Act of 1977, respectively, as those acts may be amended, or the review of a
959 development permit application is suspended by the operation of those acts.

960 (D) Following the municipality's effective date, it may adopt rate of development
961 measures that limit the number of new housing units for which building permits may be issued in
962 any twelve month period to an amount equal to or greater than one-fifth of the housing target
963 number (but in no event less than ten new housing units).

964 (E) Following the municipality's effective date, it may adopt a zoning ordinance or by-
965 law that imposes natural resource protection zoning as defined in this chapter.

966 (F) Following the municipality's effective date, and notwithstanding section 6 of chapter
967 40A, the minimum vesting period for a definitive subdivision plan shall not be eight years, but
968 shall instead be five years. This provision shall not apply to the four-year minimum vesting
969 period for minor subdivisions in said section.

970 (G) Following the municipality's effective date, development impact fees imposed
971 pursuant to section 9E of chapter 40A may, in addition to the off-site public capital facilities
972 listed in said section, be used to defray the costs of the following additional off-site public capital
973 facilities: public elementary and secondary schools, libraries, municipal offices, affordable
974 housing, and public safety facilities.

975 (H) Following the municipality's effective date, the municipality shall have the power to
976 enter into development agreements as defined herein. Any such development agreement may be
977 entered into by the chief executive officer following a majority vote of the legislative body.

978 40Y:6 Review of certification by regional planning agency

979 Section 6. Any certification or determination of non-certification by a regional planning
980 agency with respect to implementing regulations or a material amendment of same is subject to
981 review by the secretary. The secretary may, upon the request of the subject municipality or in
982 his discretion, review any such decision in an informal, non-adjudicatory proceeding, may
983 request information from any third party and may, with the concurrence of the secretary of the
984 Executive Office of Energy and Environmental affairs, modify or reverse such decision if the
985 same does not comply with the provisions hereof.

986 If a municipality provides written notice to the secretary of the certification by a regional
987 planning agency of implementing regulations or a material amendment of same (including a
988 deemed certification resulting from a regional planning agency's failure to act), then the
989 secretary may only review such certification if such review is completed within 60 days of such
990 written notice.

991 The secretary may through regulation, with the concurrence of the secretary of the
992 Executive Office of Energy and Environmental affairs, establish a procedure for reviewing and
993 approving guidelines prepared by regional planning agencies to be used in the certification of
994 implementing regulations and material amendments thereto. If a certification or determination of
995 non-certification has been issued by the regional planning agency based upon an approved
996 guideline, then the secretary may only modify or reverse such decision for inconsistency with the
997 approved guideline.

998 Notwithstanding any other provision of this section, the secretary may not review a
999 determination under Section 3(E) of this chapter by the regional planning agency that
1000 implementing regulations are or are not consistent with regional policy plans and districts of
1001 critical planning concern adopted under, or local comprehensive plans certified under, chapter
1002 716 of the Acts of 1989 or chapter 831 of the Act of 1977, respectively, as those acts may be
1003 amended, nor may the secretary modify such a determination or any conditions found by the
1004 regional planning agency to be necessary to such a determination.

1005 40Y:7 Expiration and renewal of certified community status; amendments

1006 Section 7. A municipality's status as a certified community shall expire ten years after
1007 the municipality's effective date, unless renewal implementing regulations are prepared,

1008 certified, and to the extent necessary adopted in accordance with the provisions hereof prior to
1009 such date. Each such renewal implementing regulations shall also expire in ten years. Expiration
1010 of a municipality's status as a certified community shall cause section 5 herein to be inapplicable
1011 to such municipality.

1012 From and after a municipality's effective date, any material amendment to certified
1013 implementing regulations shall be prepared, certified, and adopted in accordance with the
1014 provisions hereof.

1015 40Y:8 Priorities for state investments; consistency of state investments

1016 Section 8. In furtherance of the purposes of this chapter to advance the state's economic,
1017 environmental, and social well-being through enhanced planning for economic growth,
1018 workforce housing creation, and land conservation, the commonwealth shall, when awarding
1019 discretionary funds for municipal infrastructure or other discretionary funds or grants
1020 administered through the executive office of housing and economic development, the executive
1021 office of energy and environmental affairs, the department of transportation, and the executive
1022 office of administration and finance, give priority consideration to certified communities and to
1023 communities with certified local comprehensive plans and with regulations deemed consistent
1024 with a local and regional plan as certified by the regional planning agency pursuant to chapter
1025 716 of the Acts of 1989 or chapter 831 of the Acts of 1977, respectively, as those acts may be
1026 amended.

1027 When awarding discretionary funds for municipal infrastructure, the commonwealth shall
1028 give priority consideration to investments that support development within economic
1029 development districts and residential development districts in certified communities and similar

1030 districts established by local comprehensive plans certified by the regional planning agency
1031 pursuant to chapter 716 of the Acts of 1989 or chapter 831 of the Acts of 1977, respectively, as
1032 those acts may be amended.

1033 State agencies responsible for regulatory or capital spending programs that have a
1034 material effect on local land use and development shall take into account the land use goals,
1035 objectives, and policies as set forth in master plans adopted under section 81D of chapter 41 in
1036 administering such programs in certified communities.

1037 When awarding discretionary funds for municipal infrastructure and land preservation
1038 investments within communities for which there exists a regional plan under section 5 of chapter
1039 40B, under chapter 716 of the Acts of 1989, or under chapter 831 of the Acts of 1977,
1040 respectively, as these acts may be amended, the commonwealth shall cause such awards to be
1041 consistent with such plan, to the maximum extent feasible.

1042 40Y:9 Regulations

1043 Section 9. The secretary may issue such regulations as are necessary and appropriate for
1044 the implementation of this chapter.

1045 SECTION 27. Section 81D of chapter 41 of the General Laws, as appearing in the 2012
1046 Official Edition, is hereby amended by striking out section 81D and inserting in place thereof the
1047 following section 81D:-

1048 41:81D. Master Plan

1049 Section 81D. Option to Plan: A planning board established in any city or town that
1050 makes a master plan for such city or town shall do so in accordance with this section. The plan

1051 shall take effect upon adoption by the legislative body as provided herein. For a plan to remain
1052 in effect, from time to time, not to exceed 10 years from the date of adoption, the planning board
1053 shall conduct a comprehensive review of the plan and may extend, revise, or remake the plan,
1054 and the plan or amendment thereto shall thereafter be re-adopted as provided in this section. The
1055 plan, once adopted, shall be the official master plan of the city or town, replacing any previously
1056 adopted master plans. All plans for capital projects of another governmental agency on land
1057 included in a city or town master plan made and adopted pursuant to this section after the
1058 effective date of this act shall take such master plan into consideration.

1059 A master plan adopted in accordance with section 81D of chapter 41 in effect on the date
1060 of passage of this act may continue in full force and effect, including minor amendments to
1061 update or perfect such plans, and shall not be subject to this section until a date 10 years from the
1062 date of passage of this act.

1063 General Description of Plan: The plan shall be a comprehensive framework, through
1064 text, maps, and illustrations that provides a basis for decision making about land use and the long
1065 term physical development of the municipality. Other completed and current plans, reports, and
1066 studies may be incorporated by reference to fulfill in whole or in part the requirements of each
1067 subject listed below, provided that such material will then be considered part the plan, including
1068 its implementation. The master plan shall be internally consistent in its policies, forecasts and
1069 standards, and may support and provide a coherent rationale for the municipality's zoning
1070 ordinance or bylaws, subdivision regulations, and other land use laws, regulations, policies, and
1071 capital expenditures.

1072 The plan shall include the required subjects identified herein, any optional subjects at the
1073 discretion of the municipality, and the regional plan self assessment. The plan subjects may be
1074 written as separate elements or organized and integrated as deemed appropriate by the planning
1075 board. Due to the wide range of community types, characteristics, and planning needs in the
1076 commonwealth it is recognized that the subjects addressed with a particular city or town in mind
1077 may be expanded upon or contracted as appropriate, and may vary greatly among communities
1078 in the focus and depth of their analysis.

1079 Required Plan Subjects: Master plans need not include data collection or analysis in areas
1080 not related to land use and the long term physical development of the community. The plan shall
1081 address the following five required subjects, described below in a general manner:

1082 (1) Goals and Objectives: A statement that identifies the goals and objectives of the
1083 municipality for its future growth, development, redevelopment, conservation, and preservation.
1084 Each community shall conduct a public participation process to determine community values,
1085 establish goals, and identify patterns of development, redevelopment, conservation, and
1086 preservation consistent with these goals. The goals and objectives statement shall address the
1087 required and any additional selected optional plan subjects.

1088 (2) Housing: (a) An inventory of local demographic characteristics, an assessment and
1089 forecast of housing needs, and a statement of local housing policies. Where applicable, existing
1090 local housing plans and studies may be included by reference. (b) An analysis of housing units
1091 by type of structure (e.g., single-family, two-family, multi-family); affordable housing and
1092 subsidized housing; housing available for rental; special needs housing; and housing for the
1093 elderly, including assisted living residences. (c) An analysis of existing local policies, programs,

1094 laws, or regulations that encourage the preservation, improvement, and development of such
1095 housing, including an assessment of their adequacy. (d) An evaluation of zoning and other land
1096 use policies for the creation of a variety of housing that meets a broad range of housing needs,
1097 including but not limited to the affordable housing needs of low, moderate, and median income
1098 households and the accessible housing needs of people with disabilities and special needs. The
1099 evaluation shall examine specific measures to address these needs, including strategies,
1100 programs, and assistance for the preservation or rehabilitation of existing housing; the
1101 construction of new housing; and the adoption or amendment of local ordinances or bylaws and
1102 regulations permitting, encouraging, or requiring diversity in housing locations, types, designs,
1103 and area densities that offer alternatives to single family detached housing. A current housing
1104 production plan consistent with 760 CMR 56.03(4) may constitute the subject matter relative to
1105 this subsection (d).

1106 (3) Natural Resources and Energy Management: (a) A general overview of the
1107 significant natural and energy resources of the municipality. (b) Identification of protected and
1108 unprotected wetlands and water resources, lands critical to sustaining surface and groundwater
1109 quality and quantity, environmentally sensitive lands, critical wildlife habitat and biodiversity,
1110 agricultural lands and forests. Priorities for protection of wildlife habitat, water resources, vistas
1111 and key landscapes, outdoor recreation facilities, and farm and forestry land shall be identified.
1112 In cities or towns with agricultural commissions created by the legislative or executive body of
1113 the city or town, those elements of the plan dealing with agricultural topics shall be prepared
1114 jointly by the agricultural commission and the planning board. (c) An outline of local laws,
1115 regulations, policies, and strategies to address needs for the protection, restoration, and
1116 sustainable management of these resources and to promote development that respects and

1117 enhances the state's natural resources. (d) An energy component that explores locally feasible
1118 land use strategies to: maximize energy efficiency and renewable energy opportunities; support
1119 land, energy, water, and materials conservation strategies, local clean power generation,
1120 distributed generation technologies, and innovative industries; and address global climate change
1121 by reducing greenhouse gas emissions and the consumption of fossil fuels.

1122 (4) Land Use and Zoning: (a) An identification of historic settlement patterns and
1123 present land uses, and designation of the proposed distribution, location, and inter-relationship of
1124 public and private land uses in a general manner sufficient to guide the development of zoning
1125 ordinances or by-laws, zoning maps, and other land use regulations. (b) Land use policies and
1126 related maps, which shall be based upon a land use suitability analysis identifying areas most
1127 suitable for development and related transportation infrastructure and facilities. Growth and
1128 development areas, if identified, shall support the revitalization of city and town centers and
1129 neighborhoods by promoting development that is compact and walkable, conserves land, protects
1130 historic resources, integrates uses, and coordinates the provision of housing with the location of
1131 jobs, transit and services, and new infrastructure. The plan shall, if appropriate, identify areas for
1132 economic development and job creation, related public and private transportation and pedestrian
1133 connections, and encourage the creation or extension of pedestrian-accessible districts and
1134 neighborhoods that mix commercial, civic, cultural, educational, and recreational activities with
1135 open space and housing. (c) A consideration of the relationship between proposed development
1136 intensity and the capacity of land and existing and planned public facilities and infrastructure.
1137 (d) A land use map illustrating the land use policies and desired future development patterns of
1138 the municipality and a proposed zoning map, both drawn in a general manner.

1139 (5) Implementation: An implementation program that defines and prioritizes the specific
1140 municipal actions necessary to achieve the goals and objectives of the master plan in accordance
1141 with the policies outlined therein. This program may be separately written or integrated into the
1142 required and selected subject matter. This implementation program shall specify the
1143 recommended course of action by which the municipality's regulatory structures, including
1144 zoning and subdivision control regulations, may need to be amended in order to be consistent
1145 with the master plan. This section may examine the current land use permitting process in a
1146 community and, if necessary, make recommendations for the development of clear, predictable,
1147 coordinated, and timely procedures thereunder, including an assessment of the adequacy and
1148 effectiveness of the existing structure of and roles and responsibilities of elected and appointed
1149 boards, officers, and personnel to implement the master plan through land use ordinances, by-
1150 laws, regulations, and procedures.

1151 Optional Subjects: The following seven subjects are optional depending upon community
1152 characteristics, and described below in a general manner:

1153 (6) Economic Development: (a) An inventory and analysis of the local economic base,
1154 including: employment; local industries and business clusters; labor force characteristics; land
1155 and buildings used for nonresidential purposes, including vacant space; and office, retail, and
1156 industrial market conditions. (b) An assessment of opportunities and barriers to economic
1157 development, including but not limited to identification of land use policies and available
1158 locations that: support the growth of jobs, the retention of existing businesses, and the provision
1159 of space for new businesses; encourage the reuse and rehabilitation of existing infrastructure,
1160 including brownfields, rather than the construction of new infrastructure in undeveloped areas;
1161 and facilitate larger-scale economic redevelopment or development in industry clusters

1162 consistent or compatible with the regional and local economy. (c) An assessment of
1163 opportunities and barriers to agriculture, including all branches of farming and forestry, where
1164 applicable. (d) An assessment of opportunities and barriers to self-employment and home-based
1165 occupations, including but not limited to consideration of land use policies, infrastructure and
1166 utilities, and communications technology.

1167 (7) Cultural Resources: (a) An inventory of the significant cultural, scenic, and historic
1168 structures, sites, and landscapes of the municipality, including archaeological resources. (b) An
1169 assessment of policies and strategies to protect and manage the community's cultural resources,
1170 including but not limited to a community-wide preservation plan, ordinances or bylaws and
1171 incentives for historic preservation, and land use policies to facilitate the reuse of historic
1172 structures, where appropriate.

1173 (8) Open Space Protection and Recreation: An inventory of recreational facilities and
1174 open space areas of the municipality, and policies and strategies for the management, protection,
1175 and enhancement of such facilities and areas as essential public health infrastructure. A current
1176 open space and recreational plan approved by the Division of Conservation Services shall
1177 constitute the subject matter relative to open space and recreation hereunder.

1178 (9) Infrastructure and Capital Facilities: An identification and analysis of existing and
1179 forecasted needs for infrastructure and facilities used by the public. Scheduled expansion or
1180 replacement of public facilities, infrastructure components such as water and sewer systems or
1181 circulation system components and the anticipated costs and revenues associated with
1182 accomplishment of such activities shall be detailed.

1183 (10) Transportation: (a) An inventory of existing and proposed circulation, parking, and
1184 transportation systems. (b) An assessment of opportunities and barriers to increasing access to
1185 available or feasible transportation options, including land and water-based public transit,
1186 bicycling, walking, and transportation services for populations with disabilities. (c)
1187 Identification of strategic investment options for transportation infrastructure to encourage smart
1188 growth, maximize mobility, conserve fuel, and improve air quality; and to facilitate the location
1189 of new development where a variety of transportation modes can be made available.

1190 (11) Water Management: (a) An inventory of current and potential municipal sources of
1191 water supply, including capacity and safe yield, and an assessment of water demand including
1192 types of water users, changes in water consumption over time, and water billing rate structure.
1193 (b) An assessment of the adequacy of existing and proposed water supplies to meet projected
1194 demands, water quality and treatment issues, existing measures for water supply protection,
1195 water conservation, drought management and emergency interconnections. (c) An assessment of
1196 the ability of stormwater regulations and practices to limit off-site stormwater runoff to levels
1197 substantially similar to natural hydrology through decentralized management practices and the
1198 protection of on-site natural features. (d) An analysis of municipal need and capacity for
1199 wastewater disposal, including the suitability of sites and water bodies for the discharge of
1200 treated wastewater. (e) Recommended strategies for water supply provision and protection,
1201 water conservation, wastewater disposal, stormwater management, drought management and
1202 emergency interconnections, and needed improvements to meet future water resource needs.

1203 (12) Public Health: (a) An inventory of conditions and assets in the natural and built
1204 environment which contribute to or constitute a barrier to health. These conditions may include
1205 parks and recreational facilities; local agriculture; walking, bicycling and public transit options,

1206 including the safety and walkability of streets and public spaces; access to affordable housing,
1207 economic opportunities, and medical and other services; environmental quality; and sustainable
1208 development. The inventory should describe conditions with a disproportionate impact on
1209 residents based on geography, ethnicity, income, immigration status, or other characteristics.
1210 Where applicable, this inventory may reference other sections of the master plan. (b) An
1211 assessment of opportunities and barriers to increasing access to conditions and assets in the
1212 natural or built environment that contribute to health. (c) Recommendations of available
1213 implementation policies and strategies, including zoning and other local laws and regulations,
1214 affecting health needs related to the natural or built environment.

1215 Regional Plan, Self Assessment: Any required or selected optional subjects above shall
1216 include a self assessment against similar subject matter in a regional plan adopted by the regional
1217 planning agency under section 5 of chapter 40B and in effect, if any, or under any special act.

1218 Proposal, Adoption, and Distribution of Plan: The plan shall only be made, extended,
1219 revised, or remade from time to time by a simple majority vote of the planning board after a
1220 public hearing, notice of which shall be posted and published in the manner prescribed for
1221 zoning amendments under section 5 of chapter 40A. Following any such action, the planning
1222 board shall transmit the plan to the chief executive officer of the city or town, and the plan shall
1223 be an agenda item or warrant article on a subsequent legislative session of the city or town.
1224 Adoption of the plan, or the extension, revision, or remake of the plan, shall be by a simple
1225 majority vote of the legislative body of the city or town; however, no vote of the legislative body
1226 to alter the plan or amendment as proposed by the planning board shall be other than by a two-
1227 thirds majority. The planning board shall, upon adoption by the legislative body of any plan or
1228 report, or any change or amendment to a plan or report produced under this section, furnish a

1229 copy of such plan or report or amendment thereto, to the Department of Housing and Community
1230 Development.

1231 Barnstable and Dukes Counties: Instead of adopting a master plan pursuant to the
1232 requirements of this section 81D, a municipality in Barnstable or Dukes county may adopt a
1233 local comprehensive plan pursuant to the special acts that protect those two regions, St. 1989, c.
1234 716, as amended, and St. 1977, c. 831, as amended, respectively, and the regulations and
1235 regional policy plans adopted thereunder. The regional planning agency shall review the local
1236 comprehensive plan solely for consistency with the governing special act (St. 1989, c. 716 or St.
1237 1977, c. 831, as these acts may be amended) and any regulations and regional policy plans
1238 adopted thereunder, rather than the requirements for master plans set forth in this section 81D.
1239 The time limits and requirements set forth in this section 81D shall not apply to the review of
1240 such local comprehensive plans. An adopted local comprehensive plan certified by the regional
1241 planning agency as consistent with this section 81D shall be deemed a master plan in compliance
1242 with this section 81D and shall entitle the municipality to any statutory benefits of having an
1243 adopted master plan.

1244 SECTION 28. Section 81L of said chapter 41 of the General Laws, as so appearing, is
1245 hereby amended by striking out the definition of “Subdivision” and inserting in place thereof the
1246 following definition:-

1247 “Subdivision” shall mean the division of a lot, tract, or parcel of land into two or more
1248 lots, tracts, or parcels of land and shall include re-subdivision. When appropriate to the context,
1249 subdivision shall include the process of subdivision or the land or territory subdivided. A change
1250 in the line of any lot, tract, or parcel created by recorded deed or shown on a recorded plan may

1251 be defined as a minor subdivision and, in such case, be governed by the provisions of section
1252 81P.

1253 SECTION 29. Said section 81L of said chapter 41, as so appearing, is hereby amended
1254 by inserting the following definition:-

1255 “Minor Subdivision” shall mean a residential subdivision created in accordance with
1256 section 81P, provided however that until rules and regulations are adopted by a planning board
1257 under 81P therefor, “minor subdivision” shall solely mean the division of a lot, tract, or parcel of
1258 land into two or more lots, tracts, or parcels where, at the time when it is made, every lot within
1259 the lot, tract or parcel so divided has frontage on: a) a public way or a way which the clerk of the
1260 city or town certifies is maintained and used as a public way; b) a way shown on a plan
1261 theretofore approved and endorsed in accordance with the subdivision control law; or c) a way in
1262 existence when the subdivision control law became effective in the city or town in which the
1263 land lies, having, in the opinion of the planning board, sufficient width, suitable grades and
1264 adequate construction to provide for the needs of vehicular traffic in relation to the proposed use
1265 of the land abutting thereon or served thereby, and for the installation of municipal services to
1266 serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at
1267 least such distance as is then required by the zoning ordinance or by-law, if any, of said city or
1268 town for erection of a building on such lot, and if no distance is so required, such frontage shall
1269 be of at least 20 feet.

1270 SECTION 30. Section 81O of said chapter 41, as so appearing, is hereby amended by
1271 striking out the second sentence in the first paragraph and inserting in place thereof the following
1272 sentences:- After the approval of a plan, the location and width of ways, and the number, shape,

1273 and size of the lots shown thereon, may not be changed unless the plan is amended as provided
1274 in section 81W. In the alternative, a planning board may adopt rules and regulations under
1275 sections 81P and 81Q of this chapter defining and regulating such changes as minor
1276 subdivisions.

1277 SECTION 31. Said chapter 41, as so appearing, is hereby amended by striking out
1278 section 81P and inserting in place thereof the following section 81P:-

1279 41:81P. Minor Subdivisions

1280 Section 81P. Applicability: Minor subdivisions, as defined in this chapter, and as may be
1281 further defined in the local subdivision rules and regulations, shall be governed by this section.
1282 Section 81S and the public hearing requirements in section 81T of this chapter shall not apply to
1283 minor subdivisions. Except as provided below, all other sections of the subdivision control law
1284 that apply to subdivisions shall apply to minor subdivisions in so far as apt.

1285 Rules and Regulations, Transition Provision: A planning board may adopt alternative
1286 rules and regulations under section 81Q of this chapter relative to minor subdivisions, but in no
1287 case may such rules and regulations impose a procedural or substantive requirement more
1288 stringent than those specified in this chapter, this section 81P, or contained in the local rules and
1289 regulations otherwise applicable to subdivisions. Until such rules and regulations are adopted,
1290 the procedures in the sixth paragraph below shall apply to minor subdivisions.

1291 Rules and Regulations, Required Provisions: The rules and regulations for minor
1292 subdivisions shall: specify that an application for a minor subdivision may create up to six
1293 additional residential lots within the meaning of the subdivision control law, either on ways
1294 described in the definition of minor subdivision or on new ways; set forth the reasonable

1295 requirements and standards of the board for those existing ways described in the definition of
1296 minor subdivision, provided that no requirements shall be made for the location of such ways
1297 and that requirements for total travelled lanes widths of greater than 22 feet in a residential minor
1298 subdivision shall be presumed to serve no valid purpose of the subdivision control law unless
1299 such widths already exceed 22 feet; set forth the reasonable requirements and standards of the
1300 board for the proposed ways shown on a plan, provided that requirements for total travelled lanes
1301 widths of greater than 22 feet in a residential minor subdivision shall be presumed to serve no
1302 valid purpose of the subdivision control law unless such ways are designed to be extended to
1303 later serve a greater number of residential lots; and establish a time period for the planning board
1304 to take final action and to file with the city or town clerk a certificate of such action within 65
1305 days or less in the case of an existing way, or 95 days or less in the case of a new way.

1306 Rules and Regulations, Optional Provisions: The rules and regulations for minor
1307 subdivisions may: notwithstanding the first paragraph above, require a public hearing under
1308 Section 81T of this chapter for minor subdivisions served by a new way; require that applications
1309 for minor subdivisions from the same lot, tract, or parcel from which the first minor subdivision
1310 was created not create more than the maximum number of additional lots in a set period of years;
1311 lessen or eliminate any requirement of section 81U of this chapter otherwise applicable to
1312 subdivisions; lessen or eliminate any local rule or regulation adopted under section 81Q of this
1313 chapter otherwise applicable to subdivisions; and describe a means by which the planning board
1314 may, by agreement with the applicant, accept payments from the applicant in lieu of otherwise
1315 required improvements to an existing way, provided those improvements are completed by the
1316 city or town in a reasonable period of time.

1317 Rules and Regulations, Optional Provisions Requiring Ratification by Legislative Body:
1318 Subject to ratification by the local legislative body by a simple-majority vote, the rules and
1319 regulations for minor subdivisions may increase the maximum number of additional lots created
1320 in an application for a minor subdivision to a number greater than six and define “minor
1321 subdivision” more broadly than in section 81L of this chapter.

1322 Alternate Procedures for Minor Subdivisions Until Rules and Regulations Adopted: Until
1323 such rules and regulations are adopted, any person wishing to cause to be recorded a plan of land
1324 situated in a city or town in which the subdivision control law is in effect, who believes that his
1325 plan does not require approval under the subdivision control law, may submit his plan to the
1326 planning board of such city or town in the manner prescribed in section 81T, and, if the board
1327 finds that the plan does not require such approval, it shall forthwith, without a public hearing,
1328 endorse thereon or cause to be endorsed thereon by a person authorized by it the words “approval
1329 under the subdivision control law not required” or words of similar import with appropriate name
1330 or names signed thereto, and such endorsement shall be conclusive on all persons. Such
1331 endorsement shall not be withheld unless such plan shows a subdivision. If the board shall
1332 determine that in its opinion the plan requires approval, it shall within 21 days of such submittal,
1333 give written notice of its determination to the clerk of the city or town and the person submitting
1334 the plan, and such person may submit his plan for approval as provided by law and the rules and
1335 regulations of the board, or he may appeal from the determination of the board in the manner
1336 provided in section 81BB. If the board fails to act upon a plan submitted under this section or
1337 fails to notify the clerk of the city or town and the person submitting the plan of its action within
1338 21 days after its submission, it shall be deemed to have determined that approval under the
1339 subdivision control law is not required, and it shall forthwith make such endorsement on said

1340 plan, and on its failure to do so forthwith the city or town clerk shall issue a certificate to the
1341 same effect. The plan bearing such endorsement or the plan and such certificate, as the case may
1342 be, shall be delivered by the planning board, or in case of the certificate, by the city or town
1343 clerk, to the person submitting such plan. The planning board of a city or town which has
1344 authorized any person, other than a majority of the board, to endorse on a plan the approval of
1345 the board or to make any other certificate under the subdivision control law, shall transmit a
1346 written statement to the register of deeds and the recorder of the land court, signed by a majority
1347 of the board, giving the name of the person so authorized.

1348 SECTION 32. Section 81Q of said chapter 41, as so appearing, is hereby amended by
1349 inserting after the fourth sentence thereof the following sentence:- Without limiting the
1350 foregoing, there shall be a rebuttable presumption that such rules and regulations are unlawfully
1351 excessive, to the extent that the design and dimensional requirements thereof for the laying out,
1352 construction or alteration of ways exceed the standards and criteria commonly applied by that
1353 city or town to the reconstruction of its publicly financed ways located in similarly zoned
1354 districts within such city or town. Design and dimensional requirements for total travel lane
1355 widths no greater than 24 feet shall be presumed not to be excessive.

1356 SECTION 33. Said section 81Q of said chapter 41, as so appearing, is hereby amended
1357 by inserting after the word “thereof,” in line 69, the following words:- but the rules and
1358 regulations may require the plan to show a park or parks suitably located for playground,
1359 environmental conservation and education, or recreation purposes benefiting the lots in the
1360 subdivision or for providing light and air, and not exceeding five per cent of the land being
1361 subdivided.

1362 SECTION 34. Section 81T of said chapter 41, as so appearing, is hereby amended by
1363 striking out, in lines 2-3 inclusive, the following words “or for a determination that approval is
1364 not required”.

1365 SECTION 35. Section 81U of said chapter 41, as so appearing, is hereby amended by
1366 striking out, in lines 173-174 inclusive, the words “for a period of not more than three years”.

1367 SECTION 36. Section 81X of said chapter 41, as so appearing, is hereby amended by
1368 striking out, in lines 12-13 inclusive, the following words “such plan bears the endorsement of
1369 the planning board that approval of such plan is not required, as provided in section eighty-one P,
1370 or (3)”.

1371 SECTION 37. Said section 81X of said chapter 41, as so appearing, is hereby amended
1372 by striking out, in lines 17-20 inclusive, the following words “or that it is a plan submitted
1373 pursuant to section eighty-one P and that it has been determined by failure of the planning board
1374 to act thereon within the prescribed time that approval is not required,”.

1375 SECTION 38. Said section 81X of said chapter 41, as so appearing, is hereby amended
1376 by striking out the fourth paragraph and inserting in place thereof the following paragraphs:-

1377 Perimeter Plans: Notwithstanding the foregoing provisions of this section, the register of
1378 deeds shall accept for recording, and the land court shall accept with a petition for registration or
1379 confirmation of title, any plan bearing a professional opinion by a registered professional land
1380 surveyor that the property lines shown are the lines dividing existing ownerships, and the lines of
1381 streets and ways shown are those of public or private streets or ways already established, and that
1382 no new lines for division of existing ownership or for new ways are shown.

1383 Lot Line Changes: The register of deeds and the land court shall accept for recording or
1384 registration any plan showing a change in the line of any lot, tract, or parcel bearing a
1385 professional opinion by a registered professional land surveyor and a certificate by the person or
1386 board charged with the enforcement of the zoning ordinance or by-law of the city or town that
1387 the property lines shown: do not create an additional building lot; do not create, add to, or alter
1388 the lines of a street or way; do not render an existing legal lot or structure illegal; do not render
1389 an existing nonconforming lot or structure more nonconforming; and are not subject to
1390 alternative local rules and regulations for minor subdivisions under section 81P of this chapter.
1391 All such plans, if approved and as recorded, shall forthwith be filed with the planning board and
1392 board of assessors of the city or town. The recording of such plan shall not relieve any owner
1393 from compliance with the provisions of the Subdivision Control Law or of any other applicable
1394 law.

1395 SECTION 39. Section 81BB of said chapter 41, as so appearing, is hereby amended by
1396 striking out the first paragraph, and inserting in place thereof the following paragraph:-

1397 Section 81BB. Any person, whether or not previously a party to the proceedings, or any
1398 municipal officer or board, aggrieved by a decision of a board of appeals under section 81Y, or
1399 by any decision of a planning board concerning a plan of a subdivision of land, or by the failure
1400 of such a board to take final action concerning such a plan within the required time, may appeal
1401 to the superior court for the county in which said land is situated or to the land court; provided,
1402 that such appeal is entered within twenty days after such decision has been recorded in the office
1403 of the city or town clerk or within twenty days after the expiration of the required time as
1404 aforesaid, as the case may be, and notice of such appeal is given to such city or town clerk so as
1405 to be received within such twenty days. Such civil action shall be in the nature of certiorari

1406 pursuant to section 4 of chapter 249. A complaint by a plaintiff challenging a subdivision or
1407 minor subdivision approval under this section shall allege the specific reasons why the
1408 subdivision or minor subdivision fails to satisfy the requirements of the board's rules and
1409 regulations or other applicable law and allege specific facts establishing how the plaintiff is
1410 aggrieved by such decision. A complaint by an applicant challenging a subdivision or minor
1411 subdivision denial or conditioned approval under this section shall similarly allege the specific
1412 reasons why the subdivision or minor subdivision properly satisfies the requirements of the
1413 board's rules and regulations or other applicable law.

1414 SECTION 40. Section 53G of chapter 44 of the General Laws, as appearing in the 2012
1415 Official Edition, is hereby amended by inserting after the letter and number "40B", in line 2, the
1416 following numbers and letters:- 40X

1417 SECTION 41. Section 3A of chapter 185 of the General Laws, as appearing in the 2012
1418 Official Edition, is hereby amended by striking out the third paragraph in its entirety and
1419 inserting in place thereof the following paragraph:-

1420 The permit session shall have original jurisdiction, concurrently with the superior court
1421 department, over civil actions in whole or part: (1) based on or arising out of the appeal of any
1422 municipal, regional, or state permit, order, certificate or approval, or the denial thereof,
1423 concerning the use or development of real property for residential, commercial, or industrial
1424 purposes (or any combination thereof), including without limitation appeals of such permits,
1425 orders, certificates or approvals, or denials thereof, arising under or based on or relating to
1426 chapter 21, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40A to 40C, inclusive,
1427 40R, 41, 43D, 91, 131, 131A, or sections 4 and 5 of chapter 249, or chapter 665 of the acts of

1428 1956; or any local bylaw or ordinance; (2) seeking equitable or declaratory relief designed to
1429 secure or protect the issuance of any municipal, regional, or state permit or approval concerning
1430 the use or development of real property, or challenging the interpretation or application of any
1431 municipal, regional, or state rule, regulation, statute, law, by-law, or ordinance concerning any
1432 permit or approval; (3) claims under section 6F of chapter 231, or for malicious prosecution,
1433 abuse of process, intentional or negligent interference with advantageous relations, or intentional
1434 or negligent interference with contractual relations arising out of, based upon, or relating to the
1435 appeal of any municipal, regional, state permit or approval concerning the use or development of
1436 real property; and (4) any other claims between persons holding any right, title, or interest in land
1437 and any municipal, regional or state board, authority, commission, or public official based on or
1438 arising out of any action taken with respect to any permit or approval concerning the use or
1439 development of real property but in all such cases of claims (1) to (4), inclusive, only if the
1440 underlying project or development, in the case of a development that is residential or a mix of
1441 residential and commercial components, involves either 25 or more dwelling units or the
1442 construction or alteration of 25,000 square feet or more of gross floor area or both or, in the case
1443 of a commercial development, involves the construction or alteration of 25,000 square feet or
1444 more of gross floor area. Industrial development projects and any project in which an industrial
1445 use is a component of a mixed-use project shall not be subject to any such minimum thresholds.

1446 SECTION 42. Said section 3A of said chapter 185, as so appearing, is hereby further
1447 amended by striking out the fourth paragraph in its entirety and inserting in place thereof the
1448 following paragraph:-

1449 Notwithstanding any other general or special law to the contrary, any action not
1450 commenced in the permit session, but within the jurisdiction of the permit session as provided in

1451 this section, shall be transferred to the permit session, upon the filing by any party of a notice
1452 demonstrating compliance with the jurisdictional requirements of this section filed with the court
1453 where the action was originally commenced with a copy to the permit session. Unless the court
1454 where the action was originally commenced receives notice within 10 days from the permit
1455 session that the case to be transferred does not meet the jurisdictional requirements of this
1456 section, the original court shall transfer the case file to the permit session within 20 days of its
1457 receipt of the notice of transfer from the party. In the event the court receives notice of
1458 noncompliance with jurisdictional requirements, the court where the action was originally
1459 commenced shall decide the matter on motion filed by the party claiming noncompliance. If a
1460 party to an action commenced in or transferred to the permit session claims a valid right to a jury
1461 trial, then the action shall be transferred to the superior court for a jury trial.

1462 SECTION 43. Section 14A of chapter 240 of the General Laws, as appearing in the 2012
1463 Official Edition, is hereby amended by inserting after the first paragraph the following
1464 paragraph:-

1465 In any claim challenging the validity of any provision of a zoning ordinance or by-law,
1466 the court shall first determine if the provision challenged is not inconsistent with the city's or
1467 town's master plan if any, provided such plan has been certified by the applicable regional
1468 planning agency to have been prepared and adopted in accordance with section 81D of chapter
1469 41 as such section appears after the effective date of this Act. The court shall also determine
1470 whether the zoning ordinance or by-law is not inconsistent with a local comprehensive plan
1471 certified by the regional planning agency, or was adopted as a regulation to implement a district
1472 of critical planning concern, pursuant to chapter 716 of the Acts of 1989 or chapter 831 of the
1473 Acts of 1977, respectively, as those acts may be amended. If the court determines that the

1474 challenged provision is not inconsistent with the master plan or the local comprehensive plan or
1475 was adopted as a regulation to implement a district of critical planning concern under afore-
1476 mentioned special acts, then such provision shall be deemed to serve a public purpose. A failure
1477 by the court to determine that a provision is not inconsistent or the absence of an adopted master
1478 plan shall not for that reason alone be determinative of whether the challenged provision serves a
1479 public purpose.

1480 SECTION 44. Section 4 of chapter 249 of the General Laws is hereby amended by
1481 striking the second sentence and inserting in its place thereof the following words:-

1482 Except as otherwise provided in section 81BB of Chapter 41, such action shall be
1483 commenced within sixty days next after the proceeding complained of.



September 15, 2015

The Honorable Ann-Margaret Ferrante, House Chair
The Honorable Kathleen O'Connor Ives, Senate Chair
Joint Committee on Community Development and Small Businesses
State House
Boston, Massachusetts 02133

Dear Representative Ferrante, Senator Ives, and Distinguished Committee Members,

On behalf of the cities and towns of the Commonwealth, the Massachusetts Municipal Association appreciates the opportunity to offer comment on S. 122, An Act Promoting the Planning and Development of Sustainable Communities. The MMA's Municipal and Regional Policy Committee completed a careful and extensive evaluation of the bill as written in the previous legislative session [H. 1859], with a focus on the impacts that the proposed changes to zoning and land use law would have, if implemented, on our cities and towns. We appreciate the changes made to the bill refilled as S. 122 for the current session.

Any changes to existing zoning and land use law in Massachusetts will have profound and long-lasting effects on our communities and residents and their quality of life, for generations to come. For this reason, any and all proposed changes demand very careful consideration.

The comments and suggested language changes presented below by topic would strengthen and improve the bill by collectively preserving local authority, grandfathering existing local practices, and in the case of local options, employing an opt-in rather than an opt-out model. The MMA would have very serious reservations regarding S. 122 if these comments and recommended improvements are not incorporated into the bill.

Vested Rights
Sections 6 through 12

The MMA supports the conceptual changes made in the sections pertaining to vested rights. The language may need to be clarified to indicate that the first notice of public hearing is the time to which a property may be subject to subsequently enacted zoning amendments. The MMA suggests a language review to ensure that the changes reflect true improvement over established precedent.

Special Permit Vote and Length
Sections 15 and 16

The MMA supports a language change in Section 15, pertaining to the majority vote required for issuance of a special permit, to make changing the supermajority vote required for a special permit into a local option. As written, a municipality's special permit granting authority would require only a simple majority vote to issue a special permit unless a greater threshold is specified in a local ordinance or by-law. The MMA does not support an automatic change in the threshold that would apply to municipalities without a supermajority specified in a local ordinance or by-law. The MMA supports changing the language in Section 16, regarding the term of special permits, to allow a special permit to be issued for a term of up to 3 years, from a minimum of 3 years as currently written in the bill.

Additionally, any extension of the permit should require notice and a public hearing. If the permit granting authority does not grant an extension within 65 days, the new permit should require a new application, notice, and public hearing.

Site Plan Review

Section 19

The MMA supports this section, regarding site plan review, if modifications are made to avoid onerous evidentiary requirements and time delimited approvals, which are problematic in that a time period of 95 days from the submission of an application may be too short for an adequate review process. The language of this section must be clarified to indicate that an application will not be approved if requirements are not met. Mitigation for directly attributable adverse impacts of a project should extend to nearby properties, and not only those that are adjacent to the development.

Development Impact Fees

Section 20

The MMA supports the statutory authorization of development impact fees, with language changes to this section as currently drafted. The language should clearly authorize studies relative to mitigation impacts to be conducted on a project-by-project basis, by consultants as needed and financed by the project applicant under section 53G of chapter 44. The language proposed in the bill appears to allow a project-responsive fee, but the language should be carefully reviewed to ensure it does so.

Inclusionary Zoning

Section 21

The MMA supports the conceptual objective of this section pertaining to inclusionary zoning, if the language is authorizing in nature and not preemptive of any existing local ordinances to the same effect. It is critically important that saving language for local ordinances or by-laws around inclusionary zoning be included in the bill.

Land Use Dispute Avoidance

Section 22

The MMA supports this section on Land Use Dispute Avoidance as a means to resolve differences prior to formal permit approvals or denials, with suggested minor language changes to ensure consistency with open meeting law and other factors as recommended by the Massachusetts Office of Dispute Resolution.

Notices to Boards of Health

Section 24

The MMA supports this section, regarding notices to Boards of Health, as written. This section would ensure that Boards of Health are notified of zoning hearings.

Consolidated Permitting

Section 25

The MMA supports authorizing language for consolidated permitting, but the section must not be a mandate and should instead be a local option. The threshold for an "eligible project" must be appropriate for all municipalities, and the MMA supports a new definition. Applications should be required to be fully complete in advance of the start of the time period during which the consolidated permitting process may be completed. Further, a 65-day time period as written is too short to accommodate the realities of the coordination required among multiple boards in many cases, and the timeframe should therefore be changed to 90 days (a timeframe that is shorter than the combined timeframes it would take to apply for each permit serially).

We strongly oppose the last sentence in section 3 of the proposed new Chapter 40X [lines 684-686] that would provide for constructive approval of projects.

Planning Ahead for Growth

Section 26

The Planning Ahead for Growth section is a local option, but its objectives would be more broadly advanced by opening up some or all of the planning tools presented as incentives to those municipalities that adopt this section, to all municipalities statewide. Otherwise, municipalities without the capacity to meet the requirements enumerated in this section would fall behind their neighbors in the areas of planning and economic development. The language should include a provision to fund local planning to promote the success of the objectives of this section.

Master Plans

Section 27

This section restructures local master plans, and should be reviewed to ensure that the newly required components of a plan are realistic for a municipality to complete and do not impose an undue burden. The language of Section 27 should be amended to indicate that any master plan in effect at the passage of this act will remain in effect and not be subject to this Act for up to 15 years. Adoption of the master plan, or extension or revision, should be by a two-thirds vote of the legislative body of the municipality. However, a municipality should have the option to change that threshold to a range anywhere between simple majority and a two-thirds majority, by a two-thirds vote majority then in effect, with any change taking effect 6 months after the vote is taken.

Approval Not Required (ANR)

Section 31

The language of this section, as written, includes a presumption that requirements for travel lane widths in excess of 22 feet in a residential minor subdivision serve no valid purpose. The MMA opposes this restriction. That language should be removed from the bill, so that municipalities can continue to set travel lane width standards consistent with contextual design and local needs. These needs may vary from municipality to municipality and cannot be met by a width specified in state statute.

Subdivision Roadway Standards

Section 32

This section, pertaining to subdivision roadway standards, includes language establishing a presumption that design and dimensional requirements for total travel lane widths no greater than 24 feet shall be presumed to be not excessive. The MMA supports striking this language because as previously noted, municipalities must be able to set travel lane width standards based upon local needs, and this language implies that widths greater than 24 feet could be considered excessive.

Parks and Playgrounds

Section 33

The MMA supports this section, regarding parks and playgrounds in subdivisions, as written. This section would allow municipalities to require the designation of up to 5% of the land in new subdivisions for park or playground use.

Appeals

Sections 40 through 42

These sections, which pertain to appeals of an approved subdivision plan, jurisdiction over appeals relating to the development of real property, and the transference of qualified cases to the permit

session of the land court, should be clarified. It is unclear from the language as written what the practical impacts on municipalities would be.

Master Planning Incentive

Section 43

The MMA opposed previous language in this section pertaining to a master planning incentive based on a standard of consistency and supported language that employed a standard that determines if a provision of a challenged zoning ordinance or by-law is not inconsistent with a master plan adopted pursuant to state statute or local charter, by-law or ordinance. If the court determines that a challenged provision is not inconsistent with the municipality's master plan, then the provision shall be deemed to serve a public purpose.

Once again, thank you for your consideration of our comments and recommendations.

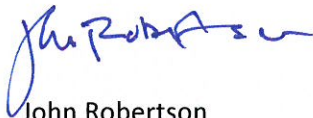
This bill is far-reaching and complex, and proposes enormous changes that would have dramatic and widespread impacts on municipalities and local residents and businesses for generations to come. We strongly urge you to adopt the language changes identified in order to preserve the local control of land use that must remain in place, and ensure that this legislation is balanced enough to protect the character and quality of neighborhoods and communities throughout the state. Local officials and the citizens of

Massachusetts certainly expect all legislation to honor these important principles. We look forward to continuing to work with you on this important process.

Thank you very much for devoting your time and energy to these vitally important policy matters. If you have any questions, please do not hesitate to have your staff contact me at 617-426-7272 at any time.

Again, thank you.

Sincerely,



John Robertson
Legislative Director



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/27/2015

Agenda Item	Siting of Hillside School
Presenter(s)	Dan Gutekanst, Superintendent of Schools Steve Popper, Director of Design & Construction

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
	Dr. Gutekanst and Mr. Popper will update the Board on the votes of the School Committee and PPBC relative to the reconstruction of the Hillside School and ask that the Board endorse the vote of the School Committee to locate the new school at the Central Avenue/Owens Farm site.		
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
	<i>Suggested Motion:</i> That the Board vote to endorse the School Committee vote that the Central Avenue/Owens Farm site is the preferred site for the reconstruction of the Hillside School.		
3.	BACK UP INFORMATION ATTACHED	YES	NO
	a. Hillside School Frequently Asked Questions dated October 19, 2015 b. Hillside School Feasibility Options Matrix with Cost Estimates		

Hillside Elementary School – Feasibility Study
Frequently Asked Questions (FAQ)
10/19/2015

1. What is a Feasibility Study and why is it important?

The Feasibility Study is the first step in the design process for a new school in partnership with the Massachusetts School Building Authority (MSBA). The Feasibility Study includes three stages ending with the Schematic Design and Project Funding Agreement, which becomes the basis for the override vote and the MSBA reimbursement for the project.

2. Where can I find out more information about the Hillside Feasibility Study?

The School Department web site has a page with the most current information:

<http://www.needham.k12.ma.us/>

3. What is the schedule for the project?

A detailed schedule is found on the web site noted above. Key milestones include:

8/25/2014 – Hillside Elementary School Feasibility Study agreement signed by MSBA

11/24/2014 – Owner's Project Manager (OPM) Approved – MSBA agreed to appoint Steven Popper, Director of Design and Construction in the Public Facilities Department – Construction Division (PFD-C) and members of the department as the Hillside Project OPM.

3/10/2015 – Dore & Whittier Architects, Inc. – appointed as the Designers for the Hillside Project.

9/3/2015 – Preliminary Design Program (PDP) the first step in the Feasibility Study -submitted to the MSBA Preferred Schematic Report (PSR) Defined the educational program, analyzed over 20 alternatives and reduced the list to six Options.

12/1/2015 – Preferred Schematic Report (PSR) to be submitted to the MSBA – Will describe the preferred site location for the new school, why it was selected,

1/27/2015 – MSBA Board to review and approve the PSR, authorizing the town to proceed into Schematic Design.

6/10/2016 – Schematic Design Submission to the MSBA – Will include full schematic design drawings of the proposed building, and a reconciled cost estimate. This Cost estimate will then become the basis for the project Funding Agreement with the MSBA, and define the override amount and the MSBA anticipated reimbursement amount.

7/27/2016 – MSBA Board Meeting to review and approve Schematic Design and Project Funding Agreement

November 2016 – Special Town Meeting and Town Election

September 2020 or 2021 – Opening of new school depending upon option selected.

4. What is the preferred site and Why?

After joint meetings on 9/21/15 and 9/28/15 with the PPBC and SC there are two remaining alternatives – Option E1a (a K-5 school at DeFazio) and Option J3 (a K-5 school at Central Ave). A preferred site recommendation will be voted on at the PPBC meeting on 10/19/15, the SC meeting on 10/20/15, with these recommendations discussed at the FinCom meeting on 10/21/15 and the BOS meeting on 10/27/15 to finalize the related warrant articles associated with the project.

5. Did you study a "Green field site" as a base case?

Yes, Dore & Whittier Architects studied over 20 alternatives during the Preliminary Design Program (PDP) stage of the project. Details of each option and the analysis can be found in the PDP document posted on the School Department web-site, noted above. The DeFazio West site was considered by the PPBC to be the closest to a "greenfield" site that could be found within Needham. This site is under the jurisdiction of the School Department in the western corner of DeFazio Park and bounded by the RR tracks, Dedham Ave, and the running track. The estimated total cost to construct a new elementary school at this site is between

\$59.7 and \$59.9 million depending upon the orientation of the school. As noted in the PDP this did not include the replacement of the two existing fields that would be displaced by the school, but could be considered a baseline cost for the new elementary school.

6. Is there a Traffic Study regarding the Central Avenue site?

Yes and the results were presented and discussed at the School Committee meeting on 10/6/15. The Draft Report is posted on the School Department web site.

7. Is the street too busy to add another school?

According to the Draft Traffic Report the site is not too busy to consider locating a school at the site. The consultant recommends several additional improvements to the school design including:

- Designate the area as a School Zone under State and Local statute, and install the appropriate School Zone signs, which will also act as traffic calming devices.
- Improve pedestrian experience along Central Ave, including improving the sidewalks on both sides of the roadway to accommodate safe walk to school; and providing advanced warning signing of school entering and exiting traffic.
- Install ADA accessible crosswalks.
- Reach out to parents via social media to increase safety awareness.

There was discussion about the option of a new traffic light at the intersection of West Street and Central Ave or a flashing light at the new entry drive to the school but this requires further study as in may not be warranted.

8. Is there sufficient sight line distance at the new entrance drive?

Yes the sightlines at the new entry drive meet or exceed the policy standards (see Table 7 on page 28 of the Draft Traffic Report).

9. How will students safely cross Central Ave to get to school?

The improvements noted above will be installed as a part of the project. A traffic crossing guard would direct crossing at the beginning and the end of the day, similar to the Newman School (where about 80% of the students walking to school cross Central Ave or Great Plain Ave at the beginning or end of the school day). Students will cross at one location, with the assistance of a crossing guard to a sidewalk that leads to the front door of the new school.

10. Will the traffic noise level affect learning in the school?

Background traffic noise will have minimal impact to the classroom and other interior spaces of the school. The School will be designed to meet contemporary energy codes. It will have double pane windows and heavily insulated exterior walls. This also acts to minimize the sound entering the school from the exterior. Fresh air will be circulated by the HVAC system, which will be a great improvement over the existing conditions, minimizing the need to open classroom windows, similar to all of the renovated Needham School buildings. The Central Ave School design continues to evolve and the latest plans indicate approximately 150-160 foot distance from the nearest classroom to Central Ave

11. Will the traffic along Central Ave affect the air quality within the school?

No, as noted above the new school will have an HVAC system that will filter, and dehumidify the fresh air supplied to the classrooms. It will not require the under-slab depressurization system that is currently installed in the existing Hillside School.

12. Parking at Hillside today is very limited; does this option have sufficient parking to serve the school?

The current design shows 100 designated car parking spaces in the Central Ave parking lot. This is double the number of available parking spaces within the existing Hillside school lot. The minimum target parking capacity was 90 spaces; precedent zoning for elementary schools in town would seek a capacity of 118 spaces or 1.5 spaces per each full time equivalent (FTE) staff at the school. When there are major evening events the lot could accommodate another 25 or so cars parked parallel to the curb in the pickup lane. The bus loop will also serve as overflow parking for major events but will be accessed from the Central Ave entrance to the site.

13. How would the Central Avenue site accommodate pick-up and drop-off car traffic?

The parking lot layout also allows for a pick-up and drop-off lane that will accommodate about 57 cars. In inclement weather conditions, with double loading of a portion of the pick-up lane 80 cars could be accommodated on site. During the peak pickup period observed in the report only 47 cars were stacked up within the Hillside school lot, and the adjacent streets of Castle Place, McCullough St, and some cars backed up onto West Street. The Central Ave site could be managed so that cars do not back-up onto Central Ave.

14. Can school busses access the Central Ave site down Sunset Road? Is the road big enough?

The road is wide enough to accommodate bus traffic and the new bus turning area on the southern end of the new school site will accommodate all the parked busses during pick-up time. On street parking may need to be limited to one side of the street, or during key times of the day. The geometry is similar to the bus drop off area at the back of Broadmeadow School.

15. How many buses will arrive at Hillside School?

Five Needham buses are used to transport Hillside students each morning and afternoon school day. In addition, 2 day care buses from private after school programs arrive in the afternoon on certain days. These buses could be directed to arrive at off-peak hours and use the Central Ave entrance to the site. The student van drop-off and pick-up area is accessed from Central Ave. The design allows for an added lane designated for vans, so that cars could exit while the vans are parked at the curbside discharging or picking up students.

16. Does the Central Ave School design have enough outdoor play space?

Yes. The outdoor play space at the Central Ave site is about equal to that at the new Hillside School site, Option C3 and exceeds the play space that would be available if the additional properties cannot be purchased at the Hillside School site. The play space is more spread out around the Central Ave School, with play structure and hardscape play area located closest to the cafeteria for mid-day recess and playfields located closer to the gym. The play area meets the physical educational program, and recess requirements for a K-5 school. The upper level hardscape play space will be designed to provide basketball, hop-scotch, four-square, chess and other hard surface play. The space functions as the bus drop-off and pick-up area at the beginning and end of the school day, but would be gated during the school day and after school hours to serve as a safe play space. The lower play space is accessed from the gymnasium level, and would include a kindergarten playground, hardscape play area and green field. While not large enough to accommodate a regulation soccer field or baseball diamond, the field would be about 25 yards x 50 yards plus additional play space around the school. The field is larger than U6 and U8 regulation soccer fields but slightly smaller than U10 youth soccer field size.

17. How does the outdoor play space at Central Ave compare to the Hillside option?

The outdoor play space at the Central Ave site in total area is about equal to that at the new Hillside School site, Option C3. It would have separate Kindergarten and upper grade playgrounds as noted above.

18. What is the status of land acquisition for the Central Ave site?

The negotiations are positive, and the Town Manager anticipates having details of the Purchase and Sale agreement available prior to the November Special Town Meeting.

19. Will the new school at Central Ave be built above the flood plain?

Yes, the Central Ave School would be built approximately five feet above the flood plain. .

20. Will the Town of Needham be able to get flood insurance for the new school?

Yes, but the town would not be required to purchase flood insurance because the new building would be constructed outside the FEMA flood plain.

21. Will a new school at this site cause flooding to the neighbors?

No, any new construction would balance any filled land with an equal volume of cut area, so that it would not have any change regarding flooding within this zone.

22. Will the Central Ave site be a walkable school? How does it compare to the current Hillside school?

The projection is that 25% of the students will be within the ¾ mile walking distance to the new Central Ave School. The Existing Hillside site has about 30% of the students within this walking zone.

23. Is the Central Ave site affected by the MDL contamination found at the Hillside School?

No, the reactive barrier that was installed by the state at the Central Ave Rosemary Brook Bridge has been effective in stopping the contamination from reaching this area. The reactive barrier was installed to protect the Wellesley Water supply. Those fresh water wells and pump station are on the far side of the wetlands, and the DEP has ground water monitoring wells with years of acceptable test results in the area.

24. Are there other contamination issues with this site?

There are no contamination issues to our knowledge, according to desk-top research. A Phase 1 Environmental Study has been undertaken as a component of the consultant's work, as required by the MSBA. In the Geotechnical and Geoenvironmental Suitability Assessment report that was included in Appendix X.10 of the PDP the consultant indicated that "No evidence of a release of oil or hazardous material to soil such as stained or discolored soil or chemical odors was observe(d) in the test borings samples. During a site walk we did not observe any drums or pails at the ground surface or any stained or discolored surface soils." They concluded that "There are no known Geoenvironmental concerns at 585 Central Ave." Further testing of soils and ground water will be done during the next phase of study if this is selected as a preferred site.

Hillside School –Option C3 – Questions:

25. The existing Hillside School is being monitored for contamination from an industrial spill that happened twenty years ago. Does this affect the design of a new school on the site?

Yes if a new school were built on the Hillside site, the excavated soils would need to be tested for contamination and then treated and/or removed from the site. Dewatering during construction would require monitoring and treatment of the groundwater. The ground floor of the new building would require a waterproof membrane below the floor with a sub-slab depressurization system with fans to vent any contaminated air before it entered the building. This would affect the cost and schedule for construction as well as the on-going operational cost of continued monitoring and maintenance of the systems.

26. The program for the new Hillside school is about twice as big as the existing school. Can the new school fit on the existing site?

The site has many constraints, and Option C demonstrated that the full program of school and parking can not fit on the existing site without extending into the riverfront and wetland buffer zones and large (very high) retaining walls which would allow the building and parking to push into the hillside area. The parking area is required to double in size to meet the current needs and the zoning requirements of the new school. As a result of the Option C study the Town proposed the acquisition of portions of three adjacent parcels of land, as was shown in Option C3. Multiple alternative geometries were explored, as shown in the PDP document. A new building on the existing site would require compromises in the site amenities such as limited parking or reduced play space, or consideration of a four story elementary school. Additionally the tall retaining walls may limit daylight to some of the educational spaces and outdoor play areas. Option C3 has been removed from consideration due to one of the three abutting property owners unwillingness to sell a portion of their property to the town. While it might be possible to take the land by eminent domain, this would likely add at least another year to the project schedule making the C3 option a seven year or more project. With the addition of the project schedule there would be additional cost due to escalation as well as potential legal fees

27. Has the Town of Needham been successful in negotiations to acquire key portions of the three abutting parcels F, G & H?

No, not all of the properties are available for purchase. There is no guarantee on the timing or cost of these parcels that could be presented to November 2015 Special Town Meeting. This would likely delay the project for at least another year, and add legal and other costs to the project.

28. Is the use of Eminent Domain an option to acquire these parcels?

Yes, but this would require Town Meeting vote, and would likely delay the project beyond the current projected 2021 school opening date by a minimum of a year

29. Are these parcels also affected by the groundwater contamination from the MDL spill?

Yes.

30. Does this Option require swing space?

Yes, the Hillside site is too small to accommodate temporary modular classrooms on the site during the construction period. Swing space would need to be constructed at the DeFazio site and the Hillside students would need to be bussed to DeFazio during the two year construction period.

31. Could this swing space be used for other future projects?

Yes, the modular classrooms could be used for the future Mitchell Elementary School and Pollard Middle School renovation projects, but there is no guarantee that these projects would follow in rapid succession after the Hillside project.

32. The Hillside School site is boarded by wetlands; does this affect the new building design?

Yes, in addition to the wetland buffers there is also a riverfront setback. These buffer zones and setback areas affect the placement and design of the parking lot, playing fields and the building on the site.

33. If one of the other options is selected for the new Elementary School, what will happen to the existing school?

The 2014 Facilities Master Plan anticipates that the building will be used for swing space for future town and school projects.

DeFazio Elementary School – Questions:

34. Would a new School at DeFazio Park require redistricting?

Yes, those redistricting maps are included in the 9/21/15 presentation that is posted on the School Department web site.

35. What other districts are affected if this is the preferred option?

All Districts would be affected but mainly the Hillside and Newman districts.

36. Is this a “neighborhood” walkable school?

No, the DeFazio site is the least walk-able location of those considered. Because it is located on the periphery of the current Broadmeadow School district and surrounded to the east by open space, the neighborhoods that are within the ¾-mile walking distance represent only 20% of the students that would be attending the school.

37. Would this school impact the use of the DeFazio Park fields?

There are both positive and negative impacts on the DeFazio fields. The positive impacts include:

- A newly paved parking lot to serve the school and the fields.
- A relocated tot-lot and playground would be constructed near the school
- The school gym, cafeteria and other spaces could be used by summer programs in conjunction with the playing fields

The negative impacts include:

- The JV baseball field would be taken out of action for two years and used for construction staging, and it would take a third year to rebuild the baseball field and regrow the grass. The cost of replacing the ball field has not been included in the project cost.
- The school does not have a designated playfield for PE
- The new parking lot would be larger than the new school requires in order to serve both functions. The extra site development costs would not be reimbursable by the MSBA.
- The parking area would include approximately 160 parking spaces however 90 – 100 spaces will be designated for school use only during school hours
- The limited walking district would likely increase car traffic and bussing to the school
- High School sports and other field use will need to stagger their start times to avoid on site traffic circulation concerns as well as traffic congestion on Dedham Ave and to assure that walkers have exited the property.
- The school would displace some DPW functions that would need to be relocated to an alternate site as was studied in the 2014 Facilities Master Plan. The cost of this relocation has not been factored into the project cost

38. What are the benefits for having a school at this site?

The new school would be surrounded by open space and playing fields and as with the Central Ave or High Rock sites there is an opportunity to include the wetlands in the educational program. A school on this site does not require swing space to be constructed.

39. Would a school at DeFazio impact the ongoing DPW operations?

Yes the materials handling area, and outdoor storage spaces would need to be relocated to another site that has not yet been determined. The old salt shed would need to be demolished to make way for the new school and associated parking. DPW parking area would be reduced, and a large vehicle turn around area would need to be located on the south side of the site

40. Could the DPW expand on the current site if a school were constructed at the DeFazio parking lot area?

No the DPW expansion would need to go to an alternate site as studied in the 2014 Facilities Master Plan.

High Rock School – Questions

41. Does the Hillside Elementary School Program fit into the High Rock School?

The MSBA design enrollment of 430 elementary school students including full day kindergarten will not fit into the existing High Rock School without major renovations including expanding existing classrooms to accommodate the kindergarten program, and providing a multi classroom addition. Despite these additions and renovations the existing cafeteria and gymnasium would remain undersized for the population (based on MSBA guidelines) and would be difficult to expand.

42. What is missing from the Elementary School program if Option H3 is constructed?

A full description of the High Rock deficiencies is outlined in the PDP which can be found on the school website. In general the existing classrooms are under sized per MSBA guidelines, the ability to provide well dispersed and inclusionary special educations classrooms and spaces is limited by the existing conditions, the existing gym is approximately 50% smaller than the MSBA guidelines, and the existing cafeteria is too small to provide the suggested two lunch periods outlined in the MSBA guidelines.

43. Is this a walkable neighborhood school location?

The school is a neighborhood school and provides the opportunity for approximately 40% of the students to walk to school (based on the GIS mapping provided by the Town).

44. Would the existing fields be impacted by the new school?

No, the current design does not impact the existing fields.

45. Would the number of Buses increase or decrease if the school were turned into an Elementary School?

The number of busses would decrease by about half if the High Rock School were converted to an elementary school.

46. Would any of the High Rock Elementary School renovation costs be reimbursed by the MSBA?

It is not likely that the MSBA would participate in both the construction of a new Grade 6 school and the renovations of the existing High Rock School. In the MSBA response to the PDP they indicated that "...the MSBA will likely limit reimbursement to the school identified as the proposed project."

47. Can we easily expand the school in the future, to accommodate additional enrollment growth?

There is flexibility for enrollment growth incorporated into the current Educational Program. The Certified enrollment agreed with the MSBA for the new elementary school is 430 students. The space program for the school uses the low end of the classrooms size recommended by the district to determine that four classrooms are required for each grade level. The district policy allows for up to an additional 4 students per class. This means that the new school could accommodate additional enrollment growth of up to 96 students and still remain within the district policy for class size. Future additions to the building may be possible at the DeFazio and Central Ave sites, but more difficult at Hillside or High Rock. The complexity of this equation relates to the increase in area for core facilities, like the cafeteria and kitchen as well as classrooms.

Enrollment will be reevaluated when the Mitchell Elementary School project moves forward and future growth must be considered at that time. Also, the Hillside Site could be held as a reserve location for a future school, after it has functioned as swing space.

48. What are the projections for enrollment growth?

The Future School Needs enrollment study is updated each year and is available on the School Department web site.

49. What about swing space?

a. Does this project require swing space?

Any project on the existing site (all Options starting with A, B or C) will require swing space. The remaining options do not require temporary swing space.

b. What will happen to the existing Hillside school?

The Hillside School could be used as swing space for future town projects as noted in the 2014 Facilities Master Plan.

c. How long can the existing Hillside school be utilized, as swing space or as a school, given its present condition?

The existing school will continue to receive Capital Improvements to assure that it can be utilized.

d. Will the Hillside continue to be maintained, during the construction period?

Yes

e. Does it make sense to build swing space as part of the project now, to facilitate projects down the road?

The costs of the swing space will not be reimbursed by the MSBA. While the swing space will have residual value there is no guarantee that the Mitchell School and Pollard School projects will follow immediately after the Hillside School project. Therefore they could sit unused waiting for MSBA and Town approval of the next project.

50. What are the relative project costs?

These are outlined in the PDP as well in the Public Presentations. Details can be found on the School Department web site noted above.

51. What is the MSBA's general process and timeline for building a school?

Time lines and project target dates are outlined in the PDP Project Schedule for the Hillside School. The MSBA also provides information on their web site under the topic of "Building with Us" which can be found using the following link: <http://www.massschoolbuildings.org/building>

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WEIGHT
30

1. Education
- 1.1 Satisfies the Space Program
 - 1.2 Satisfies the Spatial Relationships
 - 1.3 Satisfies the Guiding Principles for Design
 - 1.4 Satisfies the MSBA Design Enrollment
 - 1.5 Satisfies Long Range Educational Goals (50 Years)
 - 1.6 Impact to Students During Construction
 - 1.7 Solar Orientation

Raw Score		30	26	30	33
Weighted Score		23	26	26	28

- 10 2a. Site Location
- 2a.1 Redistricting

Raw Score		5	1	5	5
Weighted Score		10	2	10	10

- 10 2. Site Location
- 2.1 Transportation / Ability for Students to Walk School
 - 2.2 Swing Space Requirements
 - 2.3 Building Scale to Site
 - 2.4 Permitting (time, difficulty)
 - 2.5 Requires Additional Land Acquisition
 - 2.6 Environmental Factors

Raw Score		14	24	24	20.5
Weighted Score		5	8	8	7

- 10 3. Site Circulation / Traffic Impact
- 3.1 Separation of Cars & Bus
 - 3.2 Dedicated Delivery Area
 - 3.3 Achieved Parking Needs (min = 90 / target 118)
 - 3.4 Meets needs for Event Parking (off street parking not anticipated)
 - 3.5 Provides Sufficient Space for Parent Queue
 - 3.6 Impact on Town Operations
 - 3.7 Off -site Traffic Impact

Raw Score		26	29	29	31
Weighted Score		7	8	8	9

- 10 4. Site Amenities
- 4.1 Provides Outdoor Play Fields / Area
 - 4.2 Does not Reduce the Total Number of Fields in the District
 - 4.3 Provides an Opportunity / Location for a Hardscape Play Area
 - 4.4 Provides Area for Age-appropriate Play Structure(s)

Raw Score		15	19	19	18
Weighted Score		8	10	10	9
SUB-TOTALS		53	54	62	63
				57	

Option C3	Option E1A	Option E2A	Option H3	Option J3
New 3 Story School on Hillside Site + Parcels F, G, H (option cost includes swing space)	New ES School @ DeFazio East	New G6 School @ DeFazio East (option cost includes one of the H options)	Add / Reno Plan for ES @ High Rock, Detention Area - Existing Gym & Café to Remain	New ES School @ Central Ave
5	5	5	4	5
5	5	5	3	5
4	4	4	3	4.5
5	5	5	5	5
5	5	5	4	5
2	4	4	4	5
1	2	2	3	3.5
27	30	30	26	33
23	26	26	22	28
5	1	5	3	5
5	1	5	3	5
10	2	10	6	10
4	2	2	5	3
1	5	5	5	5
3	4	4	4	4
3	4	4	2	4.5
2	5	5	5	1
1	4	4	4	3
14	24	24	25	20.5
5	8	8	8	7
3	4	4	4	5
3	5	5	3	4
5	5	5	3	5
3	5	5	2	4
5	5	5	4	5
3	2	2	5	5
4	3	3	4	3
26	29	29	25	31
7	8	8	7	9
3	5	5	4	3
3	4	4	5	5
4	5	5	5	5
5	5	5	4	5
15	19	19	18	18
8	10	10	9	9
53	54	62	52	63
		57		

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WEIGHT		Option C3	Option E1A	Option E2A	Option H3	Option J3
30	5. Estimated Cost - Order of Magnitude	New 3 Story School on Hillside Site + Parcels F, G, H (option cost includes swing space)	New ES School @ Defazio East	New G6 School @ Defazio East (option cost includes one of the H options)	Add / Reno Plan for ES @ High Rock, Detention Area - Existing Gym & Cafe to Remain	New ES School @ Central Ave
	5.1 Estimated Total Project Cost	\$ 86,500,000	\$ 61,000,000	\$ 66,800,000 \$ 14,800,000 \$81,600,000		\$ 62,000,000
	Notes	includes modular building @ Defazio, moving to and from but NOT	Does not include replacement of fields	Does not include replacement of fields Includes Option H3		Does not include cost of property
	Score	1	5	2		4
	5.2 Estimated Total Construction Cost	\$ 46,812,000	\$ 43,549,000	\$ 47,678,000 \$ 9,830,000		\$ 44,283,743
	Score	3	5	2		4
	5.3 Modular School Cont / Phasing / Move / Add Transportation	\$ 19,878,000	\$ 125,000	\$ 14,919,000 \$ 125,000		\$ 125,000
	Score	4	5	3		5
	5.4 Residual Value / Cost	modulars @ Defazio	maintain Hillside School	maintain Hillside School		maintain Hillside School
	Score	4	2	2		2
	5.5 Estimated Cost to Town	66,500,000 - 69,800,000	42,900,000 - 45,900,000	72,000,000 - 76,100,000		43,600,000 - 46,700,000
	Score	2	5	1		4
	5.6 Time to Completion (Phases Required)	6 years	5 years	5 years 6 years		5 years
	Score	3	5	4		5
	Raw Score	17	27	14	0	24
	Weighted Score	17	27	14		24
	GRAND TOTALS	70	81	76	66	87
				71		
	FINAL RANKINGS	4	2	3		1



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/27/2015

Agenda Item	RTS Rate Setting Hearing & Solid Waste Disposal & Recycling Advisory Committee Update
Presenter(s)	Jeffrey Heller, Chair Solid Waste Disposal & Recycling Advisory Committee David Davison, Assistant Town Manager/Director of Finance Rick Merson, Director of Public Works Greg Smith, Solid Waste Superintendent

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
The Board will conduct a public hearing to change certain RTS rental and snow dump fees. The Board will hear from the Committee and staff about the recommended changes. The Solid Waste Disposal & Recycling Advisory Committee will advise the Board about its activities and perspective on RTS operations.			
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
Suggested Motion: That the Board approved the proposed rate changes to become effective November 1, 2015.			
3.	BACK UP INFORMATION ATTACHED	YES	NO
a. Memo to the Board of Selectmen from David Davison dated October 23, 2015.			

Memorandum

To: Board of Selectmen
From: David Davison, Assistant Town Manager/Director of Finance
CC: Solid Waste Disposal/Recycling Advisory Committee, Kate Fitzpatrick,
Town Manager; Evelyn Poness, Treasurer/Collector; Rick Merson,
Director of Public Works; Greg Smith, Superintendent of Solid
Waste/Recycling
Date: October 23, 2015
Re: RTS Rate Proposal

Attached is the Recycling and Transfer Station list of rate change recommendations. A public hearing has been scheduled for the Board's meeting on Tuesday, October 27, 2015. The Solid Waste Disposal/Recycling Committee and Town staff will discuss the recommendations with the Board in advance of public comment. The recommendation is to hold all general waste disposal rates (bags, scale, single items) flat for FY2016. We also recommend that the Hauler Sticker fee not be changed and remain at \$125 per year. We recommend that the Trommel screening machine rental fees and snow dump fees be increased. Neither fee has been increased in a number of years nor do the current rates reflect the increased costs associated with the activity.

We have done research on the market rates for the two services and determined that the Town can increase the fee for the snow dump and rental of the Trommel screener without having a noticeable impact on demand. We also reviewed cost, and know that the current delivery and pickup charge for the Trommel screener and the fee structure for the snow dump are insufficient based on cost. Therefore, we are certain that the recommended changes are necessary and prudent. Although the percent change may seem high, it is because the current rates have not been updated recently and are too low now.

The Superintendent of Solid Waste/Recycling presented an overview and discussed the reasons for adjusting the rates with Solid Waste Disposal/Recycling Advisory Committee at its May 19, 2015 and again at the

September 15, 2015 meeting. The Committee voted to support and recommend the rate increases to both the rental and snow dump fees to the Board of Selectmen. Should the Board approve the rate changes, I propose that the new rates be effective November 1, 2015.

We will be at your meeting along with members of the Committee to discuss the recommendations and to answer questions you may have. Please do not hesitate to contact me if you have any questions before hand.

Attachments:
Rate Change Recommendations
Legal Notice
Standard RTS Rates
Standard RTS Sticker Application
RTS Informational Flyer

Town of Needham
Rate Change Recommendations
Board of Selectmen Public Hearing

Description	Current	Proposed	\$ Change	% Change
Trommel Sceener Rental (weekly)	\$1,850.00	\$2,500.00	\$650.00	35.1%
Trommel Delivery and Pickup	\$150.00	\$200.00	\$50.00	33.3%
Snow Dump Fee 4 Hour Shift	\$1,000.00	\$1,200.00	\$200.00	20.0%
Snow Dump Fee 8 Hour Shift	\$2,000.00	\$2,400.00	\$400.00	20.0%

LEGAL NOTICE
Town of Needham
Board of Selectmen
Public Hearing - RTS Rates

The Needham Board of Selectmen will hold a public hearing on Tuesday, October 27, 2015 at 8:00 p.m. at Town Hall in the Selectmen's Chambers room. The purpose of the hearing will be to provide the public with an opportunity to comment on proposed recycling and transfer station user fees.

All interested persons and/or parties wishing to be heard will be afforded an opportunity to comment at this time. In addition, written comments may be sent to the Board of Selectmen, Town Hall, 1471 Highland Avenue, Needham, MA 02492 or email: selectmen@needhamma.gov

Board of Selectmen
October 22, 2015

Town of Needham
Standard RTS Rates

Description	Rate
RTS Sticker Fees	
Standard Sticker	No Charge
Standard Sticker Senior	No Charge
Standard Additional Sticker	No Charge
Hauler Sticker (annual)	\$125.00
RTS Week Pass Program	No Charge
Bag Rates	
Large Bag 30 Gallon (pack of 10)	\$19.00
Small Bag 15 Gallon (pack of 10)	\$10.50
Scale Rate	
Per Ton	\$140.00
Minimum Scale	\$25.00
Miscellaneous Rates	
Air Conditioners	\$15.00
Appliances (White Goods)	\$15.00
Carpet 10x10	\$10.00
Computer Monitor	\$15.00
Fluorescent Lamps	Charge for ten or more
Freon	\$15.00
Furniture - Chair	\$10.00
Furniture - Sleep Sofa	\$20.00
Furniture - Sofa	\$15.00
Box Spring or Mattress	\$15.00
Propane Tank 20lb or less	\$5.00
Recycling Bin	\$5.00
Single Large Size Item	\$15.00
Single Medium Size Item	\$10.00
Single Small Size Item	\$5.00
Tires - Vehicle Auto	\$5.00
Tires - Vehicle Truck	\$10.00
Toilet and Sinks (Porcelain)	\$15.00
TV	\$15.00

**Town of Needham
Standard RTS Rates**

Description	Rate
Yard Waste Processing Equipment Rental	
Trommel Screener Rental (weekly)	\$1,850.00
Trommel Delivery and Pickup	\$150.00
Wood Grinder Rental (1/2 day)	\$580.00
Wood Grinder Rental (full day)	\$1,160.00
Wood Grinder Transportation	\$125.00
Snow Dump Rates	
Snow Dump Fee 4 Hour Shift	\$1,000.00
Snow Dump Fee 8 Hour Shift	\$2,000.00
Commercial Yard Waste Disposal*	
Brush, 12" less in diameter (CY)	\$15.00
Leaves / Grass (CY)	\$10.00
Brush, 12" less in diameter (TON)	\$60.00
Leaves / Grass (TON)	\$50.00
Wood Chips (TON)	\$7.50
Compost & Loam for Sale*	
Compost (30 gallon barrel)	\$2.00
Compost (CY)	\$12.00
Loam (30 gallon barrel)	\$2.50
Loam (CY) - Residential	\$16.00
Loam (CY) - Commercial	\$16.28
Clean Fill	No Charge for large quantity



Town of Needham

Application for Standard (Residential) Recycling & Transfer Station (RTS) Sticker



RTS Location: 1421 Central Ave, Needham
Website: www.needhamma.gov/RTS
Phone: 781-455-7568

Stickers must be permanently affixed to the lower driver-side windshield.

RTS staff will remove old stickers upon request.

A separate RTS sticker is required for each vehicle that will enter the RTS. You must list the license plate number for each vehicle in the section below. Stickers will not be provided without this information.

TO OBTAIN STICKER:

In Person: Bring this completed Application Form to the Town Hall -Treasurer's Office, 1471 Highland Ave, Monday - Friday, 8:30 a.m. – 5:00 p.m.

By Mail: Send the following to Town of Needham, Treasurer's Office, PO Box 920636, Needham, MA 02492.

1. Completed Application Form
2. Stamped self-addressed envelope - *Omission of this may delay processing of your application and timely receipt of your sticker(s).*

Detach at perforation and return completed application form below

Print name and address

Name _____

Address _____

Needham, MA 0249 _____

VEHICLE #1 - PLATE# _____ State _____

VEHICLE #2 - PLATE# _____ State _____

VEHICLE #3 - PLATE# _____ State _____

VEHICLE #4 - PLATE# _____ State _____

I certify that the information provided above is true.

Signature

Indicate stickers requested

- ☐ Standard Sticker
☐ Standard Senior Sticker (65+)
☐ Additional Sticker(s) _____ (how many)

OFFICIAL USE ONLY

#1 _____
#2 _____
#3 _____
#4 _____

Date: _____

Town of Needham

P.O. Box 920636
Needham, MA 02492



RTS Sticker Fees (as of April 1, 2015)

2015 Standard Sticker	FREE
2015 Standard Sticker Senior (65+)	FREE
2015 Additional Standard Sticker	FREE
Replacement Sticker	FREE
Lost Sticker	FREE
RTS Week Pass	FREE

2015 Hauler/Commercial Sticker \$125.00 (no sticker discount is available for haulers)

Yellow Pay-Per-Throw Trash Bags

Bag are sold at the following Needham retailers:

Harvey's Hardware, Roche Brothers Supermarket, Sudbury Farms Supermarket, Taylor's Stationery, Tedeschi Food Shop, Walgreens Drug Store, and Town Hall.

Bag prices:

Large Bags (30 gallon)	\$1.90/bag (or \$19.00 per package of 10)
Small Bags (15 gallon)	\$1.05/bag (or \$10.50 per package of 10)

Per Ton Rate

Scale Rate	\$140.00/ton
Minimum Scale Rate	\$ 25.00

Per Item Rates

Air Conditioners	\$15.00 each	Box Spring or Mattress	\$15.00 each
Appliances (White Goods)	\$15.00 each	Propane Tank 20lb or less	\$ 5.00 each
Carpet 10x10	\$10.00 each	Single Large Size Item	\$15.00 each
Computer Monitor	\$15.00 each	Single Medium Size Item	\$10.00 each
Fluorescent Lamp	N/C (10 or less)	Single Small Size Item	\$ 5.00 each
Freon	\$15.00 each	Tires – Vehicle Auto	\$ 5.00 each
Furniture – Chair	\$10.00 each	Tires – Vehicle Truck	\$10.00 each
Furniture – Sleep Sofa	\$20.00 each	Toilets and Sinks (Porcelain)	\$15.00 each
Furniture – Sofa	\$15.00 each	Televisions	\$15.00 each

For Further Information

About Obtaining Stickers:

Contact the Treasurer's Office
781-455-7500, Ext. 212.

About the Recycling & Transfer Station

www.needhamma.gov/RTS
781-455-7568
1421 Central Ave, Needham

MAIN DROP-OFF AREA



Mixed Paper

- What to recycle**
- Newspapers and inserts
 - Magazines and catalogs
 - Paperboard Boxes - cereal, pasta, toiletries, office supplies
 - Shredded paper
 - Brochures and fliers
 - File folders and manila envelopes
 - Telephone books and soft cover books
 - Spiral notebooks (remove cover if not cardboard)
 - Wrapping paper
 - Paper bags
 - Junk mail

It's okay to include:

- Paper clips and fasteners
- Staples and clasps
- Plastic windows
- Self-stick labels and tape
- Metal spirals

Please don't recycle:

- ✗ Candy wrappers
- ✗ Mailing envelopes with bubble wrap
- ✗ Metallic or foil wrapping paper, ribbons, bows
- ✗ Tyvek mailing envelopes
- ✗ Paper towels, napkins, tissues
- ✗ Paper cups or plates
- ✗ Soiled paper



Containers Plastic, Glass, Metal, Cartons

- Plastic**
- ALL plastic bottles, jars, tubs and lids. You no longer need to look for a number on the bottom.
 - Plastic take-out cups and lids
 - Plastic caps can be recycled by leaving on bottles.
 - Rigid flower pots - clean
- Glass**
- Bottles/jars (any color)
- Metal**
- Clean metal cans and lids (tin/steel/aluminum, empty aerosol)
 - Aluminum plates, trays, and foil

Cartons

- Milk and juice cartons: juice boxes, aseptic cartons

How to prepare:

- Rinse clean of food debris
- Leave lids, rings and labels on

Please don't recycle:

- ✗ Styrofoam
- ✗ Plastic bags (return to store)
- ✗ Ceramics, porcelain, china, or opaque glass
- ✗ Pyrex or window glass
- ✗ Drinking glasses, bowls, mugs, pots and pans
- ✗ Light bulbs
- ✗ Containers for hazardous material, such as motor oil.
- ✗ Straws, plastic utensils



Corrugated Cardboard

What to recycle

- Any corrugated cardboard box
- Moving boxes

How to prepare:

- Must be flattened
- Tape may be left on

Please don't recycle:

- ✗ Wax-coated cardboard

Residual Materials (trash)

How to dispose of trash

- Non-recyclable trash must be placed in yellow Pay-as-you-throw (PAYT) bags.
- Items too big to fit in a yellow bag or large quantities can be disposed of as bulky waste or clean-outs.

BULKY ITEMS & CLEAN-OUTS

Payment is by check or credit card only.
Please have RTS sticker # ready.

Bulky Items See back panel for prices

Oversized non-metal items such as: Carpeting, broken furniture, mattresses, couches, tables

Clean-outs

\$140/ton - \$25 minimum

YARD WASTE

Also open Sundays in November from 12 p.m. - 4 p.m.
for leaves only, check website for dates.

Leaves, Grass Clippings & other rakeable items Brush & Branches

- Brush must be placed in separate area from leaves and grass.
- Please empty leaves and grass clippings out of paper or plastic bags.
- Paper yard waste bags may be composted.

For more information: www.needhamma.gov/RTS

ADDITIONAL MATERIALS

\$ Fee schedule on back

EAST AREA (near RTS entrance)

Household Items - No charge

- Small household items in good working condition may be donated at the Goodwill trailer.

Rigid Plastics - No charge

- Hard plastic items such as laundry baskets, lawn furniture, plastic barrels and totes, kiddie pools and sand boxes, 5-gallon pails, plastic toys, pet carriers, milk crates, flower pots, etc.

Paint - No charge

On Paint Collection Day Only - third Saturday of the month
April - October.

- See back panel for details or www.needhamma.gov/RTS.

NORTH AREA (near Transfer Station Building)

Computer Monitors - \$\$

- CRTs and flat screens

Electronics - No charge

- Printers, fax machines, receivers, VCRs
- Cables & cords
- Speakers are mostly wood or plastic and should be disposed of with regular trash.

- There is a fee for computer monitors and TVs.

Fluorescent Lamps (all sizes and shapes) - 10 item limit/visit

- Straight, round and U-shaped fluorescent lamps, and all types of compact fluorescent lamps (CFLs)
- ✗ Disposed of the following with regular trash: Incandescent, LED and halogen bulbs.

Medical Sharps - No charge

- Place in rigid plastic container and seal lid with tape.

Mercury Containing Devices - No charge

- Thermometers, thermostats, mercury switches, elemental mercury, and other mercury containing devices.

Printer, fax and copier cartridges - No charge

- Any type of printer, fax, or copier cartridge

Propane Tanks - \$\$

- 20 gallon and small camping propane tanks.

Scrap Metal - No charge

- Any metal item that is more than 75% metal
- Yard and garden equipment (gasoline and oil must be removed from lawn mowers, snow blowers, etc.)
- Electrical cords and cables (including xmas tree light wires)
- Metal desks, file cabinets, wire hangers, bikes, aluminum doors and window frames, other metal pieces

TVs - \$\$

- TVs - Any size

Tires - \$\$

- Automobile and truck tires.

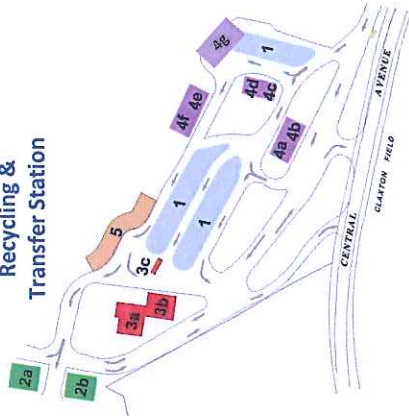
The Re-Use-It Swap Shop is a volunteer-run area where residents can 'give and take' items that are in good working order. All items are free, and you do not need to donate an item to take one.

- Household items in good working condition only.
- All items must be approved by volunteers before being dropped off.

- Go to www.needhamma.gov/swapshop for details.

- Volunteers are needed. Contact RTS@needhamma.gov

Needham's Recycling & Transfer Station



1 Main Drop-off Area

- Yard Waste**
- a. Leaves, grass and rakeable items
 - b. Brush and branches

2 Main Office, Bulky Items & Clean-outs

- a. Main Office and Fee Station
- b. Bulky Items and Clean-outs
- c. Scale

3 East Area Reuse & Recycling

- a. Re-use-it Swap Shop
- b. Paint Shed
- c. Deposit Bottles and Cans
- d. Motor Oil and Antifreeze
- e. Books
- f. Clothing and Small Household Items for donation
- g. Rigid Plastic

4 North Area Recycling & Safe Disposal

CRT's, Tires, Mattresses, Scrap Metal & Mercury Bearing Items

5 Recycling Bins\$5

Available at Main RTS office or DPW

Compost Bins\$65

Available at Main RTS office

Paint Collection Days

3rd Saturday of the month, April – Oct

Oil and Alkyd-Based Paints & Stains

- Oil and alkyd based paints are a hazardous product and, when liquid, should not be disposed of with household trash – Bring to Paint Collection Days.
- Cans with dried out or almost dried out paints and stains should be disposed of in yellow trash bags.
- Recycle empty metal cans in scrap metal.

Latex Paints & Stains

- Latex paint is not hazardous. Whenever possible, latex paint should be DRIED OUT and disposed of with household trash. Leave lid off until dry, or mix with 'latex waste paint hardener' or kitty litter and dispose of in yellow trash bags.
- Full and almost full cans of liquid latex paint are accepted on Paint Collection Saturdays only.
- Pick up at paint shed during regular RTS hours.

FREE PAINT

Needham's Recycling & Transfer Station



Transfer Station

1421 Central Ave

Needham, MA 02492

781-455-7568

www.needhamma.gov/RTS

Check website for days & hours

Open for Leaves Only on:

Sundays in November 12:00 p.m. – 4:00 p.m.

Closed on the following Holidays:

New Year's Day, Independence Day, Veterans Day
Thanksgiving Day, Christmas Day
Close at noon Christmas Eve

Re-Use-it Swap Shop

7:30 a.m. – 3:00 p.m., Sat until 4:00 p.m.
No drop-off after 3:00 p.m.

Swap Shop is closed on paint collection Saturdays

Paint Collection

(see back panel for details)

RTS - 1421 Central Ave

3rd Saturday of the month, April – October
8:00 a.m. – 3:30 p.m.

Household Hazardous Waste Day

Sat, October 17, 2015

Check website to confirm date and location



Overview

The Town of Needham provides residents and local businesses with recycling and waste disposal services at the Town's transfer station, referred to as the RTS (Recycling and Transfer Station) or more affectionately "The Dump." The RTS is a residential drop-off facility with a pay-per-throw program. To use the RTS, residents and businesses MUST have a sticker and also special bags for their non-recyclable trash.

Annual Sticker

Only residents or commercial entities whose vehicles have an up-to-date sticker affixed to their vehicle window may enter the RTS. For an updated location of Town offices issuing stickers please visit www.needhamma.gov/RTS.

- Residential – no fee
- Commercial – fee

Visit www.needhamma.gov/RTS for additional rates.

Recycling

Over 50% residential waste can be recycled. Residents save money by recycling mixed paper, cardboard, glass, metal & plastic containers, which are all accepted as part of the authorized use of the transfer station. See inside for details.

Yellow Trash Bags

Residents must also purchase special yellow trash bags to dispose of their trash. Bags come in large (30 gallon) and small (15 gallon) sizes and may be purchased at the following locations:

Harvey's Hardware
Roche Bros Supermarket
Sudbury Farms Supermarket
Taylor's Stationery
Tedeschi Food Shop
Walgreens Drug Store
Town Hall - Treasurer's Office

Bag prices:

- 30 gallon bags: \$19.00 per package of 10 (\$1.90 each)
- 15 gallon bags: \$10.50 per package of 10 (\$1.05 each)

Look inside for information on the

Materials We Accept



FEE SCHEDULE

Payment by check or credit card at time of drop-off

Per ton scale fee \$140
Minimum scale fee/ton \$25

Appliances

\$15

Bulky Items

Carpet (10' x 10') \$10
Upholstered chair \$10
Sofa \$15
Sleep sofa \$20
Mattress/box spring \$15 each
Toilet/porcelain sink \$15
Small item \$5
Medium item \$10
Large item \$15

Propane Tanks

\$5

E-Waste

Monitors (CRT & flat screen) \$15
TV's (CRT & flat screen) \$15
Other E-waste (computer, printer, VCR, etc.) \$0

Tires

Car \$5
Truck \$10

Fees may be amended; please see Town's website for an up-to-date fee schedule

1/2015



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/27/2015

Agenda Item	Sign Notice of Traffic Regulation – Brookline Street
Presenter(s)	Richard P. Merson, DPW Director

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
	The Traffic Management Advisory Committee (TMAC) received a petition from the residents of Brookline Street asking that a no parking zone be established to prevent all-day parking on the North side of Brookline Street between Dell Avenue and Holmes Street. The TMAC recommended that a no parking zone be established on the North side of Brookline Street between Dell Avenue and Holmes Street.		
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	<u>X</u> YES	<u> </u> NO
	<u>Suggested Motion:</u> "That the Board vote to approve and sign the Notice of Traffic Regulation Permit #P15-10-27 for Brookline Street, Parking Prohibited During Certain Hours, North side from a point opposite the westerly sideline of Dell Avenue to a point opposite the westerly sideline of Holmes Street – No Parking, 7:30 - 9:00 A.M. and 2:00 – 3:30 P.M. Monday through Friday"		
3.	BACK UP INFORMATION ATTACHED	<u>X</u> YES	<u> </u> NO
(Describe backup below) 1. Copy of Traffic Regulation P15-10-27 2. MAP OF TRAFFIC REGULATION			

TOWN OF NEEDHAM
BOARD OF SELECTMEN

NOTICE OF TRAFFIC REGULATION

By virtue of the authority vested in the Board of Selectmen of the Town of Needham, it is hereby

VOTED: That the Town of Needham Traffic Rules and Regulations adopted by the Board of Selectmen February 14, 1989 and subsequent amendments thereto be and are hereby further amended as follows:

By adding to Schedule I – PARKING of Article V, Section 5-6, the following:

PARKING PROHIBITED DURING CERTAIN HOURS

BROOKLINE STREET – North side, from a point opposite the westerly sideline of Dell Avenue to a point opposite the westerly sideline of Holmes Street – No Parking, 7:30 – 9:00 A.M. and 2:00 – 3:30 P.M., Monday through Friday, dated 10/27/15, Permit P15-10-27.

VOTED: by the Board of Selectmen at a meeting held on Tuesday, October 27, 2015

BOARD OF SELECTMEN

Permit No. P15-10-27

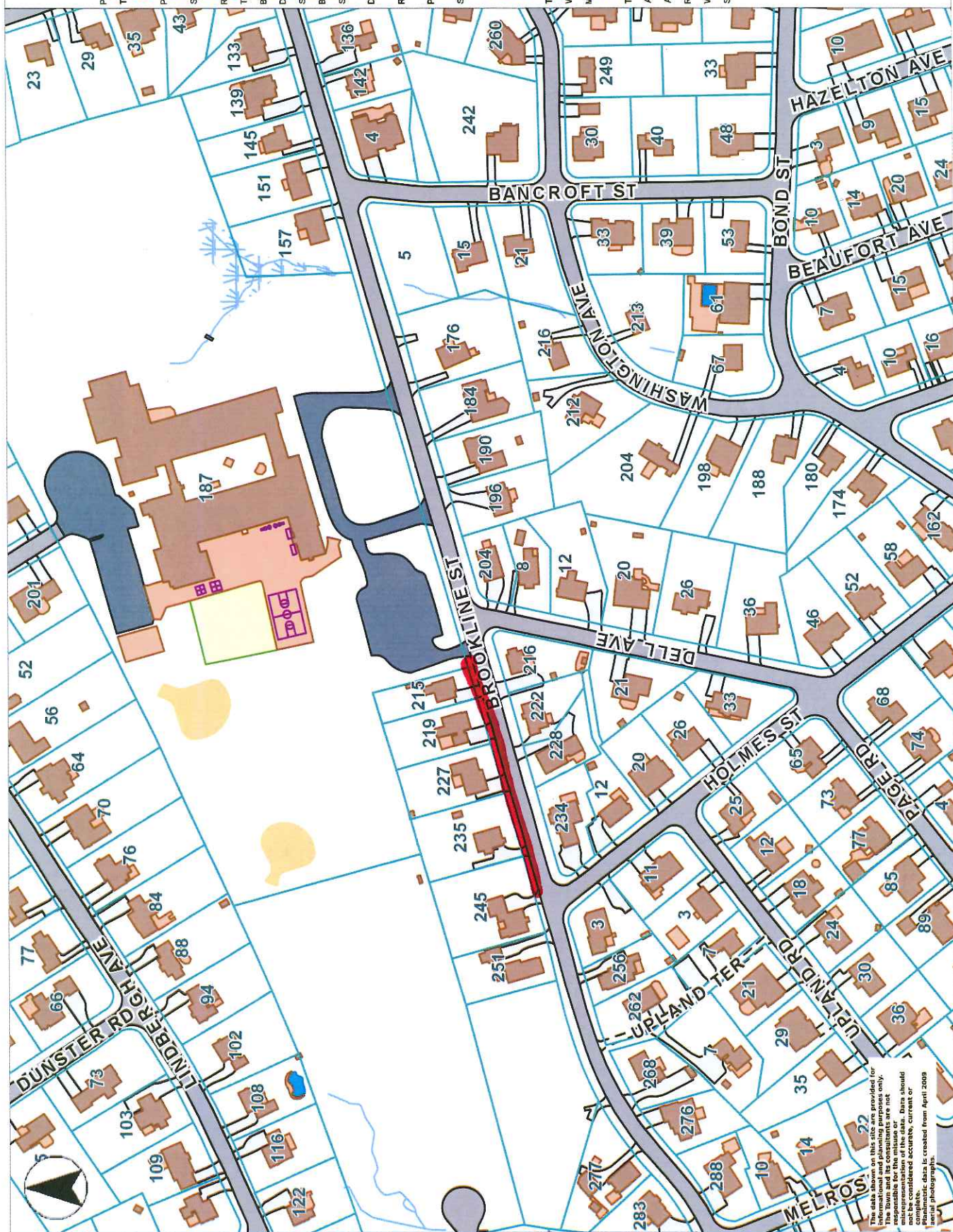
Date of Passage _____

Attest of Town Clerk _____

ADD



- Parcels
- Towers
- Satellite Dish
- Tower
- Tower Anchor
- Paved Lines
- Concrete Walk
- Parking Line
- Spots Lines
- Court Striping
- Field Striping
- Railroad Track
- Trail
- Building
- Decks And Patios
- Swimming Pool
- Brick
- Sidewalk
- Driveways
- Paved Driveway
- Unpaved Driveway
- Paved Road
- Unpaved Road
- Parking Lots
- Paved Parking Lot
- Unpaved Parking Lot
- Sports Areas
- Baseball Infield
- Baseball and Tennis
- Beach
- Golf Bunker
- Golf Fairway, Green, Tee
- Playground
- Track and Field
- Tank
- Well
- MA Highways
- Interstate
- US Highway
- State Highway
- Town Boundary
- Abutting Towns
- Abutting Towns Mask
- Road Centerlines
- Waterbody
- Streams And Drainage Ditches



The data shown on this site are provided for informational and planning purposes only. The data is not intended to be used for any other purpose and the user is responsible for the misuse or misrepresentation of the data. Data should be considered accurate, current or complete. Planimetric data is created from April 2009. Aerial photography is from 2009.



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/27/2015

Agenda Item	Sign Notice of Traffic Regulation – Damon Road & Tanglewood Road
Presenter(s)	Richard P. Merson, DPW Director

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
	The Traffic Management Advisory Committee (TMAC) received requests from residents to establish a stop sign regulation on Damon Road at the intersection of Tanglewood Road. After studying the geometric conditions of the roadway and the proximity of an existing school bus stop, the TMAC recommends that Damon Road be designated a stop street at the intersection of Tanglewood Road.		
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	<u>X</u> YES	<u> </u> NO
	<u>Suggested Motion:</u> "That the Board vote to approve and sign the Notice of Traffic Regulation Permit #SS15-10-27 requiring that Damon Road northbound and southbound be designated as a stop street at the intersection of Tanglewood Road."		
3.	BACK UP INFORMATION ATTACHED	<u>X</u> YES	<u> </u> NO
(Describe backup below) 1. Copy of Traffic Regulation SS15-10-27			

TOWN OF NEEDHAM
BOARD OF SELECTMEN

NOTICE OF TRAFFIC REGULATION

By virtue of the authority vested in the Board of Selectmen of the Town of
Needham, it is hereby

VOTED: In accordance with the provisions of Chapter 89, Section 9 of the General
Laws, the following street is designated as a stop street at the intersection
and in the direction indicated:

Northbound and Southbound drivers on DAMON ROAD at the
intersection of TANGLEWOOD ROAD

BOARD OF SELECTMEN

Permit No. SS15-10-27

Date of Passage _____

Attest of Town Clerk _____

Trafficregmasterstop.doc

SLD



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 10/27/2015

Agenda Item	Positions on Warrant Articles
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
The Board will review articles contained in the Special Town Meeting Warrant.			
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
That the Board vote to support (not to support) article _____ in the Special Town Meeting Warrant.			
3.	BACK UP INFORMATION ATTACHED	YES	NO
a. Status of Articles (10.23.13) b. Proposed Motions to Amend c. Hillside School Feasibility Study Budget d. Needham High School Expansion Design Development Budget e. Special Town Meeting Warrant previously forwarded f. Memorandum from John Connery to Devra Bailin dated October 9, 2015 relative to Mixed Use Overlay g. Memorandum to Board of Selectmen from Devra Bailin dated May 13, 2015 relative to Mixed Use Overlay h. 128 Mixed Use District Fiscal Profile dated March 9, 2015			

November 2, 2015 Special Town Meeting Status of Articles						
Article	Title	Status	BOS Rec.	FC Rec.	BOS Member	FC Member
1	Collective Bargaining - Police	Withdraw			Dan	Dick R
2	Collective Bargaining - Police Superiors	Withdraw			Dan	Rick Z
3	Collective Bargaining - BCTIA/PFD	Withdraw			Dan	Rick L
4	General By-law - Term of Moderator		Adopt	No Position	John	-
5	Access Easement - Rockwood Lane		Adopt	Adopt	Dan	Dick R
6	Zoning By-law - Mixed Use 128			Adopt	Moe	John C
7	Zoning By-law - Mixed Use 128/Map Change			Adopt	Moe	John C
8	Zoning By-law - Historic Preservation			No Position	Marianne	Barry C
9	Amend FY2016 Operating Budget	Amend	Adopt	Adopt	Moe	Louise M
10	Appropriate for Fire Station 2 Feasibility			Adopt	Matt	Rick L
11	Appropriate for NHS Cafeteria Renovation	Amend		Adopt	Moe	John C
12	Appropriate for Hillside School Feasibility		Adopt	Adopt	Marianne	Rick Z
13	Appropriate for Property Acquisition			Adopt	Matt	Louise M
14	Establish & Appropriate to Debt Service Fund		Adopt		Matt	Barry C

TOWN OF NEEDHAM

SPECIAL TOWN MEETING – November 2, 2015

The following motion to amend is offered by _____
Signature of Town Meeting Member

ARTICLE 9: AMEND THE FY2016 OPERATING BUDGET

MOVED: that the main motion under Article 9 be amended by deleting the following amounts and inserting in place thereof the following:

Line	Description	Changing From:	Changing To:
6	Debt Service	TBD	\$11,474,301

TOWN OF NEEDHAM

SPECIAL TOWN MEETING – November 2, 2015

The following motion to amend is offered by _____
Signature of Town Meeting Member

**ARTICLE 11: APPROPRIATE FOR HIGH SCHOOL CAFETERIA
RENOVATION**

MOVED: that the main motion under Article 11 be amended by deleting the words “a sum” and inserting in place thereof the sum “\$2,100,000.”

HILLSIDE ELEMENTARY SCHOOL FEASIBILITY STUDY BUDGET

Update - 10/19/2015

	A. Original Budget	B. Requested Changes	C. Revised Contract Value	D. Previously Submitted Costs	E. Costs Requested This Period	F. Total Costs Submitted (D+E)	% Complete (F/A)	Balance to Finish (C-F)
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I. Administrative Costs

Owner Project Manager - PFD-C	\$55,000.00	\$0.00	\$55,000.00	\$26,226.03	\$2,436.53	\$28,662.56	52%	\$26,337.44
Cost Consultant - Daedalus	\$20,000.00	0	\$20,000.00	\$0.00	\$0.00	\$0.00	0%	\$20,000.00

sub-total	\$75,000.00	\$0.00	\$75,000.00	\$26,226.03	\$2,436.53	\$28,662.56	38%	\$46,337.44
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II. Architect (Dore & Whittier Architects, Inc.)

Base Contract	\$450,000.00	\$0.00	\$450,000.00	\$151,875.00	\$10,125.00	\$162,000.00	36%	\$288,000.00
PSS #1 - Stream Determination	\$0.00	\$1,650.00	\$1,650.00	\$1,650.00	\$0.00	\$1,650.00	100%	\$0.00
PSS #2 - Feasibility Central Ave (added scope)	\$0.00	\$45,000.00	\$45,000.00	\$29,189.62	\$1,342.50	\$30,532.12	68%	\$14,467.88
PSS#3 - Wetlands/Survey/Hillside & Traffic@Central	\$0.00	\$26,640.00	\$26,640.00	\$9,040.00	\$0.00	\$9,040.00	34%	\$17,600.00
PSS#4 - Survey Central Ave & Wetlands		\$34,050.00	\$34,050.00	\$0.00	\$0.00	\$0.00	0%	\$34,050.00
PSS#5 - Central Ave Env / HazMat testing & LOMA (pending)		\$17,000.00	\$17,000.00	\$0.00	\$0.00	\$0.00	0%	\$17,000.00
sub-total	\$450,000.00	\$124,340.00	\$574,340.00	\$191,754.62	\$11,467.50	\$203,222.12	35%	\$371,117.88

III. Other

Other (Testing/Survey/Env/Site)	\$75,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%	\$75,000.00
Architect Added Service - Site & Environmental	\$50,000.00							\$50,000.00
PSS #1 - Stream Determination	\$0.00							-\$1,650.00
PSS #2 - Feasibility Central Ave (Added Scope)	\$0.00							-\$45,000.00
PSS#3 - Wetlands/Survey/Hillside & Traffic@Central	\$0.00							-\$26,640.00
PSS #4 - Survey Central Ave & Wetlands	\$0.00							-\$34,050.00
PSS#5 - Central Ave Env / HazMat testing & LOMA	\$0.00							-\$17,000.00
sub-total	\$125,000.00							\$660.00

Project Totals	\$650,000.00	\$124,340.00	\$649,340.00	\$217,980.65	\$13,904.03	\$231,884.68	36%	\$418,115.32
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CURRENT PROJECT BUDGET

\$650,000.00

Notes:

Feasibility Study Central Ave - Added Site	\$45,000.00	#1 - Requested Added funding from Free Cash or STM 2015 to replenish funds for Central Ave Study - added scope
		#2 - MSBA will participate for added scope at current reimbursement rate assuming acceptance of Budget Revision Request (BRR)

AMENDED BUDGET (IF REPLENISHED)

\$695,000.00

Anticipated Additional Costs	Budget Amount	
1) Further Test Borings of preferred site	\$ 7,500	If selected as preferred or alternate site
2) Survey & wetlands of knoll for nature trail	\$ 15,000	If selected as preferred or alternate site
3) Traffic Study - off site improvements	TBD	If required in Schematic Design
4) Other testing & site studies / printing	TBD	If required in Schematic Design

Needham High School Expansion - 2015				Draft (6)
Design Development Budget				8/24/2015
Cafeteria Expansion				
Construction Cost			Subtotal	
Cafeteria Additions & Renovation (3,058sf)			\$ 1,511,780	
<i>(Based on DRA DD drawings & CostPro Estimate- 8/10/2015)</i>				
Total Direct Costs			\$ 1,511,780	Note - 1
General Conditions & Profit	22.5%		\$ 340,151	
Building Permit Fee (Waived)	0%		\$ -	
Design & Price Contingency	10%		\$ 185,193	Note - 3
Escalation	2.62%		\$ 53,373	
Total Construction Cost			\$ 2,090,496	
	3,058	sf	Addition	\$ 683.62 per SF
Soft Costs				
OPM - Town of Needham PFD-C	2%		\$ 41,810	Note - 4
Other costs / Owners Contingency	10%		\$ 209,050	Note - 3
Subtotal			\$ 250,860	
Technology & Presentation Equipment			\$ 200,000	Note-2
Designer (A&E) Est. Const.Admin. & Tech	3%		\$ 60,000	Note - 4
Interior Furniture (Café)			\$ 55,000	Note - 4
Subtotal			\$ 315,000	
Subtotal Soft Costs			\$ 565,860	
Total Budget - Cafeteria Expansion			\$ 2,656,356	
			\$ 156,810	Note - 4
			\$ 2,499,546	
Future Funding required for Construction of Project (rounded)			\$ 2,500,000	STM -Nov-2015
Based on Design Development and 2016 Summer Construction				
Notes:				
1) Estimate is based upon CostPro Estimate dated 8/10/2015				
Scope changes since Schematic Design Estimate include:				
a) Increase in building addition size by 600sf to 3,058 sf to accommodate multipurpose functions				
b) Addition of folding panel partition to separate new space from existing space for multipurpose use				
c) reconstruction of exterior terrace for outdoor seating				
d) Infiltration chambers for infiltration of roof run-off prior to discharge to Storm drain (per zoning by-law)				
2) Addition of new technology for multipurpose & presentation functions within space				
- Wireless server, speakers, controls, screens & projectors and large screen TVs with wiring				
- Cost range is \$150,000 to \$250,000 with wiring, equipment and installation				
- Further discussion regarding technology budget is in process with the Superintendent				
3) PPBC recommendation to carry 10% contingency for Design Development Stage				
4) Project costs that will be funded from existing appropriations &/or DESE project funds				

Needham High School Expansion - 2015				Draft 7 (FINAL)
Construction Document Phase Budget				10/19/2015
Cafeteria Expansion				
Construction Cost				Subtotal
Cafeteria Additions & Renovation			\$	1,426,672
<i>(Based on DRA CD drawings & CostPro Estimate - 10/06/2015)</i>				
Total Direct Costs			\$	1,426,672 <i>Note -1</i>
General Conditions & Profit	22.5%		\$	321,001
Building Permit Fee (Waived)	0%		\$	-
Design & Price Contingency	2.50%		\$	43,692
Escalation	2.03%		\$	36,365
Total Construction Cost			\$	1,827,730
	3,000	sf	Addition	\$ 609.24 <i>per SF</i>
Soft Costs				
OPM - Town of Needham PFD-C	2%		\$	36,555 <i>Note - 3</i>
Other costs / Owners Contingency	10%		\$	182,773
Subtotal			\$	219,328
Technology & Presentation Equipment			\$	88,666 <i>Note-2</i>
Designer (A&E) Est. Const.Admin. & Tech			\$	65,000 <i>Note - 3</i>
Interior Furniture (Café)			\$	68,445 <i>Note - 3</i>
Subtotal			\$	222,111
Subtotal Soft Costs			\$	441,439
Total Budget - Cafeteria Expansion			\$	2,269,168
			\$	170,000 <i>Note - 3</i>
			\$	2,099,169
Future Funding required for Construction of Project (rounded)			\$	2,100,000 <i>STM -Nov-2015</i>
Based on CD and 2016 Summer Construction				
Notes:				
1) Estimate is based upon CostPro Estimate dated 10/19/2015				
Scope includes:				
a) New 3,000 sf space to accommodate multipurpose functions				
b) Folding panel partition (for multi purpose use)				
c) Reconstruction of exterior terrace area with some outdoor seating				
d) Infiltration chambers (for run-off requirements)				
2) Technology budget per Consultant (multipurpose & presentation functions within space)				
a) Base Contract work (Conduits, Data wiring, Screens, & PA upgrade/new) by the Contractor				
b) Vendor work for hardware (WAPs, Local Sound, Projectors, TVs, controls and wiring)				
3) Project costs that will be funded from existing appropriations &/or DESE project funds				

Memorandum

October 9, 2015

To: Devra Balin, Economic Development Director

Fr: John Connery

Re: Adjustment to the number of school aged children relative to the proposed Mixed-Use Overlay.

The following information is offered to clarify and substantiate my representations regarding the number of school aged children estimated for a 250 unit residential development constructed using the proposed mixed use overlay.

In a document dated March 9, 2015 submitted to the Council of Economic Advisors (CEA) I prepared a fiscal review of a CEA preferred development alternative i.e. 250 total units. The tested unit mix included 50% one bedroom, 40% two bedroom and 10% three bedroom and a 12.5% affordable component. Subsequent to the currently proposed overlay district, the mandatory three bedroom regulation has been clarified by the Commonwealth. Essentially, private development having no state funding is not subject to a three bedroom 10% requirement. Further, the zoning proposal coming before the Town Meeting has also reduced the percent of required affordable units from 12.5% 10%.

The changes noted above will reduce the number of school aged children noted in my March 9th memorandum to the CEA. The tested scenario in March of 2015 generated estimated the number of school aged children at thirty three (33). I refer the reader to Table 4 of my March 9th memorandum. In said table the reader will find school aged children (SAC) generation rates were assigned to specific unit types i.e. one, two and three bedroom and further each type was further divided into market and affordable units.

Consistent with the regional and Needham experience one bedroom units (market and affordable) will not generate any measurable or sustainable number of school aged children. The two bedroom value of 0.12 students per unit is derived from Needham's experience with Charles River Landing (CRL) and regional developments sharing the same location values. It should be noted that the two bedroom aggregate SAC at CRL is 0.226 given a 25% affordable component whereas the proposal tested was for 12.5% affordable. Accordingly, using the lower affordable requirement the two bedroom component would generate approximately 15 school aged children, given the current zoning proposal.

The three bedroom values for the March scenario were derived from the experience of nearby Avalon Highlands in Newton and similar high end developments in the 128 corridor. To be conservative, the March memo used the high end of the three bedroom SAC rate i.e. 0.65 for the market rate units and 1.3 for the affordable units. At said rates the 10% three bedroom component (25 units) generated 18 additional students

My comments on October 7th to the Finance Committee indicated that given the criteria contained proposed zoning overlay, the number of school aged students would be approximately 17. The following was the basis for my comment.

- Assuming the minimum requirement of 40% one bedroom units (10% lower than the tested scenario in March) the 150 two bedroom units (60% of 250 units) would generate 18 additional students given the current proposal.
- There would be no students from the remaining 90 one bedroom units. Note: if a project has more than 40% one bedroom (as allowed in the proposed zoning) the number of students would obviously decline from the 18 indicated above.
- The reduction in the affordable component from 12.5% to 10% would reduce the number of affordable two bedroom units by 6 units (from 31 to 25). Staying consistent with the same aggregate value of 0.12 per two bedroom unit, and applying said value to six units generates a value of 0.72 less students. However, since the 6 units are all affordable and the regional average for affordable units is approximately 0.40 per unit, one could argue there will be a decline of 2.4 students. I split the difference in a conservative manner and estimate a decline of one (1), it can easily be two but I kept my estimate of student decline conservative and reduced the 18 students from the two bedroom component by only one (1) to 17.
- The estimate of seventeen (17) additional students should be considered as a long term annual average. Most likely the student population will fluctuate between 13 and 20 in any given year.

Given the revised estimate of 17 additional students based on my experience in the region approximately 60% of the new students or 10 students will enter the various K-6 grade levels and the remainder will be enrolled in various grade levels from grade 7 to 12.

If the Mixed Use Overlay were to engender a proposal in 2016 it would likely take until the school year 2020/21 to reach the full student generation level. Given parcel assembly issues it is likely that any enrollment will occur after 2021.

In terms of cost to revenue ratio, the March scenario that included three bedroom units generated a positive 0.76 ratio. The 0.76 cost to revenue indicates that even in periods of significant economic downturn it would be unlikely that the development would generate a fiscal loss

However, the removal 10% of three bedroom component removes approximately \$230,000 in annual school cos. Further, the reduction of six (6) in affordable units removes units assessed at below market rates, therefore improving the revenue element of the analysis. The two aforementioned changes are counterbalanced by the loss twenty five (25) higher assessed value the three bedroom units.

Accordingly, my best estimate is that the zoning proposal before you will improve the cost to revenue ratio from the 0.76 noted in the March memo to approximately 0.60; a stronger positive fiscal outcome. In annual dollar terms (current dollars) the zoning proposal improves annual fiscal benefit, at stabilization, from approximately \$189,000 to approximately \$350,000 (current dollars).

In short, the zoning proposal as currently drafted significantly improves the fiscal profile of any housing proposal as compared to the tested scenario in March of 2015. The exact nature of the improvement will depend on the nature of any proposal given the flexible unit mix guidelines of the proposal i.e. on bedroom minimum of 40% and a maximum of 70%).

Elliot Street/Central Avenue Bridge Restoration and Repair Project Meeting with Businesses and Commercial Property Owners

The City of Newton and the Town of Needham will be hosting an informational session regarding the upcoming Elliot Street/Central Avenue Bridge restoration and repair project for neighboring businesses and commercial property owners.

DATE: Thursday, October 29, 2015

TIME: 3PM – 5PM

LOCATION: Echo Bridge Office Park (Carriage House Violins and Johnson String Instruments)
1039 Chestnut Street, Newton Upper Falls

After the last significant repair of the Elliot Street/Central Avenue Bridge in 1997, it has become necessary for the two municipalities to undertake major restoration and repair of the bridge. This work will require closure of the bridge to permanently address deficiencies in the bridge. Recent measures to address these problems include the reduction of the allowed load (weight) of vehicles, resulting in fire apparatus for both communities no longer having access over the bridge. The City of Newton and Town of Needham have been monitoring the bridge on a frequent basis to determine if additional measures are warranted until the bridge is repaired.

Engineers from the BETA Group have been working with the Departments of Public Works from Newton and Needham to determine the best long-term solution for this historic bridge. This meeting will provide an opportunity to understand what options have been considered and the recommended course of action. After the presentation, there will be a Question and Answer session.

To RSVP:

Newton: Nancy Hyde – nhyde@newtonma.gov or 617.796.1122

Needham: Devra Bailin - dbailin@needhamma.gov or 781-455-7550 ext. 213

Memorandum

May 13, 2015

To: Board of Selectmen

From: Devra G. Bailin (originally prepared by John Connery, Connery Associates, Consultant and revised by CEA)

Re: Revised Zoning Text for the Mixed Use-128 Residential Overlay for the Zoning Districts Mixed Use-128 and the Abutting Portions of Highland Commercial-128

Date: May 13, 2015

The following text is recommended to the Board of Selectman by the Council of Economic Advisors ("CEA") for adoption of zoning amendments for a Mixed Use-128 Residential Overlay and is the result of study by the CEA into the proposed rezoning and fiscal impacts thereof dating back to July of 2014 and continuing through May of 2015 with the guidance and expertise of its consultant.

Purpose.

The purposes of the Mixed-Use Overlay District (hereinafter referred to as the "MUOD") include but are not limited to:

- Promoting a range and balance of land uses;
- Facilitating integrated physical design and encouraging interaction among activities;
- Permitting mixed use (commercial and residential) on sites that are zoned within Mixed Use-128 and the northern Highland Commercial-128, i.e. the northern portion of Highland Commercial-128 abutting the Mixed Use-128 zoning district (hereinafter "the abutting Highland Commercial-128".)
- Permitting mixed use (commercial and residential) on sites currently zoned Mixed Use-128 and the abutting Highland Commercial-128.
- Establishing controls which will facilitate responsible development while protecting the public interest by limiting the aggregate amount of development;
- Permitting flexible development on individual lots;
- Promoting site features and layouts conducive to a variety of uses;
- Promoting a pedestrian-friendly living and working environment;
- Providing housing for high tech, life science, and other workers in the N2 Corridor.

The Planning Board shall promulgate and adopt rules and regulations governing applications in the MUOD. Such rules and regulations shall take effect upon their filing with the Town Clerk, and applications must be submitted on a form provided by the Planning Board and must be in accordance with those rules and regulations, as they may be amended from time to time.

After approval of the Site Plan, no structure previously approved by Site Plan may be re-used or changed structurally, and no exterior features may be changed, unless the Planning Board or its designee approves such changes in such manner as the Planning Board determines applicable.

2. Concept Plan.

Prior to the application for approval of any MUOD project, a Concept Plan may be filed with the Planning Board for review at a scheduled public meeting or meetings. The Concept Plan shall generally define the proposed character, uses, site layout, impacts and amenities. The Planning Board shall provide written commentary regarding whether the Concept Plan is in compliance with the provisions of this MUOD. A Concept Plan submission at a minimum shall include:

1. A preliminary survey plan signed by a registered surveyor;
2. A preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprint(s) of all proposed buildings, general site grading with finish floor elevations, parking locations and total spaces allocated, landscaping concepts, roads, walkways, egress and access roads, open space and wetlands;
3. A preliminary utilities plan showing the proposed location of all germane utilities such as water supply, sewer service, storm water, gas, electric and other germane and or similar utilities;
4. A preliminary subdivision plan, if applicable;
5. Proposed buildings as to location, use classification, general architectural design, and size; and
6. A zoning chart detailing uses and dimensional requirements (existing, required and proposed) including the need for special permits and/or waivers.

After review of the Concept Plan, the Planning Board shall provide written comments to the Applicant regarding the consistency of the Concept Plan with the objectives and criteria of the MUOD. The Planning Board may, in its written comments, provide suggestions regarding any and all aspects Concept Plan. The Planning Board shall advise the Applicant of the Planning Board's comments within sixty (60) days following submittal of the Concept Plan, unless such time is extended by written agreement of the Planning Board and the Applicant. The comments of the Planning Board on the submitted Concept Plan shall be advisory in nature and shall be without binding effect on either the Planning Board or the Applicant. Said comments shall not be subject to appeal.

mitigation of project impacts, adequate egress and access from and to the project, mitigation of environmental impacts, and designation of specific locations and uses for buildings, structures and public amenities. Site Plan Review shall include the following components for review and approval: building design and elevations, directional signage, landscaping, lighting, parking, and compliance with the MSP. The application shall also be reviewed for compliance with performance standards set forth in Section ____ [TBD] and with the specific conditions of the proposed MUOD MSP.

The Planning Board shall hold its hearing on a MSP, other special permits, and Site Plan Review application only after receipt of complete applications. A written decision shall be rendered by the Planning Board, and filed with the Town Clerk, within sixty (60) calendar days after the first hearing, unless such time period is extended in writing by agreement of the Planning Board and the Applicant. Any appeal from a decision of the Planning Board shall be made to a court of competent jurisdiction in accordance with the provisions of M.G.L. Chapter 40A, Section 17.

After approval of the Site Plan Review application, special permits (if applicable), and MUOD MSP, no structure previously approved previously may be re-used or changed structurally, and no exterior features may be changed, unless the Planning Board or its designee approves such changes in such manner as the Planning Board determines applicable to the particular change.

Special Permit Decision.

Any special permits required for uses and/or dimensional requirements in the underlying zoning districts shall be subject to the criteria set forth in other sections of the Zoning By-Law in regards to the granting of special permits:

When the application is for a MSP, the Planning Board shall consider the following criteria, in addition to the criteria set forth in other sections of the Zoning By-Law in regards to the granting of special permits:

1. Whether the MUOD project complies with the use regulations, dimensional requirements and performance standards set forth herein;
2. The MSP shall be granted in the MUOD by the Planning Board only upon the Board's written determination that the adverse effects, if any, of the proposed MUOD project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site.

Special Permit Conditions.

Where the Planning Board grants any special permit and/or MSP, the Board may impose additional reasonable conditions, safeguards and limitations on time and use, including but not limited to the following:

include the limits on height. Further provided, the ability to grant waivers from the parking requirements for residential units shall be governed by the special permit provisions of Section 5.1.1.5 of the Needham Zoning By-Law.

Performance Standards.

The development of a MUOD Project in the MUOD shall comply with the following performance standards in lieu of those set forth elsewhere in the Zoning By-Law:

Residential Development.

1. Residential Development Cap: In the MUOD district no more than 250 multi-family units shall be permitted.
2. At least 40% of all dwelling units within any MUOD-project shall be one-bedroom units but not more than 70%. Further, so long as State regulations require projects to include 10% three bedroom units, 10% of all units shall be three bedroom units.
3. At least 10% of all dwelling units shall be Affordable Units as defined below.

Landscaping.

The Applicant shall prepare a landscaping plan showing that the MUOD Project will meet the landscaping requirements of the Needham Zoning By-Law and the following standards: promote the establishment, protection, and enhancement of the natural landscape; ensure appropriate use of plant material in new construction; preserve natural tree cover; and promote the inclusion of new tree planting in order to reduce visual blights, noise and glare, prevent soil erosion, reduce stormwater runoff, increase ground water discharge, create shade and reduce solar overheating.

Massing.

Any buildings proposed for a MUOD project shall provide visual relief along the façade of the each building.

Building design throughout a MUOD project shall include designs which promote visual relief by varying roof lines, height and other aesthetic features.

Buildings throughout a MUOD project shall include a mix of occupants.

Screening and Buffer Requirements.

A MOUD project shall provide an appropriate visual barrier between features of the Mixed-Use Project and public streets and abutting properties. Dumpsters, trash handling areas, mechanical equipment at ground level or roof top, service entrances, utility

2. Where the Affordable Units are proposed for sale, the continuing enforcement of the Deed Rider through subsequent resales shall be the subject of a Monitoring Agreement.
3. The Deed Rider and Monitoring Agreement shall be drafted in compliance with State requirements, as amended from time to time, and guidelines promulgated thereunder. The Deed Rider and Monitoring Agreement shall be subject to the review and approval of Town Counsel prior to the issuance of a certificate of occupancy for any dwelling unit.
4. The Affordable Unit shall conform to the standards of DHCD for inclusion in the DHCD Subsidized Housing Inventory.
5. A right of first refusal shall be granted to the Town or its designee for a period not less than 120 days after notice thereof.
6. Affordable Units shall satisfy the design and construction standards of the Local Initiative Program, as amended from time to time, with regard to distinguishability from market rate units.
7. Each Affordable Unit must be constructed and an occupancy permit obtained at the rate of one Affordable Unit for every nine market rate units.
8. In computing the number of required Affordable Units, any fraction of a unit must be rounded up, and the result shall be the number of Affordable Units to be built within the MUOD and not off site.

Peer Review.

The Planning Board, at the expense of the Applicant and pursuant to M.G.L. Chapter 44, Section 53G, may engage qualified peer reviewers, including, but not limited to, traffic engineers, civil engineers, landscape architects, wetlands scientists, lighting technicians, and experts on impacts, to review all Concept Plans, special permit applications, MSP, and Site Plan Review applications.

Rules and Regulations.

The Planning Board shall adopt rules and regulations for the implementation of this Section.

Memorandum

May 13, 2015

To: Board of Selectmen

From: Devra G. Bailin (originally prepared by John Connery, Connery Associates, Consultant and revised by CEA)

Re: Revised Zoning Text for the Mixed Use-128 Residential Overlay for the Zoning Districts Mixed Use-128 and the Abutting Portions of Highland Commercial-128

Date: May 13, 2015

The following text is recommended to the Board of Selectman by the Council of Economic Advisors ("CEA") for adoption of zoning amendments for a Mixed Use-128 Residential Overlay and is the result of study by the CEA into the proposed rezoning and fiscal impacts thereof dating back to July of 2014 and continuing through May of 2015 with the guidance and expertise of its consultant.

Purpose.

The purposes of the Mixed-Use Overlay District (hereinafter referred to as the "MUOD") include but are not limited to:

- Promoting a range and balance of land uses;
- Facilitating integrated physical design and encouraging interaction among activities;
- Permitting mixed use (commercial and residential) on sites that are zoned within Mixed Use-128 and the northern Highland Commercial-128, i.e. the northern portion of Highland Commercial-128 abutting the Mixed Use-128 zoning district (hereinafter "the abutting Highland Commercial-128".)
- Permitting mixed use (commercial and residential) on sites currently zoned Mixed Use-128 and the abutting Highland Commercial-128.
- Establishing controls which will facilitate responsible development while protecting the public interest by limiting the aggregate amount of development;
- Permitting flexible development on individual lots;
- Promoting site features and layouts conducive to a variety of uses;
- Promoting a pedestrian-friendly living and working environment;
- Providing housing for high tech, life science, and other workers in the N2 Corridor.

Definitions.

Concept Plan: An optional submittal for a Master Special Permit which provides a preliminary site plan for MUOD projects detailing the proposed character, uses, site layout, impacts and amenities. The requirements of the Concept Plan are set forth in the following sections.

Mixed-Use Project: A combination of retail, office, municipal, service establishments and residential uses, as may be approved by the Planning Board for the MUOD by issuance of the Master Special Permit.

Master Special Permit ("MSP"): The Special Permit that an applicant must obtain as a precondition to or in conjunction with obtaining any Site Plan Review approvals as provided in the Section 7.4 Site Plan Review.

Site Plan Review: The Site Plan Review that an applicant must obtain as part of approval for any MUOD Project.

MUOD: The Mixed-Use Overlay District ("MUOD") comprising the land presently part of the Mixed Use-128 District and the abutting Highland Commercial-128 District.

Overlay District.

The MUOD is an overlay district superimposed on the Mixed Use-128 and the abutting Highland Commercial-128 District as shown on the accompanying zoning map. All uses permitted by right or by Special Permit in the pertinent underlying zoning district shall be similarly permitted in the MUOD, subject to further provisions of this Article. Where the MUOD authorizes uses not otherwise allowed in the underlying district, specifically multifamily residential, the provisions of the MUOD shall control. The Planning Board shall be the Special Permit Granting Authority ("SPGA") for every MSP and any other Special Permit required for development. Nothing herein shall be construed to supersede the provisions of other overlay districts applicable in the MUOD, except as set forth herein.

Approval Process.

1. Overview.

Prior to applying for a building permit for a MUOD Project, the following review sequence is recommended.

1. Concept Plan at the discretion of applicant.
2. Master Special Permit application and MUOD Plan Review application

The Planning Board shall promulgate and adopt rules and regulations governing applications in the MUOD. Such rules and regulations shall take effect upon their filing with the Town Clerk, and applications must be submitted on a form provided by the Planning Board and must be in accordance with those rules and regulations, as they may be amended from time to time.

After approval of the Site Plan, no structure previously approved by Site Plan may be re-used or changed structurally, and no exterior features may be changed, unless the Planning Board or its designee approves such changes in such manner as the Planning Board determines applicable.

2. Concept Plan.

Prior to the application for approval of any MUOD project, a Concept Plan may be filed with the Planning Board for review at a scheduled public meeting or meetings. The Concept Plan shall generally define the proposed character, uses, site layout, impacts and amenities. The Planning Board shall provide written commentary regarding whether the Concept Plan is in compliance with the provisions of this MUOD. A Concept Plan submission at a minimum shall include:

1. A preliminary survey plan signed by a registered surveyor;
2. A preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprint(s) of all proposed buildings, general site grading with finish floor elevations, parking locations and total spaces allocated, landscaping concepts, roads, walkways, egress and access roads, open space and wetlands;
3. A preliminary utilities plan showing the proposed location of all germane utilities such as water supply, sewer service, storm water, gas, electric and other germane and or similar utilities;
4. A preliminary subdivision plan, if applicable;
5. Proposed buildings as to location, use classification, general architectural design, and size; and
6. A zoning chart detailing uses and dimensional requirements (existing, required and proposed) including the need for special permits and/or waivers.

After review of the Concept Plan, the Planning Board shall provide written comments to the Applicant regarding the consistency of the Concept Plan with the objectives and criteria of the MUOD. The Planning Board may, in its written comments, provide suggestions regarding any and all aspects Concept Plan. The Planning Board shall advise the Applicant of the Planning Board's comments within sixty (60) days following submittal of the Concept Plan, unless such time is extended by written agreement of the Planning Board and the Applicant. The comments of the Planning Board on the submitted Concept Plan shall be advisory in nature and shall be without binding effect on either the Planning Board or the Applicant. Said comments shall not be subject to appeal.

3. Master Plan Special Permit (MSP).

Every MUOD project must obtain a MSP issued by the SPGA. The purpose of the MSP is to specify the design, architectural character, site layout and improvements, traffic improvements, traffic impacts and their mitigation, adequate egress and access from and to the site, environmental impacts and their mitigation, specific locations and uses for buildings, public amenities, future division of the property, and other information required for the public and boards of the Town.

No MSP shall be granted unless the proposed project is in compliance with the performance standards set forth in Section ____ [reference TBD].

A MSP shall govern all future development in a particular MUOD project. All construction and associated improvements must be in compliance with the MSP.

The Applicant must supply the Planning Board with sufficient copies of the Application for a -MSP, along with all supporting documents and plans, as are necessary to provide to other local boards, agencies, and officials for review and comment.

Any proposed structure or improvement to the site must be in compliance with the MSP. Anyone seeking in the future to construct any structure, make any site improvement or change to a different use must apply to the Planning Board for approval of such changes in such manner as the Planning Board determines applicable. Such change or modification must meet all the performance standards then in effect.

4. Special Permit and Site Plan Review within the MUOD.

Within the MUOD, the uses permitted by right or by Special Permit in the pertinent underlying zoning district shall be similarly permitted in the MUOD, subject to further provisions of this Article.

In addition to the uses allowed by right or by special permit in the underlying zoning districts, the following residential uses are allowed by MUOD-MSP: multifamily dwellings (defined herein as four or more dwelling units) and dwelling units above commercial uses allowed by right or special permit in the underlying zone. Single, two-family, or three family dwellings are not allowed.

MSP and other special permits must be obtained prior to or in conjunction with Site Plan Review Application or, in the event of future changes, in subsequent applications seeking modifications to the MUOD MSP and Site Plan.

The purpose of the Site Plan Review shall be to ensure that any proposed building and site improvements are in compliance with the MSP, the uses approved therein, and provide for efficient site flow and improvements, requisite traffic improvements and

mitigation of project impacts, adequate egress and access from and to the project, mitigation of environmental impacts, and designation of specific locations and uses for buildings, structures and public amenities. Site Plan Review shall include the following components for review and approval: building design and elevations, directional signage, landscaping, lighting, parking, and compliance with the MSP. The application shall also be reviewed for compliance with performance standards set forth in Section ____ [TBD] and with the specific conditions of the proposed MUOD MSP.

The Planning Board shall hold its hearing on a MSP, other special permits, and Site Plan Review application only after receipt of complete applications. A written decision shall be rendered by the Planning Board, and filed with the Town Clerk, within sixty (60) calendar days after the first hearing, unless such time period is extended in writing by agreement of the Planning Board and the Applicant. Any appeal from a decision of the Planning Board shall be made to a court of competent jurisdiction in accordance with the provisions of M.G.L. Chapter 40A, Section 17.

After approval of the Site Plan Review application, special permits (if applicable), and MUOD MSP, no structure previously approved previously may be re-used or changed structurally, and no exterior features may be changed, unless the Planning Board or its designee approves such changes in such manner as the Planning Board determines applicable to the particular change.

Special Permit Decision.

Any special permits required for uses and/or dimensional requirements in the underlying zoning districts shall be subject to the criteria set forth in other sections of the Zoning By-Law in regards to the granting of special permits:

When the application is for a MSP, the Planning Board shall consider the following criteria, in addition to the criteria set forth in other sections of the Zoning By-Law in regards to the granting of special permits:

1. Whether the MUOD project complies with the use regulations, dimensional requirements and performance standards set forth herein;
2. The MSP shall be granted in the MUOD by the Planning Board only upon the Board's written determination that the adverse effects, if any, of the proposed MUOD project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site.

Special Permit Conditions.

Where the Planning Board grants any special permit and/or MSP, the Board may impose additional reasonable conditions, safeguards and limitations on time and use, including but not limited to the following:

1. A phasing schedule for construction of each component part of the project which ensures integration of residential, nonresidential and municipal uses;
2. A demolition and construction schedule, including a construction traffic management plan;
3. Hours of operation, delivery times and lighting schedule;
4. Recording of approved special permits, MSP, and Site Plan Review decision in the Norfolk Registry of Deeds, and if registered land, in the Land Court prior to the issuance of any building permits.
5. All development shall be in compliance with plans approved in the MSP, other special permits and Site Plan Review decision and with all applicable federal, state, and local laws, rules and regulations and By-Laws.
6. If circumstances so warrant, with respect to a MSP, to require continued monitoring of off-site impacts to traffic and the environment in appropriate locations with regard to MUOD development; and
7. The Planning Board or its designated representative shall have the right to make inspections during the construction process.

Time Limit.

Until such time as the MSP and Site Plan Review decision are issued for a MUOD project, and the appeal period following the Planning Board's decisions have expired, the provisions of the underlying zoning shall solely govern the use and development of the property comprising the MUOD. At the time of the issuance of the first certificate of use and occupancy for a building with the MUOD, the zoning of the MUOD shall apply. If an Applicant has not made effective use of an issued MSP within two years of its issuance, then the MSP shall expire.

Dimensional Requirements.

The dimensional requirements of any MUOD Project shall be governed by the dimensional requirements of the underlying zoning district(s) except as follows:

1. Height Limit: 70 feet and up to 84 feet by special permit, except within 350 feet of a river, in which event the building shall be limited in height to 54 feet.
2. Maximum Building Area to Lot Coverage: 65%.
3. Minimum set back requirements from all lot boundaries shall be consistent with the setback requirements of the underlying district.
4. Maximum FAR: 3.0 (not to include parking garages or below grade parking).
5. As to residential units, parking shall be provided at 1.5 cars per unit, except affordable units may be allowed to provide only 1 car per unit. Commercial development shall meet off-street parking requirements of the underlying district.
6. The Minimum Lot size for development for a MUOD project shall be two (2) acres.
7. Consistent with Section 4.9.3 of the Needham Zoning By-Law, the Planning Board by special permit may waive any applicable dimensional regulation, including the regulations noted above, by 25%. However, this ability to grant waivers shall not

include the limits on height. Further provided, the ability to grant waivers from the parking requirements for residential units shall be governed by the special permit provisions of Section 5.1.1.5 of the Needham Zoning By-Law.

Performance Standards.

The development of a MUOD Project in the MUOD shall comply with the following performance standards in lieu of those set forth elsewhere in the Zoning By-Law:

Residential Development.

1. Residential Development Cap: In the MUOD district no more than 250 multi-family units shall be permitted.
2. At least 40% of all dwelling units within any MUOD-project shall be one-bedroom units but not more than 70%. Further, so long as State regulations require projects to include 10% three bedroom units, 10% of all units shall be three bedroom units.
3. At least 10% of all dwelling units shall be Affordable Units as defined below.

Landscaping.

The Applicant shall prepare a landscaping plan showing that the MUOD Project will meet the landscaping requirements of the Needham Zoning By-Law and the following standards: promote the establishment, protection, and enhancement of the natural landscape; ensure appropriate use of plant material in new construction; preserve natural tree cover; and promote the inclusion of new tree planting in order to reduce visual blights, noise and glare, prevent soil erosion, reduce stormwater runoff, increase ground water discharge, create shade and reduce solar overheating.

Massing.

Any buildings proposed for a MUOD project shall provide visual relief along the façade of the each building.

Building design throughout a MUOD project shall include designs which promote visual relief by varying roof lines, height and other aesthetic features.

Buildings throughout a MUOD project shall include a mix of occupants.

Screening and Buffer Requirements.

A MUOD project shall provide an appropriate visual barrier between features of the Mixed-Use Project and public streets and abutting properties. Dumpsters, trash handling areas, mechanical equipment at ground level or roof top, service entrances, utility

facilities for building operation, loading docks or spaces and similar components shall be subject to visual barrier as determined by the Planning Board.

Stormwater Management.

The stormwater management system serving any MUOD project shall comply with all applicable federal, state and local laws, rules, regulations and By-Laws.

Roadways.

In order to assure there is adequate access and egress for emergency vehicles and normal traffic expected in the Mixed-Use Project, and safe pedestrian access, the roadways serving the MUOD Project shall comply with the By-Law. An applicant must demonstrate that the adequacy of the roadways providing access and egress to and from the MUOD Project and within the site itself ensures safe vehicular and pedestrian traffic.

Parking and Loading Standards.

An application for MUOD MSP shall include a parking plan setting forth the number of parking spaces and loading areas, the location and design of same, including lighting and landscaping. If required by the Planning Board, the application shall also include a parking and loading study which support such plan. The required off street parking spaces may be accommodated by employing at grade parking areas, parking garages or below grade parking areas. Further, podium parking, a form of below grade parking, shall be allowed if the parking structure is not more 4 feet above finished grade and designed and/or landscaped in a manner that the Planning Board deems sufficient to properly buffer the podium parking structure from view.

Affordable Units.

The following standards shall apply in the MUOD. All projects shall include Affordable Units,; further at least 10% of the dwelling units shall be Affordable Units. The term "Affordable Unit" shall mean a dwelling unit reserved in perpetuity for rental or ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development ("DHCD") for rental or ownership units set forth in 760 CMR 45.03(4), as amended from time to time, in order that such Affordable Unit shall be included in the DHCD Subsidized Housing Inventory. Affordable Units shall be subject to the following conditions:

1. The Affordable Unit shall be affordable in perpetuity. A Deed Rider or other suitable restriction shall assure this condition. The Deed Rider shall be structured to survive any and all foreclosures.

2. Where the Affordable Units are proposed for sale, the continuing enforcement of the Deed Rider through subsequent resales shall be the subject of a Monitoring Agreement.
3. The Deed Rider and Monitoring Agreement shall be drafted in compliance with State requirements, as amended from time to time, and guidelines promulgated thereunder. The Deed Rider and Monitoring Agreement shall be subject to the review and approval of Town Counsel prior to the issuance of a certificate of occupancy for any dwelling unit.
4. The Affordable Unit shall conform to the standards of DHCD for inclusion in the DHCD Subsidized Housing Inventory.
5. A right of first refusal shall be granted to the Town or its designee for a period not less than 120 days after notice thereof.
6. Affordable Units shall satisfy the design and construction standards of the Local Initiative Program, as amended from time to time, with regard to distinguishability from market rate units.
7. Each Affordable Unit must be constructed and an occupancy permit obtained at the rate of one Affordable Unit for every nine market rate units.
8. In computing the number of required Affordable Units, any fraction of a unit must be rounded up, and the result shall be the number of Affordable Units to be built within the MUOD and not off site.

Peer Review.

The Planning Board, at the expense of the Applicant and pursuant to M.G.L. Chapter 44, Section 53G, may engage qualified peer reviewers, including, but not limited to, traffic engineers, civil engineers, landscape architects, wetlands scientists, lighting technicians, and experts on impacts, to review all Concept Plans, special permit applications, MSP, and Site Plan Review applications.

Rules and Regulations.

The Planning Board shall adopt rules and regulations for the implementation of this Section.

128 Mixed Use District Fiscal Profile of Multi-family Housing Option Needham Massachusetts.

March 9, 2015

1.0 Preface

After review by the Needham Council of Economic Advisors (Council) on February 4th 2015, the following residential development program has been prepared as a more detailed reference for Committee's on-going zoning study.

The purpose of this analysis is to illustrate the fiscal profile of a theoretical multi-family development within the Mixed Use 128 zoning district in Needham Massachusetts (MU-128). The base scenario assumes 250 luxury rental units of which 50% are one bedroom apartments; 40% are two bedroom apartments; and 10 are three bedroom apartments. Further, the base scenario also assumes that 12.5 % of all unit types will be made available for affordable housing consistent with the guidelines of MGL 40B. In order to examine the implications of unit mix and percent affordable characteristics on fiscal outcomes this report will also examine different unit mix scenarios and lower affordable housing percentage requirements.

In general terms, the objective of this report is to illustrate the long term fiscal profile of the base scenario various multi-family scenarios, in order to assist the Town of Needham's efforts in reviewing the appropriateness of the existing the MU 128 district and the possibility of creating a MU 128 residential overlay. As such, this report will generate an estimated cost to revenue ratio at project stabilization for a base scenario; and an estimate cost to revenue ratios for alternate scenarios. The fiscal projections are intended to provide the Town of Needham with an understanding of how a multifamily development in the MU-128 district will likely affect the local tax base over the long term. The specific values used to generate various municipal cost estimates should be considered as the average annual costs; meaning that the actual overall fiscal profile and individual cost and revenue components may fluctuate depending on background local, regional, or national economic conditions in the future.

All specific municipal cost estimates are intended to illustrate the magnitude of the financial impact on the affected municipal departments for the purpose of constructing an overall fiscal profile. The cost estimates are not presented as budget recommendations for an individual department. This report recognizes that the application of current and future municipal revenues and levels of service is the purview of the local officials and Town Meeting.

Projected student enrollments and associated education costs are major components of any fiscal report reviewing a large scale residential development. This report generates an estimated education cost value based on a projection of additional school age children and an associated cost per pupil for the purpose of generating an overall education cost to be used as part of the overall fiscal analysis. Similar to non-school cost estimates education cost estimates are not designed as budgetary or policy recommendations. Rather, the enrollment and cost projections

should be considered as information to be used in conjunction with other school department studies, plans, policies designed to meet future and ongoing educational objectives. The education cost estimates used in this report are intended to provide an estimate of the long term cost per student (current dollars). Near term school costs, approximately one to five years five years after stabilization, are most likely to be lower. However, this report takes the position that the measurement of education cost should be considered over the long term and thus allocates school costs on the basis of actual net school spending per student which provides a more accurate estimate of long term school cost.

Table 1 below provides a more detailed review of the base scenario with a 12.5% affordable component.

Table 1. Development Scenario

Residential Type	Market Rate	Affordable Rate	Total	Percent of Total
One Bedroom	109	16	125	50%
Two Bedroom	87	13	100	40%
Three Bedroom	22	3	25	10%
Total	218	32	250	100%

As shown in Table 1 above, the base scenario unit mix is strongly oriented towards smaller units with one and two bedroom units comprising 90% of the total. A scenario such as outlined above would likely be intended to provide quality rental housing opportunities for Needham residents; and to provide workforce housing for Needham Crossing and the Route 128 employment corridor.

2.0 Summary of Methodology

In considering the fiscal impacts of the Proposal, this report divides municipal service costs into two broad categories: general service costs (i.e. all non-education costs) and education costs.

As noted in the body of this report, the measurable general service costs will be primarily generated from public safety-related (police and fire services) and minor health department costs. The associated departmental cost estimates were generated by employing current operating budget levels and discussions with department heads and the written data they provided.

As with most multifamily developments, education costs represent the large majority of the total estimated annual service costs. Education costs have been applied based on an estimate of new students at project stabilization. The estimated student generation rate has been developed by examining comparable developments in Needham and in surrounding communities. (See Section 5.0 for details).

Education costs are driven by an estimate of net additional school-aged children to be enrolled in the Needham Public School System. The basic formula for determining the local education cost

estimate is (1) the actual net school spending per pupil (ANSS), as reported by the Massachusetts Department of Education for 2014, minus and (2) state aid (MGL Chapter 70), which is an annual revenue source and an adjustment factor for current building maintenance and operational costs. Actual Net School Spending (ANSS) includes all funds expended by the School Committee via the municipal budget, grants, and other funds as well as certain town expenditures including employee benefits but excluding certain types of expenditures such as transportation, adult education, and long-term debt. As such, ANSS provides an inclusive school cost estimate per net new student.

As stated, the equation for determining the Town's educational costs takes into account the fact that school costs are partially offset by Chapter 70 school aid from the Commonwealth. In order to provide an estimate of the fiscal impact of potential new school children from the Proposal at stabilization, this report assigns a Chapter 70 aid based on the current aid per student level. While it is not a prediction of future Chapter 70 aid to Needham, we believe it is a reasonable basis on which to estimate the costs associated with students generated by the Proposal. As reported by the Massachusetts Department of Elementary and Secondary Education on its web site "Chapter 70 Trends" in January of 2015 the Town's ANSS was \$14,367 with \$1,547 (10.8%) of total represented by Chapter 70 state aid.

Since Chapter 70 is a revenue source, for the purposes of this report, it is subtracted from total ANSS in order to provide an estimate of the portion of education cost borne by the local tax base. Accordingly, the cost per student relative to locally generated revenue local fiscal resources is approximately \$12,820 per student in this report.

2.2 General Service Cost Estimates

For all other municipal service costs i.e. general service costs, the report employs the FY2015 operating budget of the Town of Needham and includes those service categories that will most likely exhibit a measurable additional cost due to the test scenario. In this case, the Police Department, Fire Department, and Health Department are considered as impacted departments with the public safety departments representing the large majority of likely additional general service costs. It should be noted that the test scenario would be replacing existing uses that also to some small extent generate police and fire service costs. However, to be conservative in Town's favor the public service costs developed for this report are considered new costs without a deduction for past or current use. Finally, the individual departmental estimated costs are combined in the report to provide a total general service cost estimate.

It should also be noted that there are municipal operational budget categories that are properly not included in general service costs for purposes of determining fiscal impact, such as existing debt payments, municipal services paid by enterprise or similar accounts for water and sewer services and building department reviews and inspections which are paid for directly by fees charged to the developer. In addition, Public Works' responsibilities such as road maintenance and plowing of existing public roadways abutting the site area will not change as a result of the test scenario. In short, the measurable potential additional general service costs will be primarily associated with police and fire services, including ambulance service, and potentially some level of health department costs.

2.3 Revenue Projection

Service costs represent only one part of the fiscal equation. To appropriately estimate the annual fiscal impact of the Proposal, the estimated annual revenue stream (total annual income generated) must also be determined. As discussed with the Town's Assessor in January of 2015 the estimated assessed valuation this report employs a combination of nearby comparable developments and the stabilized income method consistent with current practices and methods in Needham.

Added to the projected property tax at project stabilization is an estimate of excise tax associated with the base scenario but not any estimate of additional Chapter 70 aid. Therefore, the real estate property tax at project stabilization plus the excise tax comprise the estimated annual revenue stream of the base scenario.

2.4 Fiscal Profile

The report compares the estimated total municipal service costs (both general service costs and education costs) to estimated total annual revenue to arrive at an estimated annual cost-to-revenue ratio, or annual fiscal profile. The findings are also expressed in terms of current dollars gained or lost annually at project stabilization.

As noted earlier, the objective is to provide Needham with an understanding of the long-term fiscal implications of the various scenarios. Accordingly, the most important finding presented in this report is the estimated cost-to-revenue ratio at stabilization since this finding reflects a long term fiscal profile. While the cost to revenue ratio will likely vary slightly from year to year due to background regional or national economic trends, it is the best measure of the long term projected fiscal performance of the various scenarios.

3.0 Summary of Findings

- The tested scenario with a unit mix of 50% one bedroom; 40% two bedroom, and 10% three bedroom and a 12.5% affordable requirement has a positive cost to revenue ratio of 0.76 and would generate an annual fiscal benefit of approximately \$189,000 at stabilization (current dollars).
- One time building permit fees associated with the test scenario are estimated to be in the range of \$300,000 \$325,000.
- The test scenario has an estimated assessed value of \$65,860,000. Note: *all* current commercial properties along Charles Street in the MU-128 district have a combined assessed value of approximately 8,800,000.
- The test scenario will generate an annual average of 33 school aged children. In operational terms the number of students would most likely fluctuate between 28 and 38 in any given year.
- If all or portions of the tested scenario could be offered as a viable condominium development the overall fiscal profile would improve significantly. Specifically, the value of condominium units would have an assessed value two to three times higher than the assessed value of an “equivalent” rental unit; while the overall service costs would remain essentially unchanged.
- If the tested scenario were combined with commercial development i.e. a mixed use development ; the cost to revenue ratio and annual fiscal benefit could improve significantly, given the scale of the commercial development since the commercial component would not generate education costs and would be taxed at a higher tax rate.

4.0. General Service Costs

This report uses the City's FY2015 operating budget to reflect overall annual departmental costs. To estimate applicable general service costs, this report uses information provided by various Town Departments in January of 2015.

Residential Service Costs – Police Department

Data provided from the Police Department in January of 2015 for the years 2011 to 2014 indicated the total annual call volume of approximately 35,000 calls per year all types.

It is important to note that a significant portion of the public safety calls and costs are *not* directly related to residential land uses. Office, retail, industrial and uses plus public facilities, institutional uses, recreation uses, and town wide traffic management create significant public safety service demands. In this instance, data sampling by the Needham Police Department indicates that approximately 27% of all service calls emanate from residential land uses or 9,450 calls.

Additional data provided by the Needham Police Department, for the nearby comparable development of Charles River Landing (CRL), indicates 187 calls for service in 2013 or a rate of 0.53 calls per unit for the 354 unit development. This call rate represents the highest call rate of the past 5 years; the lowest call rate was 90 calls in 2010. The broad range in call rates serves as a reminder the volatility year to year of public safety service calls at any one location. This analysis, to be conservative, applies the 0.53 call rate to the base scenario. Accordingly, the 250 units of the base scenario may generate up additional 133 calls for service.

Further, it is important to note there is no accurate way to indicate the cost of a police response to a dwelling unit. Assuming a one to one relationship of call volume to service cost is likely not accurate form of cost estimating. This report recognizes that most likely there is not a proportional relationship between number of service calls and cost. Accordingly, to recognize that annual costs may be higher than the average on any given year this report assumes that 27% of the service calls is equivalent to 40% of overall police service cost, or a 150% rate as opposed to assuming a direct relationship between the police call rate and budget allocation. Therefore, 40% of the current police budget of \$6,013,261 represents approximately \$2,405,000 in annual service cost generated by residential land uses.

The 133 additional calls would increase the annual residential call rate by 1.4% (133 calls divided by 9,450). However, further recognizing the volatility in call rates this report will employ a 2% increase in the call rate. At said rate, the base scenario could increase annual police costs by as much as \$49,000 (current dollars).

See table 2 below for a summary of Police Costs

Table 2. Service Costs - Police

Department	FY 2014 Budget	Residential Cost Factor 40%	New Calls	Percent Increase	Estimated Annual Cost
Police Dept. (1)	\$6,013,261	\$2,405,000	\$133	2%	\$49,000

(1) Includes Public Safety Dispatch Budget

Residential Service Cost –Fire Department

Data provided in January of 2015, the Needham Fire Department indicates that total number of Fire Department service runs in 2014 was 3,559 of which 2,598 or 73% were responses to residential locations. Accordingly, with approximately 11,100 dwelling units in Town's Fire Department averaged 0.23 runs per dwelling unit in 2014. Applying this ratio we can anticipate 58 additional fire department runs (all types) generated from the 250 unit base scenario.

The 2015 Fire Department Budget is \$7,218,973. Given that the large majority of calls are to residential land uses an average cost per call approach has merit. While not all residential service calls have the same cost this report assumes that 73% of the fire department budget approximately \$5,413,855 is expended on the 2,598 residential service calls. As noted, the base scenario will generate approximately 58 new service calls or an increase of 2.2%. Therefore, the 58 additional runs may generate up to \$119,104 in service costs. It is likely that the cost estimates noted above are conservative (high) because the number of people per unit in the base scenario is considerably lower than the average dwelling unit in Needham by about half.

Therefore, we examined a per capita analysis which is more sensitive to the population per unit issue. The \$5,269,850 portion of the Fire Department budget associated with residential land uses provided services to approximately 29,500 residents. Accordingly, the fire service cost per capita cost is approximately \$179 per person per year. Assuming a population of approximately 400 people in the base scenario the per capita method (1.6 per unit) yields a cost of \$72,000 per year.

For the purposes of this cost estimate the report will assume the average of all the methods which yields a cost estimate of approximately \$95,000 per year.

Ambulance Service.

Needham has an advanced life care service rating for its ambulance services. In general terms this allows Needham to secure insurance reimbursements for ambulance service calls. However, in reality, an unknown number of insurance calls in any one given year are provided to non-insured individuals. In general terms, the reported 2,598 residential ambulance service calls is essentially the same as the fire service call per residence or 0.23 calls per dwelling unit. Using

this value we can estimate an additional 58 ambulance service calls or an increase of 2.2% due to the 250 unit base scenario.

The cost for the 2,598 residential ambulance service calls is estimated by the fire department to have been \$3,161,910 in 2014. Therefore, the cost per call was approximately \$1,217. However, the cost for ambulance service is an insurance reimbursable item but not all calls are covered by insurance. At the present time approximately 94% of Massachusetts residents have health insurance coverage. Using this metric up to 6% of the anticipated 58 additional calls or 3 calls may not be covered by insurance. At this percentage, the Town would need to absorb approximately \$4,000 of additional cost from the base scenario.

Adding the ambulance service cost with the estimated fire service cost generates a combined estimate for fire department services of \$99,000 per year.

Health Department

A multi-family development with a common room/meeting room facilities, pools and health club facilities will require additional Health Department inspections. While most inspections require a fee, the number for health inspections that may be generated by the new residents calling for service is unknown and these calls for service will occasionally generate health department costs. While a development the scale of the base scenario will have on site management and all residents will be interviewed prior to lease signing it is possible that the Health Department may see additional health related service calls from individual residents.

The Health Department FY 2015 budget is \$577,215 and while the department also services commercial uses, for the purposes of this report, all health department costs will be assigned to residential dwellings. Given approximately 11,100 dwelling units in Needham, the Health Department cost per dwelling is estimated at \$52 per dwelling unit. Applying said average cost the Proposal may generate up to \$13,000 in additional annual health department costs. Accordingly, this report will carry a Health Department additional cost of \$13,000. Again, similar to police and fire service costs this cost estimate could vary significantly in either direction given future circumstances, but in general terms the Health Department costs are not a significant of service cost for this or similar developments.

Other General Service Costs

Water and sewer costs will be addressed via enterprise accounts for said services established by the Town of Needham. Similarly, Building Department costs will be covered by the required permit fees. The additional population should not require additional staffing for general government services such as Town Clerk, Treasurer, and Selectman; or for services such as libraries or recreation. Further, budget items like current municipal debt are not applicable since they pre-date the Proposal. Accordingly, municipal the departments that will experience measurable additional costs are Police, Fire and the Health Department.

Total General Service Costs

Table 4 below summarizes the total estimated annual general service costs (current dollars) associated with the Proposal with an understanding that in any given year costs could be higher or lower. Depending on public safety events.

Table 3. Estimated Total General Service Costs

Department	Annual Cost
Police	\$ 49,000
Fire	\$ 99,000
Health	\$ 13,000
Total	\$161,000

5.0 Education Costs

For this report, school student generation rates will be estimated by unit type. Specifically, one bedroom market and affordable, two bedroom market and affordable and three bedroom market and affordable.

One Bedroom units

For the purposes of this report studio and one bedroom units will conform to the regional norm and not generate any measurable number of school aged children (SAC).

Two Bedroom Units

Two bedroom units, while not considered a typical family oriented unit type, does generate school aged children in a consistent and measurable fashion. The nearby 354 unit Charles River Landing (CRL) has a gross student generation rate of only 0.067 per unit due to the fact that 70% of all units are one bedroom units. However, when applying the total number of students (currently 24) to only the 106 two bedroom component we derive a rate of 0.226 students per unit. This ratio is a good two bedroom comparable for our use since it also includes a 25% affordable component; and further the base scenario will likely have a similar rent structure to CHL.

Three Bedroom Units

Newer larger scale multi-family developments with a three bedroom component including a 25% affordable factor are relatively rare and in most cases student identification cannot be related to unit type due to reasons of privacy laws. However, based on my experience three bedroom market rate units have a regional average of as 0.65 students per unit; essentially mimicking the student per single/two family rate found in the region i.e. a range of 0.40 to 0.75. The estimated current single/two family rate in Needham is approximately 0.70 representing the high end of the regional experience.

Importantly, we have found that the affordable unit student generation rates in the region are two to three times the student generation rate of its market rate comparables. Accordingly, a student generation rate of 1.3 for affordable three bedroom units is applied in this instance. Note that said three bedroom affordable rate is significantly higher than town wide single family rate of 0.70.

Table 4 below illustrates student generation estimates by unit type for the base scenario.

Table 4. Student Generation by Unit Type

Type and Number of Units	Number of Units	Student Generation Rate	Number of Students
One bedroom, mkt.	109	0.00	0
One bedroom aff.	16	0.00	0
Two bedroom (1)	100	0.12 (1)	15
Three bedroom mkt	22	0.65	14
Three bedroom, aff.	3	1.30	4
Total	250	0.132	33

(1) Current Charles River Landing composite two bedroom student rate i.e. market and affordable units is 0.226 with a 25% affordable component. The test scenario has an affordable component of 12.5%. The aggregate student rate for two bedrooms has been reduced to 0.12 for this scenario.

As shown above the test scenario would, on average, generate 33 students per year. In operational terms the number of students would most likely fluctuate between 28 to 38 students in any given year.

5.2 Estimated Annual School Cost and Enrollment Patterns.

The Town of Needham has a FY15 estimated actual net school spending (ANSS) of approximately \$14,367 student pupil. Of that amount, \$1,547 is state Chapter 70 education aid; a revenue source. Therefore, the Town's tax base supports \$12,820 per student. Applying the \$12,820 cost to the estimated 33 students, the additional annual school cost to be absorbed by the local tax base would be approximately \$423,000 (current dollars).

5.3 Total Service Cost

Assuming per pupil education costs of \$423,000; and general service costs of \$161,000 the total annual municipal service costs will be the long term annual service cost is estimated at \$584,000 (current dollars). See Table 5 below for a general summary of total service costs.

Table 5, Summary of Municipal Service Cost

Proposal	General Service Costs	Education Costs	Total Service Costs
250 Rental Homes	\$161,000	\$423,000	\$584,000

6.0 Revenue Projection

The revenue estimate relies on the current valuation of the one and two bedroom units at the nearby Charles River Landing (CRL); a development with a 12.5% affordable component, similar to the base scenario.

CRL, however, does not have a three bedroom component, therefore for that aspect of the revenue estimate this report applies Needham's current income method model to the 25 three bedroom units and the estimated rents. Specifically, the income method with the following values; a 10% vacancy factor, a 25% operation and maintenance deduction and a cap rate of 9% has been applied to the three bedroom units. Further, the assumed aggregate for three bedroom rents are \$4,100 for the 22 market rate units and \$1,400 for the 3 affordable units. This approach generates an assessed value of \$8,496,000 for the three bedroom component.

As referenced, this report uses the Charles River Landing assessed values to estimate the values of the 196 market rate one and two bedroom units and the 56 affordable one and two bedroom units. Based on current data the CRL aggregate one and two bedroom market rate assessed value is \$279,105 per market unit and the affordable units at \$107,250. Applying these values to the unit count noted above yields an estimated value of \$54,704,580 for the 196 market rate units and \$2,037,750 for the 56 affordable one and two bedroom units.

Table 6. Assessed Value Estimates by Component

Component	Assessed Value
196 one and two bedroom market rate units (1)	\$54,704,580
56 one and two bedroom affordable units (1)	\$ 2,037,750
22 three bedroom market rate units	\$8,118,000
3 three bedroom affordable units	\$378,000
Club house and amenities	\$1,000,000
Total	\$65,860,600

(1) Based on CRL current assessed values.

Given the current residential tax rate of \$11.29 the scenario will generate approximately \$743,000 in property taxes. Further, assuming there will be at least approximately 300 registered vehicles on site, applying an excise tax of \$100 per vehicle would result in an additional \$30,000 in annual revenues. Therefore, the total annual revenue stream is estimated to be approximately \$773,000.

See Table 7 below.

Table 7. Summary-Annual Revenue Stream

Base Scenario	Assessed Value (1)	Annual Property Tax	Annual Excise Tax	Annual Revenue Stream (1)
250 Rental Homes	\$65,860,000	\$743,000	\$30,000	\$773,000

(1) At stabilization (current dollars)

7.0 Estimated Long Term Fiscal Profile

With the annual revenue stream estimated at \$773,000 at stabilization (current dollars) and total annual service cost of approximately \$584,000 the test scenario will have a cost-to-revenue ratio of approximately 0.76 and is moderately revenue positive.

Table 8. Summary of Fiscal Profile

Proposal	Annual Revenue	Annual Cost	Cost to Revenue Ratio	Annual Benefit (loss)
250 Residences	\$773,000	\$584,000	0.76	\$189,000

The report finds that the base scenario generates long term cost to revenue ratio of 0.76; moderately positive.

8.0 One Time Fees

Given the current requirement of a construction related permit fee of \$0.80 per square foot this report estimates that one time building permit fees paid to the general fund will be between \$300,000 and \$325,000. This sum, after deducting Building Department construction monitoring costs, will likely generate a significant one time fiscal benefit for Needham.

9.0 Summary of Additional Fiscal Findings from January 30 2105 Report

The following summary of estimated fiscal findings for various development scenarios was a part of the initial fiscal analysis reviewed by the Council on February 4th. It is being duplicated here to provide context for the scenario examined in this report.

Introduction

The base scenario examined in detail in this report (January 30th) served as the control point for the following scenarios. In order not to duplicate the methodology text, this section of the report presents a summary analysis of various unit mix and percent affordable requirement scenarios and their resulting fiscal profiles. Using the same data and methodologies for service cost and revenue this portion of the report assumes that the general service costs associated with each scenario remains constant at \$161,000 per year but that the school costs and revenues collected due to changes in unit mix and affordable requirements drive the alternate fiscal outcomes.

Please note, given the finding that the base scenario (50% one bedroom, 40% two bedroom and 10% three bedroom) generates a revenue neutral profile. No scenario has been included that will create a negative profile. Also all annual revenues include \$30,000 in excise taxes.

Alternate 1:

Increase one bedroom component from 50% to 60%; reduce two bedroom component to 30% maintain 10% three bedroom component; and the 25% affordable requirement.

- Number of students: a decline of 6 students from 41 to 35.
- Reduction in service costs of \$77,000; from \$712,000 to \$635,000.
- Change in assessed value: minus 2.5 million; a tax revenue decline of \$28,000 from \$718,000 to \$690,000.
- Cost to revenue ratio 0.92, slightly positive fiscal profile.
- Annual revenue benefit: \$55,000.

Conclusion: A small annual fiscal benefit is generated; primarily due to a reduction in number of students from 41 to 35.

Alternate 2

An increase in the one bedroom component from 50% to 70%; a 20% two bedroom component; a 10% three bedroom component and maintain 25% affordable.

- Change in student number from base scenario: a decline of 12 students from 41 to 29.
- Reduction in service costs of \$154,000; from \$712,000 to \$558,000.
- Change in assessed value: minus 5 million; a tax revenue decline of \$56,000 from \$718,000 to \$662,000.
- Cost to revenue ratio 0.84; moderately positive fiscal profile positive profile.
- Annual revenue benefit: \$104,000

Conclusion: A 70% one bedroom component with 10% three bedrooms an 25% affordable generates a moderate annual benefit due to significant reduction in student generation from 41 to 29.

Alternate 3

Maintain one bedroom component at 50%; increase two bedroom component to 50%; eliminate three bedrooms: maintain 25% affordable.

- Change in student number from base scenario: a student decline of from 41 to 27.
- Reduction in service costs \$180,000; a decline from \$712,000 to \$532,000.
- Change in assessed value: minus 6 million; a tax revenue decline of \$68,000 from \$718,000 to \$650,000.
- Cost to revenue ratio of 0.82; moderately positive.
- Annual revenue benefit: \$118,000.

Conclusion: Moderate gain in annual benefit as compared to Alternate 2 due to a significant reduction in average annual students 41 to 27. A corollary to this scenario: If the unit mix changed to 60% one bedroom the annual benefit would increase to approximately \$150,000 due to a further reduction in students 3 to 4.

Comments on Alternatives 1-3.

We can improve the fiscal outcome of the base scenario by either removing three bedrooms or by increasing the percentage of one bedroom units but the improvements are modest except in instance where all three bedrooms are removed. Maintenance of the 25% affordable factor acts as a significant fiscal drag in Scenarios 1-3.

Alternate 4

Maintain unit mix of the base scenario and reduce affordable rate to 12.5%

- Change in student number from base scenario: a decline of 8 students from 41 to 33
- Reduction in service costs of \$103,000; from \$712,000 to \$609,000.
- Change in assessed value; increases by approximately 5 million; revenue increases by \$56,000 from \$718,000 to \$774,000.
- Cost to revenue ratio 0.79; strong moderate positive fiscal outcome.
- Annual revenue benefit: \$165,000.

Conclusion: The base scenario moves to a moderate positive fiscal profile by reducing affordable rate by 50%. Assessed values increase and school costs drop by one third.

Alternate 5

Increase one bedroom units to 60%, maintain 10% three bedroom; reduce the affordable rate to 12.5%

- Change in student number from base scenario: students decline by 16 from 41 to 25.

- Reduction in service costs \$205,000; from \$712,000 to \$503,000
- Change in assessed value: increase by approximately 4 million; revenue increases \$45,000 from \$718,000 to \$763,000.
- Cost to revenue ratio 0.66, a sustainable positive fiscal outcome.
- Annual revenue benefit: \$260,000.

Conclusion: The base scenario moves into a positive and sustainable fiscal profile by reducing affordable rate by 50% and increasing one bedroom component 60%; resulting in higher assessed value and significantly lower school aged children.

Concluding Comments

The fiscal profile of the base scenario can be improved by altering the unit mix to require more than 50% one bedrooms but the resulting fiscal improvements are relatively minor to moderate. However, when the unit mix requires a component of more than 50% one bedroom and includes a reduction in the affordable requirement to 12.5% the fiscal profile of a 250 unit multi-family development improves noticeable and is likely to result in a clearly positive and sustainable fiscal profile.

If a positive fiscal outcome is desired as one of the outcomes of the potential zoning overlay, then at latest a 50% one bedroom requirement needs to be considered along with reductions in the required affordable percentage.



**Board of Selectmen
TOWN OF NEEDHAM
AGENDA FACT SHEET**

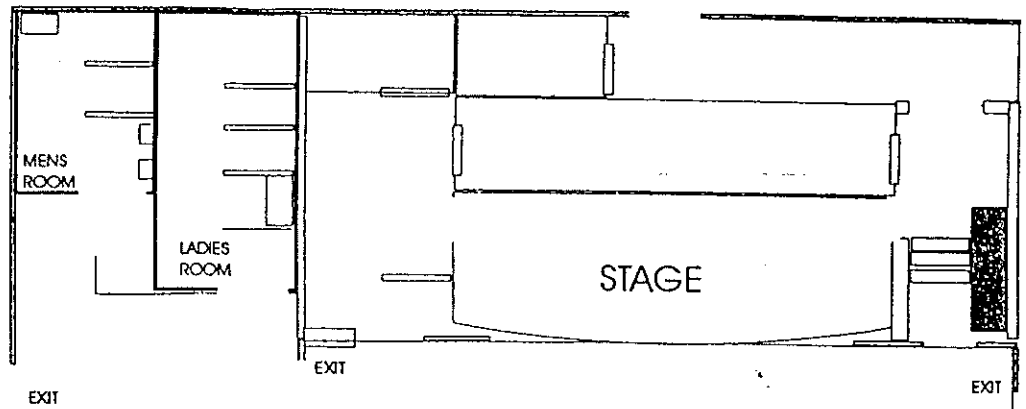
MEETING DATE: 10/27/2015

Agenda Item	Committee Reports
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED		
<i>Board members will report on the progress and / or activities of their Committee assignments.</i>			
2.	VOTE REQUIRED BY BOARD OF SELECTMEN	YES	NO
3.	BACK UP INFORMATION ATTACHED	YES	NO
(Describe backup below)			
None			

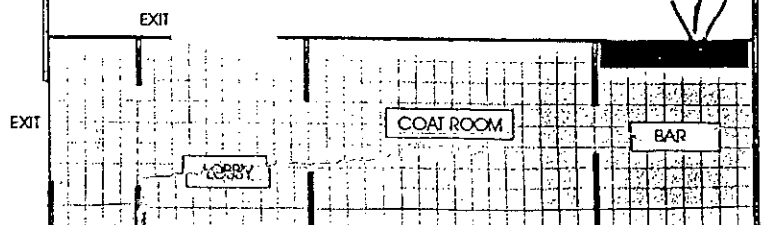
**ONE DAY SPECIAL LICENSE
TOWN OF NEEDHAM BOARD OF SELECTMEN
EVENT INFORMATION SHEET**
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Event Manager Name (Name that will appear on license)	Stephen P. Piche III		
Event Manager Address	88 Montrose St		
Event Manager Phone Number	781-727-1838		
Organization Representing (if applicable)			
Is the organization (if applicable) you are representing non-profit? If so, please attach proof of non-profit status.	☐ Non-profit ☒ For profit ☒ Proof of non-profit status is attached Form of Proof: _____		
Name of Event	MDA Fundraiser		
Date of Event	10/10/15		
License is for Sale of:			
☐ Wines & Malt Beverages Only ☒ All Alcoholic Beverages (for non-profit groups only)			
Requested Time for Liquor License	FROM:	TO:	
	11A	8P	
Are tickets being sold in advance for this event?	☐ YES \$	/per ticket	☒ NO
Is there an admission fee for this event?	☐ YES \$	/per ticket	☒ NO
Are you using dues collected to purchase alcohol for this event?	☐ YES	☒ NO	
How many people are you expecting at this event?			
80			
Name & address of event location. Please attach proof of permission to use this facility.			
88 Montrose St.			
Who will be serving the alcohol to your guests?			
Chris Williams			
Bartenders and/or servers of alcohol, beer and/or wine must have completed in the past three years an appropriate Massachusetts alcoholic beverages server-training program. Please state below who will be serving alcohol, beer and/or wine and attach proof of their training (certificate).			
Chris Williams			
Please use the space below to describe the manner in which alcohol will be served to your guests. (For example, will guests be served alcohol or will they need to purchase it from the bar?) Please attach floorplan (can be hand drawn) of the event facility with liquor delivery plan.			
on file			
☒ I understand that the alcohol purchased for this event must be purchased from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder and that I have received a current list of wholesalers. (A person holding a Section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04))			
Event Manager Signature:			Date:
Stephen P. Piche III			10/9/15



The Village Club
HIGHLANDVILLE HALL
Needham, Ma

HIGHLANDVILLE
HALL
60' X 40'



ALL ALCOHOL SERVED HERE



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Issued: 5/28/2013

Expires: 5/28/2016

ID#: 3481972

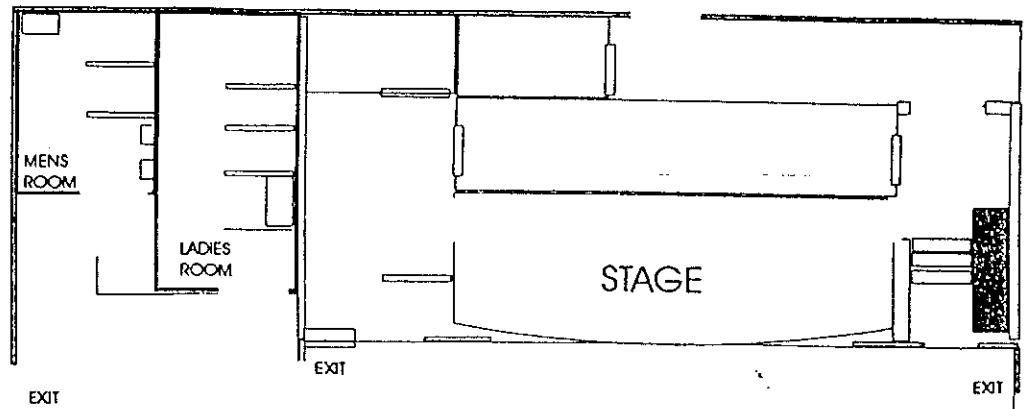
D.O.B.: XXX/XX/XX

Chris R Williams
16 August Way
Needham, MA 02494-1338

For service visit us online at www.getips.com

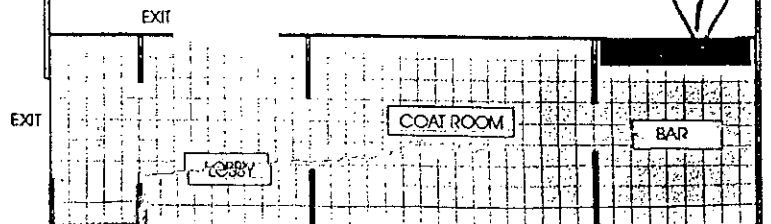
**ONE DAY SPECIAL LICENSE
TOWN OF NEEDHAM BOARD OF SELECTMEN
EVENT INFORMATION SHEET**
(Please complete and attach event flyer or other information.)

Event Manager Name (Name that will appear on license)	Stephen P. Rochelle		
Event Manager Address	83 Montrose St		
Event Manager Phone Number	781-727-1838		
Organization Representing (if applicable)	class of 1990 Reunion		
Is the organization (if applicable) you are representing non-profit? If so, please attach proof of non-profit status.	☐ Non-profit ☐ For profit ☒ Proof of non-profit status is attached Form of Proof: _____		
Name of Event			
Date of Event	11/27/15		
License is for Sale of:			
☐ Wines & Malt Beverages Only ☒ All Alcoholic Beverages (for non-profit groups only)			
Requested Time for Liquor License	FROM:	TO:	
	6	11	
Are tickets being sold in advance for this event?	☒ YES	\$ 40	/per ticket ☐ NO
Is there an admission fee for this event?	☐ YES	\$	/per ticket ☒ NO
Are you using dues collected to purchase alcohol for this event?	☐ YES	☒ NO	
How many people are you expecting at this event?	125		
Name & address of event location. Please attach proof of permission to use this facility.			
83 Montrose St			
Who will be serving the alcohol to your guests?			
Stephen P. Rochelle			
Bartenders and/or servers of alcohol, beer and/or wine must have completed in the past three years an appropriate Massachusetts alcoholic beverages server-training program. Please state below who will be serving alcohol, beer and/or wine and attach proof of their training (certificate).			
Stephen P. Rochelle			
Please use the space below to describe the manner in which alcohol will be served to your guests. (For example, will guests be served alcohol or will they need to purchase it from the bar?) Please attach floorplan (can be hand drawn) of the event facility with liquor delivery plan.			
on site			
☒ I understand that the alcohol purchased for this event must be purchased from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder and that I have received a current list of wholesalers. (A person holding a Section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04))			
Event Manager Signature:			Date:
Stephen P. Rochelle			10/9/15



The Village Club
HIGHLANDVILLE HALL
Needham, Ma

HIGHLANDVILLE
HALL
60' X 40'



ALL ALCOHOL SERVED HERE

CERTIFICATION NUMBER:

76320

ALCOHOL INTERVENTION METHODS
CERTIFIES:

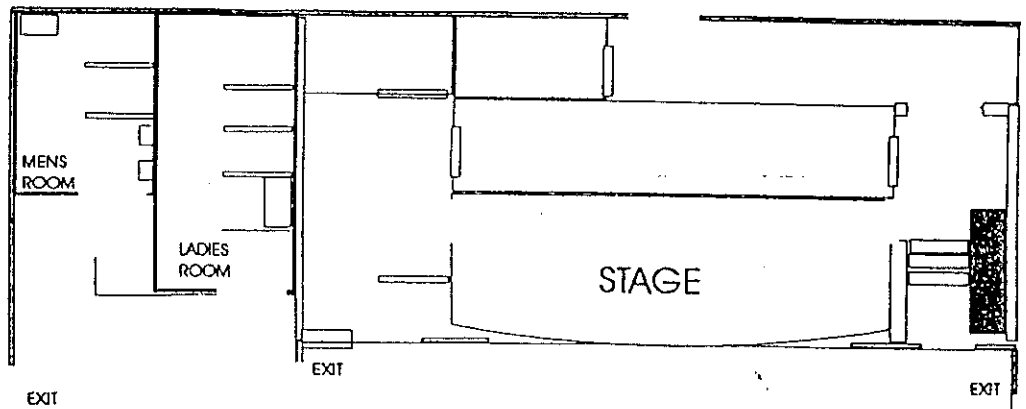
Stephen Proscelli

CAMPBELL TRENT
508-756-8542

EXPIRES:
APR 19 2016

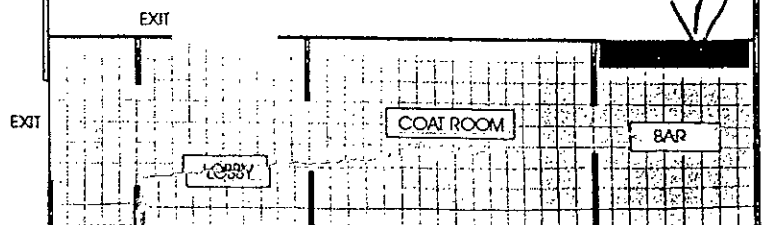
**ONE DAY SPECIAL LICENSE
TOWN OF NEEDHAM BOARD OF SELECTMEN
EVENT INFORMATION SHEET**
(Please complete and attach event flyer or other information.)

Event Manager Name (Name that will appear on license)	Stephen P. Tuckelli		
Event Manager Address	83 Newton St		
Event Manager Phone Number	781-727-1838		
Organization Representing (if applicable)	Class of 1985 Reunion		
Is the organization (if applicable) you are representing non-profit? If so, please attach proof of non-profit status.	☐ Non-profit ☐ For profit ☒ Proof of non-profit status is attached Form of Proof: _____		
Name of Event	1985 class Reunion		
Date of Event	11/28/15		
License is for Sale of:			
☐ Wines & Malt Beverages Only ☒ All Alcoholic Beverages (for non-profit groups only)			
Requested Time for Liquor License	FROM:	TO:	
	6	11	
Are tickets being sold in advance for this event?	☒ YES	\$ 40 /per ticket	☐ NO
Is there an admission fee for this event?	☐ YES	\$ /per ticket	☒ NO
Are you using dues collected to purchase alcohol for this event?	☐ YES	☒ NO	
How many people are you expecting at this event?			
115-125			
Name & address of event location. Please attach proof of permission to use this facility.			
83 Newton St			
Who will be serving the alcohol to your guests?			
Chris Williams			
Bartenders and/or servers of alcohol, beer and/or wine must have completed in the past three years an appropriate Massachusetts alcoholic beverages server-training program. Please state below who will be serving alcohol, beer and/or wine and attach proof of their training (certificate).			
Chris Williams			
Please use the space below to describe the manner in which alcohol will be served to your guests. (For example, will guests be served alcohol or will they need to purchase it from the bar?) Please attach floorplan (can be hand drawn) of the event facility with liquor delivery plan.			
on site			
☒ I understand that the alcohol purchased for this event must be purchased from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder and that I have received a current list of wholesalers. (A person holding a Section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04))			
Event Manager Signature:			Date:
[Signature]			11/28/15



The Village Club
HIGHLANDVILLE HALL
Needham, Ma

HIGHLANDVILLE
HALL
60' X 40'



ALL ALCOHOL SERVED HERE



TIPS On Premise 2.0 SSN: XXX-XX-XXXX

Issued: 5/28/2013

Expires: 5/28/2014

ID#: 3481972

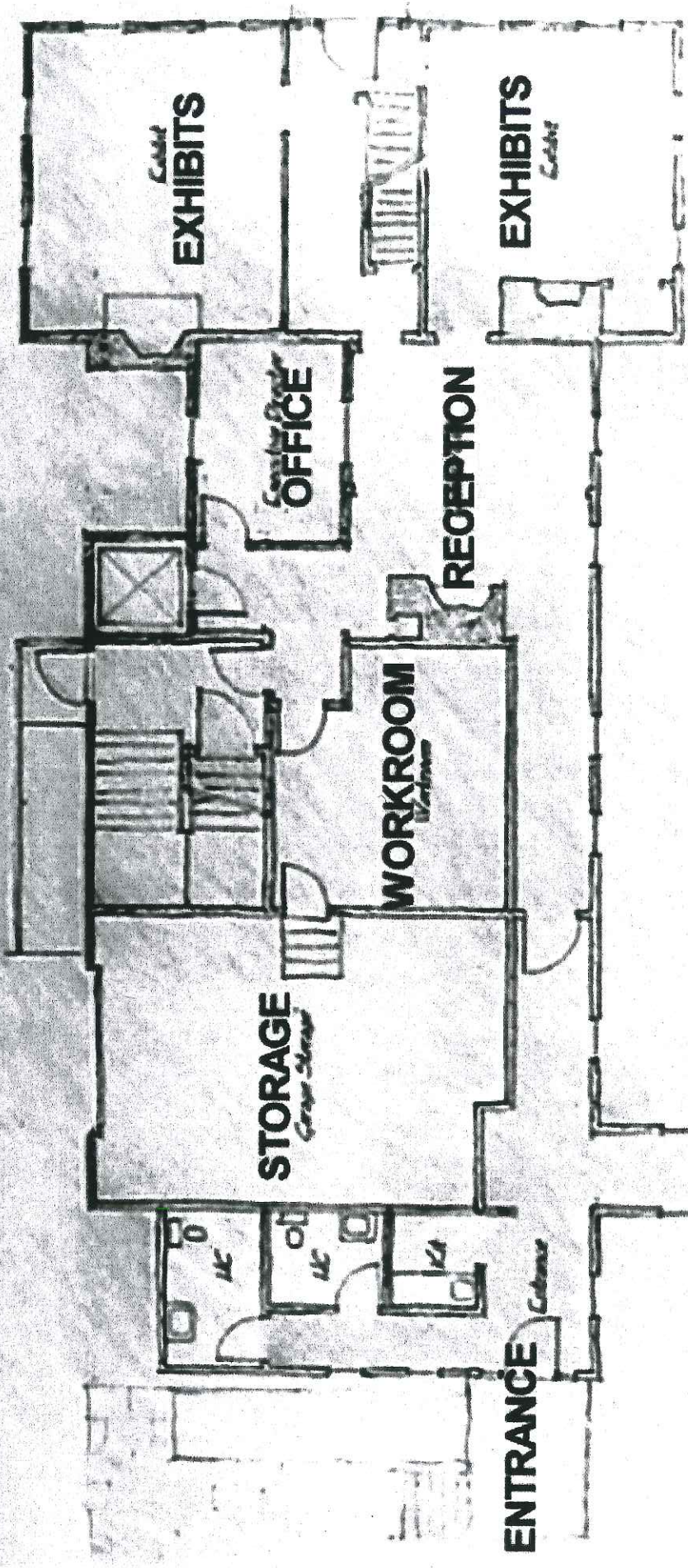
D.O.B.: XX/XX/XXXX

Chris R Williams
16 August Way
Needham, MA 02494-1938

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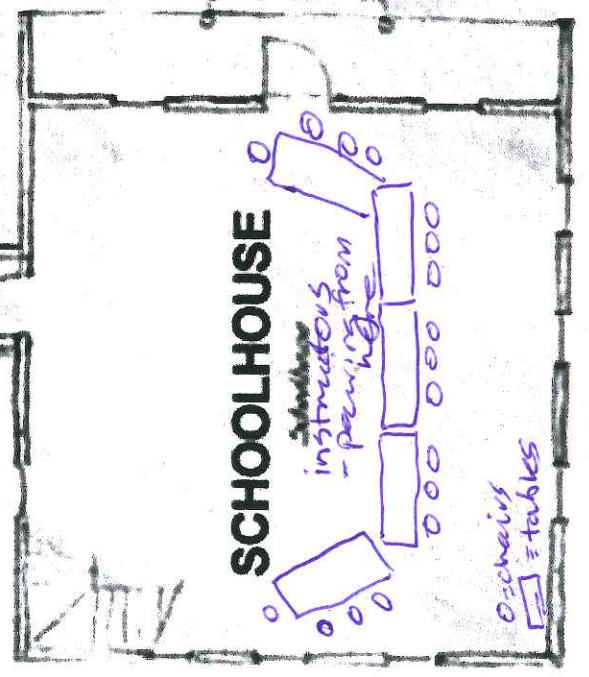
**ONE DAY SPECIAL LICENSE
TOWN OF NEEDHAM BOARD OF SELECTMEN
EVENT INFORMATION SHEET**
(Please complete and attach event flyer or other information.)

Event Manager Name (Name that will appear on license)	Mary Grace Summergrad		
Event Manager Address	62 Green St Needham, MA 02492		
Event Manager Phone Number	(C) 339-225-0515		
Organization Representing (if applicable)	Needham Community Education		
Is the organization (if applicable) you are representing non-profit? If so, please attach proof of non-profit status.	☒ Non-profit ☐ Proof of non-profit status is attached Form of Proof: _____	☐ For profit	office of Needham Public Schools
Name of Event	Whiskey tasting at Needham Historical Society		
Date of Event	Oct. 25, 2015		
License is for Sale of:			
☐ Wines & Malt Beverages Only			
☒ All Alcoholic Beverages (for non-profit groups only)			
Requested Time for Liquor License	FROM:	2:30	TO: 5:30 pm
Are tickets being sold in advance for this event?	☒ YES	\$ 49 /per ticket	☐ NO
Is there an admission fee for this event?	☐ YES	\$ /per ticket	☐ NO
(49 pp as above)			
Are you using dues collected to purchase alcohol for this event?	☐ YES	☐ NO	
* attendees will pay instructors \$20 pp in class for liquors			
How many people are you expecting at this event?	20 attending; 4-5 staff members		
Name & address of event location. Please attach proof of permission to use this facility.	Needham Historical Society 1147 Central Ave, Needham, MA		
Who will be serving the alcohol to your guests?	the instructors of the class		
Bartenders and/or servers of alcohol, beer and/or wine must have completed in the past three years an appropriate Massachusetts alcoholic beverages server-training program. Please state below who will be serving alcohol, beer and/or wine and attach proof of their training (certificate).			
Bonnie Simpson, certification # 4107686 - certification attached			
Please use the space below to describe the manner in which alcohol will be served to your guests. (For example, will guests be served alcohol or will they need to purchase it from the bar?) Please attach floorplan (can be hand drawn) of the event facility with liquor delivery plan.			
Liquor will be poured at tables where attendees are seated. Floor plan attached.			
☒ I understand that the alcohol purchased for this event must be purchased from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder and that I have received a current list of wholesalers. (A person holding a Section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04))			
Event Manager Signature:			Date:
Mary Grace Summergrad Program Director, Needham Community Ed			10/20/15



First Floor Plan

SCHOOLHOUSE



MATTHIAS MILLS HC FIRST FLOOR PLAN



The Needham Historical Society, Inc.

1147 Central Avenue, Needham, MA 02492

781-455-8860 / www.needhamhistory.org

21 September 2015

Needham Board of Selectmen
Needham Town Hall
1471 Highland Avenue
Needham, MA 02492

I would like to confirm that Needham Community Education is renting our facility on October 25th, 2015 for their Whiskey Tasting class.

Sincerely,

Gloria Greis
Executive Director

Do not click Back-Space to leave this window

Certificate of Completion

This Certificate of Completion of

eTIPS On Premise 2.0

For coursework completed on October 20, 2015

provided by Health Communications, Inc.
is hereby granted to:

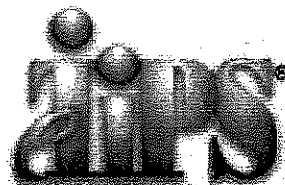
Bonnie Simpson

Certification to be sent to:

12 S Water St
Onset MA, 02558 USA



HEALTH COMMUNICATIONS INC.



This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be forwarded to you.

**Town of Needham
Board of Selectmen
Minutes for September 21, 2015
Selectmen's Chamber
Needham Town Hall**

6:45 p.m. Informal Meeting with Citizens:
Bryan Anderson, David Bailit, Sam Morris-Kliment, and Keaton Sabin who are Needham residents and 7th grade students at Roxbury Latin School spoke with the Board about local government and observed the Selectmen's meeting as part of their civics class.

7:00 p.m. Call to Order:
A meeting of the Board of Selectmen was convened by Chairman Maurice P. Handel. Those present were Matthew D. Borrelli, Marianne B. Cooley, Daniel P. Matthews, John A. Bulian, Town Manager Kate Fitzpatrick, and Recording Secretary Mary Hunt.

7:00 p.m. Proclamation - Don Brock Day in Needham:
Mr. Matthews read a proclamation recognizing Saturday, October 10, 2015 as Don Brock Day in the Town of Needham.

Motion by Mr. Matthews that the Board of Selectmen vote to approve and sign the Proclamation recognizing Saturday, October 10, 2015, as DON BROCK DAY in the Town of Needham and express our appreciation and warmest congratulations to Don Brock on his lifetime of achievement and service to the students and families of the Town of Needham.
Second: Mr. Borrelli. Unanimously approved 5-0.

7:04 p.m. Appointments and Consent Agenda:
Motion by Mr. Bulian that the Board of Selectmen vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS: There were no Appointments at this meeting.

CONSENT AGENDA *=Backup attached

- 1. Accept a \$1000.00 donation made to the Needham Health Department's Substance Abuse Education & Prevention's 5th Quarter Program from Needham High School- PTC Trust.**
- 2.* Approve a Special One Day Wines & Malt Beverages Only license from Karen Calton and Jennifer Mingoelli of St. Joseph's School to host its Oktoberfest event on Saturday, October 24, 2015 from 6:00 p.m. to 10:00 p.m. The event will be held at St. Joseph's School, 110 May Street, Needham.**
- 3.* Approve road race event form from Christopher George of the Sean Biggs Memorial Foundation, to hold its 5K race in Needham on November 15, 2015**

from 6:00 a.m. to 12:30 p.m. The race application has been approved by the following departments: DPW, Police, Fire, and Park and Recreation.

- 4.* Approve a One Day Special All Alcoholic Beverages License for James Walsh of St. Sebastian's School to host its Alumni Dinner on Thursday, October 15, 2015 from 6:00 p.m. to 10:00 p.m. Event is to be held in Ward Hall at St. Sebastian's School, 1191 Greendale Avenue, Needham.
5. Accept a donation of a 250th Anniversary Town of Needham plate with stand, and a postcard of Needham High School from 1961 from Sally Green, a resident of Medfield.
- 6.* Approve Minutes of September 8, 2015 open and executive session.
- 7.* Water & Sewer Abatement Order #1204
- 8.* Approve banner approval request from the Needham Community Revitalization Trust Fund for Rotary Club Banners to be hung in the Chapel Street Banner Showcase Display program.
- 9.* Approve a request from the Needham Running Club to hold its annual road race on Friday, January 1, 2016 from 9:00 a.m. to 1:00 p.m. The race application has been approved by the following departments: DPW, Police, Fire and Park and Recreation.

10. Grant Permission for the following residents to hold a block party:

Name	Address	Party Location	Party Date	Party Rain Date	Party Time
Heidi Wiesel	46 Ware Road	Ware Road	R-9/19/15	N/A	3pm-9pm
Liz Lawlor	76 Howland Street	Pleasant Street	R-9/19/15	N/A	4pm-7:30pm
Jill Oetheimer	75 Coolidge Ave	Coolidge Ave	R-9/20/15	10/4/15	4:30pm-7:30pm
James Rochford	74 Rolling Lane	Rolling Lane	R-9/19/15	9/26/15	12:30pm-5pm
Jill Cotter	15 Holland Street	Holland Street	9/25/15	10/4/15	5pm-7:30pm
Liz Berkman	113 Melrose Ave	Hatfield Park	9/26/15	N/A	3pm-6pm
Kristen Young	130 Hoover Road	Hoover Road	9/27/15	10/4/15	4pm-8pm
Maureen Rossi	65 Douglas Road	Douglas Road	R-9/29/15	9/30/15	5pm-7pm
Kelly Allen	103 Sylvan Road	Sylvan Rd to Harding Rd Overlook	10/4/15	N/A	12pm-5pm

Second: Mr. Borrelli. Unanimously approved 5-0.

7:05 p.m.

New England Wellspring - Marijuana Dispensary:

Jill Schafer, Attorney and Olof Ingare, New England Wellspring, appeared before the Board requesting that the Board of Selectmen provide a letter of local support or non-opposition to New England Wellspring's 2013 application for a license to operate a Registered Marijuana Dispensary in the Town of Needham. This request is based on the Judgment in the matter of New England Wellspring vs. Massachusetts Department of Public Health issued by the Suffolk Superior Court on

August 20, 2015 and a letter to New England Wellspring from Bryan Harter, Director, Medical Use of Marijuana Program, Massachusetts DPH, dated September 8, 2015.

Ms. Schafer said the court remanded the case back to the DPH in light of changes to the process for further review of the application. She stated the regulations and licensure of an RMD remain the same, however the process has changed. She said New England Wellspring met all of the criteria Needham specified in its letter of no action. She said the DPH is requesting a letter of local support or non-opposition for the site proposed in New England Wellspring's application. She said however, circumstances have changed as New England Wellspring may not locate in Needham, but that New England Wellspring has local support from another community. She asked for a letter from the Board of Selectmen and said New England Wellspring will agree with the Board that if New England Wellspring should locate in Needham it would agree to comply with the Town's 2015 new process.

Mr. Handel asked Ms. Schafer what change in circumstance would lead the Board of Selectmen to a different conclusion than in 2013?

Ms. Schafer said New England Wellspring did not have the opportunity in the spring of 2014 to request a letter as the DPH was tardy in responding to the Town.

Mr. Bulian referred to Bryan Harter's letter of September 8, 2015 to New England Wellspring clarifying New England Wellspring needs a letter from the Board of Selectmen in order to proceed.

Ms. Schafer said it was important, but not required based on the 2013 process. She said a letter is now required under the new regulations.

Mr. Borrelli said he has no interest in supplying a letter that has nothing to do with the Town of Needham to add to an application for another community. He said it makes no sense. He said Needham voted on a policy a month ago as to the process, and he sees no reason why to usurp the process.

Ms. Cooley agreed with Mr. Borrelli, and said she is puzzled with a verbal promise from New England Wellspring to comply with 2015 process. She said she would have thought New England Wellspring would have written a letter to the Board of Selectmen in advance of the meeting.

Mr. Matthews said he does not read the correspondence from the DPH the same way as Ms. Schafer. He clarified the DPH has invited New England Wellspring to ask the Board of Selectmen for a letter of support or non-opposition, which he said would benefit New England Wellspring's application. He commented New England Wellspring appeared before the Board of Selectmen two years ago with an opportunity to put its best foot forward. He said the Board reviewed the materials

carefully and decided to take no action. He said that, at this point, he sees no reason to revisit the action of the Board.

Motion by Mr. Matthews that the Board of Selectmen vote to deny the request of New England Wellspring, Inc. for a letter of local support or non-opposition, and that the Massachusetts Department of Public Health be notified of this action.

Second: Mr. Borrelli. Unanimously approved 5-0.

Mr. Bulian asked for comment from Mr. Ingare, New England Wellspring.

Mr. Ingare said it's a complicated process and that New England Wellspring is stuck in the 2013 process with its application. He said New England Wellspring would like to work with the Town of Needham and participate in the next process the Board agrees upon.

7:25 p.m.

Public Facilities Summer Activities Update:

Chip Laffey, Director of Facility Operations appeared before the Board with an update on the activities performed by the Public Facilities/Operations Department during the summer 2015.

Ms. Fitzpatrick noted that each year, before the start of school, she, Dan Gutekanst, Schools Superintendent, and Chip Laffey inspect all the schools. Ms. Fitzpatrick said she was taken by the amount of work done over the summer and asked Mr. Laffey to update the Board.

Mr. Laffey commented on the productive summer his department had regarding school building maintenance. He listed many projects, as noted in his memo dated September 14, 2015 to the Board of Selectmen, including painting at the Mitchell School, duct cleaning at Broadmeadow, Pollard, and Fire Station #2, removal and replacement of a combustion chamber at Broadmeadow, reconfiguring classrooms at the High School, asbestos abatement at Pollard, removal and replacement of lockers at Pollard. He also commented on energy efforts including replacement of lighting to LED lighting at several schools.

The Board thanked Mr. Laffey for his work.

7:30 p.m.

Director of Public Works:

Richard P. Merson, DPW Director appeared before the Board with two items to discuss:

1. Sign Notice of Traffic Regulation - Winfield Street, Ware Road, and Abbott Street
Mr. Merson said a request was received by the Traffic Management Advisory Committee from the residents of the Abbott Street, Winfield Street, and Ware Road area asking that Winfield Street and Ware Road be designated stopped streets at the intersection of Abbott Street. Mr. Merson said the TMAC recommended that

Winfield Street and Ware Road be designated stopped streets at the intersection of Abbott Street.

Motion by Mr. Bulian that the Board vote to approve and sign the Notice of Traffic Regulation Permit #SS15-09-21 requiring that Winfield Street eastbound and Ware Road westbound be designated stopped streets at the intersection of Abbott Street.

Second: Ms. Cooley. Unanimously approved 5-0.

2. Notice of Traffic Regulation - All Night Parking & Parking Committee

Mr. Merson said the process of seeking waivers, where allowed, from the No All Night Parking Regulation was last amended in September 2003. During the period since then the waiver process has been managed in several fashions. He said several years ago this procedure was reviewed and a new amendment was drafted but not enacted. He said requests are currently being addressed by the Traffic Management Advisory Committee (TMAC) with input from the Police Dept. Upon review of this process and the intended purpose, it was determined the procedure should be a function of the "Parking Committee". The proposed Notice of Traffic Regulation would address this.

Mr. Merson also noted that the regulation establishing the "Traffic Committee" should be renamed the "Parking Committee. The 2nd Notice of Traffic Regulation would address this.

Lastly, Mr. Merson said the Parking Committee Guidelines for the Annual Waiver of Overnight Parking Ban have been updated to include the annual waiver fee.

Ms. Fitzpatrick noted the proposal in the Parking Committee Guidelines includes an increased fee of \$35 from \$25.

Motion by Mr. Bulian that the Board vote to approve and sign Notice of Traffic Regulation, Permit No. P15-09-21.

Second: Mr. Borrelli. Unanimously approved 5-0.

Motion by Mr. Bulian that the Board vote to approve and sign Notice of Traffic Regulation, Permit No. P15-09-21a.

Second: Mr. Borrelli. Unanimously approved 5-0.

Motion by Mr. Bulian that the Board vote to approve the Parking Committee Guidelines for the Annual Waiver of Overnight Parking Ban dated 9/21/2015.

Second: Mr. Borrelli. Unanimously approved 5-0.

7:35 p.m.

Town Manager:

Kate Fitzpatrick, Town Manager appeared before the Board with two items to discuss:

1. Close Special Town Meeting Warrant

Ms. Fitzpatrick asked the Board to close the Special Town Meeting Warrant subject to minor technical corrections. She also asked the Board to vote on removal of the capital articles that are deemed unnecessary after the School Committee votes its preferred site selection for the Hillside School Project.

Ms. Fitzpatrick noted representatives of the Planning Board will appear before the Board in October to discuss the zoning articles, and representatives of the Community Preservation Committee and Housing Authority will discuss the Seabeds Way project. She said representatives of the PPBC will appear before the Board to discuss the vote of the School Committee on the Hillside School project, as well as the change in the financing for the solar project.

Motion by Mr. Bulian that the Board vote to close the warrant for the November 2, 2015 Special Town Meeting, subject to minor technical corrections to be made by the Town Manager, Town Counsel and Bond Counsel, and further subject to removal of capital articles deemed unnecessary after the School Committee votes its preferred site selection(s) for the Hillside School project.

Second: Ms. Cooley. Unanimously approved 5-0.

2. Town Manager Report

Ms. Fitzpatrick reported the Department of Public Health received a \$625,000 federal grant to continue the work it is doing on youth substance abuse. She thanked Tim McDonald, Director of Public Health for his work in securing the grant.

7:45 p.m.

Board Discussion:

1. Potential Property Acquisition

Mr. Handel said acquiring the Owens Poultry Farm property will require a significant expenditure and discussion is about what the Board of Selectmen believes to be the best means of funding the capital need. He said the Board concluded the acquisition can either be funded through the levy or by capital override. He asked for Board comment, noting the override option would require a special election on December 1, 2015.

Mr. Bulian said he favors an override to acquire the land. He said if the School Committee decides to use the land for the purpose of a school, then the land and construction of the school are candidates for a debt exclusion. He commented taking a large amount of money from the debt capacity within the levy would squeeze out other much needed capital items.

Mr. Borrelli concurred with Mr. Bulian. He commented that in negotiating the best deal, land is extremely expensive. He said the cost of the land can not fit into the levy without squeezing out other planned projects. Mr. Borrelli said it is a historic opportunity for the Town to purchase a 10 acre parcel, and an extraordinary

expense. He agreed the only way to make the purchase is through a debt exclusion override. He noted it is tough to ask the community, but critical and essential.

Ms. Cooley agreed with Mr. Bulian and Mr. Borrelli. She said purchases of this size, under the current structure, should be made through an override. She said citizens have an opportunity to vote on it and also see the tax expense "go away" once it is paid. Ms. Cooley said the opportunity is unique in that it will give the Town more flexibility to do the right thing in rebuilding the Hillside School and benefits everyone.

Mr. Matthews said much has happened over the last few months in terms of the opportunity to purchase the Owens property and possible other parcels. He said analysis of the purchase, negotiation, and the work of the School Department, some of which remains confidential, yet includes the issue of funding the purchase. He asked Ms. Fitzpatrick if she had anything else to add to the discussion.

Ms. Fitzpatrick said the Town's capital plan is set annually for the next 5 years and there are many capital needs, commenting analysis of the acquisition will show the affect on the capital plan and that there is no doubt the acquisition will crowd out projects already contemplated and set as priorities by the Board of Selectmen.

Mr. Matthews said the opportunity to acquire the land and other parcels is at a fair price to build a new school. He said it is a significant opportunity, even if the decision was made not to build a school on the property at this time. He said he is fully in favor of purchasing the land and taking the recommendation to Town Meeting. He concurred with the Town Manager that many projects need to be done in the coming years, which have already been carefully planned. He said the ability of the Town to pay for capital projects within the levy force other projects to be deferred or to an override. He said the decision should be made for an override on this project. He concluded he agrees with the Town Manager and the Board that it makes sense to buy the property, take it to Town Meeting to ask for approval, and to use override bond funding if voters agree.

Mr. Handel agreed, and said the site is preferred based on discussions where to relocate the Hillside School. He said it makes sense to pay for the project through a capital override so other projects are not crowded out. He noted complete consensus by the Board.

2. Committee Reports

No Committee Reports have been made.

7:50 p.m. Executive Session (Exceptions 2, 3, and 6):

Motion by Mr. Bulian that the Board of Selectmen vote to enter into Executive Session.

Exception 2 - To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel.

Exception 3 - To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.

Exception 6 - To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body. Not to return to open session prior to adjournment.

Second: Mr. Borrelli. Mr. Handel polled the Board. Unanimously approved 5-0.

**A list of all documents used at this Board of Selectmen meeting are available at:
<http://www.needhamma.gov/Archive.aspx?AMID=99&Type=&ADID=>**

Note: Meeting adjourned at 8:25 p.m.