

**NEEDHAM PLANNING BOARD**

**Wednesday, April 21, 2021**

**5:30 p.m.**

**Virtual Meeting using Zoom**

Meeting ID: **826-5899-3198**

(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at [www.zoom.us](http://www.zoom.us). At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **826-5899-3198**

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**US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: 826-5899-3198**

**Direct Link to meeting:** <https://us02web.zoom.us/j/82658993198>

1. Discussion of Town Meeting articles, including possible amendments.
2. Correspondence.
3. Report from Planning Director and Board members.

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

## **ARTICLE 5:    AMEND ZONING BY-LAW – HIGHWAY COMMERCIAL 1 ZONING DISTRICT**

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

1. Amend Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Industrial:

“HC-1 -- Highway Commercial 1”

2. Amend Section 3.2, Schedule of Use Regulations, by adding a new Section 3.2.7 as follows:

“3.2.7 Uses in the Highway Commercial 1 District

### 3.2.7.1 Permitted Uses

The following uses are permitted within the Highway Commercial 1 District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Retail establishment (not including grocery stores) or combination of retail establishments serving the general public where each establishment contains 5,750 square feet or less of floor area and where all items for sale or rent are kept inside a building.
- (d) Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises.
- (e) Craft, consumer or commercial service establishment dealing directly with the general public.
- (f) Laundry or dry-cleaning pick-up station with processing done elsewhere.
- (g) Professional, business or administrative office, but not including any of the following: a medical clinic or Medical Services Building or medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter “Group Practices”) or physical therapy, alternative medicine practices, wellness treatments, including but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. “Professional” shall include professional medical, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer such professionals (“Non-group Practice”).
- (h) Bank or Credit Union.
- (i) Medical Laboratory or laboratory engaged in scientific research and development and/or experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes.
- (j) Radio or television studio.
- (k) Light non-nuisance manufacturing, including, but not limited to, the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health.

(l) Telecommunications facility housed within a building.

(m) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Select Board in accordance with Section 6.9.

(n) More than one building on a lot.

(o) More than one use on a lot.

#### 3.2.7.2 Uses Permitted by Special Permit

The following uses are permitted within the Highway Commercial 1 District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as it may require:

(a) Light-rail train station.

(b) Adult day care facility.

(c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.7.1 (a).

(d) Retail establishment (not including grocery stores) or combination of retail establishments serving the general public where any establishment contains more than 5,750 but less than 10,000 square feet of floor area and where all items for sale or rent are kept inside a building.

(e) Equipment rental service but not including any business that uses outside storage.

(f) Grocery store provided it does not exceed 10,000 square feet of floor area.

(g) Eat-in or take-out restaurant or other eating establishment except that a lunch counter incidental to a primary use shall be permissible by right.

(h) Veterinary office and/or treatment facility and/or animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals.

(i) Indoor athletic or exercise facility or personal fitness service establishment, which may include outdoor pool(s) associated with such facilities.

(j) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.7.1(h) hereof.

(k) Group Practices as defined in Section 3.2.7.1(g) and alternative medicine practices, physical therapy, and wellness treatments facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies.

(l) Live performance theater, bowling alley, skating rink, billiard room, and similar commercial amusement or entertainment places.

(m) Apartment or multi-family dwelling provided that (1) the proposed apartment or multi-family dwelling complies with the lot area per unit requirements for apartments in the A-1 district as detailed in Section 4.3, (2) no more than 240 dwelling units shall be permitted in the Highway Commercial 1 District, (3) at least 40% but not more than 70% of all dwelling units within any project shall be one-

bedroom units, and (4) at least 12.5% of all dwelling units shall be Affordable Units as regulated in Section 6.12.”

3. Amend Section 4.7.1, Specific Front Setbacks, by deleting the following provisions:

“(b) On the easterly side of Gould Street from Highland Avenue northerly to land of the New York, New Haven and Hartford Railroad Company, there shall be a fifty (50) foot building setback line;

(c) On the northerly side of Highland Avenue from Gould Street northeasterly to the property of the Commonwealth of Massachusetts, there shall be a fifty (50) foot building setback line.”

4. Amend Section 4.10, Dimensional Regulations for Industrial-1 District, by deleting Section 4.10.4, which refers to Section 4.7.1 (b) and (c).

5. Amend Section 4, Dimensional Regulations, by adding a new Section 4.11 Dimensional Regulations for Highway Commercial Districts as follows:

“4.11 Dimensional Regulations for Highway Commercial Districts

4.11.1 Highway Commercial 1

| Minimum Lot Area (Sq. Ft.) | Minimum Lot Frontage (Ft.) | Front Setback (Ft.) | Side Setback (Ft.) | Rear Setback (Ft.) | Maximum Height (Ft.) | Maximum Stories | Maximum Lot Coverage | Floor Area Ratio |
|----------------------------|----------------------------|---------------------|--------------------|--------------------|----------------------|-----------------|----------------------|------------------|
|                            |                            | (1)                 | (1) (3)            | (1) (3)            | (1)                  | (1)             | (2) (4)              | (5) (6)          |
| 20,000                     | 100                        | 5                   | 10                 | 10                 | 56                   | 4               | 65%                  | 0.70             |

- (1) a. All buildings shall be limited to a height of 56 feet and four stories, except that buildings within 200 feet of Highland Avenue or the extension of the right-of-way line as described below in paragraph c. and buildings within 200 feet of Gould Street shall be limited to a height of 35 feet and 2 ½ stories as-of-right. If the height of a building is increased above the height of 35 feet, the front setback shall be increased to 15 feet and the side and rear setbacks to 20 feet except that, along the MBTA right-of-way the side and rear yard setbacks shall be 10 feet.

b. By Special Permit from the Planning Board, the maximum height of a building may be increased to 3 stories and 42 feet within 200 feet of Highland Avenue or the extension of the right-of-way line as described below in paragraph c. and within 200 feet of Gould Street. By Special Permit from the Board, the maximum height of a building may be further increased to the following limits: 5 stories and 70 feet provided the building is not located within 200 feet of Highland Avenue or the extension of the right-of-way line as described below in paragraph c. or within 200 feet of Gould Street.

c. (i) The line from which the 200-foot setback from Highland Avenue referred to in paragraphs a. and b. above shall be measured is that line which starts at the point of curvature on Highland Avenue at Gould Street marked by a stone bound/drill hole (SB/DH) and runs northeasterly N63°56'51"E by the Highland Avenue 1980 State Highway Alteration 361.46 feet to a stone bond/drill hole, then continues on the same northeasterly course an additional 330.54 feet for a total distance from the first mentioned bound of 700 feet. Reference is made to a plan entitled “Plan of Land Gould Street, Needham, MA”, prepared by Andover Engineering, Inc., dated July 27, 2000,

last revised September 20, 2001, recorded in the Norfolk County Registry of Deeds as Plan No. 564 of 2001, Plan Book 489. (ii) The line from which the 50-foot landscaped setback from Highland Avenue referred to in paragraph d. below shall be measured is that line which starts at the point of curvature on Highland Avenue at Gould Street marked by a stone bound/drill hole (SB/DH) and runs northeasterly N63°56'51"E by the Highland Avenue 1980 State Highway Alteration 361.46 feet to a stone bound/drill hole. If the 1980 State Highway Alteration along Highland Avenue is superseded by a subsequent State Highway Alteration, the 50-foot landscaped setback from Highland Avenue shall be measured from the newly-established street line.

d. Buildings and structures abutting Highland Avenue for the distance described in subsection (1) c. (ii) above and/or abutting Highland Avenue as it continues southwesterly to the intersection with Gould Street and/or abutting Gould Street shall be set back at least 50 feet from said streets. Buildings and structures abutting the layout of Route 128/95 beyond said Highland Avenue distance from stone bound to stone bound shall be set back at least 20 feet from said Route 128/95 layout. Notwithstanding the location or height of any building and structures, the required 50-foot or 20-foot setback shall be a landscaped, vegetative buffer area, which shall be required along the aforementioned street frontages and said layout in order to screen the development. Driveway openings, sidewalks, walkways and screened mechanical equipment shall be permitted in the buffer area.

e. Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.

f. For purposes of clarity, the required building setbacks and allowed envelopes (including setbacks) for allowance of additional height above 35 feet for the as-of right circumstance and 42 feet for the special permit circumstance are shown on figures 1 and 2 below.

Figure 1:

AS OF RIGHT ZONING SETBACKS

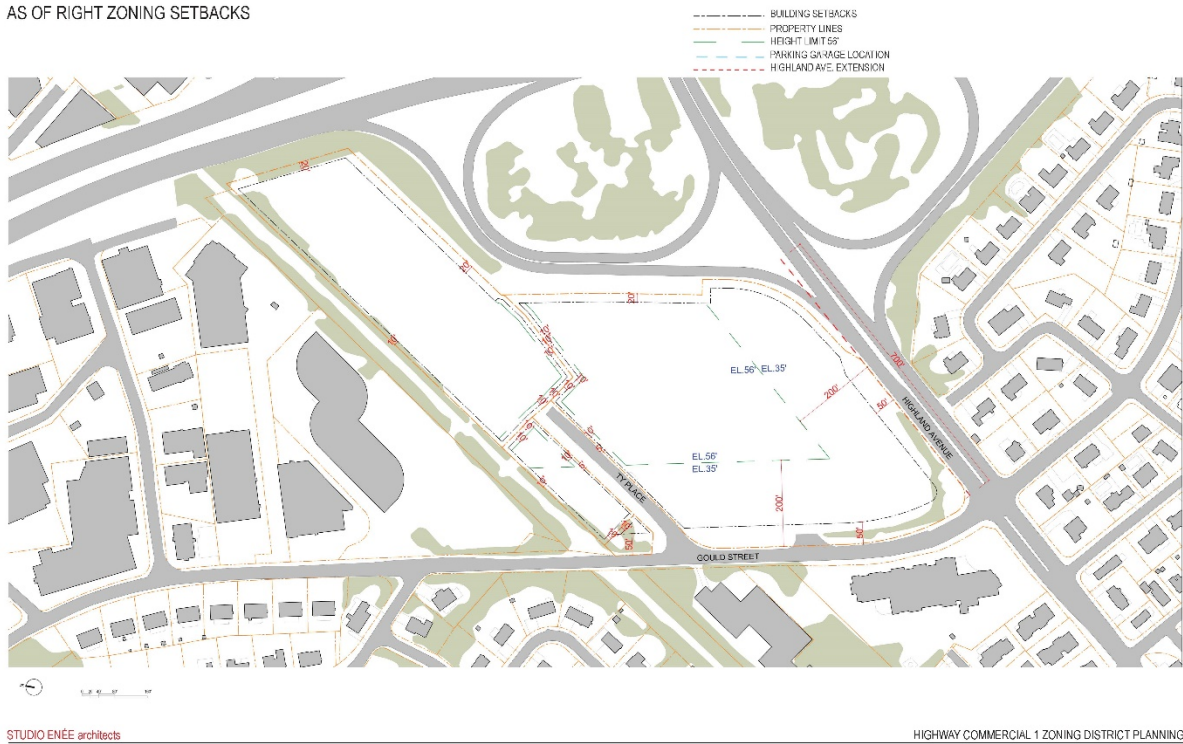
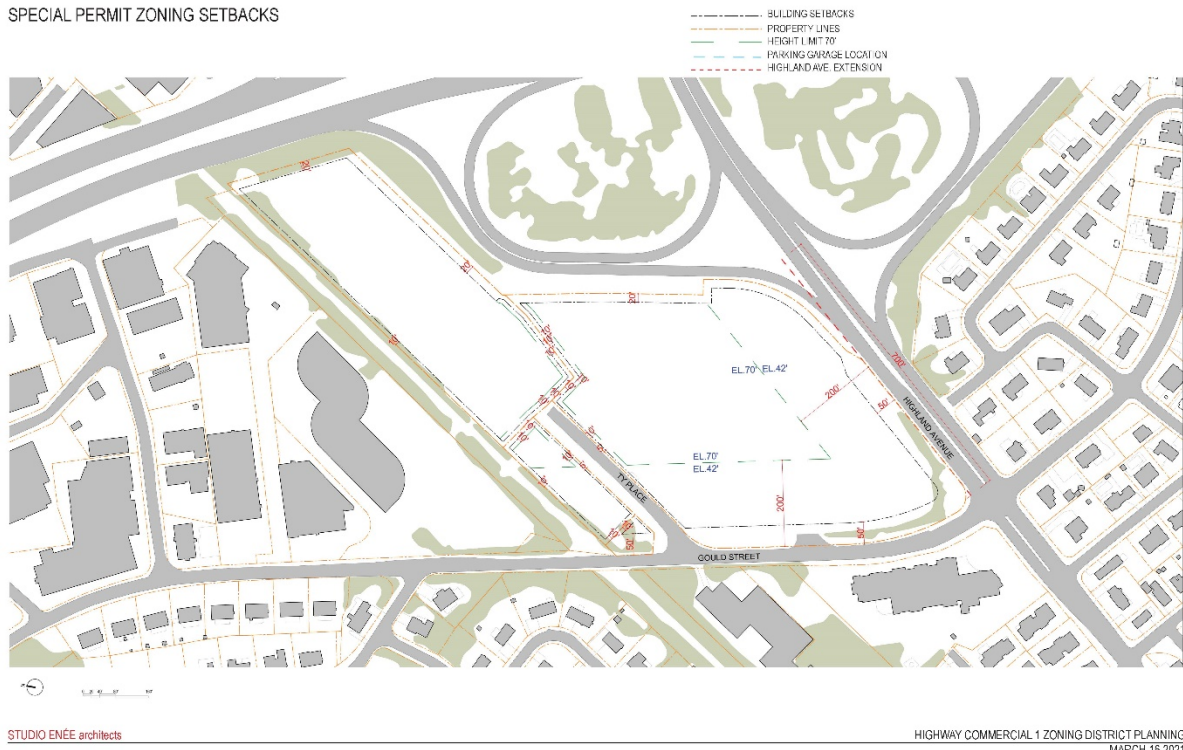


Figure 2:

SPECIAL PERMIT ZONING SETBACKS



- (2) Maximum lot coverage shall be 65% for all projects. However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet, the maximum lot coverage may be increased to 75%.
- (3) No side or rear yard setback is required for shared parking structures between adjoining properties, but only on one side of each lot, leaving the other side or rear yards open to provide access to the interior of the lot.
- (4) A minimum of 25% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. Notwithstanding the preceding sentence, open space may include pervious surfaces used for walkways and patios. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)
- (5) A floor area ratio of up to 1.35 may be allowed by a special permit from the Planning Board. In granting such special permit, the Planning Board shall consider the following factors: the ability of the existing or proposed infrastructure to adequately service the proposed facility without negatively impacting existing uses or infrastructure, including but not limited to, water supply, drainage, sewage, natural gas, and electric services; impact on traffic conditions at the site, on adjacent streets, and in nearby neighborhoods, including, but not limited to, the adequacy of the roads and intersections to safely and effectively provide access and egress; the environmental impacts of the proposal; and the fiscal implications of the proposal to the Town. In granting a special permit, the Planning Board shall also consider any proposed mitigation measures and whether the proposed project's benefits to the Town outweigh the costs and adverse impacts, if any, to the Town.
- (6) The calculation of floor area in determining floor area ratio shall not include parking areas or structures but shall include such active ground floor uses, such as retail, office, institutional, or display as are allowed by Section 4.11.2 (2).

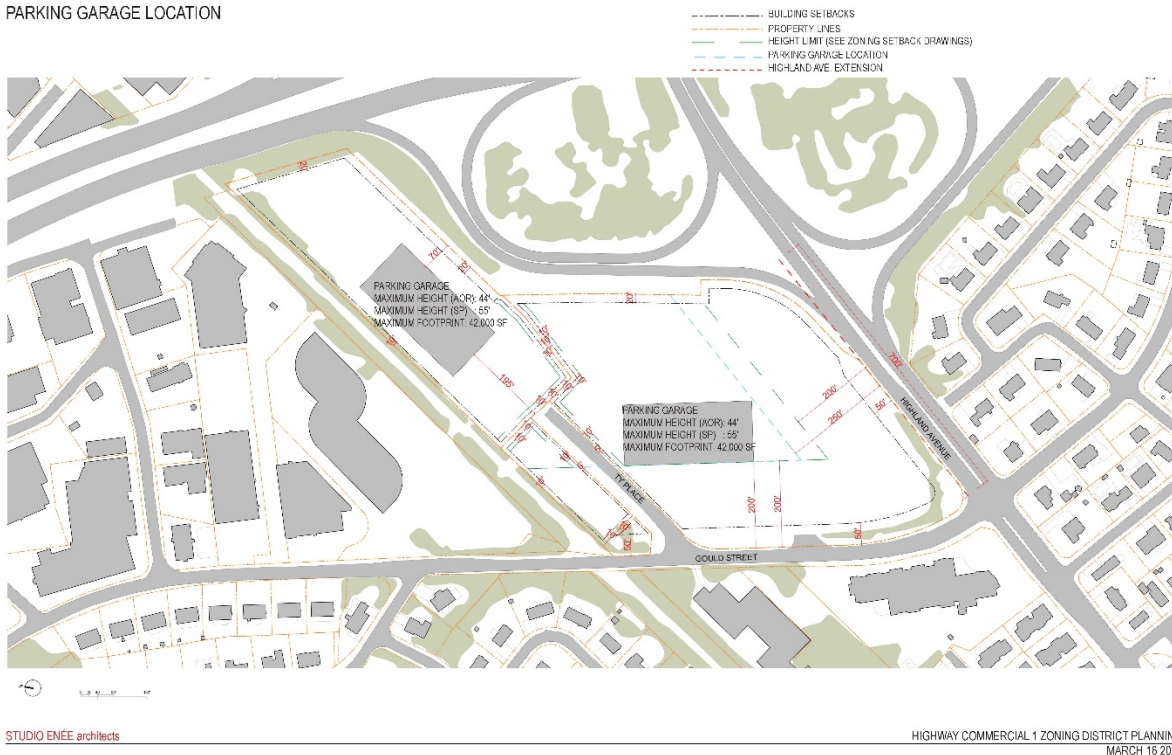
#### 4.11.2 Supplemental Dimensional Regulations

- (1) Notwithstanding Section 3.2.7.1(m) and any other provision of this Section 4.11 to the contrary, a parking garage, even if it is for an as-of-right development, may not exceed 44 feet in height, may not have a building footprint in excess of 42,000 square feet and may not be located within 250 feet of Highland Avenue or the extension of the right-of-way line described in Section 4.11.1 (1) c. (i) or within 200 feet of Gould Street. Notwithstanding the above, the maximum height of a parking garage may be increased to 55 feet by Special Permit from the Planning Board. For purposes of clarity the height, coverage and location requirements for the as-of-right and special permit parking garage circumstance are shown on figure 3 below.
- (2) Parking structures may have an active ground floor use, such as retail, office, institutional, or display. Structured parking must be located at least 20 feet from adjacent buildings but may be attached to the building it is servicing if all fire and safety requirements are met.
- (3) Maximum uninterrupted facade length shall be 200 feet.

- (4) All setback, height, and bulk requirements applicable to this Section 4.11 are contained in this Section and no additional requirements occasioned by this district abutting Route 128/95's SRB district shall apply.

Figure 3

PARKING GARAGE LOCATION



#### 4.11.3 Special Permit Requirements

In approving any special permit under Section 3.2.7.2 and/or Section 4.11, or for any project proceeding under the Highway Commercial 1 district provisions which constitute a Major Project under Section 7.4.2, the Planning Board shall consider the following design guidelines for development: (a) The proposed development should provide or contribute to providing pedestrian and neighborhood connections to surrounding properties, e.g., by creating inviting buildings or street edge, by creating shared publicly accessible green spaces, and/or by any other methods deemed appropriate by the Planning Board; (b) Any parking structure should have a scale, finish and architectural design that is compatible with the new buildings and which blunts the impact of such structures on the site and on the neighborhood; (c) The proposed development should encourage creative design and mix of uses which create an appropriate aesthetic for this gateway to Needham, including but not limited to, possible use of multiple buildings to enhance the corner of Highland Avenue and Gould Street, possible development of a landscape feature or park on Gould Street or Highland Avenue, varied façade treatments, streetscape design, integrated physical design, and/or other elements deemed appropriate by the Planning Board; (d) The proposed development should promote site features and a layout which is conducive to the uses proposed; (e) The proposed development should incorporate as many green building standards as practical, given the type of building and proposed uses; (f) The proposed development should be designed and conditioned to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking; and (g) The proposed development shall include participation in a transportation

demand management program to be approved by the Planning Board as a traffic mitigation measure, including but not limited to, membership and participation in an integrated or coordinated shuttle program.”

6. Amend Section 5.1.3, Parking Plan and Design Requirements, by adding at the end of the second sentence of subsection (j) which reads “Such parking setback shall also be twenty (20) feet in an Industrial-1 District” the words “and Highway Commercial 1 District unless a deeper parking setback is required by Section 4.11.”
7. Amend Section 6.5.1 of Section 6.5 Limited Heliports, by adding after the words “Industrial Districts,” in the first sentence, the words “and in the Highway Commercial 1 District,”.
8. Amend Section 6.12, Affordable Housing, by revising the first paragraph to read as follows:

“Any mixed-use building in the Neighborhood Business District (NB) with six or more dwelling units shall include affordable housing units as defined in Section 1.3 of this By-law. Any building in the Highway Commercial 1 District with six or more dwelling units shall include affordable housing units as defined in Section 1.3 of this By-law. The requirements detailed in paragraphs (a) thru (i) below shall apply to a development that includes affordable units in the Neighborhood Business District. The requirements detailed in paragraphs (a), (c), (d), (e), (f), (g), and (h) below shall apply to a development that includes affordable units in the Highway Commercial 1 District.”
9. Amend Section 7.2.5 of Section 7.2 Building or Use Permit, by adding after the words “Industrial-1 District,” in the first sentence, the words “Highway Commercial 1 District,”.
10. Amend Section 7.4.2 of Section 7.4 Site Plan Review, by adding in the first sentence of the last paragraph, the words “Highway Commercial 1 District,” after the words “Highland Commercial-128,”.
11. Amend Section 7.7.2.2, Authority and Specific Powers (of Design Review Board) by adding after the words “Industrial-1 District,” in the first sentence of the second paragraph, the words “Highway Commercial 1 District,”.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT:

*Article 5 Information: The Council of Economic Advisors (CEA), which was created by the Select Board to evaluate Town-wide economic conditions and make recommendations to promote and encourage new and existing businesses, undertook a review of all Industrial Zoning Districts in late 2013, and, after focusing its efforts on three different areas along Route 128, held public meetings with residents, neighbors, public officials, businesses and landowners in 2014 about potential zoning initiatives. As requested during those discussions, the CEA obtained a build-out analysis, a traffic impact report based on that analysis, and elevation drawings to better understand the impact of any proposed development. After examining the results of those reports, the CEA in 2017 reached out again to the various stakeholder groups and presented its preliminary recommendations to upgrade the zoning adjacent to Route 128 in order to make these areas more economically competitive. The CEA then presented its recommendations to the Select Board in January 2018. The Planning Board and Select Board, having reviewed the proposals from the CEA, determined in 2018 to move forward on only one area; the area circumscribed by Route 128, Highland Avenue, Gould Street, and the MBTA right-of-way. A land use study was completed and a rezoning plan for the noted area was then developed and presented to the October 2019 Special Town Meeting where it received a majority vote but fell short of the 2/3 vote required for passage. Concerns with the overall density*

profile, traffic impact, use profile and lack of sustainable development principles were noted by Town Meeting members.

In response to input received at the October 2019 Special Town Meeting, a Town-wide Community meeting was held in January 2020 with residents, neighbors, public officials, businesses and landowners to further develop and refine the Town's overall land use goals and strategy for the district. Additionally, a working group comprising representatives from the Planning Board, Select Board, Finance Committee, and Council of Economic Advisors was established to review the policy objectives of the district and to offer strategies to address the concerns raised at both the October 2019 Special Town Meeting and the January 2020 Community meeting. The working group commissioned an updated traffic study of the district to determine the capacity of the Town's traffic infrastructure to accommodate development at variable density and use profiles. 3D modeling and an updated fiscal impact analysis of the district were completed once the density and use profile of the district were finalized consistent with the capacity of the Town's traffic infrastructure to accommodate development at variable density and use profiles. A revised zoning and land use plan were then prepared which initiative is now expressed in the regulatory framework detailed in this article.

Briefly, the following six modifications have been made from the 2019 rezoning proposal to the current 2021 proposal as follows: (1) The overall density of development within the district has been reduced. Specifically, the as-of-right floor area ratio (FAR) has been reduced from 1.0 to .70 and the special permit FAR has been reduced from 1.75 to 1.35. (2) The maximum building height within the district has been reduced by one story for both the as-of-right and special permit condition. (3) The building setback distance along Gould Street and Highland Avenue has been increased from 20 feet to 50 feet. The noted 50-foot setback area is required to be a landscaped buffer area designed to screen the development from the street. (4) The required open space on the lot has been increased from 20 percent to 25 percent. (5) Permitted uses within the district have been expanded to include multi-family dwellings with an affordable housing requirement of 12.5 percent. (6) The special permit criteria for permit issuance has been expanded to include green building standards. The proposed use and dimensional changes to this area, to be rezoned Highway Commercial 1 ("HC1"), are detailed below.

The amendments to Section 3.2 detail the uses allowed by right and those by special permit. In addition, by listing the uses rather than using the current table of uses, the uses can be clarified and brought up to date. Key changes to the use listing include allowing up to 240 units of multi family dwelling units; allowing greater retail by special permit for more than 5,750 sq. ft. and less than 10,000 sq. ft. (current limit 5700 sq. ft.); allowing grocery stores of up to 10,000 square feet by special permit; clarifying medical services allowed by right and by special permit (as was done in the Needham Crossing zoning); standardizing the medical laboratory and research and development defined uses; allowing by right more than one use and more than one building on a lot; changing theaters, bowling alleys, skating rinks, billiard rooms and similar commercial amusement or entertainment places from by right to special permit; deleting indoor movie theaters from allowed uses; precluding single family detached dwellings from allowed uses; and precluding certain industrial uses in the district including, inter alia, commercial garages, contractor's yards, lumber or fuel establishments, medical clinics, and previously allowed warehousing, manufacturing and industrial services. The purpose of the use changes are: (1) to ensure that uses allowed by right or by special permit will maximize the economic value of redevelopment to the Town; (2) to ensure that the permitted uses within the district are consistent with the Town's land use goals for this gateway location and the Highland Avenue Corridor; and (3) to subject certain uses presently allowed by right to the special permit process so that they may be properly vetted by the permit granting authority as to impacts and mitigation.

The amendments to Section 4 would create the dimensional requirements for the new Highway Commercial 1 zone. The proposal under the new Section 4.11 establishes height restrictions for the district based upon measured distance from Gould Street and Highland Avenue. For the as-of-right circumstance development within 200 feet of Gould Street and 200 feet of Highland Avenue would be limited to a maximum height of 35 feet and 2 ½ stories and beyond 200 feet to a maximum height of 56 feet and 4 stories. For the special permit circumstance development within 200 feet of Gould Street and 200 feet of Highland Avenue would

*be limited to a maximum height of 42 feet and 3 stories and beyond 200 feet to a maximum height of 70 feet and 5 stories. (The current zoning allows 30 feet or two stories.) The proposal would change the front setback to 5 feet for all roadways internal to the site such as TV Place. This 5-foot front setback is applicable across the district unless the building height exceeds 35 feet, in which case the front setback increases to 15 feet, or the building sits on Highland Avenue or Gould Street, where a 50-foot landscaped vegetative buffer is proposed or along the layout of Route 95/128 where a 20-foot landscaped vegetative buffer is proposed. (Current front setback is 20 feet except along Gould and Highland where a 50-foot building setback and landscape buffer is imposed.) The side and rear setback would change to 10 feet unless the building height exceeds 35 feet, in which case the setback is increased to 20 feet for all side and rear setbacks not abutting the MBTA right-of-way. (The current side setback is 20 feet and the current rear setback is 10 feet). For informational purposes, the required building setbacks and allowed envelopes (including setbacks) for additional height above 35 feet are shown as Figure 1 for the as-of-right condition and as Figure 2 for the special permit condition in the zoning article.*

*The new zoning creates a maximum lot coverage requirement of 65% and an open space requirement of a minimum of 25%. (The current zoning contains no such requirements.) Changes are also proposed to the maximum FAR; a maximum FAR by right would be .70; the FAR may be increased up to 1.35 by special permit provided certain findings are made. The amendment clearly sets out the specific factors which will allow the exercise of the Board's special permit granting authority. The proposed zoning also sets out the maximum uninterrupted façade length that is allowed—200'. (The current zoning allows a FAR of only 0.5 and in very limited special circumstances 0.65-0.75.)*

*Finally, the new zoning restricts the bulk, height and location of a parking garage, even if it is for an as-of-right development. A parking garage may not exceed 44 feet in height, may not have a building footprint in excess of 42,000 square feet nor may it be located within 250 feet of Highland Avenue or within 200 feet of Gould Street. Notwithstanding the above, the maximum height of a parking garage may be increased to 55 feet by Special Permit from the Planning Board. For informational purposes, the required bulk, height and location requirements of a parking garage under both the as-of-right and special permit condition are shown as figure 3 in the zoning article.*

*Based on the build-out analysis, traffic report, dimensional analysis, consultant findings and information, and meeting testimony, the Planning Board confirmed that certain dimensional requirements, including front setback, height, floor area ratio, and side setbacks, and use requirements were constraining development under the current zoning rules and, given the properties' regionally prime commercial location along Route 128, is significantly underperforming economically, to the detriment of the Town. Further the Board found that the current industrial district zoning at the property was not reflective of the Town's land use policy goals for this gateway location and that a conversion to a mixed-use district consistent with the land use profile of the remainder of the Highland Avenue corridor was warranted. With rezoning, in time, this area should attract significant high value redevelopment consistent with the Town's land use objectives, which will be overseen by the Planning Board under its site plan review and special permit obligations.*

## **ARTICLE 6: AMEND ZONING BY-LAW – MAP CHANGE TO HIGHWAY COMMERCIAL 1**

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

Place in the Highway Commercial 1 District all that land now zoned Industrial-1 and lying between the Circumferential Highway, known as Route 128/95 and Gould Street and between the Massachusetts Bay Transit Authority (M.B.T.A.) right-of-way and Highland Avenue. Said land is bounded and described as follows:

Beginning at a stone bound on the northerly layout line of Highland Avenue at the intersection of Gould Street as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489; thence turning and running southwesterly, westerly and northwesterly along a radius of 44.00 feet a distance of 80.06 feet to a stone bound on the easterly sideline of Gould Street; thence running northwesterly, northerly, and northeasterly along a curve of radius of 505.00 feet of said sideline of Gould Street a distance of 254.17 feet to a point on the said easterly sideline of Gould Street; thence running N10°49'50"E a distance of 284.29 feet to a point on the said easterly sideline of Gould Street at the intersection of TV Place, a privately owned Right of Way; thence continuing N10°49'50"E a distance of 160.00 feet more or less to a stone bound as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I; thence continuing N10°49'50"E a distance of 84.82 feet to a stone bound located at the intersection of the easterly sideline of Gould Street and the southerly sideline of the M.B.T.A. Right of Way as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I; thence turning and running along said southerly M.B.T.A. Right of Way line northeasterly a distance of 1,219.55 feet as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I, 18430J and 18430H to a point at the intersection of the westerly sideline of the Route 128 Right of Way and said southerly sideline of the M.B.T.A. Right of Way; thence turning and running S4°25'46"E a distance of 292.00 feet to a stone bound as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430H; then turning and running southwesterly along the Route 128 Right of Way a distance of 484.61 feet to a point; thence turning and running S13°34'58"W a distance of 451.02 feet as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489 to a point; thence turning and running S76°26'41"E a distance of 35.56 feet to a point; thence turning and running S13°34'58"W a distance of 67.34 feet to a point; thence running southwesterly along a curve of radius 245.45 feet a distance of 136.59 feet to a point; thence running southwesterly along a curve of radius 248.02 feet a distance of 38.04 feet to a point; thence running southwesterly along a curve of radius 1180.00 feet a distance of 140.09 feet to a point; thence turning and running S42°43'47"W a distance of 42.52 feet to a stone bound located in the westerly sideline of the Route 128 Right of Way; thence turning and running S63°56'51"W a distance of 361.46 feet to the point of beginning.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT:

*Article Information: Article 6 describes the geographical area proposed to be placed in the new Highway Commercial 1 zoning district. The affected area is generally bounded on the north by the Massachusetts Bay Transit Authority (M.B.T.A.) commuter railroad right-of-way, on the east by the Circumferential Highway, known as Route 128/95, on the south by Highland Avenue and on the west by Gould Street. The subject land is currently located in the Industrial-1 zoning district.*

## Memorandum

To: Carol Smith-Fachetti, Chair, Needham Finance Committee

From: Lee Newman, Director of Planning and Community Development

cc: Kate Fitzpatrick, Town Manager  
Katie King, Assistant Town Manager  
Jeanne McKnight, Chair, Needham Planning Board

Date: March 29, 2021

Re: Planning Consulting Assistance

I am writing this memo as a supplement to the Planning and Community Development Fiscal Year 2022 Supplemental Financial Warrant Article Request (DSR5 Form). The purpose of the memo is to provide greater clarity on the anticipated use of the requested sixty-thousand-dollar appropriation for Planning Consulting Assistance. Briefly, the appropriation would provide support to the Department in two functional areas as further detailed below.

### Professional services on an as-needed basis to support the regulatory functions of the Department

Departmental demand over the course of the last decade has triggered this need. The use of contracted services, including consulting services for professional assistance in matters related to development applications, land use regulations, and other activities related to day-to-day operations of the Department, is requested. We anticipate that professional services in such areas as traffic/transportation engineering and fiscal impact analysis to complement the expertise of Town staff would be procured. Having access to professional expertise across multiple land use disciplines in a complex regulatory environment has proven essential to allowing the Department to effectively address the permitting issues coming before it. In addition, the funds would be used to help the Department research and advise other appropriate regulatory Boards when presented with complex development projects.

### Professional services in support of Land Use and Planning Initiatives

The use of contracted services to support the Department's planning initiatives is also sought. This is anticipated to support preliminary planning and zoning initiatives, and if deemed necessary, to inform comprehensive planning initiatives on which independent funding would be requested. Below is a brief list of projects on the horizon which the Board is considering.

- *Conduct a review of the goals articulated in the 2009 Needham Center Plan and steps completed to date to meet those goals to determine if adjustments are warranted.* This effort will include a workshop to present accomplishments to date and to identify any constraints to redevelopment not anticipated in the 2009 Needham Center Plan. In 2009, the Town of Needham completed the Needham Center Development Plan for the purpose of providing a cohesive vision and comprehensive plan for Needham Center and to unlock the area's potential. The revitalization of Needham Center and the Lower Chestnut Street area—namely the Chestnut Street corridor south of Great Plain Avenue and north of the MBTA Junction Station—constitute the overall Needham

Center vision. The Plan detailed the Village Concept that called for “diverse, mixed-use districts combining residential, commercial and civic uses in a compact area” and proposed new zoning regulations to “encourage massing that helps define the street edge and that serves as a backdrop to the streetscape.” With notable exceptions—including the mixed-use building at 50 Dedham Avenue, the Beth Israel Deaconess Hospital’s new facilities, the new Needham Public Safety building, and a new mixed-use building at 15-17 Oak Street—most of the under-developed areas identified in the Plan have yet to fulfill their full potential in the decade that followed the plan’s adoption. The purpose of this review would be to examine current impediments to redevelopment and to make the warranted adjustments. The recently completed Needham 2025 plan for example noted that redevelopment prospects could be improved with off-street parking standard adjustments. Specifically, reducing the parking requirement for 1-bedroom units to 1 parking space (currently 1.5 per unit) and permitting shared parking considerations for 30% of residential spaces to be counted for joint use by commercial users will reduce the fee in-lieu of parking by \$105,000 (\$30,000 instead of \$135,000). These suggestions from the Needham 2025 plan will be examined along with other identified constraints. It is anticipated that this effort would provide a framework for informing adjustments to both the zoning and implementation plan for Needham Center and the Chestnut Street corridor moving forward.

- *Review the land use and policy goals of the Business District located along Highland Avenue between May and Rosemary Street as currently expressed in the regulatory framework of the Zoning Bylaw.* The land use and dimensional regulations for this district have not been updated for over 50 years and are not currently reflective of the policy goals which the Town holds for this length of the Highland Avenue corridor. Prior to 1989, all the Town’s commercial areas were zoned under a single “Business District” designation. Recognizing that each commercial area had unique attributes and land use objectives, beginning in 1989 the Town began the process of studying each area to establish a more tailored regulatory framework for the studied area consistent with the Town’s land use objectives. This subsequently led to the creation of the Needham Center Business District, Chestnut Street Business District, Avery Square Business District, Commercial 128 Business District, and the Neighborhood Business District. The Business District located along Highland Avenue between May and Rosemary Street is the only remaining district on which the land use and regulatory profile has not yet been updated.
- *Review Town-wide Inclusionary Zoning.* The Town has incorporated inclusionary zoning mandates into its Zoning Bylaw for a number of Overlay Districts, including the independent living units in the Elder Services Zoning District, as well as zoning for the Needham Center, Lower Chestnut Street, and Garden Street Overlay Districts. In these areas 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. More recent zoning as part of the Mixed Use Overlay District, in the Highland Avenue/128 area, as well as changes to the Neighborhood Business District increased the affordability requirement to 12.5% with the option of a payment in-lieu of units provision in the case of the Neighborhood Business zoning. New zoning for the Carter Mill development also included a 12.5% affordability requirement. More than one-third of the municipalities in the state have such inclusionary zoning in place with affordability requirements typically ranging between 10% and 15% or even up to 20% of the units in a development. Not having this town-wide zoning in place is causing the Town to miss opportunities for new affordable units as part of recent subdivisions and a new residential project on Hunnewell Street for example.

I have provided above an overview of potential areas of planning initiatives in which professional services might be required. In closing, I would note that the decision had been reached in 2015 to fund the above-noted type of planning consulting service under a single article appropriation and not within the

Departmental budget itself. The thought at the time was that by utilizing a single article appropriation the constraints of funding a project across multiple fiscal years would be eliminated. In practice I have found this flexibility to be helpful in administering the consulting services the Department procures. The Covid crisis is an example of a situation that can and did affect a planned research project's schedule; for example, this past fiscal year we had planned a research project which required spending time at the Building Department reviewing plans. With access to the Building Department for this purpose not possible the project was postponed from Fiscal Year 2020 to Fiscal Year 2022. I would prefer to continue with the current practice and the flexibility it provides. That said, if the Finance Committee prefers to have this type of funding placed within the Departmental budget itself, we can begin a process beginning in Fiscal Year 2023 of gradually increasing the professional services line item to accomplish this objective.

Thank you for your consideration of this departmental funding request. Please feel free to contact me directly with any questions or requests for additional information.

*Draft Motion to Amend offered by Barry Pollack:*

TOWN OF NEEDHAM  
2021 ANNUAL TOWN MEETING

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

**ARTICLE 5:**

**MOVED:** that the main motion under Article 5 be amended by:

1. Deleting the number "25%" in Paragraph 5, specifically in the first sentence of 4.11.1(4) and inserting in its place the number "30%."
2. Deleting the number "1.35" in Paragraph 5, in the first sentence of 4.11.1(5) and inserting in place thereof the number "0.95," and inserting at the end of the paragraph two new sentences stating: "To encourage mixed-use development, by special permit the Planning Board may allow an increase in the floor area ratio of an additional 0.35, totaling 1.3, with the additional 0.35 floor area ratio comprised solely of up to 0.2 floor area ratio devoted to dwelling units consistent with the minimum amount of Affordable Housing set forth in Section 6.12, and up to 0.15 floor area ratio devoted to indoor athletic, exercise, fitness, or skating rink uses. In granting a special permit for such latter uses, the Planning Board shall consider as a primary factor whether a substantial portion of such uses will benefit Needham students and support or supplement school programs."

**From:** [Lee Newman](#)  
**To:** [Alexandra Clee](#)  
**Subject:** FW: Town Meeting - 210404 motion to amend-CH edit copy copy.docx  
**Date:** Tuesday, April 20, 2021 11:06:38 AM  
**Attachments:** [210404 motion to amend-CH edit copy copy.docx](#)

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**From:** Barry Pollack <[bpollack@psdfirm.com](mailto:bpollack@psdfirm.com)>  
**Sent:** Tuesday, April 20, 2021 7:17:26 AM  
**To:** Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)>  
**Subject:** Town Meeting - 210404 motion to amend-CH edit copy copy.docx

Chris,

Other town meeting members and I have been working on and planning an amendment to the Muzi rezoning proposal.

As you know, the Finance Committee voted unanimously to reject the Planning Board's present proposal as based on unreliable projections and causing too much burden on the town.

Please pass this along to the Planning Board.

Here are the highlights:

- 1) Green space is increased from 25 to 30%.  
The Petition with more than 800 signatories objected to the original 20% green space in PB's February preliminary numbers. When the Planning Board increased that number to 25%, they were literally kicking 25 or 30 around when Adam Block said to go with 25 to give a developer flexibility. 30 is better.
- 2) office space FAR with a special permit is reduced from 1.35 to .8. The 1.35 produced in the PB's schematics 870K square feet of office space. This still produces over a half million square feet of office space at .8. Rush hours will suffer far less traffic impact. This way, our Town remains more of a town than those city-like portions of Newton, Cambridge or Somerville.
- 3) this change also incentivizes a developer who wants to build more into including housing and athletic facilities. For those uses, a developer can go to 1.1 FAR by ensuring they have at least .15 FAR of housing (which elsewhere in the amendment must include an affordable component) and .15 athletic center. For those concerned that housing drains schools, I beside the typical counter-arguments, this amendment gives favorable

consideration to an athletic facility that supports schools by substantially benefitting students.

4) this amendment would still get rid of warehouse and industrial uses that the town and The Newton-Needham-Wellesley Chamber of Commerce keep raising as a motivating force  
5) according to PB estimates, this amendment should raise tax revenue substantially from its existing level based on special permit development projections

Barry

TOWN OF NEEDHAM  
2021 ANNUAL TOWN MEETING

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

**ARTICLE 5:**

**MOVED:** that the main motion under Article 5 be amended by:

1. Deleting the number "25%" in Paragraph 5, specifically in the first sentence of 4.11.1(4) and inserting in its place the number "30%."
2. Deleting the number "1.35" in Paragraph 5, in the first sentence of 4.11.1(5) and inserting in place thereof the number "0.8," and inserting at the end of the paragraph two new sentences stating: "To encourage mixed-use development, by special permit the Planning Board may allow an increase in the floor area ratio of an additional 0.3, totaling 1.1, with the additional 0.3 floor area ratio comprised solely of up to 0.15 floor area ratio devoted to dwelling units and up to 0.15 floor area ratio devoted to indoor athletic, exercise, fitness, or skating rink uses. In granting a special permit for indoor athletic, exercise, fitness, or skating rink uses, the Planning Board shall consider whether a substantial portion of such uses will benefit Needham students and support or supplement school programs."

**From:** [Lee Newman](#)  
**To:** [Lee Newman](#)  
**Subject:** FW: Town Meeting - 210404 motion to amend-CH edit copy copy.docx  
**Date:** Friday, April 23, 2021 2:17:45 PM

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**From:** Barry Pollack <[bpollack@psdfirm.com](mailto:bpollack@psdfirm.com)>  
**Date:** Wednesday, April 21, 2021 at 7:16 AM  
**To:** Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)>  
**Subject:** Re: Town Meeting - 210404 motion to amend-CH edit copy copy.docx

Chris,

Based on last night's discussion among members of the Planning Board, I would like you to inform them of the following:

- 1) Michael Fee has reviewed the motion to amend and has informed me that he wants to work with me to figure out how to get other Town Meeting Members informed about it before Town Meeting (some of that has begun to happen based on meetings I have had with precincts other than my own); and
- 2) while the Special Permit FAR for office space and r&d increases only from .75 to .8, based on the Planning Board's submission to the Finance Committee, the change is more significant than that based on the Planning Board's position that existing parking requirements result in a maximum office and r&d space of 0.5, which means the proposed motion to amend offers a 60% increase in the density by special permit over existing capability.
- 3) the Planning Board's comments last night that any distribution or delivery center going into that space will be the fault of opponents is not true given the Planning Board's insistence on a maximum FAR with special permit that got rejected unanimously by FinCom. A rezoning can pass if the Planning Board listens to the town's insistence on significantly lower FAR even with a Special Permit. While we recognize the Planning Board would have authority to determine if a Special Permit would be granted, a similarly-constituted Planning Board wanted to give away 1.0 as of right and entertain 1.75, so residents have lost faith that the Planning Board is in touch with what folks want for our town.
- 4) this can still be done cooperatively.

Barry

On Apr 20, 2021, at 1:21 PM, Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)> wrote:

Done.

[Christopher H. Heep](#)

[MiyaresHarrington](#) - Local options at work

[Miyares and Harrington LLP](#)

40 Grove Street • Suite 190  
Wellesley, MA 02482  
Direct: 617.804.2422 | Main: 617.489.1600  
[www.miyares-harrington.com](http://www.miyares-harrington.com)

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**From:** Barry Pollack <[bpollack@psdfirm.com](mailto:bpollack@psdfirm.com)>

**Date:** Tuesday, April 20, 2021 at 7:18 AM

**To:** Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)>

**Subject:** Re: Town Meeting - 210404 motion to amend-CH edit copy copy.docx

Chris,

Can you please also share my email and motion with the Select Board before its next meeting?

Barry

> On Apr 20, 2021, at 7:17 AM, Barry Pollack <[bpollack@psdfirm.com](mailto:bpollack@psdfirm.com)> wrote:

>

>

> Chris,

> Other town meeting members and I have been working on and planning an amendment to the Muzi rezoning proposal.

> As you know, the Finance Committee voted unanimously to reject the Planning Board's present proposal as based on unreliable projections and causing too much burden on the town.

> Please pass this along to the Planning Board.

> Here are the highlights:

>>>>> 1) Green space is increased from 25 to 30%. The Petition with more than 800 signatories objected to the original 20% green space in PB's February preliminary numbers. When the Planning Board increased that number to 25%, they were literally kicking 25 or 30 around when Adam Block said to go with 25 to give a developer flexibility. 30 is better.

>>>>> 2) office space FAR with a special permit is reduced from 1.35 to .8. The 1.35 produced in the PB's schematics 870K square feet of office space. This still produces over a half million square feet of office space at .8. Rush hours will suffer far less traffic impact. This way, our Town remains more of a town than those city-like portions of Newton, Cambridge or Somerville.

>>>>> 3) this change also incentivizes a developer who wants to build more into including housing and athletic facilities. For those uses, a developer can go to 1.1 FAR by ensuring they have at least .15 FAR of housing (which elsewhere in the amendment must include an affordable component) and .15 athletic center. For those concerned that housing drains schools, I beside the typical counter-arguments, this amendment gives favorable consideration to an athletic facility that supports schools by

substantially benefitting students.

>>>> 4) this amendment would still get rid of warehouse and industrial uses that the town and The Newton-Needham-Wellesley Chamber of Commerce keep raising as a motivating force

>>>> 5) according to PB estimates, this amendment should raise tax revenue substantially from its existing level based on special permit development projections

>>>> Barry

> <210404 motion to amend-CH edit copy copy.docx>

## **EJN Statement supporting our Zoning Amendments**

Dear Town Meeting Members,

In pursuit of greater housing choice and opportunity in Needham, Equal Justice in Needham is proposing two amendments to Article 5: removing the 240-unit cap and lowering the threshold of affordability currently proposed in the article. We believe the Muzi site, given its size and location, offers Needham a unique and important opportunity to provide more affordable units for current and future residents. In a town with few large sites available for redevelopment, the proposed zoning presents a critical moment for Needham to add to the region's stock of much-needed affordable housing.

### **Background and Rationale for the Proposed Amendments**

The Greater Boston region is in the midst of an affordable housing crisis. Needham is facing its own housing crisis as teardowns are replaced by larger homes, leading to rising home values and a reduction in options for families with children and seniors who wish to downsize. We can reverse this trend if we approach the challenge and look for solutions. It is the obligation of the town's governing bodies to affirmatively further fair housing and identify opportunities for affordable housing where it is appropriate and balanced with other needs of our community. It is also our community's responsibility to take meaningful steps to reverse the historic racial exclusion that has taken place for hundreds of years in suburban communities like Needham.

### **Why We Propose to Remove the 240-Unit Cap**

Article 5 currently specifies a 240-unit cap on the number of units a developer may propose. We believe this is an unnecessary restriction that may impact the financial feasibility of a potential development. In addition, it sends a message to developers that Needham lacks the willingness to consider creative development proposals. Removing the 240-unit cap would not change the need for developers to present their proposals to the town through the Special Permit process and address citizens' concerns through careful analysis and mitigation. The removal of this cap would, however, indicate to the development community that Needham is ready to consider solutions that prioritize the creation of affordable housing in our town.

### **Why We Propose to Lower the Threshold of Affordability for Rental Projects**

The current zoning requires 12.5% of residential units to be affordable to households with annual incomes at or below 80% of the average median income (AMI). However, we believe the affordability threshold established for this site for rental projects must be lowered to meet the growing demand region-wide for housing opportunities at even lower income levels. Additionally, while the town has seen the construction of over 200 affordable units in the last few years as part of Chapter 40B mixed-income developments, these units are set at the 80% AMI level. The lack of production of new rental units at deeper levels of affordability creates a significant barrier

for a large portion of our diverse regional community struggling to find safe, affordable, and decent housing. Needham, as one of the affluent suburban communities of greater Boston, must do its part to contribute to a regional solution for affordable housing at all income levels, helping to make the town more accessible and diverse.

### **Density Allows for Affordability**

While multifamily housing may result in an increase in density from a site's previous use, this density is often the key to providing more housing choice at greater levels of affordability. The town's increase in housing costs is directly connected to the overwhelming proportion of single-family zoning across Needham, as is true in many other suburban communities. The replacement of smaller single-family homes with larger homes drives up the average home price at a rate that far exceeds the economic capacity of potential buyers. It is this trend, coupled with low rates of production of new affordable rental and ownership units, that has led Needham and most of the Boston region to be completely out of reach for so many lower income individuals and families. This economic bifurcation has only helped to perpetuate the racial segregation that has plagued our region, and country, for so long. Allowing higher levels of housing density in appropriate areas is a clear way to alleviate this trend.

### **Concerns about Schools and Traffic**

Discussions about affordable and multifamily housing often include concerns about the impact of more school-age children on our schools and the increase in traffic generated by a site's development potential. While we agree that the impacts on schools and traffic should be addressed during the development review process, along with other stakeholder concerns, we do not believe these issues are impossible to mitigate. Thoughtful mitigations to these concerns are often presented during the review process, resulting in not only a stronger project, but also positive solutions to the issues raised. Neither of EJA's amendments change the process by which developers seek approval from the town for their project and address citizen concerns along the way.

### **Potential to Address Historic Inequity**

Historically, suburban single-family zoning has led to a lack of racial and economic diversity in Needham and the surrounding suburbs. One of Needham's values is being welcoming to all, but our current zoning policy limits us from fulfilling this goal. By thoughtfully reforming our current zoning and affordable housing policies, we can reverse this trend and implement solutions so Needham does not become increasingly less affordable with diminishing economic and racial diversity. This is an opportunity to shift town consciousness to racial equity, and we urge you to focus on this critical issue. Equal Justice in Needham believes these two amendments present an opportunity to live up to the higher standard of being a regional trailblazer in affordable housing and addressing the crises of housing and equity. It is very fitting that April is Fair Housing Month, when we recommit ourselves to the goal of eliminating racial segregation and ending housing discrimination. We hope you will support these amendments with these larger and very important goals in mind.

**Benefits of the amendments**

- Allow for as many affordable units as possible.
- Meet the needs of individuals and families with incomes lower than 80% AMI.
- Signal to developers that we are a town that is open to as much affordable housing as possible.
- Make progress toward addressing the larger housing crisis in the region and in our town.
- Stem the tide of rising home values that shrink the economic and racial diversity of those who can afford to live in Needham, and that force other residents to leave.
- Take advantage of our well-equipped and capable school system to accommodate and welcome children from more racially and economically diverse households.
- Open up the narrative to the whole town that racial justice and housing reform are a priority.
- Use the opportunity of MUZI to begin a larger shift in town consciousness towards racial and housing equity.

**EQUAL JUSTICE NEEDHAM – HOUSING GROUP**

**PROPOSED AMENDMENT TO MOTION UNDER ARTICLE 5 TO AMEND ZONING BY-LAW – HIGHWAY COMMERCIAL 1 ZONING DISTRICT (to delete 240-unit housing cap)**

[Name of Town Meeting Member] I move to amend the motion under Article 5 Amend Zoning By-law – Highway Commercial 1 Zoning District by deleting subsection (2) of Section 3.2.7.2 (m) under Item 2, which subsection (2) provides that no more than 240 dwelling units shall be permitted in the Highway Commercial 1 District, and by renumbering the subsequent subsections from (3) and (4) to (2) and (3).

[Name of Town Meeting Member] I second that motion.

## **EQUAL JUSTICE NEEDHAM – HOUSING GROUP**

### **PROPOSED AMENDMENT TO MOTION UNDER ARTICLE 5 TO AMEND ZONING BY-LAW – HIGHWAY COMMERCIAL 1 ZONING DISTRICT (to change regulation for Affordable Housing Units)**

[Name of Town Meeting Member] I move to amend the motion under Article 5 Amend Zoning By-law – Highway Commercial 1 Zoning District, Item 8 Amend Section 6.12, Affordable Housing, by rewording the fourth sentence of the proposed revision of the first paragraph of Section 6.12 to read as follows: “The requirements detailed in paragraphs (a), (d), (e), (f), (g), (h) and (j) below shall apply to a development that includes affordable units in the Highway Commercial 1 District” and by adding to Section 6.12 new subsection (j) as follows:

“(i) In a homeownership project, the affordable unit(s) must be made available to households with annual gross incomes at or below 80% of the area median income (AMI). These units must be priced for affordability to households having annual gross incomes of not more than 70% of AMI at the time of marketing. The monthly housing costs, inclusive of mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner’s association fees, hazard insurance, and parking must not exceed 30% of the 70% AMI limit for that unit.

(ii) In a rental project, the affordable units must be made available to households with annual gross incomes at or below 80% of the area median income (AMI), such that the AMI used for establishing rent and income limits for all the affordable units must average no more than 65% of AMI. Alternatively, at least 50% of such units may have income limits at 50% of AMI and the remaining affordable units may have income limits at 80% AMI.

(iii) Affordable rental units are to be priced to be affordable to a household having a gross annual income at the household income limit for that affordable unit. Monthly housing costs, inclusive of rent, utility costs for heat, water, hot water, and electricity, parking, and including access to all amenities that are offered to tenants in the building, must not exceed 30% of the applicable household income limit for the affordable unit. If the utilities are separately metered, they may be paid by the tenant and the maximum allowable rent will be reduced to reflect the tenant’s payment of utilities, based on the area’s utility allowance for the specific unit size and type, to be secured from the Needham Housing Authority. For a household with a Section 8 voucher, the rent and income are to be established by the Needham Housing Authority with the approval of HUD.”

[Name of Town Meeting Member] I second that motion.

**From:** [Lee Newman](#)  
**To:** [Stephen Frail](#); [Christopher Heep](#)  
**Cc:** [Alexandra Clee](#); [Elisa Litchman](#)  
**Subject:** RE: Article 5 Amendment  
**Date:** Wednesday, April 21, 2021 4:48:00 PM

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Mr. Frail,

I have received your suggested amendment and Town Counsel's opinion and will share it with the Planning Board at their meeting today at 5:30 p.m.

Thank you,

Lee

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**From:** Stephen Frail <sfrail2001@yahoo.com>  
**Sent:** Wednesday, April 21, 2021 4:38 PM  
**To:** Christopher Heep <cheep@miyares-harrington.com>  
**Cc:** Alexandra Clee <aclee@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>  
**Subject:** Re: Article 5 Amendment

Thank you, Chris.

With your input I submit the following amendment to the planning board:

**DELETE**

e) The proposed development should incorporate as many green building standards as practical, given the type of building and proposed use.

**INSERT**

(e) The proposed development should be built to the most energy efficient building standards (e.g., stretch building codes) approved by the State of Massachusetts at the time the special permit is requested, regardless of whether the Town of Needham has adopted those standards for townwide use.

I understand that this might be challenged if adopted, but would still like to offer it at TM for consideration.

Stephen Frail

On Apr 21, 2021, at 3:12 PM, Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)> wrote:

Good afternoon Mr. Frail:

I would suggest that you avoid the use of “greenest building standards.” As a practical matter, I think we all have a good understanding of what “green” means, but it strikes me as something that you might nonetheless want to define as used in a bylaw. An alternative might be “most energy efficient,” or something similar.

In addition, I’m concerned that someone might argue that this is an impermissible work-around of the standard method of adopting the stretch building code. Where the manner of adoption is already set, it might be argued that the Town cannot adopt the stretch code in a different way.

I don’t know that this concern would be enough to cause the Attorney General to disapprove it, however. In the ordinary course, we might be able to get an informal opinion ahead of time, but I’m afraid that won’t be possible for the Planning Board meets tonight. The most I can do is flag this issue as grounds for a possible challenge, by either the AG or a developer that is not inclined to follow the stretch code.

Thanks,  
Chris

Christopher H. Heep

MiyaresHarrington - Local options at work

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40 Grove Street • Suite 190  
Wellesley, MA 02482  
Direct: 617.804.2422 | Main: 617.489.1600  
[www.miyares-harrington.com](http://www.miyares-harrington.com)

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**From:** Stephen Frail <[sfrail2001@yahoo.com](mailto:sfrail2001@yahoo.com)>  
**Date:** Wednesday, April 21, 2021 at 1:08 PM  
**To:** Alexandra Clee <[aclee@needhamma.gov](mailto:aclee@needhamma.gov)>, Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)>  
**Cc:** Lee Newman <[newman@needhamma.gov](mailto:newman@needhamma.gov)>, Elisa Litchman <[elitchman@needhamma.gov](mailto:elitchman@needhamma.gov)>  
**Subject:** Re: Article 5 Amendment

Chris -

Just following up on this since the Planning Board is meeting tonight. Here's an alternative wording, which I hope would be permissible:

DELETE

e) The proposed development should incorporate as many green building standards as

practical, given the type of building and proposed use.

INSERT

(e) The proposed development should be built to the greenest building standards (e.g., stretch building codes) approved by the State of Massachusetts at the time the special permit is requested, regardless of whether the Town of Needham has adopted those standards for townwide use.

On Tuesday, April 20, 2021, 04:15:07 PM EDT, Stephen Frail <[sfrail2001@yahoo.com](mailto:sfrail2001@yahoo.com)> wrote:

Thank you for that information, Chris. I suspected Home Rule limits would apply.

Would it pass muster if the subsection (e) specifically required the development to meet the State's Stretch Building Code, regardless of whether Needham itself has adopted the Stretch Building Code?

Needham has adopted the Stretch Building Code as of 2019, but should that Stretch code be updated in the future, and Needham Town Meeting not vote to adopt the updated Stretch Building Code at that time, would it be allowable for HC-1 to still be held to the higher Stretch standard?

Thank you again, in advance.

Stephen

On Tuesday, April 20, 2021, 03:30:09 PM EDT, Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)> wrote:

Hello Mr. Frail. Every zoning bylaw that is adopted or amended by Town Meeting must be sent to the Attorney General for review and approval. I believe your proposed amendment would likely be disapproved by the Attorney General, on the ground that it impermissibly regulates matters that are covered by the State Building Code.

The current subsection (e) gives the property owner some flexibility ("as many green building standards as practical...") without actually mandating any particular building materials or energy standards. I'm concerned that your proposal, by actually requiring the developer to meet the definition of a Zero Energy Campus, is imposing a requirement that gets into matters already regulated by the state code.

For reference, I have attached [a recent SJC case](#) that notes the State Building Code preempts local bylaws that address the same subject. In addition, I am aware that the Attorney General recently disapproved a bylaw, adopted by the Brookline Town Meeting, that prohibited the use of fossil fuels in new construction.

Sorry to raise this concern, and I'd be happy to discuss if it would be helpful.

Chris

Christopher H. Heep

MiyaresHarrington - Local options at work

Miyares and Harrington LLP

40 Grove Street • Suite 190

Wellesley, MA 02482

Direct: 617.804.2422 | Main: 617.489.1600

[www.miyares-harrington.com](http://www.miyares-harrington.com)

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**From:** Stephen Frail <[sfrail2001@yahoo.com](mailto:sfrail2001@yahoo.com)>  
**Date:** Tuesday, April 20, 2021 at 2:01 PM  
**To:** Alexandra Clee <[aclee@needhamma.gov](mailto:aclee@needhamma.gov)>  
**Cc:** Lee Newman <[LNewman@needhamma.gov](mailto:LNewman@needhamma.gov)>, Elisa Litchman <[elitchman@needhamma.gov](mailto:elitchman@needhamma.gov)>, Christopher Heep <[cheep@miyares-harrington.com](mailto:cheep@miyares-harrington.com)>  
**Subject:** Re: Article 5 Amendment

Thank you, Alexandra.

Chris and Lee, I am proposing the following amendment to the Warrant 5 (HC-1), 4.11.3 Special Permit Requirements:

DELETE

e) The proposed development should incorporate as many green building standards as practical, given the type of building and proposed use.

INSERT

(e) The proposed development should meet the definition of a Zero Energy Campus, where a Zero Energy Campus is defined as an energy-efficient campus where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy.

It would be helpful to have Town Counsel's view on whether such a clause is consistent with MA State Law and/or federal law. I've read through this document, but am uncertain about legality.

<http://clinics.law.harvard.edu/environment/files/2020/05/Strategies-for-Massachusetts-Municipalities-to-Implement-Net-Zero-Building-Mandates-July-2019.pdf>

Thank you in advance.

Stephen

On Tuesday, April 20, 2021, 11:28:23 AM EDT, Alexandra Clee <[aclee@needhamma.gov](mailto:aclee@needhamma.gov)> wrote:

Hi Mr. Frail,

You should send any proposed amendment to our Town Counsel, Chris Heep and Copy Lee Newman, Director of Planning and Community Development. Both are CC'ed on this email. The Planning Board is going to be reviewing proposed amendments at its meeting tomorrow evening, so if you can provide the proposed amendment, that would enable them to review it with others at the meeting tomorrow.

Thanks, alex.

Alexandra Clee

Assistant Town Planner

Needham, MA

[www.needhamma.gov](http://www.needhamma.gov)

-----Original Message-----

From: [noreply@civicplus.com](mailto:noreply@civicplus.com) <[noreply@civicplus.com](mailto:noreply@civicplus.com)>

Sent: Tuesday, April 20, 2021 10:37 AM

To: Alexandra Clee <[aclee@needhamma.gov](mailto:aclee@needhamma.gov)>; Lee Newman <[LNewman@needhamma.gov](mailto:LNewman@needhamma.gov)>; Elisa Litchman <[elitchman@needhamma.gov](mailto:elitchman@needhamma.gov)>

Subject: Online Form Submittal: Contact Planning Board

The following form was submitted via your website: Contact Planning Board

Full Name:: Stephen Frail

Email Address:: [sfrail2001@yahoo.com](mailto:sfrail2001@yahoo.com)

Address:: 29 Powers Street

City/Town:: Needham

State:: MA

Zip Code:: 02492

Telephone Number:: 6172830047

Comments / Questions: I am a TMM and am preparing for the TMM. I would like to propose an amendment to Article 5, specifically 4.11.3 Special permit Requirements. Can you please let me know who to send proposed amended language to, and how to have the language vetted by Town Council? Thank you in advance.

Additional Information:

Form submitted on: 4/20/2021 10:36:51 AM

Submitted from IP Address: 173.76.244.49

Referrer Page: [https://linkprotect.cudasvc.com/url?  
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cc: SB  
→ KFC

GEORGE GIUNTA, JR.  
ATTORNEY AT LAW\*  
281 CHESTNUT STREET  
NEEDHAM, MASSACHUSETTS 02492  
\*Also admitted in Maryland

RECEIVED  
TOWN OF NEEDHAM  
SELECT BOARD

2020 JAN 30 P 3:43

TELEPHONE (781) 449-4520

FAX (781) 465-6059

January 30, 2020

Kate Fitzpatrick  
Town Manager  
Town of Needham  
1471 Highland Avenue  
Needham, Massachusetts 02492

COMPLETED  
1/31/2020

Re: Bruno DiFazio  
Hunting Road  
Petition for Zoning Map Change

Dear Ms. Fitzpatrick,

Please be advised that this office represents Bruno and Linda J. DiFazio, individually and as Trustees of the Bruno DiFazio Living Trust, owners of the property at 176 Hunting Road, Needham, MA, relative to their desire, pursuant to M.G.L. c. 40A, Section 5, to petition the Town of Needham Town Meeting for a Zoning Map Change. Their property, and all those located generally along the easterly side of Hunting Road, are currently situated in the SRA Zoning District. However, their lot, and all the other properties south of them, down to Cheney Street, do not meet applicable requirements for SRA. Moreover, because of their smaller size, these lots are unduly restricted by the SRA setback requirements.

Therefore, the DiFazios are seeking to rezone the following properties located generally along the easterly side of Hunting Road, being all the properties in the SRA Zoning District between their property and Cheney Street to the south and between Hunting Road and Route 128 to the east (see also portions of Assessor's Map provided herewith as Exhibit A for reference):

| Address             | Map | Parcel |
|---------------------|-----|--------|
| 176 Hunting Road    | 60  | 73     |
| 190 Hunting Road    | 60  | 72     |
| 200 Hunting Road    | 60  | 71     |
| 210 Hunting Road    | 60  | 70     |
| 220 Hunting Road    | 60  | 69     |
| 228 Hunting Road    | 60  | 68     |
| 236 Hunting Road    | 60  | 67     |
| 244 Hunting Road    | 60  | 66     |
| 250 Hunting Road    | 60  | 65     |
| 260 Hunting Road    | 58  | 27     |
| 259 Kendrick Street | 58  | 26     |
| 249 Kendrick Street | 58  | 25     |
| 252 Kendrick Street | 58  | 23     |

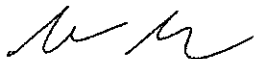
|                      |    |    |
|----------------------|----|----|
| 254 Kendrick Street  | 58 | 24 |
| 258 Kendrick Street  | 58 | 22 |
| 286 Hunting Road     | 58 | 21 |
| 290 Hunting Road     | 58 | 20 |
| 296 Hunting Road     | 58 | 19 |
| 304 Hunting Road     | 58 | 18 |
| 342 Greendale Avenue | 58 | 4  |
| 35 Cheney Street     | 58 | 3  |
| 29 Cheney Street     | 58 | 2  |
| 23 Cheney Street     | 58 | 1  |

The DiFazios have already obtained signatures of support from most of the affected properties, including a land owner affected by the proposed change and 10 or more registered voters (see signature sheets and letters provided herewith as Exhibit B), and pursuant to M.G.L. C.40A, Section 5, and M.G.L. C. 39, Section 10, requests that the matter be brought before the upcoming Annual Town Meeting. A proposed draft warrant is provided herewith as Exhibit C.

If you or the Board of Selectmen have any questions comments or concerns relative to the foregoing, or if you require any further information, please do not hesitate to contact me.

Your attention and cooperation are appreciated.

Sincerely,



George Giunta, Jr

EXHIBIT A  
Assessor's Map Selections

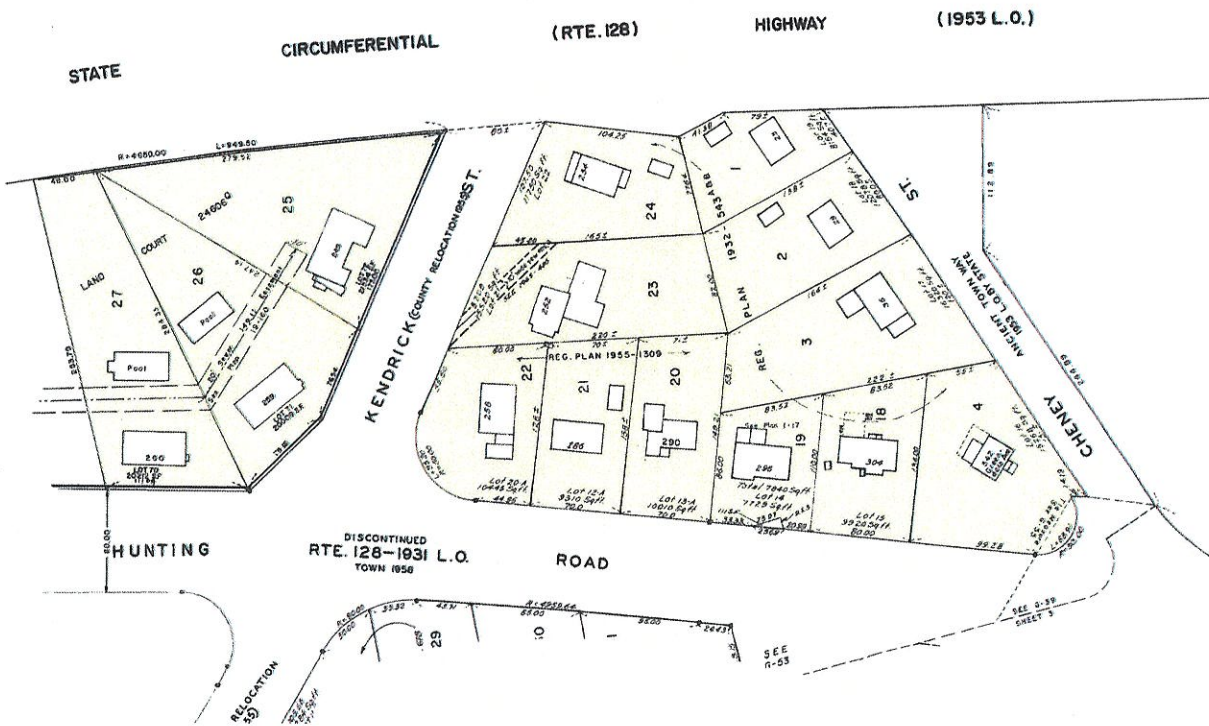
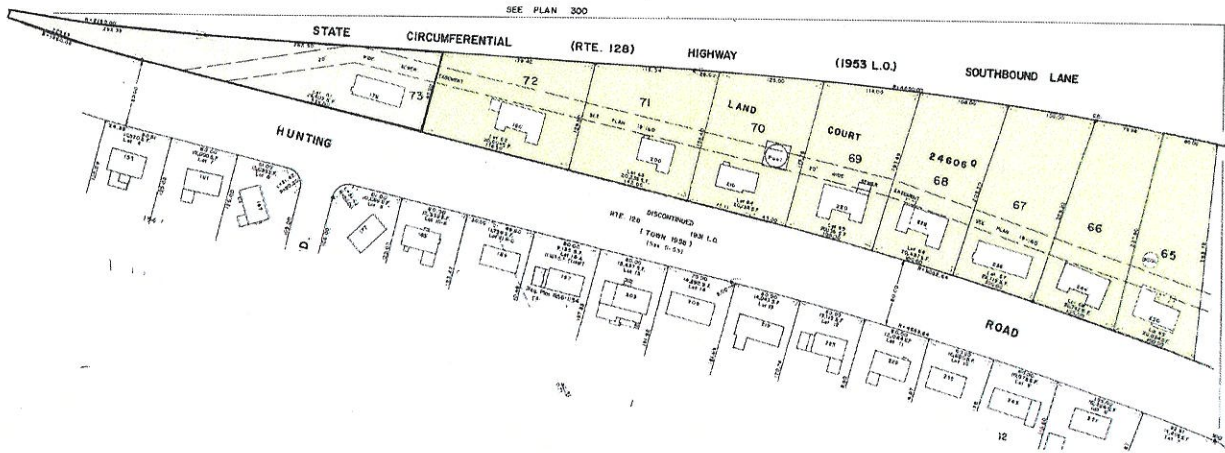


EXHIBIT B  
Signatures of Support

Swapam Rahman and Lynda B. Furash  
1001 Marina Dr., U703E  
Quincy, MA 02171

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November 8, 2019

To the Needham Zoning Board:

We are the owners of record of the property located at 228 Hunting Road, Needham, MA 02494.

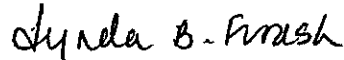
We are in favor of changing the zoning classification for Hunting Road from Single Residence A back to Single Residence B.

Thank you for your consideration.

Sincerely,



Swapam Rahman, f/k/a Mahmud Swapam Rahman



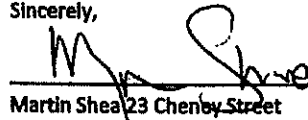
Lynda B. Furash

Town Of Needham, Ma.

To whom it may concern,

I am in favor of rezoning all the existing properties on the east side of Hunting Road, Cheney Street and Kendrick Street from *Single residence A* back to *Single residence B*.

Sincerely,

  
Martin Shea 23 Cheney Street

Date 10/16/19

Town Of Needham, Ma.

To whom it may concern,

I am in favor of rezoning all the existing properties on the east side of Hunting Road, Cheney Street and Kendrick Street from *Single residence A* back to *Single residence B*.

Sincerely,

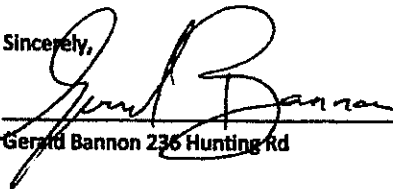
 Date 10/28/19  
Audrey Cooper 234 Kendrick st

Town Of Needham, Ma.

To whom it may concern,

I am in favor of rezoning all the existing properties on the east side of Hunting Road, Cheney Street and Kendrick Street from *Single residence A* back to *Single residence B*.

Sincerely,

 Date Oct-12-2019  
Gerald Bannon 236 Hunting Rd

Town Of Needham, Ma.

To whom it may concern,

I am in favor of rezoning all the existing properties on the east side of Hunting Road, Cheney Street and Kendrick Street from *Single residence A* back to *Single residence B*.

Sincerely,

 Date 10/29/19  
Donald McHugh 29 Cheney Street  
Ronald

Jason Kraetz & Jayne Rd Needham MA 01944 *J. Kraetz*

*Ed* live 281 Hunting Rd

*Robert King* 197 Hunting

*Ronnie Jones* 209 Hunting

183 Hunting Rd.

*Robert King* 189 Hunting Rd

203 Hunting Rd

*NR Jones* 235 Hunting Rd

Name

Address

176 Bruno DiFazio 176 Hunting Rd

190 Kevin O'Connor 190 Hunting Rd

200 Fred Bowen 200 Hunting Rd.

210 Katherine Quan Thomas 210 Hunting Rd

220 Ivo Rufo 220 Hunting Rd

220 Mahmad Rahman

250 Gerald Bannon

250 John Hest 250 HUNTING RD

250 Lawrence Milesky 260 Hunting Rd

260 Irina Ratskovskaya Needham MA 02494

259 Bonnie Arbel 859 Kendrick St. WASHINGTON

259 Bonnie Arbel

K234 Audrey Couper Dorset Cava

K 252 Doyle Mahoney 258 Kendrick St.

K 258 Elaine Sweet 258 Kendrick St.

K286 Gerald Bannon

K 280 Alon Ludwig 286 Hunting Rd.

\* 290 Susan Griffin

\* 296 Raveen Purushotham 296 Hunting Road.

\* 304 Clair Immediato 304 Hunting Rd

g342 Kristopher Getez 342 Greendale Ave

EXHIBIT C  
Proposed Warrant Article

AMEND ZONING BY-LAW  
MAP CHANGE TO GENERAL RESIDENCE B ZONING DISTRICT

To see if the Town will vote to amend the Needham Zoning Bylaw by amending the Zoning Map as follows:

Place in the Single Residence B Zoning District (i) all that land now zoned Single Residence A bounded generally to the northwest by a point at the northwesterly end of Parcel 73 on Needham Assessor's Map No. 66, to the northeast by the State Circumferential Highway, to the southeast by Kendrick Street, and to the northwest by Hunting Road; said land comprising Parcels 65, 66, 67, 68, 69, 70, 71, 72 and 73 on said Map No. 66 and Parcels 25, 26 and 27 on Needham Assessor's Map No. 58; as well as (ii) all that land now zoned Single Residence A bounded generally to the northwest by Kendrick Street, to the northeast by the State Circumferential Highway, to the southeast by Cheney Street, and to the southwest by Hunting Road, said land comprising Parcels 1, 2, 3, 4, 18, 19, 20, 21, 22, 23 and 24 on said Map No. 58.

So much of said land comprising Parcels 65, 66, 67, 68, 69, 70, 71, 72 and 73 on said Map No. 66 and Parcels 25, 26 and 27 on Needham Assessor's Map No. 58 being bounded and described as follows: Beginning at a point on the northeasterly side of Hunting Road at the northwesterly end of Parcel 73 on Needham Assessor's Map No. 66; thence running southeasterly along the southwesterly side of the State Circumferential Highway a distance of 1,792.15 feet to Kendrick Street; thence running westerly and northwesterly along the northerly side of Kendrick Street, 328.72 feet to Hunting Road; thence running northwesterly along the northeasterly line of Hunting Road, 1,359.60 feet, to the point of beginning.

And so much of said land comprising Parcels 1, 2, 3, 4, 18, 19, 20, 21, 22, 23 and 24 on Needham Assessor's Map No. 58 being bounded and described as follows: Beginning at a point on the southerly side of Kendrick Street, at the intersection with Hunting Road, thence running westerly 250.08 feet to the southwesterly side of the State Circumferential Highway; thence running generally southeasterly along the southwesterly side of the State Circumferential Highway a distance of 224.63 feet to Cheney Street; thence running southerly along the westerly line of Cheney Street a distance of 371.7 feet to the intersection with Hunting Road; thence running northwesterly along Hunting Road, a distance of 14.19 feet; thence running southerly by Hunting Road, along a curved line, a distance of 68.91 feet; thence running northwesterly along the northeasterly side of Hunting Road 444.24 feet; thence running along a curved line at the intersection of Hunting Road and Kendrick Street a distance of 95.20 to the point of beginning.

Be any or all of said measurements, more or less.

Or take any other action relative thereto.