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Mayor

**City of Newton, Massachusetts**  
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Barney Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date:	June 6, 2017
Land Use Action Date:	August 8, 2017
City Council Action Date:	August 21, 2017
90-Day Expiration Date:	September 4, 2017

DATE: June 2, 2017

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Michael Gleba, Senior Planner

SUBJECT: **Petition #127-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #229-13 to allow bank use at **170 Needham Street**, Ward 8, on land known as Section 83, Block 028, Lot 002, containing approximately 27,178 sq. ft. of land in a district zoned MU1. Ref: 7.3.3, 7.4, 4.4.1 of the City of Newton Rev Zoning Ord, 2015.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**170 Needham Street**

## EXECUTIVE SUMMARY

The subject property at 170 Needham Street is a 27,178 square foot lot located in a Mixed Use 1 (MU1) zoning district. It is improved with a recently constructed 7,140 square foot single-story building and accessory parking permitted by Board Order #229-13. Of the three commercial spaces in the building; one is currently occupied by a retail store a second by a sandwich shop and a third, measuring 2,513 square feet, is vacant.

The petitioner proposes to establish a bank in the latter space. To do so, the petitioner requests an amendment to the above-referenced order to allow for its occupancy by a bank, and a special permit, per Section 4.4.1, allowing a bank use in the Mixed Use 1 zoning district.

The Planning Department is not concerned with the location of a bank on the subject property as it is an appropriate location for the proposed bank and such use will not adversely affect the surrounding neighborhood.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in an MU1 district is an appropriate location for bank (§7.3.3.C.1);
- The proposed bank will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed bank will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on the east side of Needham Street, just south of its intersection with Jaconnet Street. Its commercial use is largely consistent with that of nearby properties along Needham Street; the area to the northeast across Jaconnet St., is predominantly a mix of single- and multi- family dwellings (**Attachment A**). The site and surrounding areas to the south and on the west side of Needham Street and are zoned Mixed Use 1 (MU1), and a Mixed Use 2 (MU2) district is directly to the north; also to the north, to the west of Kenneth Street, is a Multi-Residence 1 (MR1) district (**Attachment B**).

#### B. Site

The site consists 27,178 square feet improved with a newly constructed 7,140 square foot single-story, commercial structure that fronts on Needham Street and accessory parking located to the rear of the building and accessed via Jaconnet Street. To the south of the site is the South Meadow Brook, a tributary to the

Charles River. The brook runs along the site and then under Needham Street through a culvert. The site has a slight slope to the southeast from Needham Street towards the rear of the building, and a significant grade at the southwest property line next to the culvert.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The principal use of the site will remain a multi-tenanted commercial structure with accessory parking.

#### B. Building and Site Design

The petitioners are not proposing any external changes to the structure or to the site.

#### C. Parking and Circulation

The petitioner is not proposing any modifications to the existing parking facilities.

The existing retail tenant, which occupies 3,000 square feet and has 3 employees at the busiest shift, requires 11 stalls; the restaurant has 37 seats (which may be increased to 50 under their lease) and has a maximum of 4 employees at its busiest shift requires 15 stalls. The proposed bank use is expected to occupy 2,513 square feet and have six or fewer employees at the largest shift, thus requiring 11 parking stalls (one stall per 300 square feet plus one stall for every three employees).

In total, the three uses will require 37 parking stalls, fewer than the 39 anticipated by the 2013 special permit. As such, no parking waiver is required and the Planning Department believes that the amount of parking will be adequate for the proposed uses.

#### D. Landscaping

The petitioner is not proposing any modifications to the existing landscaping.

### IV. TECHNICAL REVIEW

#### A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Amend Board Order #229-13
- S.P. per §7.3.3 To allow a bank use in the Mixed Use 1 zoning district (§4.4.1)

### V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** Draft Order

# ATTACHMENT A








## Land Use 170 Needham St.

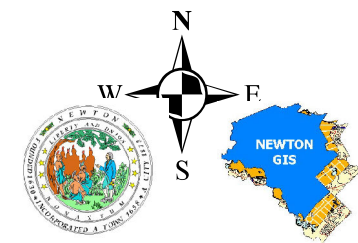
*City of Newton,  
Massachusetts*

### Legend

#### Land Use

#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

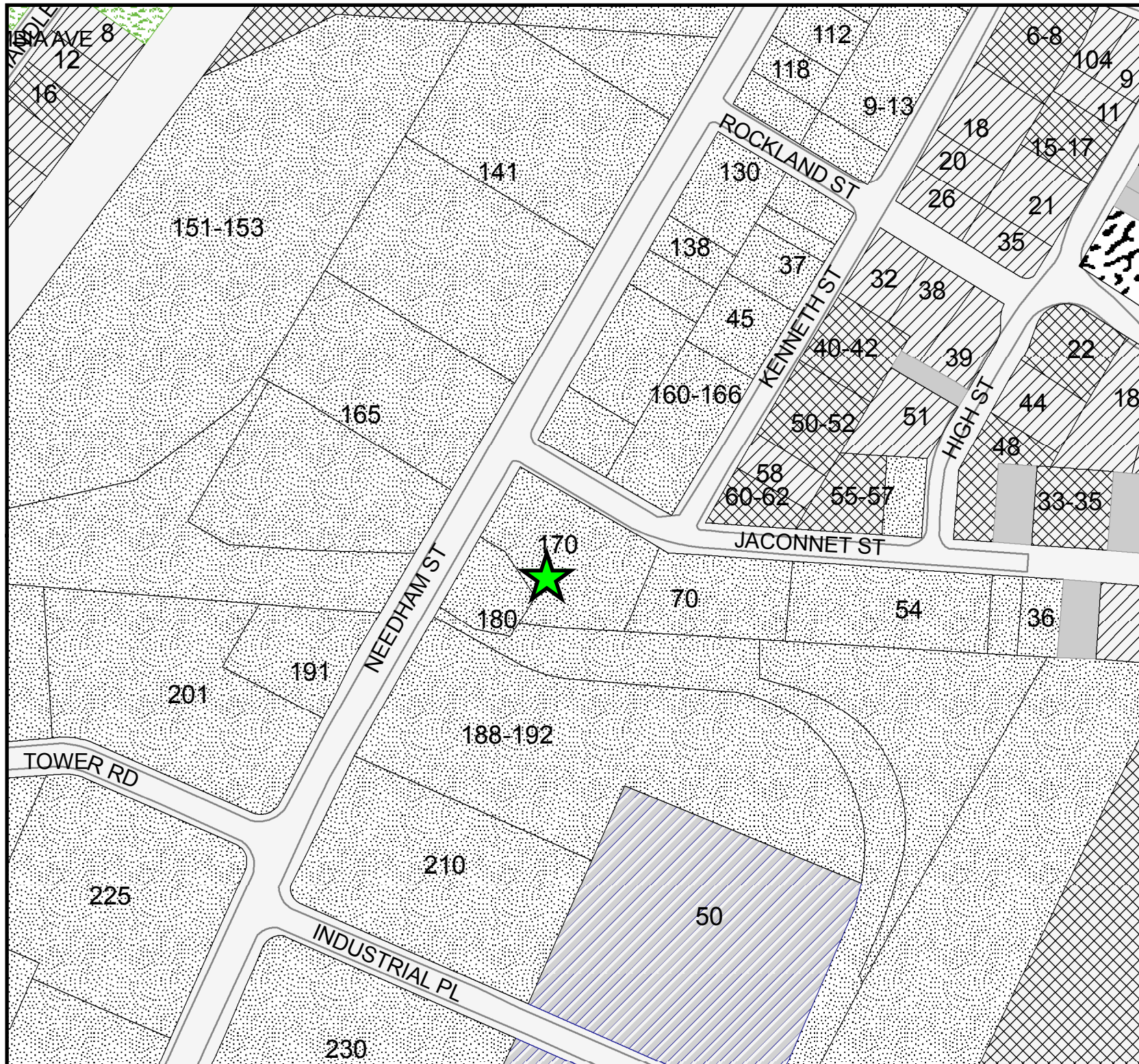


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield

0 25 50 75 100 125 150 175 200 225  
Feet

Map Date: May 30, 2017








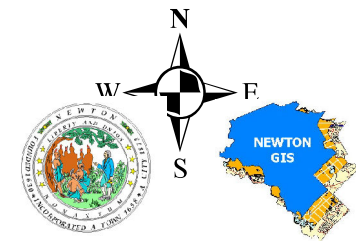
# ATTACHMENT B

## Zoning 208 Homer St.

*City of Newton,  
Massachusetts*

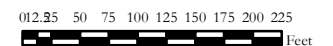
### Legend

-  Single Residence 3
-  Multi-Residence 1
-  Mixed Use 1
-  Mixed Use 2
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: May 30, 2017





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# ATTACHMENT C

**City of Newton, Massachusetts**  
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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: May 5, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney  
Needham Chestnut Realty, LLC  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to allow a bank and to amend Board Order #229-13**

Applicant: Needham Chestnut Realty LLC	
Site: 170 Needham Street	SBL: 83028 0002
Zoning: MU1	Lot Area: 27,178 square feet
Current use: Vacant	Proposed use: Bank

### BACKGROUND:

The property at 170 Needham Street consists 27,178 square feet improved with a newly constructed 7,140 square foot single-story building and accessory parking allowed by Board Order #229-13. There are three commercial spaces in the building; one is currently occupied by The Vitamin Shoppe, a retail store, a second by Jimmy Johns, a sandwich shop. A third space is vacant and the applicant requests an amendment to the special permit to allow for its occupancy by a bank.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 3/24/2017
- Board Order #229-13
- Zoning Review Memo, prepared by Jane Santosuosso, Chief Zoning Code Official, dated 6/17/2013
- As-Built Site Plan, signed and stamped by Steven M. Horsfall, surveyor, dated 9/9/2016
- Proposed Floor Plan, prepared by DRL Architects, dated 3/20/2017

**ADMINISTRATIVE DETERMINATIONS:**

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1. The applicant proposes to introduce a bank use (Rockland Trust) to the third commercial space on site. Per Section 4.4.1, a special permit is required to allow a bank use in the Mixed Use 1 zoning district.
2. There are 33 parking stalls on site to accommodate the three commercial spaces. The 2013 zoning review memo determined that 39 stalls were required for the anticipated uses on site, assuming 5,000 square feet of retail and 2,140 square feet for a restaurant. According to the memo, the previous use of the property required 48 stalls, where 23 stalls were actually provided on site. Using the A-B+C formula of then Section 30-19(c)(2), which is now Section 5.1.3.B, where “A” was the number of parking stalls required for the proposed use, “B” was the number of stalls required by the previous use, and “C” was the number of stalls located on the premises, it was determined 14 stalls were required ( $39-48+23=14$  parking stalls required). The petitioner provided 33 stalls on site, so no waiver was required.

The retail use (the Vitamin Shoppe) occupies 3,000 square feet and has 3 employees at the busiest shift, requiring 11 stalls. Jimmy Johns has 37 seats (which may be increased to 50 under their lease) and has a maximum of 4 employees at the busiest shift, requiring 15 stalls. Rockland Trust intends to rent 2,513 square feet and will have no more than six employees at the largest shift. Per Section 5.1.4, a bank requires one stall per each 300 square feet, and one stall for every three employees at the largest shift. The proposed bank use requires 11 parking stalls. In total, the three uses will require 37 parking stalls, which is less than the 39 anticipated by the 2013 special permit. No parking waiver is required.

Additionally, if Jimmy Johns ultimately increases their seating to the max of 50, this will raise the parking requirement to 41 stalls. Under a revised A-B+C calculation (using 41 instead of 39 for the “A” value), 16 parking stalls would have been required instead of 14. As 33 are provided on site, no parking waiver should be necessary in the event the seating is increased.

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Board Order #229-13	
§4.4.1	To allow a bank	S.P. per §7.3.3



# ATTACHMENT D

DRAFT- 170 Needham Street  
#127-17

CITY OF NEWTON  
IN CITY COUNCIL

June [REDACTED], 2017

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow bank use on the subject property and to amend Board Order #229-13 so as to allow bank use on said property as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

1. The site in an MU1 district is an appropriate location for bank as subject property and the surrounding neighborhood along Needham Street are characterized by commercial uses (§7.3.3.C.1);
2. The proposed bank will not adversely affect the neighborhood as it is characterized by commercial uses (§7.3.3.C.2);
3. The proposed bank will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

PETITION NUMBER: #127-17

PETITIONER: Rockland Trust Company

LOCATION: 170 Needham Street, Section 83, Block 28, Lot 2, containing approximately 27,179

OWNERS: Needham Chestnut Realty, LLC

ADDRESS OF OWNERS: 1234 Boylston Street  
Chestnut Hill, MA 02467

TO BE USED FOR: Retail, restaurant and bank space.

CONSTRUCTION: Single-story, multi-tenant, commercial building.

EXPLANATORY NOTES: Amend Board Order #229-13 to allow bank use;  
Special permit per Sec. 7.7.3 to allow bank use in a Mixed Use 1  
(MU1) zoning district (§4.4.1)

ZONING: Mixed Use 1 District

This special permit supersedes, consolidates, and restates provisions of prior special permit #229-13 to the extent that those provisions remain applicable. Only those conditions and provisions from such prior special permit set forth below that remain applicable, and still in full force and effect, are set forth in this special permit. Any conditions in such prior special permit not set forth in this special permit are null and void.

Approved subject to the following conditions:

**Conditions associated with this Special Permit/Site Plan Approval, Order #127-17**

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
  - a) an engineering plan entitled "Needham Chestnut Realty, LLC, 170 Needham Street, Newton, Massachusetts, As-Built Site Plan," prepared by Kelly Engineering Group, Inc., dated July 29, 2016, signed and stamped by Steven M. Horsfall, Professional Land Surveyor.
  - b) An architectural plan entitled "Proposed New Branch, 170 Needham Street, Newton, MA- Proposed Floor Plan Layout 03," prepared by DRL Architects PC, signed and stamped by Gerald Francis Blake, Registered Architect, dated March 20, 2017.

**Conditions associated with Special Permit/Site Plan Approval, Board Order #229-13:**

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
  - a) "Site Development Plans for 170 Needham Street, Newton, MA" dated June 26, 2013 with revisions through September 23, 2013, containing the following sheets:
    1. Sheet 2, Locus Plan, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
    2. Sheet 3, Existing Conditions, Stamped by Steven M. Horsfall, Professional Land Surveyor, on September 16, 2013
    3. Sheet 4, Layout Plan, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013

4. Sheet 5, Grading, Utility & Drainage Plan, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
  5. Sheet 6, Detail Sheet, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
  6. Sheet L2, Lighting Plan, by Hawk Design, Inc. on August 16, 2013
  7. Sheet L1, Planting Plan, by Hawk Design, Inc. Stamped by Thomas E. Minor, Registered Landscape Architect on September 24, 2013.
  8. Sheet D1 & D2, Planting Details and Notes by Hawk Design Stamped by Thomas E. Minor on September 24, 2013
  9. Sheet A 1.0 Schematic Floor Plan by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  10. Sheet A 1.1 Needham Street Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  11. Sheet A 1.2 Jaconnet Street Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  12. Sheet A 1.3 Parking Lot Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  13. Sheet A 1.4 Side Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  14. Sheet S 1.0 Signage Diagram by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  15. Sheet S 1.1 Signage Diagram Needham Street Elevation and Jaconnet Street Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
  16. Sheet S 1.2 Signage Diagram Side Elevation and Parking Lot Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013.
2. The petitioner shall maintain all landscaping associated with this Special Permit/Site Plan approval in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
  3. Rooftop mechanical equipment shall be centrally located so as to minimize the view from the street, as is practical and with approval by the Director of Planning and Development and the Commissioner of Inspectional Services.
  4. The trash enclosures shall be maintained in sanitary condition with the gate remaining closed at all times when not in use.
  5. The petitioner shall submit all proposed signage for review by staff and the Urban Design Commission.
  6. The petitioner shall adhere to the Order of Conditions approved by the City's Conservation Commission for this project, also referenced as Department of Environmental Protection #239-687, as it may be amended from time to time.
  7. The petitioner shall grant at no cost to the City of Newton an easement in favor of the City of Newton, which allows vehicular access across the Petitioner's property for maintenance

vehicles to access the trash gate and inlet of the box culvert in South Meadow Brook lying between the Petitioner's property and the adjacent property at 180 Needham Street.

8. The petitioner shall grant at no cost to the City of Newton an easement in favor of the City of Newton for location, maintenance, repair and replacement at sole cost of the City of Newton of a storm drainage line across the property in the location shown on the approved plans for the provision of storm drainage service from Jaconnet Street to South Meadow Brook. The Petitioner, at its sole cost, shall remove the existing 15" concrete pipe and replace such pipe in the manner and at the location shown on the approved plans. The petitioner at its sole cost shall construct a water quality structure at the end of the new pipe where such pipe outflows into the South Meadow Brook.
9. At the written request of the Director of Planning and Development, the petitioner shall submit funds in the amount of \$7,140 (\$1 per square foot of building) to be paid towards undergrounding of utilities along Needham Street at such time as either the City of Newton or the Commonwealth commences a project of undergrounding the utility lines with sufficient funding in place or committed from governmental or private sources to undertake the project for at least a distance of a quarter mile, inclusive of the section of Needham Street fronting the subject property at 170 Needham Street. This obligation shall run with the land for a period of 11 years from the date of this special permit. These funds shall be used by the City or the Commonwealth for the purpose of undergrounding utilities on Needham Street within the 11 year time period identified above. Any funds collected under this condition and not spent in accordance with this condition at the end of this time period shall be returned to the petitioner or its successors or assigns.
10. Prior to the issuance of a building permit the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. This plan shall include at a minimum:
  - a. 24-hour contact information for the general contractor of the project.
  - b. The hours of construction; there shall be no construction on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
  - c. The proposed schedule of the project, including the general phasing of the construction activities.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
  - e. Proposed truck route(s) that minimize travel on local streets.
  - f. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building

- materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
- g. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - h. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
11. No building permit shall be issued pursuant to this Special Permit/Site Plan approval until the petitioner has:
- a. Recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Filed final engineering plans for review and approval by the City Engineer. A copy of such written approval shall be filed with Clerk of the Board, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - d. Submitted a Construction Management Plan in accordance with Condition #10.
  - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
12. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Submitted to the Director of Department of Planning and Development, Commissioner of Inspectional Services and the City Engineer, a final as-built survey plan in digital format.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
  - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.

- e. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Law Department confirming that the easements described in Conditions #7 and #8 have been provided to the City.
13. Notwithstanding the provisions of Condition #12d. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.