



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
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Candace Havens  
Director

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**WORKING SESSION MEMORANDUM**

Date: June 6, 2014

To: Land Use Committee of the Board of Aldermen

From: Candace Havens, Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Daniel Sexton, Senior Planner

Cc: Petitioner

In response to questions raised at the Land Use Committee public hearing and/or in staff technical reviews, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to the staff analysis previously provided at the public hearing/working session.

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**PETITION #424-13**

**19-33 Needham Street**

A request to allow a future potential mixture of office, retail, service, and storage, which will involve not physical changes to the building, and to waiver 37 parking stalls and/or to formalize 40 off-site parking stalls.

The Land Use Committee held a public hearing on May 13, 2014 and June 3, 2014. The public hearing was held open so that the petitioner could provide supplemental information. In response to the items requested in staff's technical review memo and concerns raised by the Committee at the public hearings, the petitioner submitted the following supplemental information:



**Landscape Plan.** The petitioner provided a landscape plan (**ATTACHMENT A**) that appears to incorporate a variety of planting types in different locations to reinforce the existing vegetation adjacent to the Newton Upper Falls Greenway (NUFG). These plantings should help to screen the activities of the site and discourage the unwanted trespass of vehicles on to the NUGF. Per a site visit conducted by staff, numerous other planters around the site have been sparsely planted and/or lack plantings completely. The Planning Department encourages the petitioner to incorporate additional plants in these planters to improve the visual appearance of the site.

**Square Footage Clarification.** Clarification of the total square footage of the buildings on the site is still pending. Staff anticipates this information will be presented by the petitioner at the held open public hearing on June 10, 2014.

**Updated Parking Evaluation and Trip Generation Evaluation Report.** Comments from the City's Transportation Division on the report were presented at the June 3, 2014 public hearing, and are attached herein for reference (**ATTACHMENT B**). Per these comments, the City's Transportation Division is most concerned with the formalization of the shared parking stalls along Easy Street, the duration and timing of the parking study, and the parking capacity of the preferred scenario. The City's Transportation Division also expressed an interest in meeting with the design consultant to discuss the analysis, the results and the available parking in order to develop a more reasonable presentation of information. The petitioner's transportation consultant, MDM Transportation Consultants, Inc, provided an emailed correspondence and revised Conceptual Site Improvement Plan (**ATTACHMENT C**). According to conversations with the City's Transportation Division, the responses provided by the petitioner's consultant have been found to be satisfactory.

**Supplemental Information.** The petitioner's counsel, Alan Schlesinger, provided a letter speaking to additional concerns raised by the Committee at the meeting on June 3, 2014 (**ATTACHMENT D**).

**Recommendation.** Based on these submittals, and if the petitioner is able to provide clarification of the total square footage of the buildings on the site at the meeting, the Planning Department finds the application to be complete. Copies of the board orders for previous special permit approvals (**ATTACHMENTS E AND F**) and a draft board order for this special permit request (**ATTACHMENT G**) are attached for reference.

#### **ATTACHMENTS**

- ATTACHMENT A:** Landscape Plan, dated May 28, 2014
- ATTACHMENT B:** Emailed comments from the City's Transportation Division, dated June 3, 2014
- ATTACHMENT C:** Emailed correspondence and revised Conceptual Site Improvement Plan from MDM Transportation Consultant, Inc., dated June 5, 2014
- ATTACHMENT D:** Letter from Alan Schlesinger, dated June 5, 2014.
- ATTACHMENT E:** Board Order #153-81
- ATTACHMENT F:** Board Order #141-91(2)
- ATTACHMENT G:** Draft Board Order #424-13

PLANT MATERIAL LIST - 19 - 33 NEEDHAM ST., NEWTON, MA.

SYM.	QTY.	BOTANICAL NAME	COMMON NAME	SIZE	ROOT	REMARKS
<b>DECIDUOUS AND ORNAMENTAL TREES</b>						
BNC	3	BETULA N. 'HERITAGE'	HERITAGE RIVER BIRCH	8"-10"	B&B	(3) STEM TIGHT CLUMP, SPECIMEN
GT	3	GLEDISIA T. L. 'SKYLINE'	SKYLINE HONEYLOCUST	2 1/2"-3"	B&B	6' HIGH BRANCHING
<b>SHRUBS</b>						
FG	3	FOTHERGILLA GARDENII	DWARF FOTHERGILLA	2 1/2"-3"	B&B	
PJM	18	RHOODODENDRON 'PJM'	PJM RHODODENDRON	2 1/2"-3"	B&B	
CS	9	CORNUS SERICEA 'ALLMANS COMPACTA'	ALLMANS' COMPACT DOGWOOD	#5	CAN	
TM	3	TAKUS M. 'EVER-LOW'	EVER-LOW YEW	2 1/2"-3"	B&B	
<b>GROUNDCOVER AND ORNAMENTAL GRASSES</b>						
VM	9	VINCA MINOR	MYRTLE	FLAT	FLAT	(1) FLAT = (100) INDIVIDUAL VM'S
PH	6	PENNISETUM ALOPECUROIDES 'HAMELIN'	DWARF FOUNTAIN GRASS	#1	POT	
CA	5	CALAMAGROSTIS 'KARL FOERSTER'	FEATHER REED GRASS	#2	POT	

GRAPHIC LEGEND

- DECIDUOUS SHADE TREES
- ORNAMENTAL TREES
- EVERGREEN SHRUBS
- DECIDUOUS SHRUBS
- ORNAMENTAL GRASSES
- MA. STATE NATURALIZED HYDRO-SEEDED SLOPE MIX

GENERAL NOTES:

- CONTRACTOR SHALL MAKE A SITE VISIT PRIOR TO BIDDING TO EXAMINE EXISTING CONDITIONS FOR THEMSELVES. CONTRACTOR TO FAMILIARIZE THEMSELVES W/ DESIGN DOCUMENTS NOTES & DETAILS AND THE MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS STANDARD SPECIFICATIONS FOR HIGHWAYS AND BRIDGES, CURRENT EDITION.
- CONTRACTOR SHALL NOTIFY / COORDINATE WITH THE CITY OF NEWTON. PRIOR TO PLANT MATERIAL INSTALLATION.
- CONTRACTOR SHALL COORDINATE WITH THE CITY OF NEWTON.
- PRIOR TO THE PRE-CONSTRUCTION MEETING THE CONTRACTOR SHALL CONTACT DIG SAFE @ 1-888-344-7233 TO HAVE THE EXISTING UTILITIES MARKED.
- All contractors shall inspect site prior to bidding to verify existing conditions for themselves.
- The Contractor shall supply all plant material in quantities sufficient to complete the planting shown on the drawings. See specification.
- All plant material shall conform to the guidelines established by "The American Standard for Nursery Stock", published by the American Association of Nurserymen, Inc. ANSI Z60.1--Current Edition.
- All plants to be balled in burlap or container grown. No plastic burlap.
- All plants to be approved by the Landscape Architect.
- Stake location of all proposed plant material for approval of Landscape Architect prior to commencement of planting.
- The landscape contractor shall guarantee all plant materials for one (1) full year from date of acceptance.
- Head all construction scars with naturalized grass, lawn or mulch as indicated by drawings and/ or as directed by Landscape Architect.
- "Dry Roots" shall be added to all new tree planting pits. All new loam shall be tested and amended as stated in the loam report. Provided by loam supplier.
- Landscape Contractor shall submit a watering schedule program for the (60) day maintenance period for review by the Landscape Architect & to Owner for all proposed plant material.
- Protect existing plant material within construction limits. Provide watering program for all proposed plant material during construction.

SITE PREPARATION NOTES:

- CONTRACTOR SHALL REMOVE CLEAR AND GRUB ALL EXISTING GRASS, DEBRIS, CONCRETE RUBBLE, TREES, TREE STUMPS, SHRUBS ETC. IN CONFLICT WITH NEW CONSTRUCTION. DISPOSE MATERIAL OFF-SITE.
- THE LANDSCAPE ARCHITECT SHALL BE CONSULTED AND WILL REVIEW THE WORK ON SITE WITH THE CONTRACTOR PRIOR TO THE COMMENCEMENT OF WORK.
- THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS IN THE FIELD AND REPORT ANY DISCREPANCIES BETWEEN PLANS AND ACTUAL CONDITIONS TO THE LANDSCAPE ARCHITECT PRIOR TO THE COMMENCEMENT OF WORK.
- THE CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE TO EXISTING CONDITIONS TO REMAIN THAT ARE DUE TO CONTRACTOR OPERATIONS AND WHICH ARE INSIDE OR OUTSIDE THE LIMIT OF DEMOLITION / CLEAN UP AREA.
- ALL ITEMS THAT ARE TO BE REMOVED ON THE PROJECT OR DELIVERED TO THE OWNER SHALL BE LEGALLY DISPOSED OF OFF-SITE BY THE CONTRACTOR & AT CONTRACTORS EXPENSE.
- MASSACHUSETTS CERTIFIED ARBORIST TO FLAG EXISTING PLANT MATERIAL TO BE REMOVED UNLESS OTHERWISE NOTED. (ALL EXISTING TREES ARE TO BE PROTECTED TO REMAIN).
- PROTECT EXISTING UTILITIES: ELECTRIC, ETC.
- DIG SAFE SHALL BE NOTIFIED TO MAKE A SITE VISIT PRIOR TO ANY CONSTRUCTION AND MARK ALL EXISTING UTILITIES.
- CLEAN-UP WILL BE MANAGED ON A DAILY BASIS, TYP.

CONSTRUCTION SEQUENCE:

- PROTECT ALL TREES THAT ARE TO REMAIN, TYP.
- SELECTIVELY PRUNE ALL PLANT MATERIAL THAT HAS A WFA WHITE FLAG.
- CLEAR AND GRUB ROOT SYSTEMS OF REMOVED PLANTS THROUGHOUT THE ENTIRE PLANT BED.
- STRIP LAWN GRASS AND REMOVE OFF SITE AND DISPOSE OF LEGALLY. TOP DRESS "AS-REQUIRED" TO MEET / MAINTAIN EXISTING GRADES.
- STAKE PLANT LOCATIONS BY TREES FIRST, SHRUBS SECOND FOR APPROVAL BY THE LANDSCAPE ARCHITECT.
- PLANT ACCORDING TO MASSACHUSETTS HIGHWAY DEPARTMENT STANDARDS.
- STAKE TREES, WATER, MULCH & MAINTAIN FOR (60) DAYS MAINTENANCE PERIOD FROM DATE OF WRITTEN ACCEPTANCE BY THE LANDSCAPE ARCHITECT.
- LAND-SEED MASS. HIGHWAY GRASS MIX FOR GRASSPLOTS.

LANDSCAPE NOTES:

- LOAM DEPTHS SHALL BE AS FOLLOWS:
- PLANT BEDS - 2" MULCH DEPTH IN THE PLANTED AREA
  - NATURALIZED GRASS AREAS - 4" ROLLED THICKNESS, MIN.
- NATURALIZED GRASS SEED (VALLEY GREEN SEED, LTD. WILMINGTON, MA.)  
 MA. STANDARDS SPECIFICATIONS FOR HIGHWAYS & BRIDGES, CURRENT EDITION: HIGHWAY SLOPE GRASS FOR SLOPES & SHOULDERS:  
 CREEPING RED FESCUE  
 KENTUCKY 31  
 DOMESTIC RYE  
 RED TOP

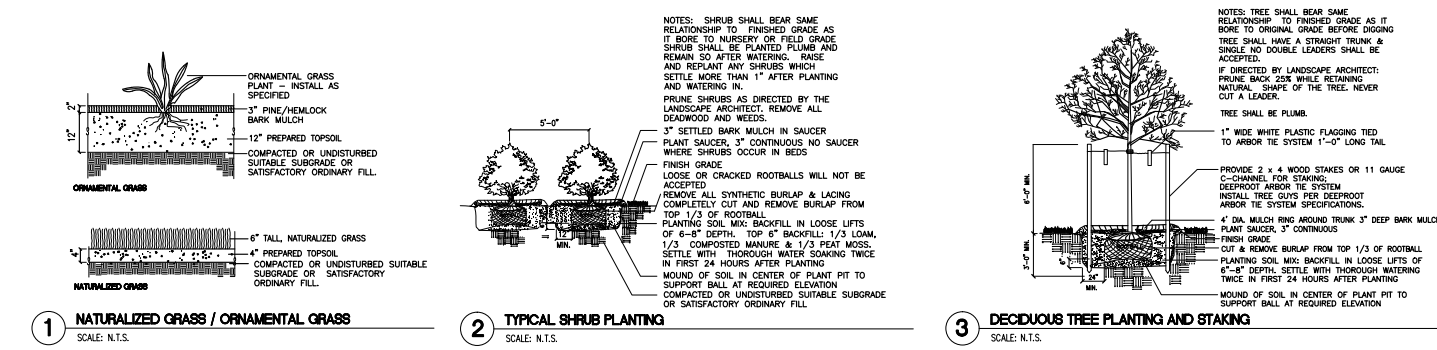
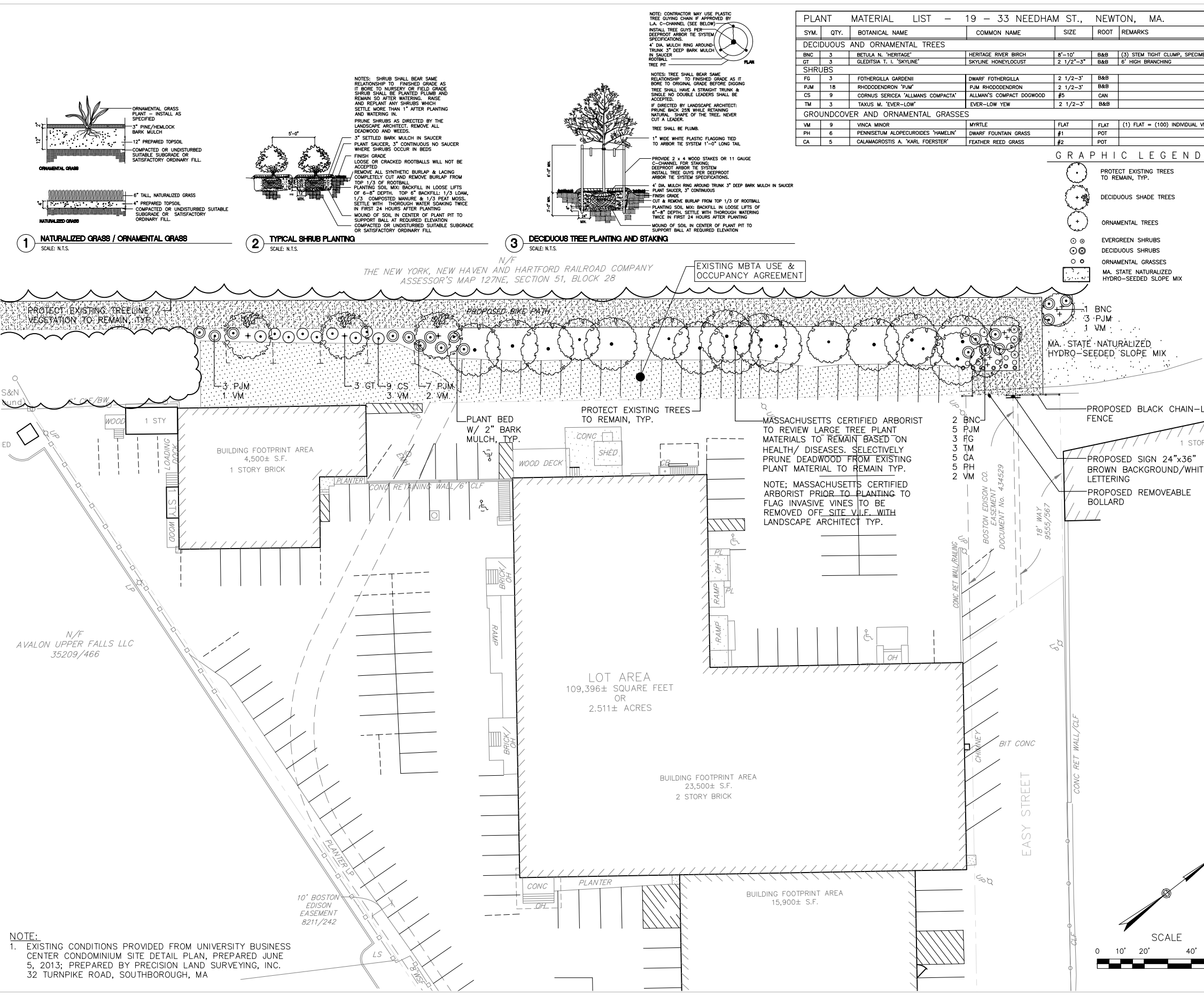
REV.	DESCRIPTION	BY	DATE
ISSUED FOR REVIEW		WFA	5/28/2014

PREPARED BY: **WILLIAM FLEMING ASSOCIATES** Incorporated  
 LANDSCAPE ARCHITECTURE  
 PLANNING  
 375 MAIN ST.  
 SUITE #3  
 STONEHAM, MA. 02180  
 T 781 438 3088  
 F 781 438 3611  
 E wfa@williamfleming.com

**LANDSCAPE PLAN**  
 19-33 NEEDHAM STREET  
 NEWTON, MASSACHUSETTS  
 PREPARED FOR:  
**KS PARTNERS**  
 150 EAST 58TH STREET, SUITE 2000  
 NEW YORK, NY 10155

**MDM** TRANSPORTATION CONSULTANTS, INC.  
 PLANNERS & ENGINEERS  
 28 Lord Road, Suite 280  
 Marlborough, MA 01752  
 Tel: (508) 303-0370

Project No. 1428 File: WFA LP (5-28-14).dwg  
 Date: MAY 28, 2014 Scale: 1" = 20' Sheet 1 of 1



THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY  
 ASSESSOR'S MAP 127NE, SECTION 51, BLOCK 28

NOTE:  
 1. EXISTING CONDITIONS PROVIDED FROM UNIVERSITY BUSINESS CENTER CONDOMINIUM SITE DETAIL PLAN, PREPARED JUNE 5, 2013; PREPARED BY PRECISION LAND SURVEYING, INC. 32 TURNPIKE ROAD, SOUTHBOROUGH, MA

## Attachment B

**From:** [William Paille](#)  
**To:** [Daniel Sexton](#)  
**Cc:** [Stephen Pantalone](#); [Zachery Bosch](#); [Alexandra Ananth](#)  
**Subject:** RE: 19-33 Needham Street - Traffic/Parking Comments  
**Date:** Tuesday, June 03, 2014 5:18:04 PM

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Dan,

I took a quick look at the memorandum prepared by MDM, dated May 22, 2014 and offer the following observations and comments:

- The number of parking spots based on the revised site plan is not yet clear to me and it would be helpful if this information was summarized by type (i.e. handicapped, spaces on Easy Street within the site, Easy Street outside the site, within MBTA right-of-way, compact and/or large). This will have an impact on the use of the site. I do not believe the 23 spaces within the MBTA right-of-way can be counted unless there is an agreement with the MBTA. The MBTA has complete control over this land and can revoke or prevent the site owner from using this for parking. It should be noted that there are spaces along Easy Street that are within the private portion of the street as well as the portion within the project site. Although the owner has complete use of the 2 spaces on Easy Street that is within their site, they actually share the spaces along the private section of Easy Street (total of 10 parallel and 8 angled) with the adjacent property owner. I do not believe these 18 spaces can be counted.
- I question why the parking study was performed on just one day. I would have expected the study to have occurred over several weekdays and weekend days to develop a better sense of parking habits and activity. I also question the time of year. I would have expected the study to occur in the spring/fall as well as the summer.
- I do agree the capacity of the parking lot will likely be exceeded under the by-right scenario. However, I am not so certain the preferred scenario is all that better. The ideal scenario is to have a parking lot that is at 85 to 90 percent capacity so folks aren't driving around looking for a space and eventually give up or park someplace illegally or unsafe. Assuming 90 percent occupancy of 159 spaces is approximately 143 spaces which relates to the preferred scenario at or near capacity from 10:00am to 12:30pm and again at 2:30pm. Additional study of this lot over a period of more than just one weekday may be beneficial.

Overall, the approach is appropriate, sound and the conclusions reasonable. I would recommend a meeting with the design consultant to discuss the analysis, the results and the available parking in order to develop a more reasonable number.

Regards,

Bill

**William G. Paille, P.E.**  
Director of Transportation  
Department of Public Works  
110 Crafts Street

**Daniel Sexton**

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**From:** Robert Michaud <RMichaud@mdmtrans.com>  
**Sent:** Thursday, June 05, 2014 1:52 PM  
**To:** William Paille  
**Cc:** Franklin Schwarzer; Daniel Sexton  
**Subject:** 19-33 Needham Street  
**Attachments:** 725 Conceptual Site Improvement Plan (5-22-2014)(Rev 6-5-2014) (11x17).pdf; 725 Conceptual Site Improvement Plan (5-22-2014)(Rev 6-5-2014) (24x36).pdf

Bill –

Thanks for discussing comments on the 19-33 Needham Street project. Attached are the Conceptual Site Improvement Plans that annotate parking for on-site locations, MBTA/Lease spaces and Easy Street to facilitate review.

I trust that the attached clarifies questions you had relative to proposed parking supply and location. As discussed, please also offer any suggestions as to the specification of “wayfinding” signs for the Greenway – the signs shown are conceptual only and may be specified to a sign type that is consistent with other locations along the Greenway that the City may be developing or has already implemented.

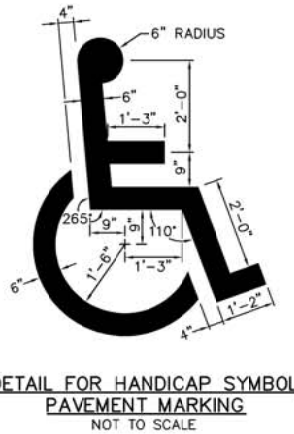
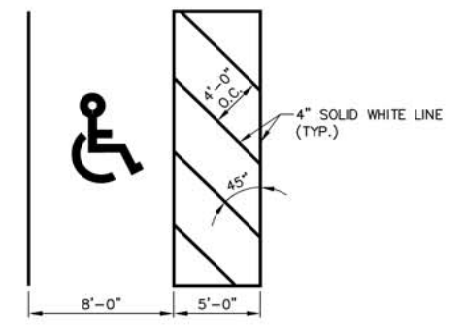
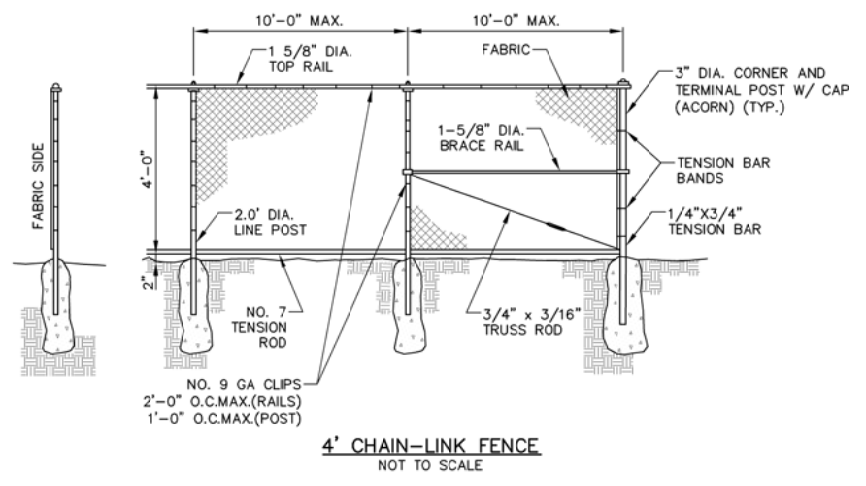
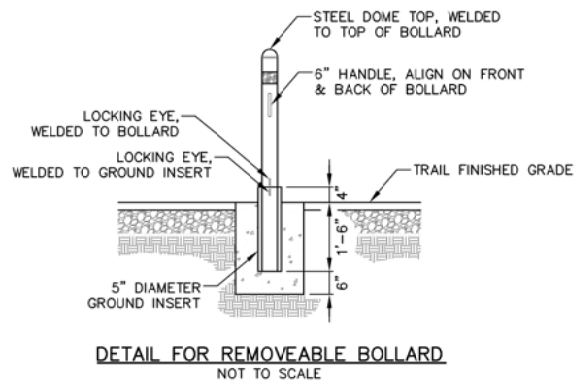
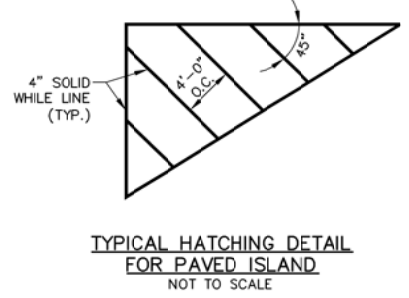
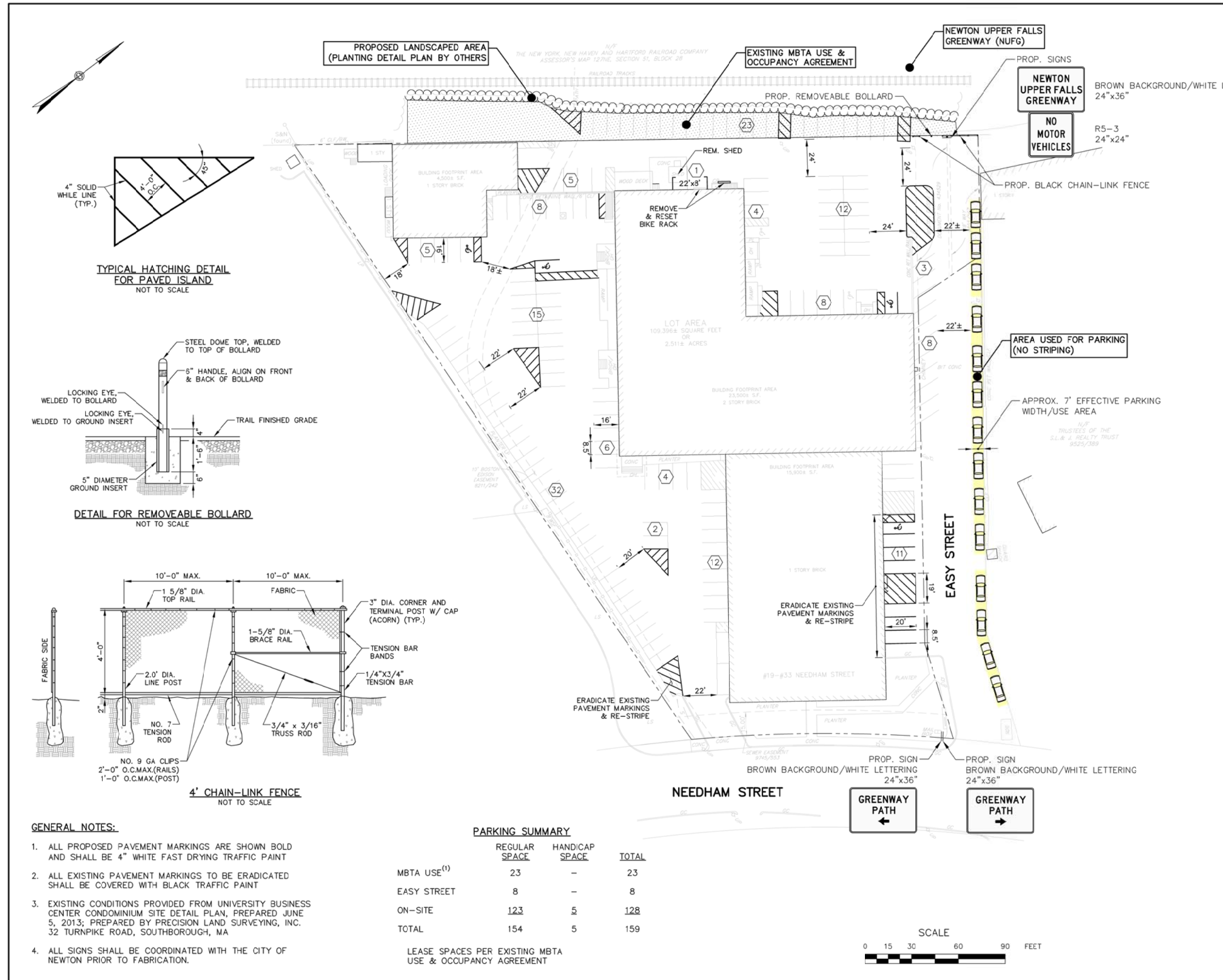
Finally, regarding parking inventories/data, supplemental data in context of the largely vacant buildings on the Site would not provide any useful purpose. As discussed, the largest “generator” on the site is NTB, which has its customers vehicles parked within the building and employees parked in the spaces immediately adjacent to the building. I trust that we are in agreement on this point, but if not please let me know.

Best Regards –

Bob

Robert J. Michaud, P.E.  
Managing Principal

[MDM Transportation Consultants, Inc.](#)  
28 Lord Road, Suite 280  
Marlborough, MA 01752  
508-303-0370 (Ph)  
508-303-0371 (Fx)  
508-380-9088 (Cell)



- NOTES:**
- ALL HANDICAP SYMBOLS SHALL BE WHITE FAST DRYING PAINT.
  - HANDICAP SYMBOLS SHALL BE INSTALLED AND ORIENTATED AS SHOWN IN EACH LOCATION AND CENTERED IN THE PARKING STALL.
  - ALL HANDICAP SPACES TO COMPLY WITH CITY OF NEWTON REQUIREMENTS FOR TOTAL NUMBER AND LAYOUT; LOCATIONS AND LAYOUT SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND PROVIDED FOR DISCUSSION PURPOSES ONLY.

- GENERAL NOTES:**
- ALL PROPOSED PAVEMENT MARKINGS ARE SHOWN BOLD AND SHALL BE 4" WHITE FAST DRYING TRAFFIC PAINT
  - ALL EXISTING PAVEMENT MARKINGS TO BE ERADICATED SHALL BE COVERED WITH BLACK TRAFFIC PAINT
  - EXISTING CONDITIONS PROVIDED FROM UNIVERSITY BUSINESS CENTER CONDOMINIUM SITE DETAIL PLAN, PREPARED JUNE 5, 2013; PREPARED BY PRECISION LAND SURVEYING, INC. 32 TURNPIKE ROAD, SOUTHBOROUGH, MA
  - ALL SIGNS SHALL BE COORDINATED WITH THE CITY OF NEWTON PRIOR TO FABRICATION.

**PARKING SUMMARY**

	REGULAR SPACE	HANDICAP SPACE	TOTAL
MBTA USE <sup>(1)</sup>	23	-	23
EASY STREET	8	-	8
ON-SITE	123	5	128
TOTAL	154	5	159

LEASE SPACES PER EXISTING MBTA USE & OCCUPANCY AGREEMENT




REV.	DESCRIPTION	BY	DATE
2	TRANSPORTATION DEPT. COMMENTS	MLH	6/5/2014
1	CITY COMMENTS	MLH	5/22/2014

**CONCEPTUAL SITE IMPROVEMENT PLAN**

19-33 NEEDHAM STREET  
NEWTON, MASSACHUSETTS  
PREPARED FOR:  
KS PARTNERS  
150 EAST 58TH STREET, SUITE 2000  
NEW YORK, NY 10155

**MDM** TRANSPORTATION CONSULTANTS, INC.  
PLANNERS & ENGINEERS  
28 Lord Road, Suite 280  
Marlborough, MA 01752  
Tel: (508) 303-0370

Project No. 725	File: 725 Pavement Marking Plan (5-22-14).dwg
Date: March 26, 2014	Scale: As Shown
	Sheet 1 of 1

 **SCHLESINGER<sup>AND</sup>  
BUCHBINDER, LLP**  
ATTORNEYS AT LAW  
1200 WALNUT STREET  
NEWTON, MASSACHUSETTS 02461-1267

Attachment D

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
SHERMAN H. STARR, JR.  
HEATHER G. MERRILL  
PAUL N. BELL  
KRISTINE H.P. HUNG  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER

TELEPHONE (617) 965-3500  
FACSIMILE (617) 965-6824  
OF COUNSEL  
ROBIN GORENBERG

June 5, 2014

Daniel Sexton  
Senior Planner  
Department of Planning and Development  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

Re: 19-33 Needham Street - Special Permit # 424-13

Dear Dan;

This letter is to update the status of the information requests from the Land Use Committee on June 3.

- (1) The landscape plan has been submitted as of today. Please let us know if you have any questions.
- (2) I spoke to Steven Kaitz of National Lumber about the use of Easy Street. Steven indicated that National Lumber employees do park along the northerly side of Easy Street and that he believes that the tire store employees and customers park on the southerly side. Steven said that he has spoken to people at 19 Needham St. from time to time and they have agreed informally that each will park on their own side.
- (3) Alderman Laredo asked if there is law on the issue of who can park in a private way. I have found the case of Denedal v. Beauregard Massachusetts Land Court Case No 07 Misc. 356049 KCL May 21, 2012, Westlaw WL 1913911 (Mass. Land Ct.) affirming the prior decision in Harrison-Beauregard v. DeNadal 71 Mass App. Ct. (2008). In that case Beauregard sought the right to park on his side of the street and on any other part of the private way. The Court held that he did have the right to park in the 10' adjacent to his property within the 40' private way but that he did not have the right to park across the street abutting the neighbor's property. The Court's holding was in effect that each abutter can park in 10' of the private way adjacent to its property but not within the 20' in the middle.

Daniel Sexton  
June 5, 2014

- (4) President Lennon had asked me prior to the working session to meet with the Fire Department about the access on Easy Street. I have an appointment with Chief Castro tomorrow and will be able to report to you the results of that conversation.
- (5) I understand that Bob Michaud of MDM Transportation Consultants has had further discussions with Bill Paille to clarify the potential of parking along the National Lumber side of Easy Street. It is our experience that not all those cars are parked there, but they could be. I hope that Bill is satisfied with the conversation and can advise you. As we told the Committee we do not want to undertake additional parking counts on a vacant building.
- (6) The Committee asked for additional confirmation of the square footage of the building in view of inconsistent numbers from 1991. I am hoping to have that from the building architect by the June 10 working session.
- (7) In addition, although the matter was not discussed at the working session, I am aware that there has been discussion about marking Easy Street for bicyclists. Upon review by MDM, it appears that such markings would not meet the customary standards for bike paths and have the potential to cause confusion. Although the applicant is willing to do a marking, it is MDM's assessment that it is more unsafe to have such a marking on Easy Street than to leave it unmarked. As a potential alternative, the directional signage the applicant is providing could also urge caution to motorists and cyclists.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan J. Schlesinger", written over a horizontal line.

Alan J. Schlesinger  
AJS:imp



CITY OF NEWTONIN BOARD OF ALDERMEN

June 15, 1981

RED:

That the Board finding that the public convenience and welfare be substantially served by its action and that said action will without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, the following SPECIAL PERMIT is hereby granted, in accordance with the recommendation of the Land Use Committee and the findings given by the Committee therefor through its Chairman, Chairman Terry Morris.

Petition number: #153-81

Petitioner: The Commonwealth Companies

Location: 19-33 Needham Street, Ward 5, Section 51, Block 28, Lot 25 containing approximately 109,399 square feet.

Applicant: Ronald B. Pook, President

Address of owner: 161 Highland Avenue, Needham, MA

Use intended for: Two free-standing identification signs with removable panels.

Construction: Masonry and wood

Administrative note: Section 30-25(1) requires the petitioner obtain a SPECIAL PERMIT from the Board of Aldermen for the erection of free standing signs.

The property referred to is in Manufacturing District.

Approved, subject to the following conditions:

That the two free standing signs shall be located, subject to the approval of the City Engineer, consistent with a plan entitled "Site Plan, Needham Street," dated February 4, 1981 by SIGNS O'LIFE, 178 Purchase Street, Boston, Mass., submitted by the petitioner and filed herewith.

That both free standing signs shall be constructed in accordance with the details of a Plan entitled "2 Signs Same, Entrance to #23 and #29," undated, by Signs O'Life, submitted by the petitioner and filed herewith.

That the landscaping in the brick planters shall be maintained in good order at all times.

There shall be no exercise of this SPECIAL PERMIT until:

- a. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT with appropriate reference to the book and page of the recording of the petitioner's title deed or notice of lease endorsed thereon.
- b. A certified copy of such recorded notice shall have been filed with the City Clerk, the Building Department and the Department of Planning and Development.

Under Suspension of Rules  
Readings Waived & Adopted  
22 Yeas 2 Absent (Gentile, Schur)

EXECUTIVE DEPARTMENT

Approved June 17, 1981

*Edward G. English*  
(Sgd) EDWARD G. ENGLISH City Clerk

*Theodore D. Mann*  
(Sgd) THEODORE D. MANN Mayor

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT is a true, accurate and complete copy of said decision; that all statutory requirements for the issuance of such SPECIAL PERMIT have been complied with; and that copies of the foregoing decision and all plans referred to in the decision have been filed with the Planning and Development Board and the City Clerk.

Twenty days have elapsed since the date of filing of the Board Order with the City Clerk and no appeal thereto has been filed.

*Edward G. English*  
City Clerk Edward G. English  
July 6, 1981

A True Copy  
Attest:  
*Edward G. English*  
City Clerk of Newton, Mass.

# Attachment F

#141-91(2)

CITY OF NEWTON

IN BOARD OF ALDERMEN

December 26, 1991

ORDERED:

That the Board finding that the public convenience and welfare will be substantially served by its action 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, the following SPECIAL PERMIT/SITE PLAN APPROVAL is hereby granted in accordance with the recommendation of the Land Use Committee and based upon the following specific findings, facts and conclusions, and the reasons given by the Committee therefor through its Chairman, Susan M. Basham:

1. The Board finds that the proposed automotive use will occupy vacant commercial space.
2. The Board finds that by removing 15 parking spaces at the front of the building, which require the motorists to back out onto Needham Street, the proposed development will improve vehicular safety.
3. The Board finds that pedestrian safety will be improved by the installation of a sidewalk and curbing.
4. The Board finds that the proposed development will improve the streetscape by the planting of additional trees and landscaping.
5. The Board finds that the parking waiver will not result in congestion of the site.

Petition number: 141-91(2)

Petitioner: NTW, Inc./Sally Starr & Carol Donovan, Trustees

Location: 21 Needham Street, Ward 6, Section 51, Block 28, Lot 25, containing approximately 109,399 square feet of land

Owner: Sally Starr & Carol Donovan, Trustees

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Address of Owner: 39 Brighton Avenue  
Boston, MA 02134

To be used for: Retail sale of tires and a repair shop with nine (9) service bays limited to the following: sale and installation of tires, tire repair, brake repair, wheel alignment, installation of shocks, struts and related items.

Construction: Renovation to existing warehouse

Explanatory note: Section 30-13(2) and (13) requires a SPECIAL PERMIT/SITE PLAN APPROVAL for a retail store and a repair shop. Section 30-19(m) allows the Board of Aldermen to grant a parking waiver.

Land referred to is in: Mixed Use 1 District

Approved, subject to the following conditions:

1. That all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with plans dated April 10, 1991 by Morris Architects entitled "Existing Conditions Plan" revised May 7, 1991; "Site Plan," revised December 11, 1991; "Landscape Plan," revised June 28, 1991 and December 11, 1991; "Floor Plan," revised May 11, 1991 and December 11, 1991; "Elevations," revised May 11, 1991 and December 11, 1991.
2. That the installation of sidewalks and curbs along Needham Street and at the turning radius at Easy Street shall be made by the Petitioner at his sole expense after review and approval of the City Engineer. However, the installation of new curbing along the length of Easy Street shall not be required as long as Easy Street remains a private way.
3. That no automobile engine shall be kept running while the automobile is being repaired within any garage bay.
4. That the Petitioner shall not engage in the use of machinery, chemicals and tools which give off noxious fumes and odors to the adjoining areas or neighborhood.
5. That in no event shall the business operate in a manner which would project any sound to adjoining areas or neighborhood.

6. That the Petitioner shall remove fifteen (15) parking spaces in front of the site and replace them with a landscaped area, a sidewalk for pedestrians and granite curbing along the Needham Street frontage.
  7. That a landscape plan which includes street trees along the front of the premises be submitted for review and approval by the Director of Planning and Development.
  8. That employees shall park in an area designated at the rear of the site.
  9. That there shall be no outside staging or storage of tires or display of other products to be sold.
  10. That there shall be no outside storage of used tires or other refuse material, and that all such materials be disposed of in accordance with applicable laws.
  11. That the location and screening of any new dumpster shall be reviewed and approved by the Director of Planning and Development.
  12. That the free-standing sign and planter at the corner of Easy Street may be relocated for greater site distance for motorists and better visibility of the property.
  13. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL until:
    - a. A final landscape plan including lighting and fixture design, and indicating the location, number, size and type of landscaping and landscape materials to be installed shall have been submitted to and approved by the Director of Planning and Development and a statement certifying such approval shall have been filed with the City Clerk and the Inspectional Services Department.
    - b. The City Engineer has reviewed and approved plans for the installation of sidewalks and curbing.
    - c. The Petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
    - d. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
-

14. That no building or structure or portion therefore subject to this SPECIAL PERMIT/SITE PLAN APPROVAL shall be occupied until:
- a. The Petitioner shall have filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development a statement by a registered architect or registered engineer certifying that condition 1 has been complied with.
  - b. There shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development a statement by the City Engineer certifying that the final construction details of the sidewalks and curbing installation have been constructed to standards of the City of Newton Engineering Department.
  - c. There shall have been filed with the City Clerk, the Commissioner of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials and final landscape features, parking areas, and lighting installation.
  - d. Notwithstanding the provisions of section 14c., hereof, the Commissioner of Inspectional Services may issue one or more certificates for temporary occupancy of all or portions of the building prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development 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.

Under Suspension of Rules  
Readings Waived and Approved  
18 yeas 5 nays (Ald. Bauckman,  
Bryson, Kraus, Mansfield and Taglienti)  
1 absent (Ald. Balser)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT and SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on December 26, 1991. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT and

SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the Planning and Development Board and the City Clerk.

ATTEST:

  
(SGD) EDWARD G. ENGLISH, City Clerk  
Clerk of the Board of Aldermen

I, Edward G. English as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON hereby certifies that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on December 26, 1991 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST   
EDWARD G. ENGLISH, City Clerk

# Attachment G

**DRAFT**  
#424-13

## CITY OF NEWTON

### IN BOARD OF ALDERMEN

June 16, 2014

#### ORDERED:

That the Board, 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 a mix of uses, a waiver of the required number of parking stalls, the formalizing of off-site parking stalls, and waivers of certain design and dimensional controls of parking facilities on the site, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The specific site is an appropriate location for the mixture of office, retail, service, and storage/warehouse uses, because these uses will contribute to the character and vitality of the community and the Needham Street Corridor and will not be detrimental to the public welfare. (§30-13(b)(1), (3), (4), and §30-24(d)(1))
2. The proposed uses can be operated so as not to adversely affect the neighborhood. (§30-13(b)(1), (3), (4), and §30-24(d)(2))
3. The requested use of off-site leased parking facilities and the waiver of 18 additional parking stalls, which results in a total of 53 parking stalls waived for the site, for an aggregate parking demand cap of 200 parking stalls. Waivers to the dimensional and design controls for parking facilities will not result in the creation of a nuisance or hazard to vehicles or pedestrians on and off the site. (§30-19(f)(2), §30-19(c)(3), and §30-24(d)(3))
4. The site, given the waivers to the dimensional and design controls for parking facilities, has adequate access for the types and numbers of vehicles for the proposed mixture of uses. (§30-20(m) and §30-24(d)(4))
5. The constraints present on the property, specifically the significant grade and the unique shape of the lot, and the nature of the uses and development patterns of the site, makes waivers of the dimensional and design controls for parking facilities



appropriate because literal compliance with these requirements is impracticable. (§30-19(m))

PETITION NUMBER: #424-13

PETITIONER: UBC Equity Partners, LLC/KS Retail Manage, LLC

LOCATION: 19-33 Needham Street, Ward 5, on land known as SBL 51, 28, 25B, 25C, and 25D, containing approx. 109,396 sq. ft. of land

OWNER: UBC Equity Partners, LLC/KS Retail Manage, LLC

ADDRESS OF OWNER: 150 East 58<sup>th</sup> Street, Suite 2000  
New York, NY 10155

TO BE USED FOR: Office, Retail, Service, and Storage/Warehouse Uses

EXPLANATORY NOTES: §30-13(b)(1) to allow retail uses; §30-13(b)(3) to allow storage/warehouse uses; §30-13(b)(4) to allow service uses; §30-19(f)(1) and (f)(2) to allow for the uses of off-site parking stalls AND/OR §30-19(c)(3) to waive parking stalls; and §30-19(m) to allow exceptions to the provisions of Section 30-19(h).

ZONING: Mixed Use 1 District

This special permit supersedes, consolidates and incorporates prior special permits #141-91(2) and #153-81. Herein, those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect, and are set forth in this special permit. Any conditions in such prior special permits 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, Board Order #236-13:***

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. Architectural Plans, prepared by Wright Interiors, dated 6/19/13, including:
    - i. First Floor Plan; and
    - ii. Second Floor Plan.
  - b. Existing Conditions Plan, entitled Site Detail Plan, prepared, stamped and signed by Michael Pustizzi, Land Surveyor for Precision Land Surveying, Inc., dated 6/5/2013.
  - c. Conceptual Site Improvement Pan, prepared by MDM Transportation Consultants, Inc., Planners & Engineers, dated 3/26/14 and revised on 5/22/14 and 6/5/2014.

- d. Autoturn Analysis-Lumber Truck, prepared by MDM Transportation Consultants, Inc., dated 5/22/2014.
  - e. Landscape Plan, prepared by William Fleming Associates, Inc., Landscape Architecture and Planning, and MDM Transportation Consultants, Inc., Planning & Engineers, dated 5/28/2014.
2. The petitioner shall work with the Department of Planning and Development to identify where wayfinding signage for the Newton Upper Falls Greenway is most appropriate, and install the signage.
  3. The petitioner shall install and maintain high contrast pavement striping and bicycle route markers on the portion of Easy Street controlled by the petitioner, the licensed portion of the Massachusetts Bay Transportation Authority right-of-way, and on the subject property to identify areas where the interactions between pedestrians and vehicles are occur.
  4. The storage of snow on the site shall be accommodated on the site in locations reviewed and approved by the Department of Planning and Development and Public Works Department. The snow storage areas shall not adversely impact the Newton Upper Falls Greenway.
  5. At such time in the future that the existing buildings are enlarged or demolished and the site is redeveloped, the site shall comply with the parking requirements in effect at the time and the waivers to the dimensional and design controls of parking facilities and the 43 parking stalls waiver by this special permit shall terminate.
  6. 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 Approval 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 a bond, long term lease, easement or other assurance of performance allowing the use of parking facilities on the Massachusetts Bay Transportation Authority right-of-way and along Easy Street.
    - d. Filed a final conceptual site improvement plan that is dated and stamped by the appropriate design professional with the Planning Department.
    - e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1, as modified by Condition #3c.
    - f. Easement condition????? Execute and record with the Registry of Deeds for the Southern District of Middlesex County an easement with the City of Newton, at no cost to the City, for a pedestrian and bicycle access across a portion of the petitioner's property extending from the Massachusetts Bay Transportation Authority right-of-way (Insert title of ROW) to Easy Street a private right-of-way.

7. No Final Inspection/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 Department 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 Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - c. Filed with the City Clerk and the Inspectional Services Department a statement by the Director of Planning and Development approving final location, number and type of plant materials, fencing and signage.
8. Notwithstanding the provisions of Condition #3c above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to the installation of final landscaping provided that the petitioner shall first have filed with the Director of Planning and development a bond, letter of credit, 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.

***Conditions incorporated from Board Order #141-91(2):***

9. The no automobile engine shall be kept running while the automobile is being repaired within any garage bay.
10. That the Petitioner shall not engage in the use of machinery, chemicals and tools which give off noxious fumes or orders to the adjoining areas or neighborhood.
11. That in no event shall the business operate in a manner which would project any sound to adjoining areas or neighborhood.
12. That employees shall park in an area designated at the rear of the site.
13. That there shall be no outside storage of used tires or other refuse materials, and that all such materials be disposed of in accordance with applicable laws.
14. That the location and screening of any new dumpster shall be reviewed and approved by the Director of Planning and Development.
15. That the free-standing sign and planter at the corner of Easy Street may be relocated for greater site distance for motorists and better visibility of the property.

***Conditions incorporated from Board Order #153-81:***

16. That the two free-standing signs shall be located, subject to the approval of the City Engineer, consistent with a plan entitled "Site Plan, Needham Street," dated February 4, 1981 by Signs O'Life, 178 Purchase Street, Boston, MA, submitted by the petitioner and filed herewith.

17. That both free-standing signs shall be constructed in accordance with the details of a plan entitled "2 Signs Same, Entrance to #23 and #29," undated, by Signs O'Life, submitted by the petitioner and filed herewith.
18. That the landscaping in the brick planters shall be maintained in good order at all times.