

DECISION OF THE ANDOVER PLANNING BOARD  
AS A SPECIAL PERMIT GRANTING AUTHORITY

ON THE APPLICATION OF  
319 Lowell Street  
By: Salvatore Lupoli

For a Modification of a Special Permit for Major Non-Residential Project  
under Section 9.4.8 of the Andover Zoning Bylaw

Decision: SP16-04

YES (with conditions)

A public meeting of the Planning Board was held on January 24, 2017 in the Third Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Joan Duff, Zachary Bergeron, Vincent Chiozzi, Ann Knowles and Rocky Leavitt.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on September 22, 2016 and September 29, 2016 and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened by the Planning Board (the "Board") on October 11, 2016, for an application filed on September 14, 2016 by Salvatore Lupoli on property owned by 319 Lowell Street Realty, LLC for a Modification of a previously approved Special Permit for Major Non-Residential Project (SP12-03 and SP14-07). The property is more specifically identified as Lot 18 on Assessors Map 151. The public hearing was closed on January 24, 2017. The aforementioned members present throughout.

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According to Section 9.4.2. of the Zoning By-law, Special Permits may be granted when the Planning Board has found that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such is in harmony with the general purpose and intent of the By-law.

Social, economic, or community needs which are served by the proposal.

The proposal will provide a social and community need by creating parking and a restaurant for public use by the residents and medical facilities.

Traffic flow and safety, including parking and loading.

The proposal provides for adequate parking and loading and safe traffic flow, a peer review of the traffic assessment report was conducted along with the pedestrian access with the cross walks and the traffic signal timing review.

Adequacy of utilities and public services.

The proposal provides for water, sewer, electrical, cable, hydrants and stormwater which has all been reviewed and approved by the appropriate departments, proper permits with the Town and State will be pulled.

Neighborhood Character and social structure.

The proposal is in the Limited Service zoning district, the building and use are in keeping with the surrounding properties.

Impacts on the natural environment, including but not limited to, air and water pollution, noise, stormwater runoff, aesthetics.

The proposal's impacts will be not be unreasonably detrimental due to improvements being made to the site to improve the existing stormwater runoff conditions with the detention system. The stormwater runoff has been peer reviewed and meets the standards set forth by the Massachusetts Department of Environmental Protection Stormwater Management Standards, and the Andover Stormwater Management & Erosion Control Bylaw and Regulations.

On a vote of 5 to 0, the Board finds that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such proposed use with appropriate conditions is in harmony with the general purpose and intent of the bylaw. The Board approves with conditions the application of Salvatore Lupoli on property owned by 319 Lowell Street Realty, LLC for a Modification of a previously approved Special Permit for a Major Non-Residential Project (SP12-03 and SP14-07) subject to the following conditions. The Board further grants the waiver to the Stormwater Management and Erosion Control Bylaw Section IX.D, Channel Protection - 24 hours extended detention of the post development 1-year, 24 hour return frequency storm event.

## CONDITIONS OF THE PERMIT

This special permit is approved subject to the following conditions:

### General Conditions

1. For purposes of this special permit the project shall encompass and be defined as the structures, parking areas, utilities, drainage systems, street improvements, signage, landscaping and all other details as shown on the approved plans. The site is identified as a parcel of land situated at 319 Lowell St, more specifically shown on Assessor's Map 151 Lot 18. The developer is identified and shall be defined as Salvatore N. Lupoli or his assigns. The developer, as defined, shall be subject to all conditions listed hereunder, and shall be directly responsible for construction of the project, including all contractors, subcontractors, vendors, or other parties working on the site and on the project;
2. Except as otherwise provided for in these conditions all work associated with the project, including architecture and landscaping, shall be in strict conformance with the following plans and drawings prepared by TEC, Inc, which are considered the final plans and may be found in the Planning Division:
  - a. Title & Index Sheet, C-1, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - b. Legend & General Notes, C-2, prepared by TEC, Inc. dated 12/06/16;
  - c. Layout & Materials Plan, C-3, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - d. Grading & Drainage Plan, C-4, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - e. Utility Plan, C-5, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - f. Drainage Plan & Profile, C-6, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - g. Sewer Plan & Profile, C-7, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - h. Lighting Plan, C-8, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17
  - i. Erosion & Sedimentation Control Plan, C-9, dated 9/16/16 last revised 1/06/17;
  - j. Construction Phasing & Access Plan, C-10, dated 9/16/16 last revised 1/06/17
  - k. Construction Details, C-11, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - l. Construction Details, C-12, prepared by TEC, Inc. dated 12/05/16;
  - m. Construction Details, C-13, prepared by TEC, Inc. dated 9/16/16 last revised 1/06/17;
  - n. Construction Details, C-114, prepared by TEC, Inc. dated 12/5/16;
  - o. Existing Conditions, prepared by Otte & Dwyer, Inc Land Surveyors, dated 8/23/16;
  - p. Architectural Plans, prepared by Cube 3 – (2 sheets), dated 12/5/16;
  - q. Landscaping Plans L-1,2, prepared by TEC, Inc. dated 9/13/16 last revised 12/5/16;

3. If a modified or supplemental plan(s), drawing(s) and document(s), if any, is required by the Planning Board under the conditions of this permit, it shall be submitted to, reviewed and approved by the Planning Division;
4. Administration and enforcement of this permit and the conditions attached thereto shall be pursuant to the requirements of the Planning Board's Rules Governing Special Permits;
5. This special permit shall expire two (2) years from the date that this decision has been recorded in the Northern Essex Registry of Deeds unless substantially exercised by the applicant prior to that date. The Board may consider extending the special permit upon written request of the applicant provided that such request has been received and a public hearing noticed prior to the expiration of the original permit. In considering a request for extension the Board may take into account conditions on the site and in the neighborhood at the time the request is made, including traffic, access, and pedestrian safety, and may impose such additional conditions deemed appropriate to mitigate any adverse impacts of the development;
6. Prior to the recording of this permit, the applicant shall provide to the Planning Department a digital file containing the plan if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2010 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works prior to the recording of this permit;
7. Prior to the recording of this permit at the Registry the developer shall provide at least three (3) sets of the plans and drawings, considered the final plans, described under Condition 2 above to the Planning Department for distribution and final review;

#### Prior to Construction

8. A Request for Determination letter to MassDOT District 4 for an amended Indirect Access State Highway should be submitted to determine whether a new or amended Indirect Access Permit is necessary;
9. Prior to any construction related activities, the applicant will work with the Municipal Services Department to obtain a MassDOT Access Permit;
10. Prior to start of construction an illicit discharge statement shall be provided to the Planning Division signed by the property owner so as to be in compliance with Massachusetts Department of Environmental Protection's Massachusetts Stormwater Handbook Standard

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11. Prior to any construction or demolition activity of any kind on the site or associated with the project, a pre-construction meeting shall be conducted which shall include representatives from the developer (including principle contractors and/or supervisors), the Department of Community Development and Planning, the Municipal Service Department, the Police Department and the Fire Department, for purposes of reviewing these conditions and construction schedule;
12. Prior to any construction or demolition activity of any kind on the site or associated with the project, the developer shall submit a proposed construction schedule to the Planning Board to be used as a guide of activities associated with the project;
13. The Andover Department of Public Works shall be notified prior to any construction activities on and off site, including excavation and grading, and shall be given full opportunity to review plans and monitor such activities;
14. The hauling route for the import and/or export of earth materials and demolition debris shall be approved by the Inspector of Buildings and the Police Safety Officer. All public ways are to be kept clean and free of any dirt or debris associated with hauling activities;

#### Throughout and During Construction

15. All activities on the site shall be conducted in a workmanlike manner. All construction equipment, supplies and building materials shall be appropriately secured against unauthorized access. Construction debris and litter shall be collected and stored in appropriate containers on the site and shall be removed as promptly and regularly as possible. Appropriate measures (or those directed by the Inspector of Buildings) shall be taken so as to protect adjacent properties from dust and other windblown debris during site preparation and construction;
16. All hauling operations involving the import and export of earth materials and removal of all debris associated with the building to be demolished on the site shall be conducted in accordance with a schedule approved by the Inspector of Buildings. Such operations shall be limited to Monday through Friday, during hours deemed appropriate by the Inspector of Buildings, and no such operations shall be allowed or undertaken at any time deemed to be in conflict with safe pedestrian movement near the site or to cause undue congestion or safety hazards in the adjacent street system;
17. Except for periods during replacement if required, all public sidewalks adjacent to the site shall be kept open, and in a safe and passable condition. No fences, barriers, or gates may be placed or installed within the town way;
18. Construction activities on the site including equipment startups, site preparation, excavation, demolition, grading, filling, paving, erection of structures, installation of utilities, and landscaping shall be conducted between the hours of 7:00 a.m., and 6:00 p.m.,

Monday through Friday. Interior finish work on the building once fully enclosed (doors and windows) is not subject to this condition;

19. Burning or burial of trees, stumps, or construction debris of any kind is strictly prohibited anywhere on site;
20. Lighting fixtures in the parking area shall be shielded and directed inward toward the site. Due to the nature of the business to be conducted on the site a certain amount of lighting may be required at all times for security purposes, and to that end the developer shall consult with the Andover Police Department to determine the level of lighting needed, the number of fixtures necessary to achieve that lighting, and the times lighting must be provided during the nighttime hours. Those fixtures not required for nighttime security shall be placed on a timer and shall be extinguished when the operations or activities in the building are not being conducted;
21. Construction of the project, once begun, shall continue through to completion as expeditiously and continuously as possible; however, in the event that construction activities cease on the part of the developer for a period of six (6) months from the date of last observed activity, the Board may convene a public hearing for the purpose of revocation or modification of the permit;

#### Prior to Occupancy

22. Prior to occupancy of the building on the site all parking areas, access driveways, pavement markings, sidewalks and off-site street improvements (if any) shall have been completed and made fully operational;
23. Pursuant to the recommendation of the peer Traffic Consultant, GPI, a crosswalk should be provided, with compliant ramps across the site driveway to Tower I and across the Hamilton Green aka Windsor Green site drive to the medical buildings site drive shall have been completed prior to occupancy;
24. A set of as-built plans for utilities (water, sewer and drainage) both on and off the site shall be submitted to and approved by the Department of Public Works after all installations are complete, and before the issuance of a Certificate of Occupancy;
25. Prior to occupancy, the applicant shall submit to the Planning Department digital files of as-built plans of the features listed above, including utilities and buildings, following the format described in #6 above;

#### Specific to this Special Permit

26. An inspection, maintenance report and cleaning for the Tower I and Tower II stormwater systems must be completed and documentation submitted by May 1, 2017 to the Planning Division;

27. After one year of occupancy of the restaurant or at the request of the Planning Board the applicant will conduct a traffic analysis to determine what revisions, if any, need to be done to the traffic signal timing in consultation with the Town. Prior to any traffic signal timing changes the applicant will report its findings to the Planning Board for review and comment;
28. After one year of occupancy of Tower II or at the request of the Planning Board the applicant will conduct a traffic analysis to determine what revisions, if any, need to be done to the traffic signal timing in consultation with the Town; Prior to any traffic signal timing changes the applicant will report its findings to the Planning Board for review and comment
29. Prior to the start of construction a cash contribution in the amount of \$25,000.00 shall be submitted by the applicant payable to the Town of Andover. This account shall be administered by the Planning Division to study traffic and roadway impacts along the Route 133 Corridor.

The waiver to the Stormwater Management and Erosion Control Bylaw Section IX.D, Channel Protection - 24 hours extended detention of the post development 1-year, 24 hour return frequency storm event shall be provided, is granted with the following reasoning:

1. Allowed by federal, state or local statutes and/or regulations:

The proposed stormwater management system onsite has been designed to meet the requirements of the Massachusetts Department Environmental Protection (MassDEP) Stormwater Handbook, and also conforms to industry standards. The stormwater system will improve the quality of stormwater runoff leaving the site, and will reduce discharge rates.

2. Is in the public interest:

The project is in the public interest because it will drastically improve the quality of stormwater leaving the site over existing conditions. Currently the site has no form of stormwater detention or treatment. Stormwater is caught in a catch basin and discharges directly to a closed drainage system without treatment. Leaving the system as-is would not be in the public's interest. The proposed stormwater system will improve the capture of stormwater, provide treatment, retain the stormwater in an underground detention system, and slowly release the treated stormwater.

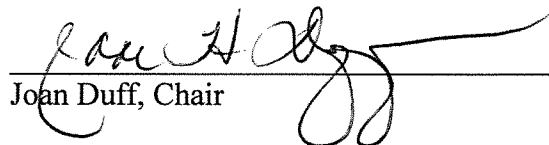
3. Is not inconsistent with the purpose and intent of this Bylaw and its Regulations:

Stormwater runoff from the site discharges to two closed drainage systems and the proposed stormwater management system has been designed to reduce peak runoff rates post-construction. The stormwater management system onsite has been designed to improve stormwater treatment and reduce peak runoff rates, which is consistent with the purpose and intent of the Bylaw. The proposed system will provide a great improvement over existing conditions. The new system will reduce peak rates and reduce the risk of erosion.

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

On January 24, 2017, at a regularly scheduled public meeting, the Andover Planning Board voted (5-0) to issue the foregoing Modification of a Special Permit for a Major Non-Residential Project.

Date: 1/30/17

  
Joan Duff, Chair

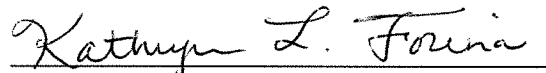
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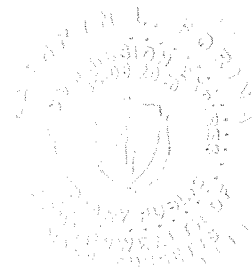
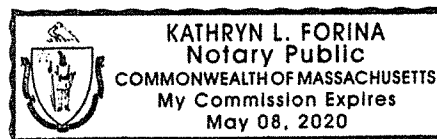
Date: 1/30/17

On this 30<sup>th</sup> day of January, 2017, by Joan Duff, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of her knowledge and belief and who acknowledged to me that she signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,

  
Kathryn L. Forina, Notary Public

My commission Expires: May 8, 2020

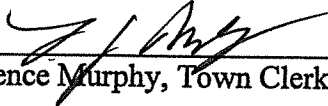




CERTIFICATION

I, Lawrence MURPHY, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in my office on Jan. 31, 2017 and no appeal against said decision has been filed.

Date: 2-22-2017

  
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Lawrence Murphy, Town Clerk