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

**ON THE APPLICATION OF**  
327 – 329 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

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2014 DEC 17 A 10:21  
TOWN OF ANDOVER, MASS

Decision: SP14-07

**YES (with conditions)**

A public meeting of the Planning Board was held on October 28, 2014 in the Third Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Zachary Bergeron, Vincent Chiozzi, Jay Doherty, Ann Knowles and Steve Pouliot.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on October 9, 2014 and October 16, 2014 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 28, 2014, for an application filed on October 1, 2014 by Salvatore N. Lupoli on property owned by Salvatore N. Lupoli for a Modification of a previously approved Special Permit for Major Non-Residential Project (SP12-03). The property is more specifically identified as Lots 22 & 23 on Assessors Map 151. The public hearing was closed on November 25, 2014. The aforementioned members present throughout.

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 N. Lupoli on property owned by Salvatore N. Lupoli for a Modification of a previously approved Special Permit for a Major Non-Residential Project (SP12-03) subject to the following 29 conditions;

## **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 327-329 Lowell St, more specifically shown on Assessor's Map 151 Lots 22 & 23. 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 9/30/14 last revised 11/21/14;
  - b. Legend & General Notes, C-2, prepared by TEC, Inc. dated 9/30/14;
  - c. Layout & Materials Plan, C-3, prepared by TEC, Inc. dated 9/30/14 last revised 11/21/14;
  - d. Grading & Drainage Plan, C-4, prepared by TEC, Inc. dated 9/30/14 last revised 10/17/14;
  - e. Utility Plan, C-5, prepared by TEC, Inc. dated 9/30/14 last revised 11/21/14;
  - f. Drainage Plan & Profile, C-6, prepared by TEC, Inc. dated 9/30/14 last revised 10/17/14;
  - g. Sewer Plan & Profile, C-7, prepared by TEC, Inc. dated 9/30/14 last revised 11/21/14;
  - h. Erosion & Sedimentation Control Plan, C-8, dated 9/30/14;
  - i. Construction Details, C-9, prepared by TEC, Inc. dated 9/30/14 last revised 11/21/14;
  - j. Construction Details, C-10, prepared by TEC, Inc. dated 9/30/14;
  - k. Construction Details, C-11, prepared by TEC, Inc. dated 9/30/14 last revised 11/21/14;

- l. Construction Details, C-12, prepared by TEC, Inc. dated 9/30/14 last revised 10/17/14;
  - m. Construction Details, C-13, prepared by TEC, Inc. dated 9/30/14 last revised 11/21/14;
  - n. Existing Conditions, prepared by Otte & Dwyer, Inc Land Surveyors, dated 8/25/14;
  - o. Architectural Plans, prepared by db2/ARCHitecture – (7 sheets), dated 9/29/14;
  - p. Site Lighting Photometric, E-1, prepared by TEC, Inc. dated 9/30/14;
  - q. Planting Plan, L-1, prepared by TEC, Inc. dated 9/30/14;
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;

#### Prior to Construction

6. Prior to any construction related activities, the applicant shall have satisfactorily addressed the following review comments from the Municipal Services Department (MSD), with confirmation in writing being provided to the Planning Department by MSD:
  - a. Provide written confirmation from MassDOT that the drainage discharge onto the state highway layout is approved.
  - b. The diameter of every drain line should be shown on every sheet that shows drainage.
  - c. According to the manufacturer, the two inlets to WQU 203 may not be constructed at a horizontal angle less than ninety degrees from the outlet.
  - d. The 12" HDPE connecting WQU 208 to DMH 209 could be raised up two feet to make it less expensive, easier to construct, easier to maintain and will be submerged for a shorter period of time after a storm event.

- e. According to the manufacturer, the bottom of WQU 208 is five feet lower than the outlet invert. This structure is graphically shown four feet short on sheet C-6.
  - f. The bottom of DMH 204 as shown in profile view is 1.5' higher in elevation than the outlet invert. The correct bottom of structure is shown on sheet c-13 as 153.69.
  - g. The 24" diameter access to OCS 210 is not large enough to enter both sides of the weir with a jet cleaner and vacuum nozzle.
  - h. The profile view through the Sub Surface Basin should show the chambers and the inverts of all drain lines entering and exiting the SSB.
  - i. Sheet L-1, the planting plan shows shrubbery planted in the snow storage areas.
  - j. The proposed snow storage area is shown around the perimeter of the parking area on sheet C-3. However, this same area on sheet L-1 is shown to be filled with trees and shrubs.
7. 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;
8. 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;
9. 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;
10. 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

11. 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;
12. 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;

13. 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;
14. 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;
15. Burning or burial of trees, stumps, or construction debris of any kind is strictly prohibited anywhere on site;
16. 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;
17. 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

18. Prior to occupancy of the Medical Office Tower II, the signalized intersection of the Route 133, IRS Driveway & Hamilton Green/BSC Driveway shall have been constructed and fully operational, pursuant to a plan entitled "Intersection Improvement Project Lowell Street (Route 133), IRS Driveway & Hamilton Green/BSC Driveway", as prepared by Bayside Engineering, dated May 27, 20014;
19. In the event that the construction of the Medical Office Tower II is fully constructed and ready for occupancy prior to completion of the signalized intersection improvements as identified in condition # 19, the Planning Board may allow for the occupancy of the Medical Office Tower contingent upon physical construction of the signalized improvements having commenced;
20. The Applicant agrees to share with Wood Partners the burden of paying for a police officer traffic detail during the weekday morning peak period (5:30 to 9:30 AM) and during the weekday evening peak period (2:30 to 6:30 PM) until such time as the work is

complete. Once the signalization improvements have been completed, this condition shall be deemed satisfied;

21. In an effort to reduce the overall number of automobile trips in the area and to integrate the Project into the available transportation resources, the Applicant shall implement the following Transportation Demand Management (TDM) measures:
  - a. Join and participate in the local Transportation Management Association (TMA), the Merrimack Valley Transportation Management Association (MVTMA); and
  - b. Work with the Town of Andover and the Merrimack Valley Regional Transit Authority (MVRTA) to review the possibility of expansion of existing bus routes to provide public transit to the Lowell Street corridor; and
  - c. Post information relative to potential carpool operations available through MassRides or the MVTMA in a centralized location on site; and
  - d. Bicycle racks shall be provided and reviewed as to location by the Planning Division;
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, pavement treatments and signage discouraging blocking the site driveway to allow for safer operations shall be installed. In addition, a crosswalk should be provided, with compliant ramps across the site driveway at this intersection. Said enhancements 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 within seven (7) days after all installations are complete, and before the issuance of a Certificate of Occupancy;
25. 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;

26. 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;
27. Prior to occupancy, the applicant shall provide an Illicit Discharge Compliance Statement to the Planning Division. Upon receipt this condition shall be deemed satisfied;

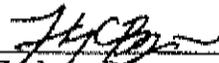
Specific to this Special Permit

28. Prior to any construction related activities and upon addressing the MSD comments as identified in Condition # 7, the applicant shall provide six (6) copies of the final revised plan set to the Planning Division for dissemination;
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.

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 December 9, 2014, 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: 12/17/14

  
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Zachary Bergeron, Chair

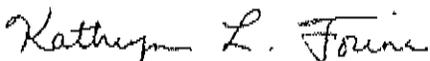
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COMMONWEALTH OF MASSACHUSETTS

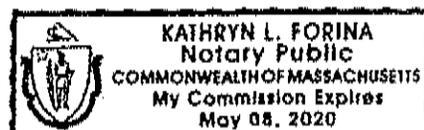
Date: 12/17/14

On this 17<sup>th</sup> day of December, 2014, by Zachary Bergeron, 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

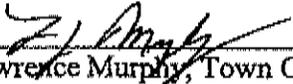
My commission Expires: May 8, 2020



CERTIFICATION

I, Lawrence J. 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 Dec. 17, 2014 and no appeal against said decision has been filed.

Date: Mar 7, 2015

  
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Lawrence Murphy, Town Clerk