

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

ON THE APPLICATION OF
321, 323 & 325 Lowell Street
By: Salvatore Lupoli

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

Decision: SP12-03

YES (with conditions)

A public meeting of the Planning Board was held on April 24, 2012 in the Third Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Joan Duff, Vincent Chiozzi, Eric Macaux and John McDonnell.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on March 8, 2012 and March 15, 2012 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 March 20, 2012, for an application filed on February 16, 2012 by Salvatore N. Lupoli on property owned by Lowell Street Limited Partnership for a Special Permit for Major Non-Residential Project. The property is more specifically identified as Lots 19, 20 & 21 on Assessors Map 151. The public hearing was closed on April 24, 2012. The aforementioned members present throughout.

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On a vote of 4 to 1, the Board finds that the proposed use with appropriate soil testing prior to start of construction and confirmation of the connection to the existing utilities at the time of construction 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 Lowell Street Limited Partnership for a Special Permit for a Major Non-Residential Project subject to the following 23 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 321-325 Lowell St, more specifically shown on Assessor's Map 151 Lots 19, 20 & 21. The developer is identified and shall be defined as Salvatore Lupoli or its 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. last revised 4/24/12;
 - b. Legend & General Notes, C-2, prepared by TEC, Inc. last revised 4/24/12
 - c. Layout & Materials Plan, C-3, prepared by TEC, Inc. last revised 4/24/12
 - d. Grading & Drainage Plan, C-4, prepared by TEC, Inc. last revised 4/24/12
 - e. Utilities Plan, C-5, prepared by TEC, Inc. last revised 4/24/12
 - f. Drainage Plan & Profile, C-6, prepared by TEC, Inc. last revised 4/24/12
 - g. Drainage Plan & Profile, C-7, prepared by TEC, Inc. last revised 4/24/12
 - h. Sewer Plan & Profile, C-8, prepared by TEC, Inc. last revised 4/24/12
 - i. Erosion & Sedimentation Control Plan, C-9, prepared by TEC, Inc. last revised 4/24/12
 - j. Construction Details, C-10, prepared by TEC, Inc. last revised 4/18/12
 - k. Construction Details, C-11, prepared by TEC, Inc. last revised 4/24/12
 - l. Construction Details, C-12, prepared by TEC, Inc. last revised 4/24/12
 - m. Construction Details, C-13, prepared by TEC, Inc. last revised 4/24/12
 - n. Existing Conditions, prepared by Otte & Dwyer, Inc Land Surveyors
 - o. Conceptual Design for Site Permitting, A-100, prepared by Cube 3, dated 2/2/12
 - p. Conceptual Design for Site Permitting, A-101, prepared by Cube 3, dated 2/2/12
 - q. Conceptual Design for Site Permitting, A-102, prepared by Cube 3, dated 2/2/12

- r. Conceptual Design for Site Permitting, A-103, prepared by Cube 3, dated 2/2/12
 - s. Conceptual Design for Site Permitting, A-201, prepared by Cube 3, dated 2/2/12
 - t. Conceptual Design for Site Permitting, A-202, prepared by Cube 3, dated 2/2/12
 - u. Proposed Site Development, E-1, prepared by TEC, Inc, last revised 4/18/12
 - v. Planting Plan, L-1, prepared by Hammer+Walsh Design, Inc. dated 2/6/12
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. 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 Board, at a regularly scheduled, or specially scheduled public meeting of which the developer and the abutters will be notified;
 5. 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;
 6. This special permit shall expire two (2) years from the date that this decision has been recorded in the North 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

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 Department of Public Works, 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 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;
19. 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;
20. 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.
21. 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.

Specific to this Special Permit

22. Prior to start of construction when the additional test pits are conducted, they will be witnessed by the DPW to confirm there is a two foot separation between the bottom of the proposed systems and groundwater. If there isn't a minimum 2' separation, then the design of the system needs to be revised, reviewed, and presented before the Board for approval.
23. 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 fund traffic and roadway improvements in the Lowell Street area. Any funds remaining in the account (10) ten years after the date it is established shall be returned to the applicant or its successors.

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 April 24, 2012, at a regularly scheduled public meeting, the Andover Planning Board voted (4-1) to issue the foregoing Special Permit for a Major Non-Residential Project.

Date: 4-26-12


Joan Duff, Chair

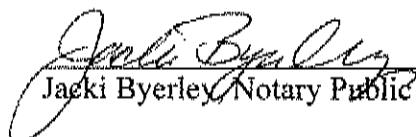
Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 4-26-12

On this 26th day of April, 2012, 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,


Jacki Byerley, Notary Public

My commission Expires: July 4, 2014

JACKI A. BYERLEY
NOTARY PUBLIC
My commission expires July 4, 2014

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 April 26, 2012 and no appeal against said decision has been filed.

Date: MAY 16, 2012


Lawrence Murphy, Town Clerk