

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2008-56
Petition of NDNE Lower Falls LLC
27 Washington Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 21, 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of NDNE LOWER FALLS LLC requesting Site Plan Approval pursuant to the provisions of Section XVIA and Section XXV of the Zoning Bylaw for a major construction project consisting of construction of a retail/office building with a footprint of 16,973 square feet and total floor area of 33,413 square feet, construction of an underground garage with the footprint of 74,386 square feet, and construction of a residential structure with a footprint of 40,337 square feet and a total floor area of 148,291 square feet, at 27 WASHINGTON STREET, in the Lower Falls Village Commercial District and Industrial A with Residential Incentive Overlay District.

On July 9, 2008 the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Bob Davis, Goulston & Storrs, who said that he was representing NDNE Lower Falls LLC (the "Petitioner"). He said that present with him were Jack O'Neil and Mark Paris from National Development (NDNE). He said that Mr. O'Neil is a principal of National Development and Mr. Paris has been responsible for moving the project forward. Also present were Robert M. Corning, Jr., Registered Landscape Architect, and Frank Holmes, Registered Professional Engineer.

Mr. Davis said that he has been involved in potential redevelopment of the site for 14 years. He said that there have been a number of alternative plans, originally for Stop & Shop and currently for NDNE.

Mr. Davis said that NDNE has been working with the Town for approximately one year on the project. He said that the project has been reviewed by the Planning Board, the Wetlands Protection Committee (WPC) and the Board of Selectmen (BOS). He said that an exhaustive traffic analysis was done. The goal would be to commence construction in Spring, 2009.

Mr. O'Neil said that NDNE has owned the property since June, 2007. He said that there is an existing ground lease with Stop & Shop. He said that there is some pending litigation between Stop & Shop and the Town.

Mr. O'Neil said that the project was reviewed by the Design Review Board (DRB) on two separate occasions. The initial plan was approved by the DRB. NDNE went back before the Board with a revised design that attempted to address concerns of the neighbors. The initial proposal for 150 units was downsized to 141 units. The four-story building on the west side of the site was reduced to three stories. The DRB approved the revised plans.

Mark Paris said that there is a 50,600 square foot existing building on the 5.27 acre site. The site has approximately 550 feet of frontage on the Charles River. Currently the site contains approximately 85% impervious surface. The pavement extends to approximately 40 feet from the river.

Mr. Paris said that there is a sliver of land, a right of way (ROW), to the east of the site that is owned by the Town of Wellesley. NDNE has committed to making improvements to the parcel as part of an agreement negotiated under the Project of Significant Impact (PSI) Special Permit.

Mr. Paris said that the Bank of America building is to the west of the property, as well as three single family homes and St. John's Church.

Mr. Paris said that there are two existing sewer mains, one is a 24 inch gravity main that flows through the site along the river to a pump station on Boulevard Road. There is also a force main on the site that flows to a pump station in Newton.

Mr. Paris said that there is an existing utility structure in the ROW. There is an underground Verizon telephone concrete vault that serves all of the needs in the Lower Falls area. There is also a Town-owned transformer that feeds most of the commercial businesses in the Lower Falls area, excluding the existing building on the site. The utilities are underground and go out to Washington Street.

Mr. Paris said that NDNE worked with the BOS and the Town Development Review Team (TDRT) to develop 18-19 new parking spaces in the ROW up to the existing utility structures. The new parking area will be ingress only from Washington Street.

Mr. O'Neil said that NDNE has not shown the proposed construction on the ROW because they do not own it. The process has been cooperative and collaborative but NDNE is waiting for final determination from the Town that the proposed plans are acceptable. The approved construction plans will be incorporated into NDNE's overall project.

Mr. Davis said that the NDNE project has been developed to be independent of the ROW plans. NDNE is not depending on the ROW for access to their site. The parking spaces do not figure into any of the calculations for the 27 Washington Street site. NDNE has agreed to design and pay for the improvements to the ROW if the Town decides to move forward. Mr. Paris said that it will be one of the last phases in conjunction with the project.

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Mr. Paris said that the residential building will have 141 units, 20% of which will be affordable housing. The affordable units will be mixed throughout the building. The unit makeup will be one studio unit, 86 one bedroom units, 10 one bedroom plus den units, and 44 two-bedroom units. All of it will be rental property.

Mr. Paris said that the west residential building will be three stories and the east residential building will be four stories. There will be an underground parking garage under the footprint of the residential buildings. There will be two elevators and three stair towers serving the underground garage, for the exclusive use of the residents. Traffic will enter the site at the existing westerly curb cut.

Mr. O'Neil said that the original plan had 24 parking spaces along the westerly border with a five foot buffer to the neighbors to the west. The current plan has 19 spaces with a buffer of 13 feet. NDNE removed the 19 spaces at one point and created green space in an effort to reach a compromise with the neighbors. It became apparent during discussions that the neighbors wanted the fourth floor taken off of the west residential building. By removing the fourth floor on the west residential building, NDNE needed to add the 19 spaces back to make the project feasible financially.

Mr. Paris said that the site will be compliant with all parking regulations and requirements. He said that two spaces per unit are expected to exceed demand in the underground garage. There will be 57 surface spaces associated with the residential building, including visitor parking. The parking area will meet landscape requirements.

Mr. Paris said that there will be pedestrian connectivity from the site to the Charles River, in accordance with the guidelines in the Lower Falls Study. The sewer easement goes along the river. There is somewhat of an old logging road along the easement. The plan is to create a stone dust path along the river, through the site that would connect to Washington Street and to the top of the sewer easement at the west end of the site. NDNE has agreed to grant a public easement to the Town and the residents to use that area. NDNE will enhance the landscape along that area with park benches and picnic tables. NDNE will provide historical directional signage commemorating the mills operations in the Lower Falls area. NRC will grant a Conservation Restriction along the river.

Mr. Paris said that the retail/office building will be two stories. Retail will be on the ground level and office space will be on the second floor. Mr. O'Neil said that there will be an elevator that could accommodate two-level operations of a restaurant.

Mr. Paris said that all of the parking spaces for the retail/office building will meet Town standards. Compact spaces in the parking garage and the surface lot will comprise 15-17% of the total parking spaces, with more associated with the residential building.

Mr. Corning said that the grading generally slopes from Washington Street down to the river. He said that the riverfront area is currently degraded. There is a four to five foot grade change from the west to the east along the Site's Washington Street frontage. A courtyard structure will be above the garage space. Contouring above the garage deck will create planting depth to allow for installation of some good sized trees.

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WELLISSETT, MA 01982

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Mr. Holmes, said that runoff from the site currently drains to the river through two outfalls. He said that there is no existing treatment for water quality. There are several improvements proposed to improve the rate and volume of flow to the Charles River. The two existing outfalls will be improved. Erosion along the bank of the river will be repaired and stabilized. New headwalls will be constructed as well as new rip-rap settling basins.

Mr. Holmes said that the plan incorporates bio-retention areas in the landscape islands. He said that due to constraints of the grade on the site, they were not able to get all of the areas to drain into bio-retention areas. That flow will go to traditional catch basins with deep sumps and hoods to particle separators to provide total suspended solids removal. Mr. Paris said that almost 95% of the site will be infiltrated. He said that the proposed plans meet all Stormwater regulations.

Mr. Paris said that borings were done on the site and a small area of oil-contaminated soils was found. There is an off-site impact of dry cleaning fluids that affects the groundwater. NDNE is currently involved in the Mass. Contingency Plan (MCP) process. NDNE had conducted an environmental investigation before they acquired the site. NDNE believes that the two issues are very manageable.

Mr. Paris said that arsenic from pressure treated lumber from the Grossman's use was not an issue on the site.

Mr. Holmes said that there is a 6 inch water main in Washington Street. He said that the plan is to "t" cut into the existing main and bring a new 6 inch main onto the site that will extend along the western side of the site and hook into a hydrant at the back.

Mr. Holmes said that when the project went through the PSI process, estimated water usage was documented. Fire flow tests were done and it was found that there will be sufficient flow and pressure. Access to the site has been approved by the Fire Department.

Mr. Holmes said that the existing sewer mains will be relocated.

Mr. Holmes said that the residential buildings will have two new services to connect to the new gravity line. He said that the retail/office will have a new sewer service and a second service that will come out to a grease trap. He said that has been sized to accommodate a 350 seat restaurant.

Mr. Corning said that it became clear through the design process that maintaining the existing trees on the west side of the site as much as possible would provide the best buffer. He said that the bumpouts in the parking area will allow them to keep the large existing trees. The buffer was increased from 5 to 13 feet, which will allow for increased landscaped screening. The plan is to plant 8-10 evergreen trees along the edge.

Mr. Corning said that there is approximately 6 feet in grade change down from the western property line. The plan is to build a 3-4 foot retaining wall to create vertical separation at the western edge. An 8 foot tall wooden fence will be installed at that location.

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Mr. Corning said that it had been determined that the mechanical equipment and screening on the residential building would not be seen. Mr. O'Neil said that there are limited mechanicals on the roof which is why the screen does not extend the entire length.

Mr. Corning said that the project includes improvement of the riverfront area. He said that trash and the broken down chain link fencing will be removed. Extensive invasive plant material will be removed. There will be a number of supplemental plantings along the edge where the existing pavement is. NDNE is working with the Town on a Conservation Easement Restriction.

Mr. O'Neil said that NDNE will make a contribution for the design of the bridge on the Town-owned land to the east of the site, if and when plans for it move ahead.

Mr. Paris said that there will be a fence and a gate to access the pool area from the public walkway. Mr. O'Neil said that there is a grade separation along the edge.

Mr. Davis said that he had spoken with Town Counsel regarding whether moving the sewer easements will require a Town Meeting vote. It is believed that a vote will not be required.

Mr. Paris said that there is a curving radius along Washington Street in front of the retail building. The retail building will be set back 25 to 30 feet from the existing curb, which allows for a wide sidewalk. There will be ample room for outside seating and pedestrian traffic should there be a restaurant facility inside the retail space. The sidewalk will be improved to Town standards. Mr. O'Neil said that DRB asked NDNE to come up with a design to enliven the streetscape to invite activity with tables and chairs. Built-in planters were also added to the front along the retail building.

Mr. Paris said that the proposed curb cut will be located 10 feet to the west of the existing curb cut. He said that it will meet all Town standards for egress width.

Mr. Paris said that NDNE met with the Fire Department and presented auto turn simulation plans for a fire truck entering, moving through and exiting the site. Mr. Paris displayed on the plan where fire vehicle access will be for the residential buildings.

Mr. Paris said that NDNE looked at the Lower Falls Guidelines and the history of Lower Falls. He said that they believe that they have a design that will set the standard in Lower Falls for quality buildings. The retail building will have a stone façade, similar to the stone at the Hills Library and the Congregational Church on Route 16. The second floor will be clapboard that is set back to give it dimension. Mill-looking eaves and parapets were incorporated in the design. There will be large storefronts for retailers.

Mr. Paris said that the pedestrian connection across the site entry from the Bank of America building will be striped. There will be handicapped ramps on either side.

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TOWN OF FALMOUTH
WELLSLEY, MA 02452

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Mr. Corning said that they felt that it was important that the sidewalk carry through. He said that there will be a stop sign at the egress. Mr. O'Neil said that the radius at the driveway apron was widened. Parking spaces were removed to allow for greater sight lines.

Mr. Paris said that NDNE contemplated as many as five tenants in the retail building. He displayed the location of the common corridor to the lobby and elevator. Residents will have access to Washington Street through the retail building. There will be service doors to the retail spaces but only one through access for pedestrian traffic. Access to Washington Street will be through the through access or along the sides of the building on the sidewalks. Mr. O'Neil said that two of the retail units will have direct access off of the walk through from the parking area.

Mr. Corning said that there will be a sidewalk that spans the back of the retail building. He displayed the location of the handicapped parking on the plan.

Mr. Paris said that trash removal will be done by a professional service company. The retailers will access the trash area from the service doors. Mr. O'Neil said that the trash/compactor area will be enclosed on four sides but have no roof.

Mr. Paris said that the offices on the second floor are laid out as 25 foot bays. He said that it can be fitted to accommodate one tenant. The office space is approximately 16,000 square feet and the retail space is approximately 17,000 square feet.

Mr. Paris said that all of the mechanical equipment on the retail/office building will be screened.

Mr. Paris said that the residential buildings will be a combination of stone, clapboard and metal siding. He said that all three of those materials are typical for mill buildings in New England. Transom windows were incorporated in the design.

Mr. Paris said that there will be 223 parking spaces in the residential underground garage. There will be a controlled door at the garage entrance.

Mr. Paris said that the project will be broken down into four phases. He said that the first phase involves demolition of the existing building to accommodate sewer relocation, which will be a coordinated effort with the Department of Public Works (DPW). The pump stations will be shut down while they make the connections. Mr. Paris said that the third phase will be construction of the residential building. He said that there will be a major soil export operation going on when they remove the soil from the site for the underground garage. The plan is to leave the site paved during construction. Typical construction mats will be used. The existing curb cuts will be used during construction, with the western access being the primary one. The materials will be laid down at the front of the site during sewer relocation and building demolition. The retail/office building will be constructed last. That construction may overlap completion of the residential building. The majority of the construction workers will park in the garage at that time.

Mr. Paris said that the Construction Traffic Plan will direct traffic east to Newton.

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The Board said that information regarding average and peak needs and the number of workers on-site at various times should be submitted.

Sophie Jones, 25 Columbia Road, asked how the groundwater contamination issues will be handled during construction.

Mr. Paris said that the groundwater elevations were taken three times in the past year. He said that the groundwater issue was completely vetted during the WPC hearings. An independent engineering firm and environmental consultants were hired to review the entire groundwater situation. The only construction that may get impacted during construction is the sewer relocation. The plans were reviewed by the Town Engineer.

The Board said that a copy of the Order of Conditions was submitted with the application. Mr. O'Neil said that NDNE is currently undertaking a separate process with DEP under the MCP.

Mr. Paris said that the dewatering plan has been discussed.

The Board said that three existing and proposed benchmarks should be shown on the Site Plan.

The Board voted unanimously to continue the hearing until September 16, 2008.

September 16, 2008

Presenting the case at the hearing were Jack O'Neil, Mark Paris, Frank Holmes, Robert Corning and Peter Tamm, Goulston & Storrs. Mr. O'Neil said that NDNE has reviewed and responded to comments from Town Boards and Departments. He said that plans have been updated and revised.

Mr. Paris displayed the Existing Conditions Plan and identified the location of the benchmarks.

The Board said that the split in the area for the two zones on the site should be shown on the ALTA ASCM Survey.

The Board asked about the benchmark that is set on a concrete pad on the existing building. Mr. Paris said that new benchmarks will be established once they start construction. The Board said that it would need to see where the new benchmarks will be located.

Mr. Corning said that the revised L-1 drawing includes a signage chart. He displayed on the plan the location of the signs.

Mr. Corning discussed pedestrian circulation on the site. He said that modifications were made to the plans based on comments at the previous public hearing. The Board asked for information on the eastern end of the travel through routes through the parking area on the site.

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Mr. Corning said that parking spaces were sacrificed to allow for the pedestrian connections. He said that there is no excess capacity in the aisles to make them smaller. He said that it is a fairly small parking area. He said that it was felt that providing a pedestrian connection there was not a practical solution. There will be a number of crosswalks that connect to pedestrian sidewalks. The crosswalks were proposed to be stamped asphalt, similar to what was done at Linden Square.

The Board said that it was concerned that there is no warning for drivers to slow down for potential pedestrian traffic. Mr. Paris said that they could put stamped asphalt in the drive aisle or a rumble strip. Mr. Corning said that they could look at installing traffic calming measures in the aisles and see if they could gain an additional one foot in the width of the aisles.

Mr. Corning said that pedestrian crossings on Washington Street were used as a precedent. Revised plans show scored concrete that further demarcates the pedestrian zone going across the driveway entrance.

The Board said that basic sign specifications should be included in the tenants' packets.

Mr. O'Neil said that signage on the ROW is under the control of the Town and the Board of Selectmen. He said that NDNE provided design assistance at the BOS' request and the designs were reviewed by a third party consultant for the Town. NDNE will be responsible for designing and building once the plans are approved.

Mr. O'Neil said that there will be on-site management staff and protocol for maintaining the pool. Mr. Paris said that chemicals will be stored in the pump room in the underground garage.

Mr. Holmes said that there is a substantial grade change from the site to the Charles River. He said that the 100-year flood line is at the bottom of the bank, which is well below the level of the building and the parking garage.

Mr. Paris said that NDNE met with the Planning Board and BETA to identify which intersections should be studied. The figures in the Traffic Analysis were the actual counts. Trip generation figures used for the retail and residential buildings were layered into the existing traffic numbers. Traffic issues were discussed with the BOS, Planning Board and DPW over several months. The Police Chief was involved in most of the discussions.

Mr. O'Neil said that the no-build assumption was based on a re-tenanting of the existing building. He said that the numbers for that were higher than those for the proposed mixed used development.

Mr. O'Neil said that green design was incorporated into the project. The buildings will be LEED certifiable. They will use energy efficient equipment and a green roof. There should be no impact on Town services. Mr. Paris said that roof runoff of the residential building will be recharged into the ground. There will be bio-retentions areas all over the site as well as oil/grease separators.

NOV 14 2008
TOWN OF LOWER FALLS
PLANNING & ZONING BOARD

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Mr. Paris said that there will be a fence around the entire site during construction. He said that the Town installed the fence that blocks access to the bridge. NDNE will connect into existing fence systems and fill in where there are gaps. Once construction is completed, the fences will come down. A new 8 foot wooden fence will be installed along the west property line to serve as a visual buffer for the residential neighbors to the west. Mr. Paris displayed on the plan the location of the screening along the fencing.

Mr. O'Neil said that there will probably be a marketing sign on the construction fence on Washington Street, similar to the Durant project.

Mr. Paris said that there will be an 8 to 10 foot wide swath cut in the pavement for the sewer relocation. As much pavement as possible will be left in place in the center of the site.

Mr. Paris said that there will be a water truck on-site when there is exposed soils. There will also be a construction mat where vehicles will exit the site. There will be a man on-site there with a hose to wash off the truck tires before they go out onto Washington Street, as required in the Order of Conditions. The wheel wash area will be located more than 500 feet from the wetlands area.

The Board said that the Construction Management Plan does not have any ties to the Order of Conditions. Two weaknesses of the plan were building signage and that the plan is not detailed enough. The Board said that the language in the Construction Management Plan should be specific and be in the active voice so that it will be apparent who will be responsible for activities and what the criteria will be for dealing with various situations.

Mr. Paris said that the proposed work week will be Monday through Saturday, from 7 a.m. to 5 p.m. He said that any work outside of that schedule would require that they come back before the Town. Mr. O'Neil said that schedule gives them flexibility. He said that the typical work day is 7 a.m. to 3 or 4 p.m. He said that due to wind down time, there will be some workers on the site until after 5 p.m. He said that Saturday is not typically a work day. Weather delay could require work on a Saturday or on a rare Sunday. The Board said that the work hours for Saturday, Sunday and Holidays should be adjusted to 8 a.m. rather than 7 a.m.

The Board said that the Construction Management Plan should include information about materials, materials storage, deliveries as to how much of what and when, because of the traffic and parking impacts.

The Board asked if the peak manpower will all be able to park in the garage. Mr. O'Neil said that the garage has 240 spaces. He said that they will review manpower needs with the construction company and come back with more specifics.

The Board said that information regarding cut or slope stability work during construction of the walls at the west side of the site should be included in the plan.

The Board said that Massachusetts General Laws contain a table for noise emissions at site boundaries. The Construction Management Plan should show that those requirements will be met.

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Mr. O'Neil said that the demolition of the building will be governed by permits filed with DEP for asbestos abatement.

Mr. O'Neil said that requirements in the Order of Conditions for monitoring and testing of soils had to do with concerns that had come up with the sewer line excavation. The Board said that specific parts of the Order of Conditions should be referenced for certain operations.

Mr. O'Neil said that there will be project management supervision on the site. He said that NDNE offices are located close by and there will be several supervisors on site every day. He said that NDNE has a very comprehensive sub-contractor agreement that addresses control safety meetings.

The Board asked about communications with Town Departments. It would be helpful to have a website available for getting information on the project out. Mr. O'Neil said that they will try to get out as much information as possible. He said that it is a fluid process once they get into the ground as they encounter unanticipated situations. Some decisions have to be made on the spot.

Mr. Paris said that all of the activity for the sewer relocation process, including truck traffic, will take place on-site. All of the pipe will be laid on the site, inspected and then back-filled. There will be a one night operation for connections. The Boulevard Road pump station will have to be shut down, probably around 9-10 p.m. when the gravity flows are slowest. There will be two pumping operations. They will have to drain at the highest point of the force main at Cedar and Walnut Streets. He said that will involve approximately 10 truckloads of 5,000 gallons per truck. He said that any gravity flow will be pumped out at the Boulevard pump station. Once the lines are de-watered, the connections will be made on both ends. Everything should be completed and operational by 6 a.m.

Mr. Paris said that they will be doing all of the pipe installation from one end to the other on the gravity main. They will do a bypass pumping operation that will all occur on-site. There will be no trucking off-site during that operation. They will be pumping from one side of the site to the other.

Mr. Paris said that there will be a flowable fill along the bottom of the trench with check dams every 100 feet. The pipe will be laid on top of that and then the trench will be backfilled. If they encounter any groundwater they will either pump it and remove it from the site or run it through a triple filter and discharge into the storm drainage system.

Mr. O'Neil said that they will provide more detail on the site management and manpower schedule. The Board said that the revised Construction Management Plan should include information on traffic management and delivery schedules.

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Sophie Jones, 25 Columbia Street, said that she had sent two letters to the Board. She said that there were some discrepancies in the application regarding existing trees and screening. Mr. Paris said that there was a conflict in the Site Preparation Plan. He said that there are trees that are to be protected that were shown to be taken down. All other plans show the trees to be protected. He submitted an updated plan to the Board. The Board said that it is a condition of the Order of Conditions that the trees that are to be removed will be tagged and that a plan be submitted to the WPC for approval of measures that will be taken to protect existing trees.

Ms. Jones said that NDNE purchased abutting properties where there had been an agreement to plant trees. Mr. Paris said that the plans show additional landscape across the property line. He said that all of the trees that are shown on the plan will be planted.

Ms. Jones asked about sewer trucks driving through the neighborhoods. Mr. Paris said that the Boulevard pump station is located on the Charles River. He said that the sewer trucks will have to drive through the neighborhoods. He said that the routes will be varied so that no one street will be impacted. The plan was worked out with the Police and DPW.

Peggy Griffin, 27 Columbia Street, said that one of the conditions of the PSI was that there be transportation demand management measures taken. She asked where the transit stop will be located. Mr. Paris said that there is a parking space on Washington Street just east of the westerly curb cut that was identified as a place for a bus stop. He said that NDNE has also authorized bus travel through the parking lot. He said that there is currently no public transit in the area.

Ms. Griffin said that under the Massachusetts Architectural Access laws, there is a requirement that 5% of the housing units be accessible for people with mobility issues. She said that an additional 2% must be accessible for people with hearing impairments. She said that there is a requirement that the accessible units be dispersed throughout the project. The Board said that is an issue that the Building Inspector enforces. Mr. O'Neil said that the requirements have been incorporated in the design. Mr. Paris said that the project will be in full compliance with the Massachusetts Architectural Barriers regulations.

Ms. Griffin said that all of the truck traffic is on and off of the site on the west side which is closest to the residential area. She said that the residential area will be exposed to the full impact of the construction throughout the process. She asked if the west residential building could be built first to act as a buffer. The Board said that the west entrance is located on the site. NDNE does not own the entrance that will be on the east side. Ms. Griffin said that it would be helpful to have noise barriers added along the residential portion.

Ms. Griffin said that there is a church located nearby. She said that the contractor should work with the church to ensure that the construction schedule is not disruptive to church activities.

Ms. Griffin said that information on the website should accommodate special needs for reading impairment. She said that everything should be in an accessible format with large print. She said that pdf's are a problem with visually impaired programs.

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TOWN ALERMS OFFICE
WELLESLEY MA 02482

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Ms. Griffin submitted a letter concerning the density on the site.

Mary Bowers, 12 Columbia Street, asked for clarification of the hours of construction.

Chris Anne Banks, 5 Riverdale Road, asked about the number of residential units. She said that she was concerned about the potential increase in population at the Schofield School. The Board said that issue is beyond the scope of the ZBA.

The Board voted unanimously to continue the public hearing to October 14, 2008.

October 14, 2008

Presenting the case at the hearing were Jack O'Neil, Mark Paris, Frank Holmes, Robert Corning and Peter Tamm.

The Board said that it had received the additional submittals. The Board commended NDNE for the excellent job done on the Construction Management Plan.

The Board said that one of the benchmarks on the Alta Survey is a nail on a 20 inch maple tree. The purpose of a benchmark is to set a vertical mark. The Board was looking for three things that would show horizontal and vertical controls. The nail will move as the tree grows. Using the spike in the corner of the off-site building as a benchmark was also a concern. Mr. Paris said that they will change the benchmarks.

Mr. Paris said that the WPC had asked NDNE to build headwalls to stabilize the pipes and the bank and to install settling basins on the discharge end of the pipes. The gate will allow access to that area to do the work. Haybales and silt fences will be put in place. The haybales will have to be moved temporarily when they open the gate. They will not be working in that area during adverse weather conditions. All gates that are shown on the plan will be locked.

Mr. Paris said that there will be a gate to allow access to the Verizon switch and the transformer during construction.

Mr. Paris said that there are two existing drain manholes. He said that it is standard procedure to put silt sacks in them and surround them with haybales during construction to prevent sediment from getting in the manholes. They are typically cleaned on an as-needed basis but will be cleaned daily if there are periods of rain.

Mr. Paris said that there will be a geotechnical engineer on-site during the excavation processes.

Mr. Paris discussed Phase II A, which involves sewer line relocation. He displayed on the plan the location of the stockpiled excavation materials and the staging area. The whole process should take 2-3 months. Materials will be moved around during the excavation process. The plan is to work in sections.

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Mr. Paris said that, according to geotechnical information, most of the soil will be suitable for putting back in the ground. There may be a small amount of export because NDNE has agreed to install fill at the bottom of the force main for groundwater purposes. They do not anticipate having the piles there for more than a month.

Mr. Paris discussed Phase II B, which involves connecting to existing sewer manholes. The process was broken into phases to allow for truck circulation on the site. Manpower should be 25 workers per day.

Mr. Paris discussed Phase III, which involves the bulk excavation for the garage and the garage installation. The process should take three months. Approximately 25,000 cubic yards of material will be exported. There will be 48-50 employees and 45-50 trucks per day on site during the operation. As the hole gets bigger, there will be a ramp for truck access into the excavated area.

The Board said that there is limited erosion control at the northeast corner. The materials area is located close to it. Mr. Paris said that there will be haybales and silt fences in that area. There will be frequent oversight by the WPC. NDNE is required to keep daily logs. The integrity of the system will be inspected on a daily basis. A Stormwater Pollution Prevention Plan will be required under the Order of Conditions.

Mr. Paris discussed Phase IV, which involves the start of the foundation for the retail building and vertical structure work over the garage. He said that NDNE evaluated the neighbor's request to start the west building first and found that would add 2 months to the construction schedule. He said that the plan is to go with the original schedule.

Mr. Paris said that this phase should take 5 months. He said that the peak number of workers will be 108 per day. The Board said that the number of parking spaces is listed as 98 on the plan but is described as 125 in the narrative. Mr. Paris displayed on the plan where the temporary parking will be located. He said that they have shown more spaces than are necessary to allow for flexibility to move around the site.

Mr. Paris discussed Phase V A, which involves site improvements. They will be working on the parking area in the Town ROW at this time. They may have to use that area for approximately 30 days for construction purposes. The peak number of workers will be 114 per day.

Mr. Paris said that the surface of the temporary parking spaces during construction will be compacted sub-base. They will use crushed material that will meet appropriate geotechnical requirements. The Board said that it will be important that the parking area at the west corner does not slope and create a runoff problem.

Mr. Paris said that Phase V B involves a phased process for paving. He said that the peak number of workers will be 114 per day and there will be 130 parking spaces available.

Mr. Paris said that Phase V C involves paving on the other side of the site.

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Mr. Paris said that Phase VI involves construction of the retail building. He said that construction time will be much shorter. They would like to open that building as soon as possible. The Town ROW improvements will be completed as well as the parking area. They will be required to provide 69 parking spaces for the retail building but will provide 75.

Mr. Paris said that the workforce will ebb during the last 6 months of the project.

Mr. Paris said that there will not be any exposed areas on the site at the beginning of Phase V A. He said that the truck wash will remain until the site is paved and there is no opportunity to track any materials off of the site. The Order of Conditions requires that the trucks be washed when they come on-site as well. He said that regular delivery trucks such as Fedex will not require truck washing.

The Board asked why NDNE concluded that the east residential building should be built first. Mr. Paris said that it will be almost twice the size of the west building, so the construction period will be longer. He said that typically construction begins at one end of the building and move throughs to the other end. Adding two months of construction time would increase costs.

Mr. Paris said that daily monitoring of the erosion controls will be weather dependent. There will be a superintendent on the site every day. There will be an Operations and Maintenance Plan in effect during the whole process. Extra haybales will be on the site in case they are needed. A daily log will be maintained.

Mr. Paris said that after conversations with DPW and the Police, it was recommended that NDNE post a notice in the Townsman to inform residents when the pump station will be temporarily shut down.

Mr. Paris said that they will have a website that will post the two weeks out schedule and upcoming major events.

Mr. Paris said that NDNE will present a sign package once they know who the tenants will be in the retail building. The Board said that there should be a general philosophy for the sign package so that everyone understands that the signs will be consistent.

The Board asked if the drainage calculations were changed in the letter dated October 13, 2008. Mr. Holmes said that there was one comment in the original letter from DPW that was not addressed prior to the first hearing. He said that they originally showed a catch basin that was pumped out to Washington Street. After review from DPW they came up with a solution that was agreeable. Water will now go into a chamber system with crushed stone to detain and infiltrate water. There will be an overflow to the Washington Street system. The amount of water going to Washington Street will be reduced.

Mr. Paris said that the ROW will have a separate system for recharge on-site.

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Proctor Jones, 40 Whittier Road, said that he has lived in Wellesley for 55 years. He said that traffic in that area is a problem. There are times when he is unable to get out of his neighborhood. He said that having a number of residences in the proposed location is not a good idea. He said that since converting the Warren School to a public building, traffic has increased and people are parking on Walnut and some neighborhood streets.

The Board said that it has a limited function with regard to this project. There is a Town Master Zoning Plan. The 2004 Comprehensive Plan describes things that can be done as a Town to address the number of cars, such as encouraging walking and public transit. Linden Square was designed to support people walking rather than driving around the shopping area.

Mr. Jones asked about eminent domain. The Board said that issue would have to be addressed to the BOS.

Ellen Davis, 15 Ledyard Street, said that her family has maintained a house there since 1929. She said that putting a large residential complex will destroy the concept of residential areas. She said that having three buildings where one now exists is too many.

Marty Kane, 11 Ledyard Street, asked for clarification of why the project will take longer if the west residential building is built first. The Board said that it is beyond the scope of the ZBA to tell the developer how to build his project. The Board said that, due to its proximity to the river, there may be some merit to working more quickly in the northeast corner of the site. Mr. Kane said that there are no neighbors on that side of the property. There are abutters on the west side of the property.

The Board said that the latest submissions from NDNE will be available to the public in the Zoning Office. NDNE had submitted technical data that responded to a memo from the DPW a few days before the public hearing.

Mr. Kane asked if the Board received a letter dated October 14, 2008, addressed to the Chairman and signed by Reverend Malloy and Kathleen Aldridge. The Board said that it had not received the letter. Mr. Kane submitted a copy of the letter to the Board.

Sophie Jones, 25 Columbia Street, said that there was nothing in the Construction Management Plan that addresses asbestos removal during demolition of the building. Mr. Paris said that there is a standard method for removing asbestos. He said that it will be done by licensed professionals. The process has to meet requirements from the State. He said that the process should take approximately two months.

Ms. Jones said that the neighbors would like to have the name and phone number of a contact person. Mr. Paris said that they will list contact information for the Town offices and will set up a hotline. There will be a sign on the construction fence with contractor and phone information. The Board said that information is included in the Construction Management Plan.

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Ms. Jones asked when the screening will be installed and when the trees will be planted. Mr. Paris said that they will make every effort to get the construction fence and any screening in as soon as possible. A cut will be made at the western side 13 feet off of the property line. After the building comes down, the sewer work will be done. They will need to build a retaining wall where the 13 parking spaces are going in on the west side. He said that all of those activities need to occur before the trees go in.

Ms. Jones said that the neighbors want some assurance that the construction workers will not be parking in the neighborhoods. The Board said that, according to the Construction Management Plan, there will be sufficient parking throughout the project. NDNE has specifically stated that they will make arrangements to rent parking spaces off-site if on-site parking is not sufficient.

Ms. Jones asked at what point NDNE would have to come back before the Boards if changes are made to the plans. The Board said that changes in the location and size of the structures would require that NDNE come back before the Boards. They may have to go back before DRB if the screening is changed. NDNE must follow through on things that they were obligated to do.

Mr. Paris said that two trees were erroneously shown on the Department of Conservation and Recreation (DCR) property. The revised plans moved the two trees back onto NDNE property. Ms. Jones said that the original plans were approved by the Planning Board and the DRB. The Board said it was correcting the plans and would not require going back before the Boards. Those trees were not moved.

Peggy Griffin, 27 Columbia Street, said that there are some contradictions in the Construction Management Plan regarding fencing. Mr. Paris said that there is an existing fence along the west property line. There are a couple of areas close to the river where trees have fallen on it. They will replace those sections as well as any other fencing that is not six feet tall. He said that the entire site will be fenced. Any gaps in the fence will be filled in.

Ms. Griffin said that there was no mention of idling vehicles. The Board said that there will be a condition in the decision to address that issue.

Ms. Griffin said that there was no differentiation between the construction hours during the regular work week and when hours would have to be approved or requested for Saturdays. She said that there were no restrictions for using heavy equipment during the weekends. The Board said that NDNE has the right under the bylaw to work from 8 a.m. to 5 p.m. on Saturdays. NDNE has stated that they primarily plan to work a five-day workweek but that does not prohibit them from working a six-day workweek.

The Board said that public notice will be posted in the Townsman and on the Town's website prior to scheduled off-hours construction activities. That information should be included on NDNE's website.

Mr. Griffin said that the Construction Management Plan did not specify when deliveries could be made. The Board said that they can only occur during regular construction hours.

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Ms. Griffin said that the WPC had conditions that only clean fill could be used on the site. The Board said that the Order of Conditions is incorporated into the conditions for Site Plan Approval. The developer presented materials that show that all of the soil testing done thus far has shown the soil to be clean. Mr. Holmes said that the plan has always been to re-use the same material back into the trench.

Ms. Griffin said that during Phase IV and Phase V a temporary walkway will be created by using two rows of jersey barriers. She asked how that area will be lighted. Mr. Paris said that there are two existing streetlights along the site. He said that they will be adding a streetlight.

Ms. Griffin said that there was no discussion about keeping the area clean of ice and snow and free of trash. Mr. Paris said that the jersey barriers will be on Town property. The Board said that the Town will be responsible for the temporary sidewalk.

Ms. Griffin said that there is a requirement that roadway panels be treated with a non-slip surface.

Ms. Griffin asked if the construction trailer could be moved away from the neighborhood. Mr. Paris said that they will make sure that access to the trailer will face east. He said that it will generally be facing the commercial property.

Ms. Griffin asked about open storage of materials in the wetlands area. Mr. Paris said that storage of materials will be outside of the 100 foot buffer. Ms. Griffin said that it will be within the 200 foot riverfront area. She said that the 25 space parking area may not be a permissible use in the riverfront area. The Board said that the WPC and the Conservation Administrator enforce the Order of Conditions. Site Plan Approval is subject to the Order of Conditions.

Ms. Griffin asked about designated accessible parking spaces on the Town ROW. The Board said that she should contact the BOS for that information. Mr. Corning displayed a parking plan that showed the location of the accessible parking. Mr. Paris said that the plans have not been fully developed. They will meet ADA requirements. Ms. Griffin asked when the plan would go before the Selectmen. Mr. Paris said that he did not have that information.

Joachim Seemann, 15 Columbia Street, asked about noise abatement. Mr. Paris said that they typically use a vinyl mesh fence. He said that the State has regulations for construction noise and they will be in compliance. The Board said that it cannot force NDNE to do anything that is beyond the State requirements.

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Mary Bowers, 12 Columbia Street, said that she has lived there for 66 years. She said that the trees are a major concern for the neighbors on the west side of the property. She said that the neighborhood will be very affected by this project. She said that there will be a big increase in lighting in the area because of the three buildings. The Board asked Mr. Paris if the trees that would remain and the trees that will be cut was discussed and designated at the Planning and DRB meetings. Mr. Paris said that they were. He said that there was a series of plans drawn up for the west side of the property. He said that both the Alta Survey and the Existing Conditions Plan show every tree along the property line and the riverfront. He said that 103 trees are identified on the site. Plans were modified to address concerns for retaining trees. They designed islands to preserve two to three large caliper trees. They will be adding coniferous trees there for buffering capabilities all year. The buffer on the west was well vetted with WPC, DRB and the Planning Board.

Ms. Jones asked if the retaining wall will compromise the existing trees. Mr. Corning said that they felt that the most effective way to screen the buildings was to preserve existing trees. The islands were incorporated in the plans to allow for preservation of the existing trees. He said that they are comfortable that the area around the trees is sufficient. Mr. Paris said that they will plant new trees if the existing ones do not survive a year after completion of the project. The trees would be replaced with something comparable, if possible.

The Board asked if the retaining wall would impact any trees that are not located on the site. Mr. Paris said that it would not.

Ray Capobianco, 18 Columbia Street, said at least one or two of the trees are 100 feet tall.

Ms. Griffin asked about replacing the trees that do not survive because of the retaining wall. The Board said that the issue is about tree roots being damaged during excavation for the retaining wall. It appears on the plans that most of the trees along the wall will be new trees. The wall has to be finished before the trees can be planted.

Submittals from the Petitioner

- Project Narrative, dated 7/9/08
- Application for Site Plan Approval
- Site Plan Approval Review – Plans and Submittal Checklist
- Development Prospectus
- Aerial Photograph of 27 Washington Street
- Section Enlargements, dated 7/9/08, prepared by Stantec
- Curb Cut & Traffic Flow Drawings, dated 7/9/08, prepared by Stantec
- Proposed Evacuation Plans, dated 6/17/08, prepared by Elkus Manfredi
- Pedestrian Easement & Vehicular Egress Easement Area Conceptual Plan, dated 12/14/07, revised 1/28/08, 2/25/08 & 4/10/08, prepared by Stantec
- Conservation Restriction Plan, dated 5/30/08, prepared by Stantec

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- Parking Summary, dated 4/8/08
- Unit Area List, dated 6/12/08, prepared by Elkus Manfredi
- Color Coded Unit Drawings, dated 5/5/08, prepared by Elkus Manfredi
- Lighting Calculations, Areas 1 & 2, dated 12/14/07, prepared by R.W. Sullivan Engineering
- Luminaire Schedule & Statistics, dated 12/14/07, prepared by R.W. Sullivan Engineering
- Site Lighting Cut Sheets, Selux Corp.
- Town of Wellesley Street Light Standard
- Surface Wall Shielded Light Cut Sheet, Bega/US
- Bristol Oval Cut Sheet
- Surface Wall Luminaire Cut Sheet, AWL.18, LumenArt
- Water System Impact Analysis, dated 12/14/07, prepared by Stantec
- Sewer System Impact Analysis, dated 12/14/07, prepared by Stantec
- Drainage System Impact Analysis, dated 12/14/07, prepared by Stantec
- Electrical System Impact Analysis, dated 12/14/07, prepared by R.W. Sullivan Engineering
- Fire Protection System Building Occupancy Life Safety, dated 12/14/07, prepared by R.W. Sullivan Engineering
- Solid Waste Storage & Removal, dated 12/14/07, prepared by NDNE Lower Falls LLC
- Refuse & Recycling Plans, Retail & Residential Buildings, dated 12/14/07, prepared by Elkus Manfredi
- Preferred Washington Street Improvements, Sheets 1, 1A, 1B, 1C, dated 4/11/08, revised 5/2/08, 5/26/08, prepared by Conley Associates
- Left Turn Bay Conceptual Designs, Sheets 1 & 2, dated 5/21/08, prepared by Conley Associates
- Construction Management Plan, dated 7/9/08, revised 10/3/08, prepared by Cranshaw Construction
- PSI Special Permit, granted 6/17/08
- Residential Incentive Overlay District Special Permit, granted 6/17/08
- Order of Conditions, dated 6/24/08
- Traffic Impact Study, dated 12/07, prepared by Conley Associates
- Geotechnical Design Recommendations, dated 6/20/08, prepared by Haley & Aldrich, Inc.
- Drainage Report, dated 7/9/08, prepared by Stantec
- Letter to ZBA regarding Response to ZBA Site Plan Submittal Comments, dated 9/9/08, signed by Frank Holmes
- Letter to ZBA regarding responses to the comments in the letter from George Saraceno, dated 8/21/08, signed by Frank Holmes
- Letter to ZBA regarding Review Comment Responses, dated 8/25/08, signed by Mark L. Paris
- Letter to Rachel Freed, Section Chief, Massachusetts Department of Environmental Protection, dated 9/22/08, signed by Mark L. Paris
- Letter to ZBA regarding Response to Review Comments, dated 10/6/08, signed by Mark L. Paris
- Letter to ZBA regarding response to DPW comments, dated 10/13/08, signed by Frank Holmes
- Memo regarding Calculation Summary – Town Right of Way Drainage Analysis, dated 10/13/08, from Frank Holmes
- Cut Sheets – 4" x 4" PrestoBrick, 8" x 8" PrestoBrick, PrestoBrick Colors and Textures

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Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
Cover Sheet				
	Alta/ACSM Land Title Survey	5/7/07	Conceco	9/27/08
EX-1	Existing Conditions	7/20/07	Timothy S. Bodah	5/30/07, 6/6/07, 11/6/07, 1/24/08, 2/20/08, 9/26/08
LP-1	Locus Plan	6/11/08	Frank Holmes	
ZA-1	Zoning Analysis Plan	6/11/08	Frank Holmes	
SP-1	Site Preparation Plan Phase I	6/11/08	Frank Holmes	
SP-2	Site Preparation Plan Phase II (Site Construction)	6/11/08	Frank Holmes	7/9/08, 9/8/08, 9/16/08
L-1	Layout and Materials Plan	6/11/08	Robert M. Corning, Jr.	7/9/08, 9/8/08
L-1A	Retail Building Landscape Enlargement	6/11/08	Stantec	7/9/08, 9/8/08
L-2	Grading Plan	6/11/08	Robert M. Corning, Jr.	7/9/08
L-3	Sewer Relocation Plan	6/11/08	Frank Holmes	7/9/08, 9/8/08
L-4	Utility Plan	6/11/08	Frank Holmes	7/9/08, 9/8/08
L-5	Sewer Profile 1	6/11/08	Frank Holmes	7/9/08, 9/8/08
L-6	Sewer Profile 2	6/11/08	Frank Holmes	7/9/08, 9/8/08
L-7	Drainage Profile 1	6/11/08	Frank Holmes	7/9/08, 9/8/08
L-8	Drainage Profile 2	6/11/08	Frank Holmes	7/9/08, 9/8/08, 9/16/08
L-8A	Drainage Profile 3	6/11/08	Stantec	7/9/08, 9/8/08, 9/16/08, 9/19/08, 10/1/08, 10/13/08
L-9	Planting Plan	6/11/08	Robert M. Corning, Jr.	7/9/08, 9/8/08
L-10	Riverbank Mitigation Plan	6/11/08	Robert M. Corning, Jr.	7/9/08, 9/8/08
D-1	Site Details	6/11/08	Robert M. Corning, Jr.	7/9/08, 9/8/08
D-2	Site Details	6/11/08	Robert M. Corning, Jr.	7/9/08, 9/8/08

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D-3	Wall Elevations	6/11/08	Robert M. Corning, Jr.	7/9/08, 9/8/08
D-4	Wall Elevations	6/11/08	Robert M. Corning, Jr.	7/9/08
U-1	Utility Details	6/11/08	Frank Holmes	7/9/08
U-2	Utility Details	6/11/08	Frank Holmes	7/9/08, 9/8/08
U-3	Utility Details	6/11/08	Frank Holmes	7/9/08, 9/8/08
A000a	Retail/Commercial View	7/9/08	Elkus Manfredi	
A001a	Retail/Commercial View	7/9/08	Elkus Manfredi	
A100a	First & Second Floor Plans	7/9/08	Elkus Manfredi	
A120a	Roof Plan	7/9/08	Elkus Manfredi	
A200a	Exterior Elevations	7/9/08	Elkus Manfredi	
A310a	Retail/Office Building Sections Screen Elevations	7/9/08	Elkus Manfredi	
A000b	Residential View	7/9/08	Elkus Manfredi	
A100b	Residential Lower Level Plan	7/9/08	Elkus Manfredi	
A101b	Residential First Floor Plan	7/9/08	Elkus Manfredi	
A102b	Residential Second Floor Plan	7/9/08	Elkus Manfredi	
A103b	Residential Third Floor Plan	7/9/08	Elkus Manfredi	
A104b	Residential Fourth Floor Plan	7/9/08	Elkus Manfredi	
A120b	Residential Roof Plan	7/9/08	Elkus Manfredi	
A200b	Residential Building Elevations	7/9/08	Elkus Manfredi	
A201b	Residential Building Elevations	7/9/08	Elkus Manfredi	
A310b	Residential Building Sections	7/9/08	Elkus Manfredi	
E010	Electrical Utility Services Site Plan	7/9/08	Elkus Manfredi	
E020	Electrical Lighting Site Plan	7/9/08	Elkus Manfredi	
L-4	Site Rendering	12/14/07	Stantec	1/28/08, 2/25/08 & 4/10/08

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	Site Plan Review Retail Building Street Frontage Enlargement	7/9/08	Stantec	
	Site Plan Review West Buffer Enlargement	7/9/08	Stantec	
	Site Plan Review Planting Enlargement	7/9/08	Stantec	
SL1	Site Lighting Calculations	12/14/07	R.W. Sullivan	
CMP-1	Phase I Demolition/Abatement	6/24/08	Stantec	
CMP-2A	Phase IIA Sewer Relocation	6/24/08	Stantec	
CMP-2B	Phase IIB Sewer Relocation	6/24/08	Stantec	
CMP-3	Phase III Bulk Excavation/Garage Foundations	6/24/08	Stantec	
CMP-4	Phase IV Retail Building/ Garage and East Building Vertical Construction	6/24/08	Stantec	
CMP-5A	Phase VA Retail Site/ East Building Interior Construction/ West Building Vertical Construction	6/24/08	Stantec	
CMP-5B	Phase VB Retail Site/ East Building Interior Construction/ West Building Vertical Construction	6/24/08	Stantec	
CMP-5C	Phase VC Retail Site/ East Building Interior Construction/ West Building Vertical Construction	6/24/08	Stantec	
CMP-6	Phase VI Retail Open/ Completion of Apartment Buildings	6/24/08	Stantec	
	CPM Construction Schedule	10/3/08	Cranshaw Construction	
ZA-1	Zoning Analysis	6/11/08	Stantec	7/9/08, 9/8/08

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On November 29, 2007, the Wetlands Protection Committee issued an Order of Conditions for the Order of Resource Area Delineation for 27 Washington Street (DEP File No. 324-572).

On July 10, 2008, Hans Larsen, Executive Director, Town of Wellesley, sent a memo to ZBA stating that the BOS fully support the plans for improvements to the Town ROW, adjacent to 27 Washington Street, as proposed by NDNE.

On June 17, 2008, the Planning Board voted to issue a Special Permit for a Project of Significant Impact (PSI), subject to conditions.

On June 17, 2008, the Planning Board voted to issue a Special Permit for a Residential Incentive Overlay District (RIO), subject to conditions.

On January 23, 2008, the Design Review Board voted unanimously to recommend, based on findings on:

- Preservation and enhancement of landscaping.
- Relation of buildings to environment.
- Open space.
- Signs and advertising devices.
- Heritage.
- Retail activity at the street edge.
- Pedestrian oriented uses.
- Improvement of building facades to enhance the pedestrian experience.
- Improving the landscape.
- Facilitating pedestrian access and use of the river.

On August 19, 2008, the Wellesley Fire Department approved the application for 27 Washington Street, subject to the condition:

The fire department reserves the right for final approval at time of issuing permits with a complete set of building documents.

On June 19, 2008, Cricket Vlass, Landscape Planner, Town of Wellesley, stated in a memorandum what changes needed to be made to the Street Tree Planting Detail, Tree Planting Detail, and Planting Plan for 27 Washington Street.

On August 15, 2008, September 15, 2008, & October 10, 2008, George J. Saraceno, Senior Civil Engineer, Town of Wellesley, stated in memorandums what changes needed to be made to the Site Plans, dated 7/9/08 & 9/9/08, Drainage Report, dated 6/16/08, Site Plan Approval Checklist, & L-8A, Drainage Profile 3.

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On August 15, 2008, Joe Duggan, Water & Sewer Division, DPW, stated in memorandums what changes needed to be made to the 27 Washington Street Sewer Profile #2 Dwg. L-6.

On September 12, 2008, Donald H. Newell, Superintendent, Municipal Light Plant, stated in a memorandum that he had reviewed the proposed plans and was in the process of completing final engineering estimates for costs for additions and/or alterations to the Municipal Light Plant distribution system. He stated that the location of the manholes, conduit duct bank & transformers are acceptable.

DECISION

Based on the application and other information described in this Decision, the Board found that the proposed Major Construction Project that consists of construction of a retail/office building with a footprint of 16,973 square feet and total floor area of 33,413 square feet, construction of an underground garage with the footprint of 74,386 square feet, and construction of a residential structure with a footprint of 40,337 square feet and a total floor area of 148,291 square feet, in the Lower Falls Village Commercial District and Industrial A with Residential Incentive Overlay District, is in harmony with the general purpose and intent of the Zoning Bylaw, subject to conditions listed below, in conjunction with the Site Plan Approval. The Board voted unanimously to grant Site Plan Approval.

The Board's approval of the Site Plan for the Project is premised on the Petitioner's and Project's compliance with the following conditions (the "Conditions"). All requirements imposed by the Conditions or this Site Plan Approval shall be applicable to the entity responsible for the administration of the Project regardless of whether the condition specifically identifies the Petitioner, the responsible entity, or no entity as having responsibility for a particular condition. By accepting this Site Plan Approval, the Petitioner agrees to the terms, covenants, conditions, and agreements contained herein.

Site plan approval for the construction of the mixed use retail/office complex and the residential apartments located at 27 Washington Street is granted, as voted unanimously by the Board at the Open Meeting, pursuant to Section XXV and Section XIVA of the Zoning Bylaw; subject to the following conditions:

General Conditions

1. By accepting this Site Plan Approval the Applicant agrees to the terms, covenants and conditions and agreements contained herein. This Site Plan Approval shall expire one year from the later to occur of: (a) the date on which this Site Plan Approval may be exercised as a matter of law; or (b) the date that all other Project zoning approvals and wetlands orders become effective. The Applicant may apply to the Board for reasonable extensions to this Site Plan Approval for good and sufficient reason.

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2. Except for the relief granted by the Board as listed in this Site Plan Approval, the Applicant shall comply with all provisions of the Zoning Bylaw, general bylaws, and all the rules and regulations of the Planning Board and the Board of Health generally applicable to a project approved on October 14, 2008. No fees are waived in connection with the Project. Fees shall be those then in effect at the time of application for the permit or approval subject to the fee.
3. The Project shall be designed and constructed substantially in compliance with the drawings and data submitted with the Application for Site Plan Approval.
4. Contract documents, including working drawings and specifications for the Project shall undergo the usual and customary review and approvals of the Building Inspector, the Board of Health, the Fire Chief, the Town Engineer, or any other applicable local inspector or board. Construction of the Project shall be subject to on-site compliance inspections by the Building Department in the customary manner.
5. This Site Plan Approval is subject to the Applicant's compliance with the Order of Conditions for MassDEP File Number 324-573 dated as of June 24, 2008 as specified by the Wellesley Wetlands Protection Committee, as may be amended or modified under applicable law.
6. The Applicant will establish a website, or use an existing website during the duration of site construction activities, to provide Town officials and residents access to the most current scheduled activities and to notification of upcoming project events that reasonably have the potential to impact the surrounding neighborhood, the traffic on Washington Street, or the riverfront area. Such scheduled activities shall be shown in a two-week or three-week (whichever the Applicant normally uses in its project planning and construction management) look-ahead schedule that shall be updated not less than bi-weekly, and such notifications shall be posted not less than 14 calendar days prior to the referenced events. In addition to the website, the Applicant shall establish a telephone number for receiving and responding to questions or concerns expressed by residents of the Town concerning the project construction activities or compliance with the Conditions of the Site Plan Approval, including the Order of Conditions. The number will be provided to Town officials, posted at the Site in a conspicuous location visible to the public from Washington Street, and published once in the Townsman prior to or concurrent with the start of construction.

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PLANNING BOARD
1000 DEER LANE
NEWTON, MASSACHUSETTS 02459

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Design Conditions

7. Design and construction of the Project shall fully comply with all applicable federal and state laws and regulations, including, but not limited to, the requirements of the Massachusetts State Building Code (780 CMR) and the Massachusetts Architectural Access Board (521 CMR). The Project shall be designed and constructed on the Site in accordance with the Plans, except as provided in this Site Plan Approval, including these Conditions. Any requirement of consistency with the Plans means as those Plans are modified by the Conditions.
8. During the post-construction period, all parking for residents, guests, and employees shall be within the parking garage on the Site, in the open air lot behind the retail/office building fronting Washington Street, or in the improved spaces constructed on Washington Street immediately in front of the retail/office building. The Project shall include parking spaces in accordance with the Plans submitted, and the final Plans shall have no fewer than seven (7) handicapped parking spaces in the ground level lot, and five (5) handicapped parking spaces in the residential building garage unless otherwise approved by the Board, nor will the overall aggregate number of spaces be reduced below 366 (349 required by zoning) without the administrative consent of the Board.
9. As a condition to the issuance of an occupancy permit, the Applicant shall complete or fund the off-site traffic improvements specified as part of the Project of Significant Impact (PSI) review and approval process as set forth and provided in the PSI decision, including: (1) installation of a traffic signal at Washington Street and Glen Road; (2) certain parking space reconfiguration at 51 Washington Street; (3) widening of Washington Street to provide left turn lanes for east-bound traffic onto Glen Road and into the site driveway; (4) reconstruction of the crosswalk in the Lower Falls business area and the relocation of the pedestrian signal from the Glen Road crosswalk; (5) curb modifications in front of the buildings in the Lower Falls area to enhance pedestrian and vehicular safety; (6) funding (not construction) of upgrades to the traffic signal at the intersection of Concord Street and Washington Street in Newton; and (7) certain sidewalk repairs, all as shown on the Plans.
10. Following the Town's final issuance of all required approval and incidental to the construction of the Project, the Applicant will implement the access from Town parking zone at the easterly boundary of the Site as shown on the Plans, and will allow traffic to egress through and across the Site to exit to Washington Street via the Site driveway.

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11. The final Site lighting design shall not result in light levels outside of the Site boundary higher than those shown on drawings SL-01 through SL-03 as submitted with the Site Plan Application.
12. Not later than 90 days prior to the commencement of Phase IV construction, the Applicant shall submit a definitive sign application for: (1) the two monument signs; and (2) any construction period signs for the review and approval of the Board. Not later than 90 days prior to the completion of the retail/office building, the Applicant shall submit a conceptual sign application for the signage package at the retail/office building, and the signage at the residential building, if any.
13. Along the westerly boundary of the Site, the Applicant shall provide the trees and plantings as shown on the corrected drawing L-9, the West Buffer Enlargement and the Planting Enlargement (Part VI, Tab 4), the Section Enlargement and the Section A (Part VI, Tab 5) to provide screening of the Project from the adjacent properties on Washington and Columbia Streets. Any changes to the planting and landscaping plans that would result in less effective screening than the landscaping provided in the referenced plans shall not be made without the consent of the Board.
14. Along the westerly boundary of the Site, the final landscaping plans shall use no trees smaller in caliper and shorter in height than those shown on the corrected drawing L-9 unless otherwise approved by the Board.

Construction Conditions

15. The Applicant shall implement its Construction Management Plan as specified in its submittal dated October 3, 2008, as modified by these Conditions.
16. During the period of construction, all construction equipment and material deliveries that do not originate locally shall utilize: (1) Route 128/I-95 to Washington Street; or (2) any other such route as the Applicant shall agree with the Wellesley Police Department prior to its use.

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27 Washington Street

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17. During the period of construction, on-site parking (including the use of the 19 spaces in the Town-owned parcel adjacent to the Site) for construction workers and for construction equipment is specifically permitted, and no vehicles of construction workers and no construction equipment shall be parked on Mica Lane, Columbia Street or any other public way of the Town, or in any public parking lot within 600 feet of the Site and any parking of construction equipment along Washington Street shall only be: (1) temporary in nature and (2) necessitated by ongoing construction activities and traffic improvements along Washington Street. The Applicant may park vehicles of employees and construction vehicles on-site in the areas shown on its drawings incorporated into its Construction Management Plan until such time as the number of vehicles exceeds the capacity of the on-site area. At least thirty days prior to the time that such on-site parking capacity reasonably anticipated to be exceeded, the Applicant shall submit to the Board its plan for off-street parking and transportation of workers from the off-street parking site to the Site, such submittal being for the purpose of demonstrating compliance with the requirements of this Condition (17). Trucks and construction vehicles on-site shall shut off engines when not in use, or when idling time exceeds five minutes.

18. During the period of construction, all deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 a.m. and no later than 6:00 p.m. Construction work may be performed on the Site Monday through Friday commencing not earlier than 7:00 a.m. and completing not later than 6:00 p.m. The Applicant may perform construction work on Saturday between the hours of 8:00 a.m. and 6:00p.m. If the Applicant determines that construction work is required to be completed outside the above stated hours, such work may be performed after three day prior notice to the Inspector of Buildings and the Wellesley Police Department, provided that no such work will exceed the noise levels specified in the Construction Management Plan in Table 8.16.060E under the "Residential Area-Other Times" column. No work shall be permitted either on Sunday or on a legal holiday in the Town of Wellesley. The work required for the interconnection of the sewers under Phase II: Sewer Relocation is specifically permitted to be performed at night, between the hours of 6:00 p.m. and 8:00 a.m. the following morning, provided that such work will be performed on a day of the Applicants choosing (with the consent of the Department of Public Works).

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19. During the period of construction, noise emissions from the Site shall not exceed the values shown in the Construction Management Plan in Table 8.16.060E under the "Residential Area-Daytime" column.
20. For the abatement of any asbestos containing material found on the Site, this Site Plan Approval is subject to the Applicant's compliance with the 453 CMR 6.00, Removal, Containment or Encapsulation of Asbestos as promulgated by the Department of Labor and Workforce Development.

Use Conditions

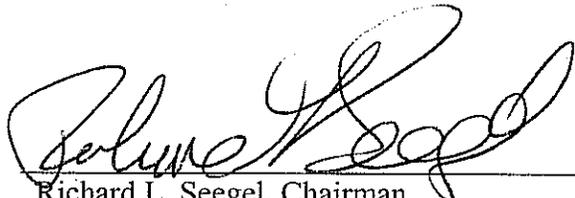
21. The stormwater run-off and drainage system shall be operated and maintained in accordance with the Order of Conditions and the Operations and Maintenance Plan submitted by the Applicant. Operation and maintenance of the stormwater run-off and drainage system shall comply with the requirements of the Town's "Municipal Stormwater Drainage System Rules and Regulations" in effect at the time of this approval.
22. Landscaping shall be in conformance with the Landscaping Plan and shall be maintained, repaired, or replaced as needed by the Applicant. For the plantings along the westerly boundary, especially those that comprise the screening with the adjacent properties on Columbia Street, in the event that construction activities cause any of the existing trees to die within two years of the completion of construction, the Applicant will replace the failed tree(s) with the tree in the Plant Schedule shown on drawing L-9 that is closest in species and closest in size to the tree that died. In the event that any new plantings die within two years of the completion of the construction, the Applicant will replace the failed plantings with like species and size as that shown in the Plant Schedule.

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Petition of NDNE Lower Falls LLC
27 Washington Street

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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


Richard L. Seegel, Chairman


J. Randolph Becker


David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm