



# Town of Natick

Massachusetts

01760



Bk: 48553 Pg: 282 Doc: DECIS  
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Jane M. Hladick  
Town Clerk

October 18, 2006

To Whom It May Concern:

This is to certify that no notice of appeal was received during the twenty (20) days next after receipt and recording on:

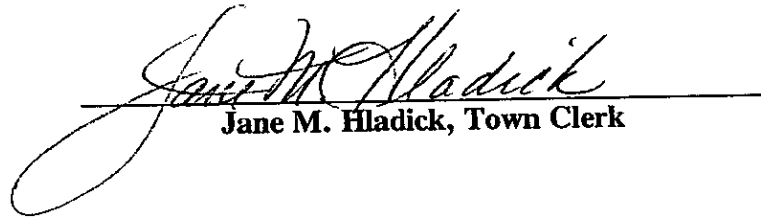
September 21, 2006

of notice from the Planning Board for Final Site Plan and Special Permit, Decision #25-06, for:

*Ret p:*

Downtown Natick Development, LLC  
and Robert F. Rinaldi  
1116 Great Plain Avenue  
Needham, MA 02492

with the office of the Natick Town Clerk.

  
Jane M. Hladick, Town Clerk





BUILDING

PLANNING

ZONING

CONSERVATION

# COMMUNITY DEVELOPMENT

## BEFORE THE NATICK PLANNING BOARD

In Re Application of:

**Downtown Natick Development, LLC and Robert F. Rinaldi**  
1116 Great Plain Avenue, 2nd Floor  
Needham, MA 02492

Decision 25-06

Situs: 20 - 30 South Avenue ✓  
Assessor's Map: 44, Parcel 321B, 322A, & 332B  
Book 25546, Page 305 ✓

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### FINAL SITE PLAN AND SPECIAL PERMIT

#### Statement of Facts:

The Applicant (Downtown Natick Development Company, LLC), by an application dated May 1, 2006 (the "Application"), has requested approval of plans for a Special Permit under the HOOP I Site Plan Review. The Applicant presented a site development plan showing a parcel consisting of 25,701 square feet. The Applicant is seeking approval of a project in which it will remove an existing commercial building, and construct twenty-four (24) condominium units within an approximately 48,000 square foot structure with parking underneath (the "Project"). Five (5) of the condominium units will be affordable (low/moderate income) units. The Applicant is in the process of entering into a Purchase and Sales Agreement with the parcel's existing owner, Harry Cohen and Kenneth Hurwitz, Trustees of CoHu Realty Trust. The Applicant proposes sufficient off-street parking and significant landscape and streetscape improvements. The Situs is located on the northerly side of South Avenue.

The Applicant is requesting Site Plan Review/Approval and Special Permits pursuant to the provisions of Section III-A6 B-Housing Overlay Option Plan - (HOOP) and Section VI-DD of the Natick Zoning By-Laws with the Natick Planning Board (the "Board") acting as the Special Permit Granting Authority (SPGA) under Section VI-DD 2a.

The Project is shown on plans submitted by the Applicant and prepared by Applicant's engineer, GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746. All of said plans are hereafter collectively referred to as the "Final Site Plan".

### **Hearing:**

Notice of the Public Hearing by the Planning Board on this matter was published in The Metrowest Daily News, on Monday, June 5, 2006 and again on Monday, June 12, 2006. Notice of the hearing was also sent to all "parties of interest" and posted in the Town Hall as required by Chapter 40A, Section 11, Mass. Gen. Laws. The public hearing commenced Wednesday, June 21, 2006, was continued to Wednesday, August 9, 2006, and Wednesday, September 13, 2006, when it was concluded.

### **Reports of Town Agencies**

Correspondence was received from the Department of Public Works, Board of Health, and the Design Review Board; copies of which are retained in the files of the Board.

### **Findings:**

The Board after considering the Applicant's proposal, all information and materials that it has received (including the aforementioned plans and reports) and comments made at the Public Hearing, makes the following findings:

1. The Parcel is located in the Housing Overlay Option Plan I (HOOP I) zoning district, the Industrial I Zoning District, and in a recharge area of the Aquifer Protection District (APD) zoning district.
2. All regulations of the HOOP I District and the criteria and standards for the Site Plan Review apply.
3. In accordance with Section III-A.6B2, HOOP standards take precedence over requirements for underlying zoning districts where HOOP standards differ.
4. In accordance with Section VI-DD.2a, the Planning Board is the Special Permit Granting Authority (SPGA) for the Project.
5. The Site Plan shows an entire project as approved by this Decision.

6. The Project is subject to a Special Permit with Site Plan Review, in accordance with the Criteria for Approval of a Final Site Plan and Standards for Site Plan Review set forth in Section VI-DD.
7. The Project is subject to the Design Review Board with respect to landscaping and architectural design.
8. The proposed use of the site is for residential housing. This use is set forth in the HOOP I District.
9. The maximum number of dwelling units allowed in the HOOP I district is the net land area, which is 25,701 square feet, divided by 1,500 square feet rounded to the nearest whole number, which here equals seventeen (17) dwelling units. The Applicant is proposing to utilize the modifications and waivers provision of the HOOP regulations resulting in a maximum density of twenty-four (24) dwelling units, in order to create more affordable housing units within the HOOP district.
10. The maximum height of structures allowed in the HOOP I district is 40 feet. The Applicant is proposing to utilize the modification provision of the HOOP regulations for in a maximum building height of 45 feet, in order to create more affordable housing units within the HOOP district.
11. The proposed building coverage of the site is 63% which exceeds the 40% allowed within the HOOP district. The Applicant is proposing to utilize the modification provision of the HOOP regulations for a maximum building coverage of 63%, in order to create more affordable housing units within the HOOP district.
12. The proposed parcel open space is 27%. The By-Law requires that parcels within the HOOP district contain 35% open space. The Applicant is proposing to utilize the waiver provision of the HOOP regulations to permit open space of 27%, in order to create more affordable housing units within the HOOP district.
13. The Board finds that the Project under the bonus provision meets the requirements under Site Plan Review – Section VI-DD and HOOP Bonuses, Uses. The site plan demonstrates an overall planning concept that is harmonious with the existing neighborhood based on the following criteria:
  - a. The site plan offers the Town an attractive project that will improve the streetscape.

- b. The site plan includes a professional landscape plan with substantial planting.
  - c. The site plan includes a lighting plan that lights the Project in a pedestrian-friendly, aesthetically pleasing manner.
  - d. The site plan includes other elements found beneficial by the Design Review Board as contained in its memorandum dated August 7, 2006.
14. The Board finds that the Project under the modifications and waivers provision meets the requirements under Site Plan Review – Section VI-DD and HOOP Modifications and Waivers. The site plan demonstrates an overall planning concept that is harmonious with the existing neighborhood based on the following:
- a. density of twenty-four (24) units rather than seventeen (17) units would not be more detrimental to the site or neighborhood than the property's present use, and modification of the HOOP density requirement is necessary to encourage the creation of affordable housing units in Natick.
  - b. a building height of up to 45 feet would not be more detrimental to the site or neighborhood than the property's present use, and modification of the HOOP height requirement is necessary to encourage the creation of affordable housing units in Natick.
  - c. maximum building coverage of 63% would not be more detrimental to the site or neighborhood than the property's present use, and modification of the HOOP building coverage requirement to allow coverage of up to 63% is necessary to encourage the creation of affordable housing units in Natick.
  - d. minimum open space of 27% would not be more detrimental to the site or neighborhood than the property's present use, and a waiver of the HOOP requirement for 35% minimum open space is necessary to encourage the creation of affordable housing units in Natick.
15. With respect to the requirements of the HOOP District, the following findings are made:
- a. The total area of the parcel is 25,701 square feet, which exceeds the minimum lot area of 15,000 square feet.
  - b. The continuous frontage of the parcel is 252 feet, which exceeds the minimum continuous frontage requirement of 100 feet.
  - c. The Board finds that all the minimum set back requirements within the HOOP District have been met.
  - d. The Project has a total of forty-five (45) spaces with forty-three (43) underground and two (2) on the driveway. The Board finds that the Project meets the requirement of two (2) parking spaces per unit, or 1 parking space per elderly unit, has been met and conforms to Section V-D of the By-Law, conditioned on the Applicant's designating three (3) parking spaces for elderly units.

16. The Project meets all other requirements of the HOOP District.
17. With respect to Affordable Housing, the Applicant is proposing to transfer to the Town of Natick or Eligible Purchaser, as the Town directs, 20.8% that is five (5) units, for low/moderate income housing and in accordance with the definition of Affordable Housing found in Section 200 of the Natick Zoning By-Laws. Such units shall be maintained as affordable in perpetuity for the life of the Project. The Board finds that the Project meets or exceeds the affordability criteria as set forth in the By-Law under the HOOP District
18. The Applicant has appeared before the Design Review Board and has submitted Design Plans for all buildings, landscaping, and structures.

**Decision:**

After deliberation and consideration of all the foregoing, the Planning Board voted at its meetings of August 9, 2006 and September 13, 2006 as follows:

1. The Planning Board grants the Special Permit and Site Plan approval requested for the Project subject to receipt of a Final Site Plan, Landscaping Plan, and Building Elevation Plans.
2. The Applicant shall provide a deed restriction with respect to Affordable Housing in recordable form at the same time building permits are issued.
3. The Applicant shall provide a drainage easement and an easement deed to the Town of Natick in recordable form at the same time building permits are issued.
4. In consideration of the Project's providing 20.8% affordability, strict compliance with the Open Space requirement of 35% is hereby waived. The open space at the Project shall not be less than 27%.
5. In consideration of the Project's providing 20.8% affordability, Density requirements are hereby modified. The density of the Project shall not exceed twenty-four (24) units.

6. In consideration of the Project's providing 20.8% affordability, Intensity requirements are hereby modified. The height of the structure shall not exceed 45 feet, and the building coverage shall not exceed 63%.
7. All construction shall be carried out in substantial accordance with the Final Site Plan in all material respects.
8. Following the endorsement of the Final Site Plan by the Planning Board, a photographic Mylar together with three copies of the approved Plan and digital file copy, in a format acceptable to the Department of Public Works, shall be provided to the Board.
9. The Applicant shall maintain, and shall enter into a covenant with the Town requiring the maintenance, in good condition, of all landscaped open space and buffer strips. The Applicant shall provide security in the amount of 10% of the cost of the landscaping to ensure that required landscape plantings are maintained and survive for two (2) complete growing seasons following completion of planting.
10. The Applicant shall construct the landscaping on the Situs as shown on the Landscape Plan.
  - a. Should the Applicant desire to sell a unit prior to the completion of the installation of all the landscaping, or should the landscaping of any portion of the landscaping materials be more advantageous for growing and/or survival if planted at a later time, the Applicant shall post security in the amount equal to the unit pro rata share of 200% of its actual cost of any landscape material not installed upon the sale of each such unit. This requirement shall be met before the issuance of any occupancy permit.
  - b. The Applicant and its successors and assigns shall be responsible for the maintenance of all landscaped open space, fencing and buffers. Landscaping and fencing shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. Landscaped materials shall survive for a minimum of two complete growing seasons following installation. In the event any plant material dies within such two year period it shall be replaced as soon as practical. An additional two-year period for survival shall apply to such replacement plant. This mechanism for replacement of plant material that does not survive two complete successive growing seasons shall continue to prevail until each plant specified in the landscaping materials that is included in the Final Site Plans survives for a period of two (2) complete successive growing seasons.

11. The Applicant shall provide up to six (6) street trees of 2.5" caliper in landscape planter boxes along the southern edge of South Avenue across from the Project and in front of the municipal parking lot ("the Off-Site Landscaping"). The Applicant shall select tree type per recommendation of the Design Review Board. The Off-Site Landscaping shall be maintained by the Town.
12. No occupancy permit shall be issued by the Building Inspector until the Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty (30) days has elapsed since the filing of a written request for such approval with the Board and the Building Inspector, or unless the Applicant has posted the security as required above in Section 10.
13. In accordance with the recommendations from the Design Review Board in its memorandum of August 7, 2006, specifically:
  - a. Applicant shall submit cut sheets and specification sheets showing finishes, hardware, and lighting.
  - b. Entry walks and ramp to shall begin at the sidewalk at the centerpoint of the building and be symmetrical in design.
  - c. The sidewalk shall be 5 feet wide concrete sidewalk with a 18" brick edge at the curb.
14. The Applicant shall comply with the requirements of the Department of Public Works as referenced in the Town Engineer's memorandum, dated September 12, 2006, specifically:
  - a. The existing water and sewer service on South Avenue to the Project shall be abandoned.
  - b. The Project's sewer service connection to the existing sewer main on South Avenue shall be made through a new sewer manhole to the satisfaction of the Department of Public Works.
  - c. A domestic water line feed shall branch off the Project's water service connection to South Avenue, with cutting and capping performed by Applicant on the premises, and with sizing of all lines performed by the site engineer in accordance with state and local codes and subject to the approval of the Town Engineer.
  - d. The Applicant shall relocate the existing fire hydrant on the western side of the Situs to the satisfaction of the Town Engineer.
  - e. This Project will be subject to the Town of Natick sewer entrance fee due to the increase sewer flows as calculated by Title V regulations.



- f. The Applicant shall (i) remove and dispose of a portion of the existing stone culvert along South Avenue, and (ii) grant a drainage easement to the Town of Natick for the remaining portion of the existing stone culvert, as provided herein.
- g. The Applicant shall create an operation and maintenance plan for the on-site stormwater management systems, to ensure no increase beyond existing water runoff to the abutting neighbors and to the drain system within South Avenue.
  - i. The plan shall address at a minimum the frequency of sweeping of the paved areas; frequency of cleaning of the catch basins and the gas trap manhole; and the schedule of inspection of the leaching galley system and required maintenance.
  - ii. This operation and maintenance plan shall be made part of any homeowners association trust or agreements. The Planning Board shall have the opportunity to review and approve the language requiring the stormwater management system maintenance prior to issuance of any certificates of occupancy or prior to the recording of the homeowners association trust or agreements.
- h. The on-site drainage system shall include the following as shown on the Final Site Plan:
  - 1. an emergency overflow spreader system piped from the leaching system, placed along the northerly property line, with the invert to the overflow spreader, set to eliminate potential of surcharging at the proposed catch basin at the base of the entrance drive.
  - 2. a catch basin containing a 4 feet deep sump.
  - 3. a control outlet drain manhole.
  - 4. if floor drains in the basement parking, connection of such drains to the Town's sewer system through a gas trap manhole approved by the Department of Public Works.
  - 5. filter fabric extending along the sides of the excavation for the leaching galley.
  - 6. a siltation barrier within the erosion control area.
- i. The Applicant shall provide a stop sign and stop line for traffic exiting out the driveway of the Project onto South Avenue.
- j. The existing South Avenue pavement shall be cold planed down 1.5" along the full frontage of this site, and a new 1-1.5" curb to curb overlay shall be installed after all utility and curbing cuts are completed.
- k. The Applicant shall provide four (4) lamp post/lights in the locations shown on the Final Site Plan along the northern edge of the sidewalk (on private property) consistent with the size and style approved for the adjacent site at 42 South Avenue.

1. The Applicant shall provide a final approved site plan, final easement plan, and final as-built plan in an acceptable digital file format to the Engineering Department.
15. The height of the lamp posts shall be consistent with the height of the existing lamp post in the downtown area. All curb cuts and cement concrete sidewalk shall be constructed in accordance with Department of Public Works specifications.
16. Both the Planning Board and the Department of Public Works shall be given written notification of the start of construction.
17. The Applicant shall provide the Project plans to one member of the Planning Board (designated by the Planning Board) at least thirty (30) days prior the requested issuance of a building permit for such Planning Board member's review for consistency with this decision such Planning Board member shall report consistency to the Building Inspector.
18. If the Applicant submits revised drawings, the provisions of the Planning Board's rules and regulations regarding the Applicant's obligation to provide funds for the hiring of consultants to review such submissions shall apply and the Board shall retain jurisdiction of the matter in order to assure that these submissions are in compliance with the foregoing conditions.
19. If any non-deminimis changes to the plans or Project occur, the Applicant must come back before the Planning Board for a Modification. The Planning Board reserves the right to review lighting installation in respect to conformance with the lighting plans approved herewith and may make modifications as may be necessary to reduce glare and minimize light trespass.
20. No occupancy permit shall be issued by the Building Inspector until the Applicant has provided the town with as-built plans and a digital file copy in a format acceptable to the Department of Public Works.
21. The conditions of approval provided for herein shall not be superseded, modified, or removed, nor shall the Planning Board's authority to administer the conditions of approval provided for herein (including any surety that is required) by any action of any other federal, state, or Town agency. Should the Applicant or any funds provided by the Applicant be made subject to any such action or requirement, or should such actions be imminent in the opinion of the Planning Board, then the Applicant shall immediately appear before the Planning Board at its request. The

Planning Board shall retain jurisdiction for the purpose of modifying or amending this decision, in whatever manner is considered by such Board to be necessary, in order to carry out the original purposes and intent of this decision, to the maximum extent feasible under the circumstances then pertaining.

- 22. The Town of Natick shall devise a fair and reasonable plan for marketing the five (5) affordable units. In general the tenant or buyer selection will be conducted by means of a lottery. The lottery will be conducted after the expiration of all appeals of the permit and other required permits or approvals not covered by this Special Permit. Since the units will be ownership, buyer selection activities should be scheduled to begin approximately six months prior to the anticipated date of occupancy. The Town of Natick will be responsible for activities such as outreach, advertising, conducting general workshops and overseeing the mortgage application process.
- 23. The five (5) affordable units shall be deed restricted and maintained as such in perpetuity. Any required residency qualifications shall be established through Town Clerk certification. The units will be offered pursuant to the application section of the Natick Zoning By-Laws.
- 24. The Project shall be constructed in accordance with Section 116.21 of the Massachusetts State Building Code that the Project shall have the requirements of Section 116.2 (Construction Control).
- 25. The applicant shall enter into a maintenance covenant with the Town of Natick for the operation and maintenance of the on-site and water separator. The covenant shall include a plan that details the type and frequency of the maintenance activities for the abovementioned stormwater system.

**NATICK PLANNING BOARD**

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Member

*Clark Maye*

Vote

Yes

Member

*Robert White*

Vote

Yes

*Jenn Lopez* yes  
*John M...* YES

\_\_\_\_\_  
Date: *September 22, 2006*

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A TRUE COPY  
ATTEST:

*Jane M. Hladick*  
\_\_\_\_\_  
JANE M. HLADICK, TOWN CLERK

OCTOBER 18, 2006

*Angus C. Brown*  
Attest. Middlesex S. Register