



TOWN OF NORTHBOROUGH PLANNING BOARD

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Approved 06.15.2021

**Planning Board
Zoom Meeting Minutes
May 4, 2021**

Members (Remotely): Kerri Martinek, Chair; Amy Poretsky, Vice Chair; Anthony Ziton; Mille Milton; Michelle Gillespie

Members Absent: None

Others (Remotely): Kathy Joubert (Town Planner); Fred Litchfield (Town Engineer)

Chair Martinek called the Zoom meeting to order at 6:00 p.m. and made the announcement that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 20A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, that the meeting of the Northborough Planning Board is being conducted via remote participation to the greatest extent possible. Public comment will be taken. The process was explained.

Member and Staff roll call was taken: Mille Milton, Anthony Ziton, Amy Poretsky, Michelle Gillespie, Kerri Martinek; Kathy Joubert (Town Planner), Fred Litchfield (Town Engineer).

Continued Public Hearing for 425 Whitney Street Special Permit Site Plan Approval and Special Permit per Groundwater Protection Overlay District:

Applicant: Steris A.S.T.

Engineer: VHB

Date Filed: September 17, 2019

Decision Due: 90 days from close of hearing

Attorney David Doneski (Town Counsel), Scott Turner (Environmental Partners), Don Flahardy (CN Associates), Ron Cardarelli (CN Associates); STERIS - Ken Kohler, Vice President & General Manager AST Americas; Nancy Donnelly, Deputy General Counsel; Mark Thomas, Vice President, Operations and Technology; Luke Trauger, Director, Plant Operations; Jerry Dzwierzynski, Director, Engineering & Facilities; Keith Burnett, Project & Facilities Engineer II; Virginia Guerin, Manager, Engineering; David Jackson, Sr. Manager, Radiation Safety; Mike Carelli, Plant Manager II; Mirick, O'Connell: Attorneys Stephen Madaus and David McCay; Vanasse Hangen Brustlin, Inc.-Site Plan/Environmental: Richard Whitehouse; V. Paulius & Associates – Construction – Concrete and Concrete Plant: Lawrence "Kip" Kramer; Tech Environmental – Sound Study: Marc C. Wallace; Patricia Rosa; Vanasse & Associates Inc – Traffic Study: Andrew J. Arseneault

Scott Turner, Environmental Partners, peer reviewer, stated the board has received a letter from him, the traffic group and CN Associates. EP and CN reviewed the March 11, 2020 Planning Board memo; reviewed Steris' response; reviewed the memo from the Planning Board to Steris dated November 15, 2019 and Steris' response and made comments where appropriate on each of those comments and Steris' response.

They also reviewed the initial peer review letters that they prepared (traffic and civil site); reviewed the responses from the applicant (VHB and Vanasse) and made comments regarding their responses. They reviewed the site plans, stormwater reports, and traffic information. Ms. Martinek commented that they were received yesterday.

With regard to the Transportation Impact Assessment letter dated April 30, 2021, Mr. Turner said the five original comments had been addressed adequately and the comments were closed. The board had no questions related to this part of the review. The Peer Review Letter-Facility Expansion Project dated April 30, 2021 included (for brevity) the board's questions as well EP's response where appropriate. They were discussed in detail. He did not have any information about what exactly is being proposed for the concrete plant, but commented that being involved with construction projects for 25+ plus years, it is a typical construction technique having a plant on site; they want to keep trucks off of the road. Mr. Turner said they went through everything thoroughly and were satisfied with their responses. Ms. Martinek asked if they had received the noise study. Mr. Turner said they are not noise engineers so it would be hard to comment on it. Ms. Joubert said Rich Whitehouse or Steve Madaus can address that when they participate. Ms. Martinek asked what is the correct process to fold in an evaluation of the concrete plant. Mr. Turner commented that in all the projects he has done, he doesn't ever recall having a discussion at this level about the concrete plant because it is considered construction means and methods. Ms. Martinek said when considering the concrete plant, they wanted to know the impact on the residential neighborhood with having it on site for a significant amount of time pouring concrete; is there any runoff into the groundwater or wetland, any dust or debris, is it less impact to have trucks drop it off versus the concrete plant on site? Mr. Turner said a Stormwater Pollution Prevention Plan (SWPPP) has to be filed; it is a requirement under the United States Environmental Protection Agency National Pollutant Discharge Elimination System Construction General Permit. The SWPPP outlines everything they need to do to manage erosion sedimentation including making sure there is adequate dust control, do weekly inspections of their hay bales and/or erosion devices to make sure they are there in good working order, maintain a stable construction entrance, and sweep the road front of the site. He suggested the board might consider a condition that copies of the report be submitted to whoever will manage the process. There is also has a requirement that if parts of the property are cleared and construction does not occur for 14 days, it needs to be stabilized. Ms. Martinek asked how do we know that that's happening. Mr. Turner recommended obtaining copies of the reports. They have provided a construction maintenance plan which is part of their stormwater report; it has been reviewed and is consistent with general practice. Ms. Joubert commented that the town meeting just passed a very comprehensive stormwater bylaw which will now fall under the implementation and review of the Conservation Commission and the Conservation Agent.

Ms. Martinek asked what was the correct process for acting on the groundwater special permit request as it relates to the concrete plant? Attorney Doneski stated his April 5th memo addressed that issue and he thought the concrete plant would be considered an item of construction as others might be in a typical construction process. From what he has heard from the peer review team, is a standard situation; he didn't hear any particulars. If there were going to be conditions, they should be based on evidence in the record as to how the operation is proposed and what are the particular risks that would be identified that need to be addressed from that operation. He is taking it that the report to this point would be a standard to approach to produce required amounts of concrete on site and also to eliminate truck traffic associated with bringing it in and not having an onsite plant. It has already been reported to the board that there is oversight through the Conservation Commission's Order of Conditions. Ms. Martinek asked if they would need to see information about the plant before conditioning certain days and times. Attorney Doneski did not think they would need to get into the finer details and said a condition would need to be and should be based on some particular impact of the plant that is presented by the construction. She said the

neighbors had many concerns and they have no information on the plant. Ms. Joubert commented that there is a specialist for the concrete plant on the call tonight.

Ms. Gillespie said they talked with the applicant about hours of operations being 9:00 to 5:00 Monday through Friday and asked Attorney Doneski if that would seem realistic. He said that would be less than what is stated in the bylaw; if there are particular reasons for this operation why the hours should be or would appropriately be less, he thought the board needs to have information on the record. Noise in and of itself wouldn't necessarily be seen as a basis because construction equipment makes noise to some degree. Ms. Gillespie asked Attorney Doneski if he had ever seen a concrete plant be allowed and, because of the extensive timeline, be asked to do a noise study after a certain number of days, and if excessive, consider the option to bring in the concrete by way of trucks. Attorney Doneski said they could do evaluations at some point and suggested that discussion not proceed until they hear from the person who can describe the operation of the plant.

Don Flahardy (CN Associates) April 30, 2021 Peer Review-Facility Expansion letter. He said the letters he responded to are extensive; he did point by point responses; at no point did he say he disagreed with Steris' responses and found it to be technically incorrect. Ms. Martinek asked about the areas where he wasn't able to answer and asked what could be done alternatively. He said there were no areas where he said he could not technically disagree with that or thought it was significant, there were some questions, e.g., how many units are operating in the world exactly at this particular type of design or were their units operating similar to this one where there's been problems. He either did not have the information or it would take quite a bit of research to chase that down; he had no reason to object to Steris' response. Ms. Martinek said the way it was originally laid out to them was that it was the first of its kind in this type of technology coming to the US and wondered if there were any proof points in the other locations that would help them figure out how it fits in Northborough. Mr. Flahardy went on to explain that it is a particle accelerator which will generate x-rays at a power level that will not create radioactivity and will not activate components; it's generating x-rays no differently than a particle accelerator would at any x-ray machine. Ms. Poretsky asked if the 12-foot wall shields were there because the x-rays are dangerous without those shields. Mr. Flahardy said the x-rays inside the shields are sterilizing things; they are killing organic matter, clearly inside that it would be dangerous to anyone. She asked about the undetectable gas emitted and asked what it was. Mr. Flahardy said that would be a question for Steris. She asked about monitoring and submitting reports and said if it were to be approved, it should be monitored and reports to be submitted; how will it be recorded and whom will it be reported to. She said there is equipment outside to monitor for radiation but in Mr. Flahardy's opinion it wasn't needed. Since the building is directly abutting a big neighborhood, is there some type of equipment that can be put on the outside that would set off an alarm if there was a leak or the shielding cracked. Mr. Flahardy said Steris said there was equipment available and felt it was not needed; Mr. Flahardy did not think it was needed. Mr. Cardarelli said when the machine is off there is no radiation at all. Ms. Martinek asked did the Mass Department of Energy Resources have exclusive jurisdiction over the radiation monitoring technology? Mr. Flahardy said they have jurisdiction registering the device. Mr. Cardarelli said with certain licenses you may have to monitor dose rates at certain places and the state will make sure the right instrument is being used or calibrated and was not sure they would require that on the outside of the building.

Ms. Poretsky said they were told that this is the first of its kind in the United States, but he said it doesn't seem much different from other activities that he's seen. Mr. Flahardy said simply it is an x-ray machine. Ms. Martinek asked why 12-foot-thick walls if it was as simple as in dentist's office and was told the reason is because it's more powerful. Ms. Milton asked what is the amount of power that would need to create something radioactive and was told over 10 megawatts; the maximum on this is 7.5 maximum; it was not

known how much power is needed; he could not comment on things being shut down or automatic triggers; his comments are based on scientific documentation/literature.

Mr. Ziton asked if the 12-foot width of the walls and the ceilings was based on the shielding capability of concrete and as it compares to the power of the accelerator. Mr. Flahardy explained that it is based on what is needed to generate the radiation level. Ms. Martinek asked what would happen if the concrete wall was compromised. Mr. Flahardy said the radiation level could go up proportionate with how much it compromised, but they will have monitors internally. Mr. Ziton asked about x-rays and radiation seeming to be interchangeable. Mr. Flahardy explained radiation is what's being generated, not material. Ms. Poretsky asked if he thought the board should be concerned for the neighborhood. Mr. Flahardy felt that it is perfectly safe; he had no concerns. Mr. Cardarelli commented that the state requires a radiation safety officer to be named.

Attorney Madaus said the peer review reports are very favorable and felt all concerns raised by the board had been addressed but will address any outstanding questions. They are asking for consideration of approval on the groundwater special permit in light of the fact that there's an election and the special permit requires four members. They filed in October 2019 and supplied information throughout; the peer reviewers seemed to have confirmed everything; and they have a favorable letter from the Groundwater Committee in March of 2020. Ms. Joubert explained the process if the board changed. Ms. Gillespie commented that they've been with us for 18 months, we have all the materials, and is there any reason the board can't vote on it tonight. Attorney Madaus said they have supplied sufficient information on the groundwater protection overlay district and if approved, conditions could be done later; the board still has the site plan review process separately to do. He said all the material has been subject to peer review and nothing has been challenged, suspect, or proven to be untrue. Ms. Martinek said we just received it yesterday and is a lot of material. It's been going on for a long time, there have been many continuances and a lot of time taken to get the information. She did not think it's fair to come to the board and only give less than 48 hours to have the members review and be prepared. Attorney Madaus said the criteria for the groundwater protection overlay district is finite and the Committee gave its recommendation for approval with conditions which includes the temporary plant consideration. She said they need to look at the performance standards to make sure that the application meets the performance standards associated with the use.

Ms. Poretsky asked what the effect was if the chillers were not working with the water. Jerry Dzwierzynski, Director, Engineering & Facilities, said from a performance standpoint the chillers are more efficient using a straight water mix; it keeps the water always moving; if there were to be a leak, it's just water. Ms. Gillespie said the consultants suggested that possibly as part of the conditions to hire a radiation safety officer and asked if they plan to do this. David Jackson, Senior Manager for Radiation Safety for Steris, said they do currently have a radiation safety officer on site at Northborough with backup; he is corporate radiation safety officer; it will be in place. Ms. Gillespie said they have talked for 18 months about radiation monitors inside and outside the facilities and they agreed that they would have them inside the facility. She asked would they place some outside the facility for peace of mind for the residents. Mr. Jackson said the Massachusetts Department of Public Health requires them to have monitors on the inside; they will also have portable monitors for use. If it is a condition of the board, they will investigate it.

Ms. Gillespie said over the past 18 months there has been discussion about the hours of operations of the concrete plant, possibly entertaining 9:00 to 5:00 Monday through Friday. Kip Kramer, General Contractor (Paulius & Associates) said an important part of the process when pouring during the summer months is to use it during the cooler hours because concrete in and of itself creates its own temperature increase as time goes by. Part of the reason it is important to have a concrete plant onsite is so they can control

the quality of the concrete and so that they don't have a situation where they are not in a position that they are heating up the concrete to any degree that would not be beneficial to the plant. Typically, they start very early in the morning because it's the coolest part of the summer months when they are pouring. Typical hours of construction usually start about 7:00 a.m.; they start the pours earlier than that if possible to be done about 3:30 p.m. before traffic, school buses, etc. are on the road. He knows there are concerns about the plant running 24/7; it is nothing like; they spend weeks building portions of the shield and then have a day of pouring. Ms. Gillespie said they spent almost two hours with the consultants that were hired by the town to review the information; there were a lot of questions about the integrity of the concrete. She asked would he say that it's in the best interest to have the concrete plant onsite because that's where you get the best quality material to build the safest product that you're trying to do versus bringing the trucks in to do. Mr. Kramer said yes, control over the quality of the concrete allows them to ensure that the materials that go into the concrete mixes itself are developed in a way that are going to be (before they go into the shield) tested; they use a third-party testing system to do that.

Ms. Milton asked about dust mitigation. Mr. Kramer explained the process. Ms. Martinek asked if there was a copy of the SWPPP. Mr. Kramer said it must be inspected and kept in check to ensure that any changes are complied with. Rich Whitehouse (VHB) said the SWPPP is prepared as part of the construction general permit that Mr. Turner had noted earlier and filed with the USEPA two weeks prior to the start of construction; that document hasn't been prepared yet. Ms. Martinek asked how would the board determine any runoff from the concrete plant. Mr. Whitehouse said the project itself is subject to all the same standards that you would normally have in terms of erosion and sedimentation prevention and explained the process; the SWPPP and the construction general permit are the confirmation of that process. She asked if we did want to seek guidance from the DEP, what do we have to present. What can the board do today to make sure we did our due diligence to make sure that there's not a problem. Mr. Kramer said he could prepare a narrative with drawings to give the board a more comfortable feel about how they are going to ensure that they are going to be able to check both the environment and the neighbors in the area. Mr. Whitehouse added that the Order of Conditions that was issued on the project includes three special conditions to document the requirements that the Conservation Commission felt where applicable to the temporary concrete plant; they already have to go through that exercise to coordinate and fully work to develop a plan that's amenable to town staff and all its representatives a strategy that everybody is comfortable with for this plant to protect the site and surrounding areas. Ms. Gillespie if they could make it a condition because it is already in the Order of Conditions that was asked for by the Conservation Commission. Ms. Joubert explained that the Conservation Commission has closed out their hearing and, as part of the conditions, they are reviewing the concrete plant with the Conservation Agent, Mia McDonald and Town Engineer, Fred Litchfield. It has already been worked out by a board how the plant is going to be reviewed and monitored as far as compliance.

Ms. Martinek said as it relates to the special permit, the board has not seen anything and would feel comfortable some information. Mr. Ziton asked where the trucks were originating from and what routes they would use. Mr. Kramer said the trucks are their own trucks and would be stored on the site and because of that, approximately six trucks are needed. Mr. Ziton asked where the raw material was coming from. Mr. Kramer does not know the area roads but said they would be using local suppliers of stone, sand and cement and those trucks would bring in in large bulk. He wanted to make it clear to the board that this is not something that's happening every day, there are far more days that they are putting the forms together then actually pouring. Ms. Gillespie commented that to suggest they have to come through the center of town to get to the site doesn't make sense because they are prohibited from driving on them; Whitney Street has a truck exclusion and Hudson Street has the aqueduct.

Attorney McCay said the concrete plant has been addressed by the Conservation Commission and subject to conditions in the Order of Conditions. He also said the peer reviewer addressed the concrete plant issues as well and said it was a typical part of a of a construction project. A draft decision was prepared for the board's consideration; #3 addresses the concrete plant issues and requires that the applicant work with the Town Engineer and Conservation Agent to review and obtain approval of all details regarding the location and operation of the temporary concrete plant to hopefully give comfort that it will operate in the way that it's intended with minimum disruption and impact on anyone in the neighborhood. Ms. Martinek said our Town Counsel noted it was addressed with Conservation but felt that in his opinion the concrete plant element of the development is something the board would consider acting on as part of the groundwater protection overlay special permit request, but we don't have any information. He further said the board would be able to evaluate the proposed concrete plant in the same manner consistent when considering other construction facilities proposed in connection with a particular development. Where this plan is not a typical construction phase element in Northborough, it would be reasonable for the board to seek input or guidance from other sources such as Department Environmental Protection regarding such a facility and best practices for operation and use; we don't have any information by which to do that. Attorney McCay said the peer reviewer indicated that it was a typical part of construction; there's not anything particularly unusual about the operation of this concrete plant. The project engineer said that it's going to be managed within the building envelope and subject to all of the stormwater controls they have over the site; Mr. Kramer indicated that the operation of the plant in terms of the pours is quite limited, happening only sporadically. He felt that Steris has provided information; there's nothing in the record that suggests that the concrete plant is problematic with respect to any issues for groundwater protection; it has been addressed by Conservation as well. They are happy to provide additional information from Mr. Kramer regarding the plant; it should address any concerns that the board has with respect to that element of the construction. Ms. Martinek said it is not typical in Northborough. Ms. Gillespie asked the peer reviewers if they saw this in towns similar to Northborough versus seeing it more in large metropolitan cities. Mr. Turner is not familiar with Northborough; he has done projects on the South Shore in suburban communities. Mr. Kramer said he is doing a similar project in a rural town of Chester NY; he would invite any board member to see the concrete plant and the construction site in action as it may give them a level of comfort.

Mr. Litchfield said it is part of the construction process; the main thing he wanted to be clear on was the hours of operation. He was not concerned about the plant operating in and affecting the groundwater because they are going to have tight controls on anything that washes out or anything that they're going to have for discharge; that is going to be taken either offsite or put into someplace else so it can't get into the wetlands or the groundwater. It is the hours of operation; he indicated that they like to start early in the morning, work when the weather is a little bit cooler, and there's a lot of volume. Mr. Litchfield asked for an idea of how long during the day they would work and how many days they would operate before shutting down going on to do form work, and then starting up again. Mr. Kramer explained that they create a pour schedule which allows them to build the forms for a particular level, make the pour, break the forms down, and go to the other shield associated with it; hopscotching back and forth. Mr. Litchfield asked what is the duration at the plants operating to produce the concrete and was told typically it will be done within one 8-10-hour day. Mr. Kramer wanted to be perfectly clear to keep in mind that there are other improvements that will happen to the existing facility; he did not want to not include those in the other pours; it is important to everyone that they know that equipment is not humming in the background 24/7; it runs for a day here and there; many more hours are spent building the forms and the shields then actually pouring of the concrete itself. Mr. Litchfield asked if a condition that would limit the hours of operation of the concrete plant from 5AM to 5PM with the rest of the construction work being 7AM to 7PM be objectionable. Mr. Kramer replied it is not. He would ask consideration to earlier in the morning because they typically pour at 3AM/4AM to catch many more hours of the cooler weather, but

it's not absolutely mandatory. If the board was comfortable with those hours, Mr. Litchfield asked how the Police Department is alerted that it's just the concrete plant that can start before 7AM and not the rest of the construction equipment. Do they need those trucks to pour the raw materials into the plant at 3AM; Mr. Kramer said no, it is the mixing of the concrete into the trucks; everything else would be 7AM-7PM. Mr. Litchfield said that information would be helpful for crafting a decision. Ms. Poretsky asked if the concrete plant could be set up further away from the neighborhood. Mr. Kramer would have to look at it; it could possibly become a more dangerous scenario; they would adjust the times to make it work. It is going to be an understanding with the community; they don't want to disturb everybody, but they want to get it built, comply with what needs to be done, and get through the project as they do on other projects throughout the country.

Ms. Martinek asked the status of the noise study. Ms. Joubert stated the board would normally condition that a noise study be conducted. The Building Inspector will work with the company; one will be done before construction starts and one will be done after the company is up and running. Marc Wallace (Tech Environmental) said a letter was provided to Steris last week; he gave a brief overview of the conceptual design sound study. The focus of the study was to assess compliance during the late night and early morning hours when ambient sound conditions are at their lowest. They performed both short-term and long-term ambient sound monitoring. The short-term ambient sound measurements were collected in Coolidge Circle neighborhood during one late night. They also performed long-term ambient sound measurements at the property line to collect measurements over an eight-day period. The existing measurements during that period ranged from 38 decibels 44 which is representative of a quiet rural suburban area. They also did a three-dimensional acoustic modeling analysis which took into consideration terrain, buildings, and sound sources. The primary sound sources included in the model included two of the three chillers operating, two bunker exhaust fans on top of the roof, and three green low noise building exhaust fans. Also included were intermittent operations of four trucks idling in the loading dock areas. Recommended sound mitigation measures for the project included the exhaust fans on top of the building be at least 5 decibels quieter than what they're proposing; the bunker exhaust fans be 20 decibels quieter; replace the proposed units with quieter larger units in combination with installing silencers; enclose the chillers, and a partially enclosed or equal noise kinetic noise control enclosure. They included receptor points to represent each of the homes on Coolidge Circle; there were 21 receptors representing those homes as well as a receptor location at the property line. The results of the predicted sound levels show the changes in sound levels would be between 0-3 decibels in the neighborhood and at 5 decibels above ambient at the property line, therefore showing compliance with the town's noise bylaw and well below the Mass DEP noise policy limit. They also took into account the frequencies of the sounds from each of the sound sources and showed that there's going to be no pure-tone sound conditions or tonal sound conditions at the property line or the nearest residences. They will work with Steris as it goes from conceptual design to final design.

Ms. Martinek asked the status of the Ontario CA radiation facility. Mr. Dzwierzynski said it is under construction; they are building two shields. The shields are built at Libertyville; it has been enclosed inside the warehouse; they are doing the internal piping and wiring and expect to be finished with that facility mid-summer and then installing equipment after that. The Ontario plant is expected about three months after that.

Public comment: Laura Folsom (4 Laurel Ave) was concerned because children are at a significantly greater risk than adults of developing cancer after exposure to radiation. She disagreed with the comment regarding the length of time the 7.5 megawatt lasted and said it did matter. She had a concern about the water chillers; where would the water go, is it radioactive? She asked what are the acceptable radiation levels in the 12-foot walls. Jerry Dzwierzynski explained that the water is in a closed loop system; it does

not get radioactive; the 7.5 megawatts power does not make things radioactive. He also said in most concrete type construction there is reinforcing which is typical rebar type construction. David Jackson said the state of Massachusetts actually has required levels outside of the shield less than two millirems per hour for any area that would be occupied and also that there would not be exposure to the public exceeding 0.1 millirems per hour; the shield itself is designed to get well below those levels. He said the areas in the direction opposite of where the beam is pointing are still more than thick enough to absorb the energy before it gets outside of the shield to account for any scattering and reflection.

Ms. Poretsky said if approved, she would want a condition about biohazards on the property in the future that it would come back in front of the board to review; also important would be the Geiger counter on the outside of the building. She asked how the monitoring will be recorded and reported and to whom. Mr. Jackson said the state of Massachusetts requires them to provide an initial shield survey and perform additional surveys should anything change in association with the machinery. They keep a copy for the state; the state performs audits every 1-2 years. She suggested a condition to do the survey every five years; they would be amenable to periodic shield surveys. Another condition was a truck exclusion to make sure they turn left and go out to Route 290. She said the hours of operation are a concern. Ms. Milton asked if there was such a thing as a noise or barrier fencing that would help even on a temporary basis. Mr. Kramer said there was not. He said the hours are flexible and to be discussed.

Michael Bernzweig (4 Jenkins Drive) commented that the radiation and all the other details that have been talked about sound scary.

Ms. Martinek asked how the board felt in terms of moving toward a decision. Ms. Milton asked if it was the decision just on the groundwater. Ms. Gillespie said the applicant is only requesting a decision for the groundwater tonight. Ms. Martinek said the concrete plant is tied to the groundwater special permit. Ms. Milton was not uncomfortable with it; Mr. Ziton wanted to, but because so much information came in yesterday, wanted to review everything in totality; Ms. Poretsky thanked the peer reviewers and Steris but wanted to hear from the rest of the board. Ms. Milton read quite a bit of it. Mr. Ziton read through one of the reports on radiation. Ms. Gillespie said the peer reviewers are here now and we have to be fair to the applicant. She thought the concern Ms. Martinek was focused on was with the construction of the concrete plant; staff has said it is under the jurisdiction of the Conservation Commission and that we should be focusing on the hours and duration of it. It's been 18 months and we've spent over three hours with all the panelists asking questions and the response from most of the board was that they understood. Ms. Martinek said she did not have the chance to read them and wants to be comfortable that she has read everything. She said the Conservation Commission has a piece in the concrete plant but felt it was reasonable for the board to look at it as well. Board members should have confidence that they have read all the reports and understand them. Ms. Gillespie took the time to be prepared for tonight knowing the applicant would be asking for a decision and there are 26 people on the call. Ms. Poretsky said we did not get the information until yesterday at noon. Ms. Joubert explained why they received it on Monday. She also pointed out that the peer reviewers went through every single page of all three reports tonight. They are all here if any of the members have specific questions. Ms. Martinek thinks they should be reading them in full; she said there is nothing she has received on the concrete plant and they don't have the noise study. Ms. Gillespie asked what if they have a question and the peer reviewers and the noise consultant are not here; what was she expecting at the next couple of meetings. Ms. Martinek said it is their job to review materials carefully and should be fully confident that they have read everything and able to make an intelligent decision. Ms. Milton thought tonight was more for the groundwater special permit and didn't feel there was going to be anything in the noise study that would not be applicable to the site plan. Ms. Martinek said the concrete plant is for the special permit. Three board members want time to review

the materials. They need time to get the reports, information from Mr. Kramer on the concrete plant, and the noise study; there is no additional information on the EMFs.

Attorney McCay commented that the peer reviewer calendar and the timing for which the town reviews was controlled by this board. He recognized people will want additional time to review the additional reports, but it is an application that has been pending for a year and a half; they have assembled 16 individuals to answer every question that the board might have on a number of diverse areas, the project team is here as well. The noise study issues are a separate requirement under the bylaw; the project will have to comply with performance standards under the bylaw; they have proposed a permanent condition that also solidifies that. They are happy to supply the noise study, but it is typically a condition that is added to a permit and doesn't need to hold up the board's decision. Similarly with respect to the concrete plant, there are people here to answer any questions the board has. Steris has been answering questions related to the concrete portion of the project for some time; he didn't think it was a new issue; the peer reviewers are here and commented on it and it is subject to review for other permits from the Conservation Commission; it will be an ongoing item subject to review; they proposed a condition that addressed that. He appreciated the Chair's comment that what's the big deal if we have to start over, but it actually is a big deal and it's more than just time; there are legal ramifications for Steris and the project and what other requirements might apply to the project if they have to start all over again; it is a significant imposition on them. They believe they can move forward with all of the issues related to the groundwater special permit. If there is a special concern with respect to the concrete plant, they would be willing to have that added as a consideration of site plan review. The groundwater piece is important for them to get a decision; it would be a problem to start over. He is not trying to unfairly limit the time the board has to review the issues, but they have everybody here and it is an application that has been pending for an extremely long time.

Ms. Martinek asked how would the site plan be approved without having to start over if two members left the board. Ms. Joubert said site plan is similar to a subdivision; it is the majority of the board that is required for approval. Ms. Martinek said regarding the concrete plant that the board has seen nothing on it from the very beginning, was told they could not look at it, and only recently told that they could look at it by Town Counsel; she does not want to miss reviewing it.

Ms. Gillespie commented that Ms. Poretsky reviewed 2/3 of the material and asked if there was anything she could ask the panelists while they were here. Secondly, she wanted to remind them that legal counsel was on this meeting with Steris and the peer reviewers and he didn't indicate he had any concerns. She didn't think it is fair to the applicant to delay it; it has been 18 months; they should vote on it. They are talking about groundwater; they still have the process to go through with the site plan review. Ms. Poretsky felt they have given people time throughout the process and to rush through it now and possibly miss a condition was not right. Ms. Gillespie commented that looking at the attendees list hasn't heard from one abutter tonight. She did her homework and reviewed everything that was sent to her; Ms. Milton did her homework, and was sorry the rest of the board was not prepared. Ms. Martinek did not agree. She said every member of the board should feel confident that they've had enough time to review the peer review. The majority of the board was not prepared to make a decision; they need adequate time to review the materials properly.

Attorney Madaus asked for confirmation for what was needed and was told the sound study and the detailed package on the concrete plant from Mr. Kramer. Attorney Madaus reminded the board the criteria for site plan review and the groundwater special permit criteria. The board gets over involved on the use within the building and he has been saying that for 18 months; they are not charged with becoming radiation experts, but requested the board review the standards under which the applications are subject

for approval; they will supply the information requested. Ms. Martinek said one of the performance standards includes noise which is needed. Attorney Madaus will provide it.

Ms. Milton made a motion to continue 425 Whitney Street Special Permit Site Plan Approval and Special Permit per Groundwater Protection Overlay District to May 18, 2021 at 6:00 p.m.; Mr. Ziton seconded; roll call vote: Poretsky-aye; Milton-aye; Ziton-aye; Gillespie-aye; Martinek-aye; motion approved.

Continued Public Hearing Definitive Subdivision Application for 0 Bartlett Street, Map 51 Parcel 3 and Map 66 Parcel 16, to construct a four-lot subdivision:

Applicant: The Gutierrez Company
Engineer: Allen & Major Associates, Inc.
Date Filed: December 17, 2020
Decision Due: Extension granted to May 19, 2021

Ms. Joubert received an email from the applicant requesting a continuance to June 1st; follow-up information was also received. Ms. Martinek wanted to make sure they are looking for the right materials. Her inclination was not to continue because it didn't sound like the applicant was obtaining the items agreed upon at the last meeting. She wanted to make sure they are both on the same path. Attorney Donahue said board members were clear that they wanted the Form C signed by the MWRA as owner, or a letter from that body indicating it was aware of the subdivision application and did not have any objection to it. They are attempting to get that information in one of those two forms from the MWRA. He has been in communication with both administrative staff and executive staff in the general counsel's office. They have acknowledged they have the request; it is working its way through bureaucracy. They have not said no but have not produced the letter. They are looking to get the information the board is looking for from March 16th and requesting a continuance to June to provide it. Ms. Martinek said it sounded like the majority was looking for the signature, not a letter. Attorney Donahue said they talked about both and will get what they can get and the board will make a determination. The board's request for a signature was part of the request to the MWRA; they are working with the party that has care and control of the aqueduct. Ms. Martinek asked if they were looking to show proof of ownership. Attorney Donahue said not so much proof of ownership to be clear, what they were asked to obtain was the MWRA's signature as owner on the Form C application. That is different from proving they own the aqueduct. Ms. Martinek asked if they were talking with them about co-signing the form. Attorney Donahue said they talking with them to get that and if it is not within their ambit because of the technicalities discussed at the last meeting because they are not legally the owner (the Commonwealth of Massachusetts has legal record title) then they will sign something else and the board will make a determination based on what that is. All members agreed.

Ms. Milton made a motion to continue the Public Hearing Definitive Subdivision Application for 0 Bartlett Street to June 15, 2021 at 6:00 p.m.; Ms. Gillespie seconded; roll call vote: Poretsky-aye; Milton-aye; Ziton-aye; Gillespie-aye; Martinek-aye; motion approved.

Mr. Ziton made a motion to accept the extension of the deadline to July 7, 2021 for the decision; Ms. Milton seconded; roll call vote: Poretsky-aye; Milton-aye; Ziton-aye; Gillespie-aye; Martinek-aye; motion approved.

Continued Public Hearing Special Permit Common Driveway Application for 85 and 95 West Street, Map 57 Parcels 34 and 35, to construct a common driveway serving five lots:

Applicant: Brant Viner and Margaret Harling

Engineer: WDA Design Group

Date Filed: December 23, 2020

Decision Due: 90 days from close of hearing

Ms. Gillespie recused herself from the public hearing. Brian Waterman (WDA) and Attorney Mark Kablack attended. They addressed the applicable comments from the abutters' engineer's letter and Mr. Litchfield and Conservation. There is a historic stone culvert under Cherry Street. After discussions with Mr. Litchfield and the DPW Director, they designed a new culvert system; the applicants have agreed to do the upgrade. They modified grading to adjust for cover over the infiltration system. Revised plans and stormwater report were submitted. The covenant areas on the original plan expired in 2013; they were removed from the plan. Mr. Litchfield issued a letter after the revisions, updated plans and the stormwater report; the plans are acceptable as submitted. They have addressed all comments from outside sources and the town; Conservation approved the project and issued an Order Conditions; the Order was recorded today. Attorney Kablack said the covenant was changed to reflect the new plan revision date, it provides an enumerated schedule of percentage interest payments that each lot would make toward the HOA budget when approved, and signature lines were added for the declarant and the current owner, 85 West Street. Mr. Litchfield said the applicant did what was requested of him at the last meeting and submitted plans for his review. During his review he noticed some inconsistencies on the drainage and stormwater report and talked directly to the engineer to explain what he was looking. He was asked to either revise the stormwater report again to make it consistent with information that had been previously submitted, or explain why; he did a combination of both. Mr. Litchfield confirmed the changes were straightened out; the plans and the stormwater report are acceptable.

Ms. Poretsky was only reading the memo now and thought there should be a bylaw or something requiring materials be received a week in advance. She asked if both engineers came to an agreement on everything. Mr. Litchfield commented it's actually not up to those two engineers, it's up to him. The abutter submitted his comments to the board which he reviewed; there were some discrepancies; corrections were made, and he is satisfied. Mr. Waterman said they addressed the fire department's concerns; the water line was extended and a hydrant installed at the intersection Cherry and West Streets; booster pumps for each house location were added. Mr. Ziton asked why are we bringing water down West Street and was told it is a bylaw regulation that if you within 2,000 feet of a water line for a common drive with two lots, the applicant is required to extend it.

Public comments. Mitch Cook, Cherry Street said his concerns were with water quality and runoff. He did not have confirmation that the engineer he hired to review the plans, James Tetreault, had seen everything and deferred to Mr. Litchfield. He thought the idea of it being a common driveway was interesting and that suddenly it's no longer a subdivision. He asked if there was bonding if the groundwater implementation and what is being installed isn't adequate; what recourse do we have to get that fixed, and what would be the hours of construction. Mr. Litchfield had a conversation with Mr. Tetreault yesterday, told him he received revised calculations, reviewed the items brought up in his last letter, and they were answered to his satisfaction; Mr. Tetreault indicated he was satisfied; he felt the project had been much improved over the initial submittal. Asked to clarify his question about the common driveway, Mr. Cook said there was a discussion that the common driveway was preferable to a subdivision because it's smaller but said the real issue with that was the cost control, and was unaware that if you go with a common driveway, it null and voids everything relative to impact reports. Ms. Martinek said it sounds like over time it changed from three lots to five lots. Ms. Joubert commented that

it has always been five lots. Regarding bonding, if it's not adequate and there is a problem, what happens then. Attorney Kablack said the covenant provides for maintenance responsibility by an entity which will be created; it will have lien authority over each lot that doesn't make payment into the Homeowners Association; it provides the town with access rights and the ability to assess charges against the HOA if they fail to maintain the stormwater structures and the driveway. The Operation and Maintenance Plan for the stormwater facilities will be attached to the covenant. They anticipate the HOA will hire a third-party company that is specifically designed to inspect all of the stormwater facilities and make sure they are in proper functioning order. Ms. Martinek if there was any concern over not being able to cover problems or issues. Attorney Kablack said this applicant is going above and beyond what it is required to do. Culverts on Cherry Street and West Street, which are offsite, are being upgraded which is a benefit the town is getting. He believed they are not responsible for doing that, but are honoring the town's request for improvements; the groundwater situation is improving with the common driveway proposal. The Conservation Commission also has the authority to issue enforcement orders or fines or stop a project. Regarding the hours of construction, Mr. Waterman said it had not been discussed. Mr. Litchfield said a condition in his letter is that they'll need an earthwork permit; that board always assigns hours of operations as 7AM-7PM Monday-Friday and 7AM-Noon on Saturday; a bond for stabilization of the site during construction will also be required; inspections will be made.

Attorney Kablack spoke of the issue should two seats on the board change and asked that they not only close the hearing tonight, but also render a decision. As to the actual wording of the decision could leave it up to staff. Ms. Joubert said typically in the past with common driveways, the conditions that the Town Engineer puts in his review letter end up as conditions in the board's decision. It is a special permit; technically the seven criteria of a special permit need to be met by the applicant. She said the board could go through them but thought there was enough in the record for her to be able to include the seven criteria in the decision and send it to the board. She will leave it with administrative assistant for signatures.

Ms. Poretsky made a motion to close the public hearing; Mr. Ziton seconded; roll call vote: Poretsky-aye; Milton-aye; Ziton-aye; Martinek-aye; motion approved. Based on discussions and deliberations regarding the requirements of a common driveway as outlined in design standards of the subdivision rules and regulations, and by way of meeting all the criteria in the general special permit criteria, Mr. Ziton made a motion to approve the special permit for the common driveway application for 85 and 95 West Street, including the conditions in Mr. Litchfield's memo; Ms. Poretsky seconded; roll call vote: Poretsky-aye; Milton-aye; Ziton-aye; Martinek-aye; motion approved.

Ms. Gillespie rejoined the board at 10:11 p.m.

Old/New Business:

399 Hudson Street – The revised decision was sent to the Board members; there were no issues.

Consideration of Minutes (04.06.21) – Tabled.

Design Review Committee RE: Lisa Maselli – This meeting was to determine the process to take. Ms. Joubert said Town Counsel has the boards' questions and will be responding. Once received, she will share it with the board.

Ms. Milton made a motion to adjourn; Ms. Gillespie seconded; roll call vote: Poretsky-aye; Milton-aye; Ziton-aye; Gillespie-aye; Martinek-aye; motion approved.

Planning Board Meeting Minutes – May 4, 2021

The meeting was adjourned at 10:16 pm.

Respectfully submitted,

Melanie Rich
Board Secretary