



Town of Burlington  Planning Board

Minutes of the Planning Board Meeting of June 17, 2010

1. Chairman Covino called the regular session to order at 7:00 p.m. with Vice Chairman Roth, Member Clerk Cummings, and Members DeFrancesco, Raymond, and Hyde. Member Impemba was expected to arrive later in the meeting

2. **Executive Session**

MOTION – To enter Executive Session for the purpose of discussing personnel matters, and to reconvene in Regular Session at the conclusion of the Executive Session.

Member Hyde – Aye
Member DeFrancesco – Aye
Vice Chair Roth - Aye
Member Cummings – Aye
Member Raymond – Aye
Chairman Covino – Aye

MOTION – To reconvene in Regular Session.

Member Hyde – Aye
Member DeFrancesco – Aye
Vice Chair Roth – Aye
Member Cummings – Aye
Member Raymond – Aye
Chairman Covino – Aye

3. **Reconvene in Regular Session**

The Board reconvened in Regular Session at 7:40 p.m.

4. **Minutes**

MOTION – To accept the minutes of April 15, 2010

APPROVED: 5-0-1 (Member Raymond abstained, Member Impemba not yet present)

MOTION – To accept the minutes of May 6, 2010

APPROVED: 5-0-1 (Member Raymond abstained, Member Impemba not yet present)

5. **Citizens Time**

Greg Smith, 36 College Road, expressed concern about a number of abandoned buildings around town. Chairman Covino said that the Board has no jurisdiction in the matter of

abandoned buildings. Mr. Smith said that a fire hazard might exist, and Chairman Covino suggested he call the fire department about that.

6. Announcements/Chairman's Comments (By Director Fields)

- a) The 90 day deadline to submit zoning articles for September Town Meeting will be Tuesday, June 29, 2010.
- b) Sunday, July 4, 2010 - 4th of July Parade and Fair - Events will be held on the Common and the Parade "walks off" from the Burlington High School

7. Legal Notices of Interest **None**

8. Non-Approvals **None**

MOTION – To take item “10.c” out of order

APPROVED: 6-0-0 (Member Impemba not yet present)

10. Matters of Appointment

- c) Continued Public Hearing – Petition to rezone property located at 36 Muller Road to the Planned Development (PD) District – Submitted by Symes Development & Permitting, LLC

Continued without discussion or comment.

MOTION – To continue this matter to the Planning Board meeting of July 15, 2010, as requested by the applicant's attorney in a letter dated June 17, 2010.

APPROVED: 6-0-0 (Member Impemba not present)

MOTION – To take items “d”, “e” and “f” together out of order

APPROVED: 6-0-0 (Member Impemba not yet present)

- d) Continued Public Hearing – Application for Approval of a Site Plan – Off Scott Avenue – Murray Hills Inc., Applicant
- e) Continued Public Hearing – Application for Approval of an Erosion and Sedimentation Permit pursuant to Section 14 of the General Bylaws – Off Scott Avenue – Murray Hills Inc., Applicant
- f) Continued Public Hearing – Application for Approval of a Special Permit pursuant to Section 4.3.1.19 "Garage space for parking more than three automobiles" of the Zoning Bylaws – Off Scott Avenue – Murray Hills Inc., Applicant

Continued without discussion or comment.

MOTION – To continue these matters to the Planning Board meeting of July 15, 2010, as requested by the applicant’s attorney in a letter dated June 17, 2010.

APPROVED: 6-0-0 (Member Impemba not yet present)

9. Administrative Matters

a) Discussion – Application for Approval of a Minor Engineering Change – 54 Burlington Mall Road– RJK Mall Road Nominee Trust, Applicant

Scott Kelly represented the applicant. Mr. Kelly is seeking to expand the footprint of the building by adding an elevator. The elevator is required under the ADA due to the nature of other building improvements. There are also façade improvements and installation of new windows. The work is within the Conservation Commission jurisdiction, and the Commission is expected to issue an order of conditions at its next meeting.

Vice Chairman Roth read departmental comments, which were generally favorable. The Board reviewed the plans and concurred that the improvements were reasonable.

MOTION - To approve the request for approval of a Minor Engineering Change for property located at 54 Burlington Mall Road to modify the existing building by adding a (67SF) elevator shaft, update the existing façade and add a stormceptor to the parking area, as reflected on plans entitled, “Site Plan, 54 Burlington Mall Road, Burlington, MA” said site plan prepared by Dresser, Williams & Way, Inc. dated May 8, 2010, subject to the following terms and conditions:

1. All previous conditions of approval affecting the property shall continue to apply, except as may be specifically modified by this decision.
2. The applicant and/or property owner shall comply with all building and fire safety codes, and all recommendations and conditions of the Inspector of Buildings and Fire Department pertaining to such codes.
3. All handicapped parking shall be properly posted in accordance with the requirements of the Americans with Disabilities Act. All handicapped accessibility improvements shall comply with the Massachusetts Architectural Access Board Rules and Regulations.
4. A Stormwater Operation and Maintenance Agreement shall be submitted to the Board of Health which indicates that: 1) all on-Site drainage structures, and 2) all paved areas at the Site will be cleaned and maintained at least four times annually, and immediately after any chemical release. The agreement should include a maintenance schedule and an agreement to submit maintenance records to the Board of Health as they are generated. The lot owner and all future record lot owners, must also submit information that confirms that all street sweepings and catch basin sediments have been disposed in accordance with state and local requirements. The Board of Health should be provided with the name and contact information of the current owner and all future record lot owners, who will be responsible for scheduling the Operation and Maintenance requirements.

5. During construction work, dust, odor and noise control plans should be in place.
6. The hoods within the proposed catch basins will consist of Snout systems or equivalent.
7. The applicant and/or property owner shall revise the approved Site Plan, and submit one mylar and one set of revised prints of such Plan for endorsement by the Planning Board within two (2) weeks of this approval. Upon endorsement of the revised mylar and plans by the Planning Board, the applicant shall produce an additional five (5) sets of blue or black line prints from the endorsed mylar within two (2) weeks of such endorsement.

APPROVED: 6-0-0 (Member Impemba not yet present)

Member Impemba arrived for the meeting at 7:50 p.m.

10. Matters of Appointment

- a) Continued Public Hearing – Application for Approval of an Definitive Subdivision – 15R Pathwoods Avenue (now proposed as “Hannah Way” off Joanne Road) – Murray Hills Inc., Applicant

The Board and the applicant concurred to table this matter until later in the meeting.

- b) Public Hearing – Petition to amend, modify or rescind the Rosario Meadows Definitive Subdivision Plan – Submitted by the Planning Board

Mike Austin and Martin Montello were present

Director Fields said that Mr. Austin had requested an extension of time to complete the subdivision, but that the Board had wanted to discuss a revised layout or rescission of the subdivision due to lack of activity over the past three years. Mr. Austin then gave a history of recent progress and requested a one-year extension of time to complete outstanding work.

Vice Chairman Roth then commented that water tests do not constitute physical progress. Director Fields said that there are questions about the quality of previous work, and noted that the Board has had an issue with the configuration of lots that they want to discuss further. Mr. Austin said that while the Board may not like the way it got here, nevertheless he would still ask for a one-year extension to complete work. Member Raymond suggested that the Board think about the matter further and continue the discussion. Member Impemba said that he would like to hear abutter preferences. Member Cummings asked if there is land area sufficient for three lots. Director Fields said that there is, though the present configuration results in a narrow strip. He then mentioned the Board’s lot width initiative, and said that alternative layouts had not been explored. Vice Chairman Roth said that he is bothered by the three-foot strip of land created by the present configuration of lots and that he wants a new plan. He said that the

subdivision has expired and that he supports rescinding it. Member DeFrancesco suggested hearing from neighbors. Member Hyde asked about the condition of the site. Director Fields said that storm drains are in and that the asphalt binder coat is on. Member Hyde said that she is concerned about the developer walking away.

Martin Montello spoke about the challenges he has faced with construction. He said that a contractor he hired took money from him without performing work and that he has been in court 2.5 years trying to collect. He said he paid for water infrastructure and sidewalks. He said he has now hired a legitimate contractor and will get work done. He suggested completing the work and getting the property on the tax roll.

Donald Mead, 84 Francis Wyman Road, said that work on the subdivision has been underway for 12 years. He argued that the site is not big enough for three lots. He expressed concerns about frontage, wetlands, and headlights. Chairman Covino asked about the assertion that work had been underway for 12 years. Director Fields said that the subdivision was approved in 2002. Chairman Covino asked about Mr. Mead's preference. Mr. Mead said that his preference is for one house.

Eugene Knowles, Cedar Street, said that the subdivision had been a bone of contention for years. He noted that the drainage is not complete, that the Town just recently had to fix a problem pavement patch in Francis Wyman Road, and suggested that the Board rescind the subdivision.

Jeannette Mead, 84 Francis Wyman Road, also suggested that the Board rescind the subdivision, citing concerns over a retaining wall and trees that were promised but not installed.

Trey Mathews, 4 Luther Road, spoke in favor of rescinding the permit.

Mark McLean, 2 Luther Road, added his preference that the Board rescind the subdivision, noting that work was only intermittent when started, then nothing has happened for the past few years.

Tim Brown, 8 Luther Road, expressed concerns about the water table, and that the intersection has created a safety issue, and said he is in favor of rescinding the subdivision.

Andrea McLean, 2 Luther Road, suggested rescinding the subdivision and starting over.

Member Raymond said that it is clear what the neighbors want.

Mr. Austin asked that the record reflect that Board members had emphasized prior litigation concerning the property.

Board discussion ended without further comment from the audience.

MOTION – To instruct the Planning Director to prepare motions to rescind the subdivision.

APPROVED: 7-0-0

MOTION – To continue this matter to the Planning Board meeting of July 15, 2010.

APPROVED: 7-0-0

MOTION – To take item “a” off the table.

APPROVED: 7-0-0

- a) Continued Public Hearing – Application for Approval of an Definitive Subdivision – 15R Pathwoods Avenue (now proposed as “Hannah Way” off Joanne Road) – Murray Hills Inc., Applicant

Mark Vaughan and Michael Murray represented the applicant. Mr. Vaughan opined that the sole remaining area of concern is drainage. He noted that Griffin Engineering had done a peer review of drainage calculations and had concluded that peak flows and volume will not increase. Director Fields said that the peer review summary had been inserted in Board Member’s books and that Mr. Griffin himself is present. Director Fields said that the finding of peer review is that the proposed design controls runoff, the same conclusion reached by the Conservation Commission, the Board of Health, and the Town Engineer.

Dave Romero, project engineer, summarized changes that the peer review had suggested, including alterations to the infiltration system, downspouts, addition of inverts, a tank detail, and a snout detail. Mr. Romero said that he had addressed all of the peer review suggestions.

Bob Griffin, peer review engineer, said that the design is based on reasonable assumptions. He added that the design model is widely used and correct, and that it meets all DEP requirements. Member Impemba asked if the peer review engineer would guarantee the design’s performance. Mr. Griffin said that the design is well thought-out, and will handle a 100 year storm. Vice Chairman Roth then asked where runoff will go. Mr. Griffin said that with the proposed design less land is tributary to the wetlands, and that less water will therefore flow to the wetlands. Vice Chairman Roth then asked about the proposed interceptor trench. Mr. Griffin said that the trench is a good feature. Next, Vice Chairman Roth asked if Mr. Griffin’s review is based on materials submitted to him, or on a site examination. Mr. Griffin said that his review is based on materials submitted to him. Member Impemba sought to clarify that Mr. Griffin had not himself gathered information about site conditions. Mr. Griffin said that he had not. Member Raymond said that he assumed the Board would get exactly this answer from peer review.

Paul Halloran, 11 Pathwoods Avenue, said that he feels very frustrated, and is sure that conditions will worsen. He asked if Mr. Murray will pay if things get worse. He also predicted that he would have problems selling his house as he would need to make a disclosure about flooding. He asked if the town will cover his loss. He said that EPA rules state that building near wetlands is prohibited. Chairman Covino said that three engineers have said the design will work.

Sarah Wolinski, 2 Forest Road, asked if a condition might be added prohibiting the house from having a patio or additional impervious surface. Director Fields said that any development activity within 100 feet of a wetland would trigger Conservation

Commission review. Ms. Wolinski then asked about isolator rows in infiltration units. Mr. Romero said that the largest of the units proposed has isolator rows. Ms. Wolinski then asked about what would happen if subsequent owners of the property did not take care to maintain the system in good order. She said neighbors would bear the burden of such neglect. Director Fields said that the Town has a right of access if an owner fails to maintain the system.

Mike McLaughlin, 13 Pathwoods Avenue, questioned whether runoff would increase. Mr. Griffin said that as designed less water would flow to the wetland. Mr. McGlaughlin asked if springs on site had been a part of design calculations. Mr. Griffin said that springs had not been included, just runoff. Mr. McGlaughlin then asked about the water table. Mr. Griffin said that the seasonally high water table had been taken into account. Mr. McGlaughlin then asked if a swale is the best way to control runoff draining toward the neighbor. Mr. Griffin said that an interceptor trench is a good approach. Chairman Covino asked Mr. Griffin if he is satisfied the design will succeed. Mr. Griffin said that he stands by his earlier assertion of confidence in the design. Chairman Covino then suggested that Mr. McGlaughlin might take his drainage concerns to the selectmen.

Member Raymond then observed that the Board had never spent so much time on a proposal for a home. He said that the application is difficult for the Board to deny.

Member Impemba said that he feels there are serious unanswered issues.

Chairman Covino asked if the requested waivers are typical, to which Director Fields answered yes. Chairman Covino then asked if any conditions are unusual. Director Fields replied negatively.

The Board discussed drainage in the area of the proposed home.

Board discussion ended without further comment from the audience.

MOTION – To close the Public Hearing on this matter.

APPROVED: 7-0-0

MOTION - Pursuant to Section 2.5 of the Planning Board Rules and Regulations Governing the Subdivision of Land, and pursuant to MGL Chapter 41, Section 81-R, the Planning Board hereby considers the following Waivers from the Subdivision Rules and Regulation, some requested by the applicant and others offered by the Planning Board, for the Definitive Subdivision Plan entitled “Definitive Subdivision Plan of Land, Hanna Way, Burlington, Massachusetts, Middlesex County” submitted by Michael M. Murray, Jr. of Murray Hills, Inc, on March 5, 2010 said plan prepared by Commonwealth Engineering Inc., dated, April 22, 2010, revised to June 14, 2010:

Section 3.7	Construction Inspection fee
Section 6.1.12	Centerline Test borings
Section 6.1.16 & 6.5	Impact Statement
Section 6.2.11(c)	Water ways and water bodies adjacent to the subdivision within 300 feet.
Section 6.2.16	Topography extending 300 feet beyond the property

Section 6.2.23	Width and location of existing and proposed driveways for each lot along the roadway providing access to the subdivision for a minimum distance of 150 feet from the boundary of the subdivision.
Section 6.3.3	Horizontal and Vertical Scale
Section 6.6.4	Approval Criteria
Section 10.1	General Requirements of streets
Section 10.3	Intersection of ways
Section 10.2	Pavement Width
Section 10.6	Sidewalk
Section 10.4	Cul-de-Sac
Section 10.17	Looped Water Main
Section 10.10	Parks and Open Space
Section 10.13	Cul-de-sac plantings

The Waivers requested above have been reviewed, and the Planning Board finds certain waivers to be appropriate, and modifies or denies others, for the following reasons:

The construction inspection fee can be waived because the proposal involves the construction of the equivalent of a driveway to access the lot.

The Centerline test borings can be waived because the proposal involves the construction of the equivalent of a driveway to access the lot.

The applicant's engineer has provided topography for those lots directly abutting the site and this information is adequate to allow the Planning Board to evaluate the impacts of the proposed subdivision on abutting properties.

The Planning Board waives the frontage compliance under the zoning bylaw since the proposed lot and access meet the requirements of public safety, including reasonable precautions against traffic safety and convenience and is designed with due regard to the rights health and welfare of Burlington residents of the proposed subdivision.

The Planning Board finds that the proposed pavement width of twenty (20) feet is adequate for the purposes of serving as access for the one (1) proposed lot.

Looping of the water main may be waived due to the short length of the proposed way. The applicant's engineer has designed a water line which will connect to a hydrant at the end of the street. This would allow the line to be accessed for maintenance.

The proposal is only for one additional lot on a way that does not currently have sidewalks.

APPROVED: 6-1-0 (Member Impemba opposed)

MOTION - Pursuant to Section 2.4 of the Planning Board Subdivision Rules and Regulations, the Planning Board hereby finds the "Hanna Way" Definitive Subdivision Plan application submitted by Michael M. Murray, Jr. of Murray Hills, Inc, for a one (1) lot subdivision, to be a complete and proper submission.

APPROVED: 5-2-0 (Member Impemba and Vice Chairman Roth opposed)

MOTION - To approve the Definitive Subdivision Plan entitled, entitled “Definitive Subdivision Plan of Land, Hanna Way, Burlington, Massachusetts, Middlesex County” submitted by Michael M. Murray, Jr. of Murray Hills, Inc, on March 5, 2010 said plan prepared by Commonwealth Engineering Inc., dated, April 22, 2010, revised to June 14, 2010 to be further revised as conditioned herein, reflecting a one (1) lot, subject to the following terms and conditions:

1. Prior to endorsement of the Subdivision Plan by the Planning Board, the applicant shall enter into a Conditional Approval Covenant or other performance guarantee provided by MGL Chapter 41, Section 81-U for recording with the subdivision plan at the Registry of Deeds, to ensure the proper performance of all required subdivision improvements (subdivision way, municipal services, and related utility services) shown to serve such one (1) lot being created.
2. Prior to endorsement of the Subdivision Plan by the Planning Board, the applicant shall record with the Registry of Deeds a Subdivision Roadway Maintenance Covenant, in which the subdivider, or heir, or successor to the subdivider, and all future record lot owners, agree to provide for the long-term maintenance of “Hanna Way” and all improvements within the way including all drainage structures in perpetuity.
3.
 - a) Prior to endorsement of the Subdivision Plan by the Planning Board, the applicant shall prepare for recording with the Registry of Deeds a Drainage Maintenance Manual which outlines the appropriate inspections and maintenance procedures for all of the drainage structures and systems reflected on the Subdivision Plan. The Drainage Maintenance Manual shall be acceptable to the Planning Board, Board of Health, and the Town Engineer. The maintenance of all drainage structures on the lot and within Hanna Way shall be the responsibility of the record lot owner, as shown on the subdivision plan in perpetuity, and shall not be the responsibility of the Town of Burlington to maintain. The Drainage Maintenance Manual shall provide for a minimum of twice annual inspection and maintenance of all drainage structures and systems. The record lot owner shall submit an annual report to the Town Engineer indicating results of inspection and any maintenance activity undertaken. The deed for the Lot shall clearly reference the obligations of the Lot owner to comply with such maintenance requirements.
 - b) The Subdivider shall perform a twice annual cleaning and maintenance of the drainage units within the Right of Way.
 - c) The applicant shall also prepare and submit to the Planning Board, easement documents for the drainage system. The easement shall be beneficial to the owner of the Lot and to the Town of Burlington, for the purpose of allowing inspection and maintenance of the drainage system, in the event that the owner of the Lot fails to comply with the drainage maintenance responsibilities. This condition shall not obligate the Town to perform such maintenance. The dimensions and purposes of such easements shall be reflected on the Subdivision Plan prior to endorsement by the Planning Board, and shall be recorded with the record deed for the Lot. The location of the drainage system easements shall be indicated on the subdivision plan.

- d) The subdivider shall install oil/water separating snouts or equivalent in all on-site catch basins. All catch basins shall be equipped with four (4) foot deep sumps.
4. Prior to the endorsement of the Subdivision Plan by the Planning Board, the applicant shall revise the plan to reflect the following:
- a) A note shall be added to the plan which states “This approval is for a one (1) lot subdivision. Any future proposal to create any additional lots shall be submitted to the Planning Board for review as an amendment to the subdivision”.
 - b) A note shall be added to the plan to indicate responsibility of the drainage structures. The note shall state “The maintenance of all drainage structures including regular inspections of the infiltration systems and clean out the catch basin and the large infiltration system on the lot and within Hanna Way shall be the responsibility of the record lot owner, as shown on the subdivision plan in perpetuity, and shall not be the responsibility of the Town of Burlington to maintain”.
 - c) Location of all bounds or monuments
 - d) Location of the two street trees per lot
 - e) Location of street lights (if deemed necessary in consultation with the Safety Officer and Town Engineer)
 - f) Show all stormtechs, including the 12 located in the yard and the pertinent elevations.
 - g) Label the nyloplast manhole just before the driveway stormtechs.
 - h) A detail of the trench drain/swale along the southern property boundary shall be shown on the plan.
 - i) A detail of the Vertical Granite curbing shall be shown on the plan.
 - j) A detail of the StormTech® SC-310 chamber including a detail of the inspection port.
 - k) Manhole providing access to the Isolator Row in the infiltration system.
 - l) A typical snout detail
 - m) Label the trench as an “Interceptor Trench”.
 - n) The downspouts and the roof drains, with appropriate size and invert information, and the respective conveyance locations including pipe size, piping material and proposed inverts.

- o) The 12-inch drain pipe has been properly labeled. We are proposing 12-inch High Density Polypropylene pipe with a slope of 1 percent. Inverts are shown on the plan.
 - p) The deck is to be made of wood with openings between the planks for water to pass through. Under the wooden deck is a solid decking system (UnderDeck Water Diversion System) used to catch and convey water to a downspout. This will prevent water from reaching the ground under the deck. The surface area of the deck is included in the calculations.
 - q) All revised surface contours.
 - r) The inspection port cover and the 30-inch nyloplast manhole, subject to traffic shall be AASHTO H-20 rated.
 - s) The interceptor trench shall be lined with filter fabric to prevent fine particles from clogging the system.
5. The construction of the subdivision way and the installation of all municipal services and improvements shall be completed in accordance with the details specified on the Subdivision Plan and the conditions of this decision, prior to the final release of any Conditional Approval Covenant or other performance guarantee. Such construction shall be completed within a period of two (2) years from the date of the approved Subdivision Plan and any Conditional Approval Covenant are recorded at the Registry of Deeds, unless a formal extension of time is requested by the subdivider and granted by the Planning Board.
 6. All trees to remain shall be clearly marked in the field prior to the start of construction.
 7. All pavement/asphalt materials removed from the premises shall be properly disposed of by a licensed contractor, and documentation of such disposal shall be submitted to the Board of Health and the Conservation Commission.
 8. The applicant shall provide to the Board of Health, Conservation Commission, Building Department, Planning Board and Town Engineer the name and contact information of the project manager during construction.
 9. Abutting property lines shall be clearly identified in the field to ensure that any construction activity related to road construction and dwelling construction does not encroach onto an abutting property.
 10. The applicant or subdivider shall obtain a street opening permit from the DPW prior to the opening of any public street for purposes of connecting water, sewer, drainage, gas, electrical, any other activity utilities within the subdivision. Pavement patching following the connection of utilities shall be subject to the approval of the DPW Superintendent.
 11. The applicant shall provide advanced notice to the General Development Inspector or a DPW representative, prior to the installation of any sewer line connections such that the line and grade of the lateral connection for each lot is verified by Town staff.

12. Prior to the commencement of paving of the subdivision roadway, the applicant shall give 48 hours notice to the DPW Superintendent and the General Development Inspector.
13. No construction activity within the subdivision shall take place prior to 7:00 a.m. or after 7:00 p.m., Monday through Saturday, and no construction shall be permitted on Sundays.
14. Any construction activity within 100 feet of a wetlands or resource area shall be submitted to the Conservation Commission for review and approval. The applicant and/or property owner comply with the recommendations and conditions of any Order of Conditions issued by the Conservation Commission. In the event that the conditions of the Conservation Commission necessitate any revision to the approved Definitive Subdivision Plan, the applicant and/or property owner shall be required to submit a revised plan for Planning Board approval in accordance with the Planning Board's Subdivision Regulations.
15. The applicant shall use appropriate measures to protect materials and any adjacent drainage structures from erosion and sedimentation during any excavation.
16. As soon as possible during construction, all upland areas shall be brought to final finished grade and all slopes created as a result of cut or fill shall be stabilized to prevent erosion by either loaming and seeding or stabilized in another manner approved by the Planning Board.
17. All debris and construction refuse shall be disposed of promptly and properly, and the construction site shall be maintained in a clean condition. A dumpster shall be used during the construction process to contain waste construction materials and debris.
18. Granite bounds shall be set at all front property corners, installed at all points of curvature in the road layout and indicated on the Subdivision Plan. Prior to the final release of any performance guarantee, a surveyor's certificate shall be required certifying that the bounds have been set and are correctly located.
19. The applicant shall be responsible for the installation of two (2) street trees per lot, in accordance with Section 10.12 of the Subdivision Rules and Regulations. Such trees may be planted on properties behind the sidewalk. Specific species shall be subject to the approval of the Planning Director.
20. The applicant shall maintain a copy of the approved Subdivision Plan, the Conditional Approval Covenant, and the conditions of approval on the site during construction. Copies of these documents shall be provided to any broker, agent, builder, attorney, subcontractor, or other persons authorized to act in the development.
21. No performance guarantee or surety shall be fully released until the following have taken place:
 - a) A set of "Final As-built Plans" have been submitted to the Planning Board and approved by the Town Engineer; the applicant and/or property owner shall submit one (1) mylar, four (4) paper and two (2) hard copy CAD drawing

(compatible with the Town's CAD systems) of an as-built plan of all underground utilities (including telephone, electric, gas, water, sewer, storm drainage) to the Planning Board. The as-built shall include horizontal ties and depth of and/or elevation of any handholes, manholes, valves, gates, cleanouts, tees, elbows, bends, etc. to fixed points of reference. The as-built plan shall also include any specific infrastructure operation and maintenance requirements, a brief outline of the drainage maintenance agreement approved by the Town, and any other pertinent information requested by the Planning Board.

b) The applicant must submit to the Planning Board and the Town Engineer a street acceptance plan for the extension of Joanne Road pursuant to 8.14 of the subdivision regulations, along with a detailed narrative describing the street, subject to review by the Town Engineer. The applicant shall also submit a deed for the conveyance of the fee in the Joanne Road to the Town for acceptance as a public way.

c) A certificate of compliance signed and stamped by a Professional Engineer that the completed construction complies with the approved Definitive Subdivision Plan and any changes approved by the Planning Board subsequent to the original approval; and,

d) The applicant shall provide easement documents granting the Town of Burlington access over all drainage easements, to permit the Town to perform maintenance or repairs in the event of emergency or failure of a record lot owner to perform required maintenance. This right of access shall not be deemed to preclude the responsibilities of the record lot owners for maintenance of the drainage structures and systems.

22. The applicant or successors in ownership of the subdivision shall be responsible for maintaining the proposed subdivision way as a private way, and shall be responsible for maintaining all public improvements within the subdivision, including but not limited to drainage systems and structures, sewer system, the roadway surface, curbing, and other required municipal utility and subdivision improvements, in a satisfactory manner.
23. The applicant shall install and maintain a stone apron of 4"-6" stones at least 30' in length to be used throughout all construction phases between all work areas and paved areas. Sediment tracked onto Joanne Road, shall be swept at the conclusion of each construction day, until all work areas have been properly stabilized.
24. The applicant shall review street lighting locations with NSTAR, the Town Engineer and the Traffic Safety Officer. The applicant shall be responsible for installing any street lighting deemed necessary by the Town Engineer. If street lights are proposed for the subdivision way in the future, such lights shall be equipped with shields such that the lights do not shine onto adjoining property. A "Cut-off Luminaire" type light fixture, or equivalent, shall be installed at all proposed street light locations.
25. The applicant shall be responsible for the provision and installation of a way sign, at the intersection of Joanne Road and the proposed Hanna Way, subject to the approval of the appropriate Board. Any additional traffic safety signage deemed appropriate by the Board of Selectmen in consultation with the Traffic Safety

Officer, DPW Superintendent, or Town Engineer, shall be provided and installed by the applicant.

26. The use of sodium chloride for deicing any impervious surface within the subdivision shall be prohibited. Calcium Chloride or other deicing chemicals, as approved by the Conservation Commission, may be used.
27. The applicant shall be considered advised of the Department of Environmental Protection (DEP) moratorium restricting changes in use and increases of discharge into existing sewer lines.
28. Approval of this subdivision, and of specific waivers of the subdivision requirements which are previously listed in this decision, is given only for the one (1) lot shown on the Subdivision Plan to be endorsed by the Planning Board, and such endorsement shall be withheld until the applicable requirements of conditions 1, 2, 3, and 4 listed in this motion have been met. No further subdivision to create more than one (1) building lot shall be permitted except through a formal public hearing on a revised subdivision plan.
29. All improvements shall be constructed in accordance with the Endorsed Definitive Subdivision Plan. No deviations from the Plan shall be permitted without prior authorization from the Planning Board. The applicant and property owner are advised that no field modifications may be made without preliminary authorization from the Planning Staff, to determine if any subsequent applications need to be filed for further review and approval of the Planning Board.
30. Prior to the issuance of any Temporary or Final Certificate of Occupancy for any dwelling, the applicant and/or property owner shall submit an as-built plan or other suitable sketch of the underground utilities (including telephone, electric, gas, water, sewer, storm drainage) serving such dwelling to the Planning Board. The as-built shall include horizontal ties and depth of and/or elevation of any handholes, manholes, valves, gates, cleanouts, tees, elbows, bends, etc. to fixed points of reference. This requirement may be waived upon completion of the formal As-built Plan required in condition 21(a).
31. The applicant shall submit one mylar and one set of blue or black line prints of the approved subdivision plan for endorsement by the Planning Board. Following endorsement and recordation of the Subdivision Plan, the applicant shall submit, one (1) mylar and eight (8) sets of blue or black lined prints of the endorsed Subdivision Plan to the Planning Board office, along with copies of all other documents recorded with the Subdivision Plan, including the book and page numbers for all plans and documents recorded with Registry of Deeds or Land Court for this subdivision.

APPROVED: 5-2-0 (Member Impemba and Vice Chairman Roth opposed)

MOTION – To take items “g” and “h” together for discussion purposes.

APPROVED: 7-0-0

- g) Public Hearing – Application for Approval of a Site Plan – 145 South Bedford Street - Northeastern University, Applicant
- h) Public Hearing – Application for Approval of an Erosion and Sedimentation Permit pursuant to Section 14 of the General Bylaws – 145 South Bedford Street - Northeastern University, Applicant

Attorney Robert Buckley and Northeastern Dean of Engineering David Luzzi represented the applicant. Mr. Buckley introduced the proposal to build a unique facility in the country. Dean Luzzi said that funds for the proposed building had been donated by a single person with an abiding concern for homeland security, particularly internet security. He said that for the most part the facility will house research into secure access technologies, providing improved security against software attacks.

Member Hyde asked how many students will attend. Dean Luzzi said that faculty, post-doctorals, and graduate students, totaling about 100 people, will comprise those who use the facility. Mr. Buckley said that the facility is proposed at 70,000 square feet.

Member Raymond asked about federal funding and defense contracts. Dean Lesley said that funding for research will come from the National Science Foundation and from the Department of Homeland Security. Member Raymond asked if the facility will house manufacturing. Dean Lesley said that while the research is use-inspired, product development would be left to the private sector. Mr. Buckley asked if spin-offs are likely, and Dean Lesley replied affirmatively. Member Raymond then asked about building access security. Mr. Buckley said that security would be similar to the Sun campus, with 24/7 staff.

Chairman Covino asked (tongue in cheek) if there would be any holding cells. Mr. Buckley said that the facility is research only. Chairman Covino asked if research into making buildings more explosion resistant would entail any explosions. Dean Lesley said that it would not.

Vice Chairman Roth said the facility will function as a magnet to draw related industry. Vice Chairman Roth suggested involving Burlington secondary school students. He said he planned to meet with Superintendent Conti.

Project engineer Sandy Brock displayed the site plan and outlined the particulars of the proposal. The 70,000 square foot, 3-story building, and associated site work will affect about 4 acres of the existing campus. Construction is proposed on existing paved surfaces. The existing campus parking lot accommodates 1,000 cars. She said that impervious surface will be reduced, and that a bio-retention area will accommodate runoff. She also spoke to issues of utility placement and grading.

Member Raymond asked about the current zoning. Director Fields said that it is zoned RO. Member Raymond then noted the site's adjacency to Mary Cummings Park and disclosed his former role on the Board of Directors for the Friends of Mary Cummings Park. Mr. Buckley said that litigation with the Friends of Mary Cummings Park does not impact the present proposal.

Member Cummings asked where Lahey workers park. Ms. Brock indicated the location.

Traffic engineer Sam Offei-Addo gave a traffic summary, including a summary of the worst areas of back-up. He said the traffic at the facility is not peak hour driven, that there will be fewer daily trips than now, and that traffic overall will decrease. Chairman Covino asked about existing issues at the intersection at South Bedford Street and Cambridge Road. Mr. Buckley said that the developers will work with neighbors to effect changes at the state level. Vice Chairman Roth suggested avoiding peak hour start and stop times. Mr. Buckley said he could see that information is distributed to employees and students.

Architect Al Spagnolo displayed the renderings and said that the majority of space in the building is devoted to research. He noted that the developer will seek a LEED “Silver” rating. He added that the rooftop mechanical systems will be screened and that signage will honor the major donor of the facility. He indicated that the front of the building will house a meet and greet space and perhaps a small café.

Vice Chairman Roth read departmental comments into the record:

DEPARTMENTAL REPORTS

Department	Recommendation	Date Received
Board of Selectmen	Favorable	June 17, 2010
Inspector of Buildings	Favorable	June 14, 2010
DPW/ Engineering	Favorable w/comments	June 8, 2010
Police Dept.	Favorable w/comments	June 15, 2010
Fire Dept.	Favorable w/comments	June 2, 2010
Board of Health	Draft Conditions	June 15, 2010
Conservation	Favorable w/comments	June 17, 2010

Mr. Buckley confirmed that the applicant will address all conditions.

Chairman Covino asked about the composition of a proposed circular path within the driveway to the building. Ms. Brock said that the circle indicates unique treatment of the paving. Vice Chairman Roth said that the Board has limited review of the project given that it is an educational facility. Member Raymond asked about laboratory space. Mr. Buckley said that lab space is on the first floor.

Ken Mayo, 131 South Bedford Street, raised concerns about traffic, drainage, hours of construction and light pollution. Chairman Covino assured him that the contractor will obey local bylaws. Chairman Covino also said that several existing buildings will be “mothballed,” which will mean a reduction in student traffic. He then said that the “bad” traffic light is located in Woburn and that the proposal has large areas of paving turning to grass. Mr. Mayo submitted photos of local peak-hour traffic and of runoff during a heavy storm.

Member Raymond spoke about light pollution control. Mr. Buckley said that the LEED “Silver” rating requires light pollution control.

Director Fields said that runoff will be reduced. Ms. Brock said that all runoff from the site will flow into the bio-retention area. Member Raymond asked about plantings along the edge of the property. Member Cummings said that the area beyond the edge of the property is heavily wooded.

Member Raymond noted that the Board usually does not open and close a public hearing in one night but that a lot of work had gone into the proposal prior to opening before the public.

Chairman Covino asked if any of the conditions are out of the ordinary. Director Fields said that the conditions of the Board of Health, Town Engineer, and Fire Department are lengthy, but not unusual.

Item “g” – Site Plan

MOTION – To close the public hearing on this matter.

APPROVED: 7-0-0

MOTION - To approve the request of Northeastern University for approval of a Site Plan for property located at 145 South Bedford Street (Northeastern), to construct a 70,000 square foot educational facility and associated parking and site improvements, as reflected on a Site Plan entitled, “Site Plan for George G. Kostas Research Institute at Northeastern University, Burlington Campus, 145 south Bedford Street, Burlington, MA” dated, May 5, 2010, revised to June 1, 2010, subject to the following revisions, terms and conditions:

Administrative conditions:

1. The applicant and/or property owner shall submit one record mylar and one print of the Site Plan for endorsement by the Planning Board within two (2) weeks of filing the decision with the Town Clerk. Upon endorsement of the record Site Plan mylar by the Planning Board, the applicant shall return the mylar to the Planning Board office with six (6) sets of blue or black line prints and two (2) hard copy CAD drawing files on disk compatible with the Town’s CAD systems within two (2) weeks of such endorsement.
2. The plan shall be revised to show the following prior to endorsement by the Planning Board:
 - a. A note shall be added to the plan in the area of the proposed generator that states “The future generator must be powered by natural gas; a diesel fuel powered generator is prohibited”.
 - b. Applicant should provide Right-Size Water Meter calculations based on AWWA M22 standards to show that the existing or proposed water meter is sized properly.
 - c. Utilities other than drains should not run through the bioretention area and should be relocated to within the asphalt driveway and parking lot.
 - d. Size and material of drain pipes should be labeled on the plans.
 - e. The Fire Lane along the rear of the building shall have appropriate signage to prevent 2-way traffic, in addition stripping and above grade signage shall be placed along the area to ensure long term visibility and a break-

away chain added, location and type subject to the review and approval of the Fire Department.

- f. Along the main driveway at South Bedford Street and the entrance drive to proposed building appropriate pavement markings and signage shall be added for vehicular and pedestrian safety in the area. All signage and pavement markings shall be subject to the review and approval of the Traffic Safety officer and the Planning Director. All signage and markings shall comply with MUTCD guidelines.
 - g. A “Do Not Block Driveway” sign shall be installed pursuant to the recommendations of the BSC Group in a traffic study dated May 29, 2010.
 - h. Rooftop runoff shall be directed to drywells or infiltrators, rather than be directed to the bioretention basin, unless infeasible due to environmental constraints (i.e. contamination).
 - i. The bioretention basin underdrain shall be least two feet above seasonally high groundwater
 - j. The location of any monitoring wells present at the property and the location of the “leach field” should be indicated on the Site plan. If any monitoring wells will be destroyed as part of site renovations, these wells shall be properly decommissioned in accordance with the Burlington Private Well Regulations.
 - k. The applicant should ensure that the dumpster enclosure is bermed on three sides and the concrete pad properly sloped towards the parking area catch basins.
 - l. A suitable barrier should be constructed around the entire perimeter of the on site detention basin.
3. The applicant and property owner shall be considered advised of the Department of Environmental Protection (DEP) moratorium restricting changes in use and increases of discharge into existing sewer lines. Prior to the commencement of any construction the applicant should analyze sewerage flow using Title V in current & proposed conditions to determine required sewer allocation.
 4. The applicant shall identify the parking areas for the proposed educational use and areas available for Lahey Clinic. These areas shall be separate and distinct so not to interfere with the operations of the Kostas educational facility parking.

Pre-Demolition Conditions:

5. All septic systems and tanks present at the site (three are shown on the Site Plan) should be sampled and properly abandoned and the historic “leach field” (as shown in Figure 2 of the Final RAO dated March, 1997) should be investigated and sampled. A representative of the Board of Health should be present to observe the abandonment of any septic systems or tanks remaining on site. A copy of all sampling results should be submitted to the Board of Health.

6. Any monitoring wells installed on the property must be constructed in accordance with the Burlington Private Well Regulations. Under these regulations, a permit application must be obtained from the Board of Health prior to the commencement of well construction. Permit applications include, but are not limited to, a plan showing the proposed well locations and proof of notification of abutting properties of the applicant's intent to install a well.
7. A representative from the applicant's environmental consultant, Haley & Aldrich, should be present during the excavation of the building footings and the sampling of the septic systems and leaching field.
8. If it is determined that a release of oil and/or hazardous materials or other conditions have occurred or should releases of oil and/or hazardous materials or other conditions be encountered during proposed site activities that warrant notification of the Massachusetts Department of Environmental Protection, as defined in the Massachusetts Contingency Plan 310 CMR 40.0000, the Town of Burlington Control of Toxic and Hazardous Materials Bylaw (Article XIV, Section 2.1.4) requires that all spills and releases be reported to the Board of Health and a copy of all documentation be submitted to the Board of Health concurrent with its submittal to the Massachusetts Department of Environmental Protection.
9. If subsurface drainage systems, such as drywells for the infiltration of roof runoff, are to be installed, then the Board of Health requires that any test pits conducted to assess for percolation rates shall be witnessed by the Health Agent. Findings of the test pit/percolation test, witnessed by the Health Agent, shall be submitted to the Board of Health for review.
10. If fill is required to be brought on-site for development, the source of the fill must be documented and the fill sampled if donated or acquired from a site that is not a quarry or virgin sand and gravel source.
11. All pavement/asphalt materials removed from the premises shall be properly disposed of by a licensed contractor, and documentation of such disposal shall be submitted to the Board of Health and the Conservation Commission.

Pre-construction conditions:

12. The applicant and/or property owner shall comply with all building and fire safety codes, and all recommendations and conditions of the Inspector of Buildings and Fire Department pertaining to such codes, including:
 - a. Install sprinkler system to NFPA 13 Standard. Permit required.
 - b. Standpipe system shall be installed per 780 CMR 905.38.
 - c. Addressable fire alarm system to be installed per Fire Department review and approval. Permit required.
 - d. Radio master box shall monitor fire protection alarm conditions.

- e. Signal communication 16 zone capacity. Automatic dialer on FACP to monitor trouble and supervisory conditions.
 - f. Bi-directional amplifier required per Town of Burlington By-law requirements.
 - g. Knox Box required.
 - h. Water pressure issues have been reported at the site. Pressure tests on the existing system should be performed to determine adequate pressure for proposed domestic and fire services. Results shall be submitted to the Fire Department and Engineering Department for review. If a pump house or other utility is proposed details shall be submitted to both departments prior to the issuance of a building permit.
13. Prior to the start of construction, a construction staging plan shall be submitted to the Building Inspector, the Planning Director and the Safety Officer for review.
 14. The applicant shall provide the name and contact information for the project manager to the Board of Health, Conservation Commission, Building Department, Planning Board, and Town Engineer. Updated contact information for all future property/project managers shall also be maintained with the Board of Health.
 15. The applicant and/or property owner shall provide twenty-four (24) hour notice to pertinent Town departments, including the Inspector of Buildings and the General Development Inspector, prior to commencing any work on the site which requires inspection by Town Staff.

Construction conditions:

16. During construction work, dust, odor and noise control plans should be in place.
17. No blasting will occur on-Site without Board of Health notification. If blasting is proposed, the proponent will have to obtain a permit from the Fire Department.
18. If excavation dewatering is required during the proposed Site activities, the Board of Health and Conservation Commission shall be notified and a dewatering plan shall be submitted for Board of Health review.
19. No construction activity shall be permitted prior to 7:00 a.m. nor after 7:00 p.m. on Monday through Saturday, and no construction shall be permitted on Sunday.
20. If excavation dewatering is required during the proposed Site activities, the Board of Health and Conservation Commission shall be notified and local, state and federal (NPDES) permits may be required.
21. The applicant and/or property owner shall use appropriate measures to protect materials and any adjacent drainage structures from erosion and sedimentation during any excavation.
22. Should releases of oil and/or hazardous materials or other conditions be encountered during proposed site activities that warrant notification of the

MADEP, the Town of Burlington Toxic and Hazardous Materials Bylaw requires that the Board of Health be notified of such releases the within the same time parameters.

23. All improvements shall be constructed in accordance with the Site Plan. No deviations from the Site Plan shall be permitted without prior authorization from the Planning Board. The applicant and property owner are advised that no field modifications may be made without preliminary authorization from the Planning Staff and/or Planning Board Chairman. Unauthorized deviations from the Site Plan may result in the Planning Board seeking the issuance of a Cease and Desist Order until the deviation is addressed. All proposed changes require review and approval by the Planning Board prior to the issuance of any certificate of occupancy.

Conditions for Certificate of Occupancy:

24. All handicapped parking shall be properly posted in accordance with the requirements of the Americans with Disabilities Act. All handicapped accessibility improvements shall comply with the Massachusetts Architectural Access Board Rules and Regulations.
25. The applicant and/or property owner may be required to conduct smoke or dye tests to any sink and floor drains, to verify that all such sinks and drains are connected to the municipal sewer system. Such testing shall be performed at the expense of the applicant and/or property owner and shall be witnessed by either the General Development Inspector, Board of Health staff, or a registered Professional Engineer, who shall certify the results of such testing. Any sinks or drains that are not connected to the sewer system shall be properly sealed and abandoned or connected to the sewer system, to the satisfaction of the Board of Health.
26. The applicant shall submit a snow management plan to the Planning Board for review and approval. Snow removal operations shall not involve the storage and stockpiling of snow adjacent to any wetlands or bioretention areas. There shall be no use of salts or other de-icing chemicals or compounds on the property, except for calcium chloride, pursuant to Article XIV Section 4.4 of the General Bylaw. Upon approval of the snow management plan, the applicant must post the appropriate signage in the designated areas which snow storage is prohibited. In the event that no snow storage areas can be found on-site that are amenable to both the Conservation Commission and the Planning Board, the applicant shall provide for the removal and off-site disposal of snow.
27. All landscaping shall be submitted as indicated on the Site Plan, or such landscaping plan as may be approved by the Planning Director, prior to the issuance of a certificate of occupancy. Alternatively, the applicant may provide a bond to cover the full amount of the landscaping materials and installation if weather conditions do not permit the completion of the landscaping prior to the anticipated occupancy.
28. Prior to the issuance of any Certificate of Occupancy, the Applicant and/or property owner shall submit one (1) mylar, four (4) paper copies and two (2) CAD drawing files on disk (compatible with the Town's CAD systems) of an as-built plan of all underground utilities (including telephone, electric, gas, water,

sewer, storm drainage) to the Planning Board. The as-built shall include horizontal ties and depth of and/or elevation of any handholes, manholes, valves, gates, cleanouts, tees, elbows, bends, etc. to fixed points of reference. The as-built plan shall also include any specific infrastructure operation and maintenance requirements, a brief outline of the drainage maintenance agreement approved by the Town, and any other pertinent information requested by the Planning Board.

Traffic

29. It is understood at the time of this application that operations in the existing buildings at the Northeastern Burlington campus are being scaled back and potentially eliminated. The Traffic Study prepared by the BSC Group, dated May 29, 2010 states that “The projected trips will not significantly impact the existing traffic operations in the vicinity of the site” (p.2), assuming that “the existing buildings are not being used” (p.1). At such time that any of the existing buildings on site are occupied a revised traffic report shall be submitted to ensure that traffic generation from the site will not adversely affect South Bedford Street, and that on-site parking capacity meets projected demands.

Ongoing Drainage Maintenance Conditions:

30. The applicant shall comply with the Stormwater management Standards and Best Management Practices promoted in the Massachusetts Department of Environmental Protection’s March 1997 Stormwater technical Handbook.
31. The proponent must submit a Drainage Operation and Maintenance Plan Agreement which indicates that: 1) all on-Site drainage structures inspected and cleaned, and 2) all paved areas at the Site will be swept and maintained at least four times annually, and immediately after any chemical release equal to or greater than five gallons. The agreement shall include a maintenance schedule and an agreement to submit maintenance records to the Board of Health as they are generated. Once generated, the property owner shall submit information that confirms that all street sweepings and catch basin sediments have been disposed in accordance with state and local requirements. The Board of Health shall be provided with the name and contact information of the Site manager or entity who will be responsible for scheduling the Operation and Maintenance requirements. Oil absorbent pillows will be placed in all catch basins;
32. The applicant shall prepare a Storm Water Operation and Maintenance Plan that includes at least the following minimum requirements:
 - a. The plan shall include the parties whom will be responsible for maintaining the on-site systems.
 - b. All on-site drainage structures and bioretention and infiltration areas and all paved areas shall be cleaned and maintained at least four times annually, and immediately after any chemical release equal to or greater than five gallons.
 - c. A maintenance log of all Best Management Practices with schedule and recommended cleaning and inspection procedures shall be created, with one copy to be maintained on site, and one copy each submitted

to the Board of Health, Conservation Commission, and Town Engineer. Maintenance records should be submitted as they are generated, but not less than annually.

- d. The applicant and/or property owner must also submit information that confirms that all street sweepings and catch basin sediments have been disposed in accordance with state and local requirements.
- e. The Board of Health, Planning Board, Conservation Commission and Town Engineer shall be provided with the name and contact information of the site manager or entity who will be responsible for scheduling the Operation and Maintenance requirements.

Ongoing operational and management conditions:

- 33. The applicant shall follow all health and safety standards and regulations established by federal, state, and local authorities, including the Environmental Protection Agency, the Massachusetts Water Resource Authority, the Massachusetts Department of Environmental Protection Agency, and the Burlington Board of Health.
- 34. Any future tenant using, storing or generating oils, hazardous materials, or hazardous biological materials should complete a Hazardous Materials Registration Form, for submittal to the Board of Health, in which all materials used and wastes generated on-Site would be listed and the storage locations indicated on a plan of the building. This form will be required of each tenant who will use, store or generate hazardous materials.
- 35. If there will be any food service, the proponent shall submit a Plan Review Application for the food establishment prior to the Board of Health issuing a Food Permit for the property.
- 36. If there will be any food service, a new external grease trap and internal grease trap shall be installed. These grease traps shall be appropriately sized and installed in accordance with the Burlington Board of Health Regulations Concerning Grease Trap Requirements for Food Establishments and MA State Plumbing Code.
- 37. Compliance with the MA Smoke-Free Workplace Law which prohibits migration of smoke into the workspace (e.g. through a door or window) shall be met. Any smoke that migrates back into the workspace is considered a violation of the law.
- 38. The applicant and/or property owner shall provide a fluorescent light management plan which outlines how the lights will be collected, managed and recycled to prevent the release of mercury into the environment.
- 39. Parking space paint markings and handicapped parking signage shall be maintained bi-annually or as necessary to be visible to site users. All crosswalks and traffic control markings shall be thermoplastic to ensure long term durability.
- 40. The Applicant and/or property owner shall be advised that should releases of oil and/or hazardous materials or other conditions be encountered during proposed site activities that warrant notification of the Massachusetts Department of Environmental Protection, the Town of Burlington Toxic and Hazardous

Materials Bylaw requires that the Board of Health be notified of such releases the within the same time parameters;

41. Exterior lighting shall not shine onto adjoining property.
42. The applicant and/or property owner shall install exterior waste receptacles and implement a daily litter patrol and trash maintenance program around the proposed school to help prevent the accumulation of trash and debris on the premises, and to help keep any such trash and debris from blowing onto bioretention areas and roadways. Exterior trash receptacle placement should not impede pedestrian access or violate ADA or Architectural Access Board requirements.
43. All landscaping shall be maintained in a healthy condition in perpetuity and be maintained and trimmed to ensure adequate sight distance entering and exiting the property.
44. There shall be no use of salts or other de-icing chemicals or compounds on the property, except for calcium chloride, pursuant to Article XIV Section 4.4 of the General Bylaw.
45. The applicant and/or property owner shall utilize the best available conservation technology to minimize the demand for energy, drinking water and sewer capacity by this facility.

APPROVED: 7-0-0

Item “h” – Sedimentation and Erosion Control Permit

MOTION – To close the Public Hearing on this matter.

APPROVED -7-0-0

MOTION - To approve the request for approval of an Erosion and Sedimentation Permit pursuant to Section 14 of the General Bylaws for property located at 145 South Bedford Street (Northeastern), to construct a 70,000 square foot educational facility and associated parking and site improvements, as reflected on a Site Plan entitled, “Site Plan for George G. Kostas Research Institute at Northeastern University, Burlington Campus, 145 south Bedford Street, Burlington, MA” dated, May 5, 2010, revised to June 1, 2010, subject to the following revisions, terms and conditions:

Administrative Conditions

1. The proposed activity shall comply with the plan(s) and description presented in the standard erosion control application except as conditioned herein. No major change shall be made without prior approval of the either the Planning Board’s or Conservation Commission’s agent.
2. Members of the Burlington Conservation Commission and/or Planning Board and their designated representatives shall have the right to enter upon and inspect the premises to evaluate compliance with this Permit.

3. A copy of this Permit shall be provided to any person doing work on the site and shall be available on the site at all times during construction.
4. This Permit does not relieve the applicant from the responsibility to be in compliance with all local, state, and Federal laws and regulations.
5. The project shall meet state stormwater standards.
6. Prior to commencing any work on the site, the applicant and/or contractor(s) shall contact the issuing Board / Commission as needed to clarify the meaning of the Permit Conditions contained herein or to clarify any matters that may not be understood.

Erosion Control and Pollution Prevention

7. The applicant shall install erosion barriers as shown on the plan. The Planning Board in consultation with the Conservation Administrator reserves the right to require additional erosion and/or damage prevention controls if deemed necessary.
 - a. No work shall begin if required erosion control barriers are not properly installed by hand. Barriers (except as noted) shall include staked haybales (bound with twine (rope) only) using at least two (2) 1"x1" wooden (oak) stakes per haybale and properly backfilled.
 - b. Silt fence is required on the uphill side of slopes where grading is proposed within five (5') of the sediment barrier (if required). After these barriers are installed, they shall be maintained in good condition at all times until the work is completed.
8. All disturbed areas shall be stabilized and re-vegetated within thirty (30) days after being disturbed. Bare ground and disturbed areas that can not be permanently re-vegetated within 30 days shall be stabilized by temporary stabilization methods. Temporary stabilization shall include, but not be limited to hydroseeding, straw mats, jute netting, sod, or equivalent means.
9. Erosion and runoff of soil and other materials shall not be allowed into the streets of Burlington. The project owner / operator shall be responsible for the cleanup of such eroded materials into the street.
 - a. Materials shall be stockpiled on the site at a location that minimizes likelihood that materials will run into the streets.
 - b. Stockpiled materials shall be covered with a tarp material and weighted down on edges in the event that heavy rains are forecast. Alternatively or in addition to, haybales shall be staked on the downhill side of stockpiles to prevent erosion during heavy rains.
10. The property owner should submit a Drainage Maintenance Agreement which indicates that: 1) all on-Site drainage structures, and 2) all paved areas at the Site will be cleaned and maintained at least **four** times annually, and immediately after any chemical release equal to or greater than five gallons. The agreement should

include a maintenance schedule and an agreement to submit maintenance records to the Board of Health as they are generated. The property owner must also submit information that confirms that all street sweepings and catch basin sediments have been disposed in accordance with state and local requirements. The Board of Health should be provided with the name and contact information of the site manager or entity who will be responsible for scheduling the Operation and Maintenance requirements. The plan shall also include detailed maintenance procedures and checklists for maintenance of the bioretention areas and swales on site.

11. At least every other week, beginning the first week of construction, in which construction activity occurs on site and for as long thereafter as ground remains unstabilized, the applicant shall submit a written report to the Planning Board from a registered professional engineer, certifying that, to the best of his/her knowledge and belief, based on a careful site inspection(s) (conducted during work hours at the site not less than weekly), all work is either being performed in compliance with this permit, or will note where a deviation occurred. The report shall include the dates and times of the site inspections, suggested remedies to any problems cited and the date(s) of any follow-up inspection(s) made to see the problems corrected. These reports may be stopped if work ceases for a period of more than five days and the work is in conformance with this permit. No periodic reports shall be required once construction activities are confined to the interior of the building and the surrounding land has been stabilized.
12. During and after work on this project, there shall be no discharge or spillage of fuel, oil, or other pollutants. In the event that there is a spill of any kind and any quantity on the site, the applicant shall immediately notify the issuing Board / Commission and Board of Health. If during construction and excavation, visible evidence or a strong odor of hazardous substances, debris, or similar material is encountered, the issuing Board / Commission and the Board of Health shall be contacted immediately.
13. Cleaning of equipment, including the washing/rinsing of concrete transports shall not be permitted on the site.
14. Dumpsters shall be brought to the site while construction is on-going and shall be used for all construction/ building debris. The dumpster shall be regularly emptied such that materials do not spill onto the ground. If dumpsters are required, they shall be covered at night.
15. If dewatering of the site is needed, a plan shall be submitted prior to this activity to the Agent of the issuing Board / Commission for his/her approval. Any dewatering activities shall make use of a settling pond, filter bag or similar device to remove sediment before the water is released. The discharge from dewatering activities shall not be discharged into the street or nearby catch basin (which shall be protected by sediment barriers including siltation fence, stone, and/or haybales to prevent soil erosion from the discharge).
16. Grading shall be accomplished such that grading shall not direct additional runoff onto the property of others. This project shall not increase the rate or volume of runoff, nor cause flood or storm damage, to abutters or the property of others. No additional grading, beyond that which is shown on the plan(s) or as described in

the application, will be permitted without permission from the issuing Board / Commission and/or their agents.

17. Sweeping of paved surfaces shall be done as needed to prevent runoff of sediment into the street. A construction apron shall be used to prevent the tracking of materials from the site into the street.
18. Protection of nearby catch basins with silt sacks shall be required. Silt sacks shall be maintained and regularly cleaned of sediments until stabilization of the site is achieved.

APPROVED -7-0-0

MOTION – To take items “i” and “j” together for discussion purposes.

APPROVED: 7-0-0

- i) Public Hearing – Application for Approval of a Special Permit pursuant to Section 12.1.5 “PD Special Permit Requirements” – 53 Second Avenue – LeMaitre Vascular, Applicant
- j) Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.5.2 “Laboratories engaged in research experimental and testing activities including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, medicine and physics subject to the Planning Board making the findings set forth in Section 8.3.7.4 of the Zoning By-Laws and subject to the applicable rules and regulations of the Board of Health.” of the Northwest Park PD District Zoning provisions – 53 Second Avenue – LeMaitre Vascular, Inc., Applicant

Robert Buckley and Steve Logan of Nordblom represented the applicant. Mr. Logan said that a special permit is required for lab activities. Director Fields gave background on the company, which he described as a medical device firm that currently occupies the adjacent building. The company is expanding and seeks to occupy this existing vacant building at 63 Second Avenue. He said the proposed clean room triggers the need for a special permit.

Vice Chairman Roth read departmental comments into the record:

DEPARTMENTAL REPORTS

Department	Recommendation	Date Received
Board of Selectmen		
Inspector of Buildings	Favorable	June 2, 2010
DPW/ Engineering	Favorable w/comments	June 2, 2010
Police Dept.		
Fire Dept.	Favorable w/conditions	June 2, 2010
Board of Health	Favorable w/conditions	May 28, 2010
Conservation	Favorable	May 25, 2010

Member Raymond asked if the expansion is consistent with the allowed uses in the Northwest Park PDD. Director Fields confirmed that the PDD documents address this type of expansion.

Board discussion ended without comment from the audience.

MOTION – To close the public hearing on these matters.

APPROVED: 7-0-0

MOTION – To approve the request of LeMaitre Vascular for approval of two Special Permits pursuant to Section 12.1.5 “PD Special Permit Requirements” and Section 1.5.2 “Laboratories engaged in research experimental and testing activities including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, medicine and physics subject to the Planning Board making the findings set forth in Section 8.3.7.4 of the Zoning By-Laws and subject to the applicable rules and regulations of the Board of Health.” of the Northwest Park PD District Zoning provisions, subject to the terms and conditions contained in Exhibit “A” attached.

APPROVED: 7-0-0

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- k) Public Hearing – Petition to amend the Zoning Bylaw, Article XI “Special Residential Regulations”, and Article XI Section 11.8.0 “Inclusionary Zoning Requirements for Multifamily Housing”, section 11.8.3 “Applicability”, section 11.8.3.1 “Projects less than 10 Units, and section 11.8.3.2 “Projects equal to or greater than 10 Units” – Submitted by the Planning Board

Town Meeting Members Tom Conley and Barbara L’Heureux were present to discuss concerns about sustaining the Town above the 10% affordable housing requirement, and features of the recently adopted Inclusionary Zoning Bylaw. Mr. Conley noted that a major concern is that the contribution required for fractional units is only 5% rather than 10%, and what value the percentage is based on.

Director Fields spoke about how funds for affordable housing might be spent, such as buying and selling land, or buying down the sales price of existing housing stock. Vice Chairman Roth spoke about the lengthy debate over the contribution for fractional units. He said that 5% represented a compromise. Chairman Covino added that the 5% contribution floats with the market. Mr. Conley suggested that 10% was more appropriate to offset each unit.

Director Fields said that most affordable bylaws do not require any units for projects under 10 total units, and for other projects they round fractions up or down. He noted that the Board had wanted to capture some contribution from fractional units, including small projects. Mr. Conley said that the outcome should be the same for builders no matter how they choose. Member Impemba noted a difference between the sales price and the cost of a unit.

Ms. L’Heureux said that she is an advocate for rounding up and levying a fee of 10% per unit. She asked why Burlington should be put in a position to go under 10%. Director Fields said that Burlington’s affordable percentage is 11.6% now and is projected to be

10.2% after the next census. Vice Chairman Roth said that 0.2% is equal to 200 units. Director Fields said that a contribution requirement of 10% is likely to be financially infeasible. He also noted that Burlington qualifies under the 40B criteria by meeting the land area threshold.

The Board discussed the matter generally and considered reconvening the subcommittee. They agreed that the primary issue is the percentage contribution. Director Fields asked about Board sponsorship of the issues raised by the Town Meeting Members versus having two parallel warrant articles. Vice Chairman Roth suggested that the initiatives proceed on parallel tracks, with Town Meeting Members participating in Board discussions.

Board discussion ended without further comment from the audience.

MOTION – To continue this matter to the Planning Board meeting of July 15, 2010.

APPROVED: 7-0-0

MOTION – To take items “l” and “m” together for discussion purposes.

APPROVED: 7-0-0

- l) Public Hearing – Petition to amend the Zoning Bylaw, Article II “Definitions” Section 2.50 “Lot Width” and Article V “Dimensional Requirements”, Section 5.2.0 “Density Regulations Schedule” – Submitted by the Planning Board
- m) Continued Public Hearing – Petition to Amend the Zoning Bylaw by creating a new Section 5.2.1.6 “Lot shape requirements in the One Family Dwelling (RO) District” – Submitted by the Planning Board

Director Fields presented item “l” as a replacement for item “m”, to provide criteria to regulate the width of a lot, across the entire lot, with a new definition and specific dimensions in the density table, rather than as written text.

Member DeFrancesco requested explanation of “opposing” lot lines as used in the proposed definition. Director Fields replied that “opposing” refers to lines that do not intersect.

Member Hyde asked how many lots this might affect. Director Fields said that existing lots not meeting the proposed criteria would become nonconforming.

Tim Brown, Town Meeting Member, encouraged the Board to require lots to be as close to rectangular as possible.

Board discussion ended without further comment from the audience.

Item “l”

MOTION – To continue this matter to the Planning Board meeting of July 15, 2010.

APPROVED: 7-0-0

Item “m”

MOTION – To close the Public Hearing on this matter.

APPROVED: 7-0-0

MOTION – To withdraw with out prejudice the Petition to Amend the Zoning Bylaw by creating a new Section 5.2.1.6 “Lot shape requirements in the One Family Dwelling (RO) District”.

APPROVED: 7-0-0

MOTION – To continue past 11:00 p.m.

APPROVED: 5-2-0 (Members Hyde and Impemba opposed)

MOTION – To take items “n” and “o” together for discussion purposes.

APPROVED: 7-0-0

- n) Public Hearing – Petition to amend the Zoning Bylaw, Section 8.50 “Town Center Overlay Districts” and Section 8.5.8 “Design Requirements” – Submitted by the Planning Board on behalf of the Route 3A Committee
- o) Public Hearing – Petition to amend the Town Center Design Rules and Regulations by creating a new Section 9 “Signage” – Submitted by the Planning Board on behalf of the Route 3A Committee

The Board opened the hearings on these matters, but no testimony was taken.

MOTION – To continue these matters to the Planning Board meeting of July 15, 2010.

APPROVED: 7-0-0

- p) Continued Public Hearing – Petition to amend the Zoning Bylaw, Section 2.34 “Home Occupation”, Section 4.3.1.2 “Use of a portion of a dwelling as an office ...”, and to create a new Section 10.1.1 “Additional Regulations for Home-Based Businesses” – Submitted by the Planning Board

Continued without discussion or comment.

MOTION – To continue this matter to the Planning Board meeting of October 7, 2010

APPROVED: 7-0-0

- q) Continued Public Hearing – Petition to create a new Business Park (BP) District by amending Article II, III, IV, V, X and XIII and by creating create a new Section “Regulations in the Business Park District” – Submitted by the Planning Board

Continued without discussion or comment.

MOTION – To continue this matter to the Planning Board meeting of October 7, 2010

APPROVED: 7-0-0

- r) Continued Public Hearing – Petition to amend Article XIII “Signs”, by amending Sections 13.1.2, 13.1.3, 13.1.4, 13.1.4 to further regulate Wall Signs – Submitted by the Sign Bylaw Committee

Continued without discussion or comment.

MOTION – To continue this matter to the Planning Board meeting of July 15, 2010.

APPROVED: 7-0-0

9) **Other Business:**

- a) **Discussion** None.
- b) **Correspondence** None.
- c) **Reports from Town Counsel** None.

d) **Subcommittee Reports**

1. Route 3A Committee meeting: Wednesday June 30th, 2010 and Wednesday, July 14th
@ 8:30am - Town Hall Annex Basement Meeting Room

- e) **Unfinished Business** None.

f) **New Business**

1. Senior Planner posting

MOTION – To post the Senior Planner position.

APPROVED: 7-0-0

MOTION – To adjourn at 11:11 pm

APPROVED: 7-0-0

Donald Benjamin

Ann M. Cummings

Donald Benjamin, Recording Clerk

Ann M. Cummings, Member Clerk

Minutes accepted at the Planning Board meeting of _____
10-21-2010

Minutes filed with the Town Clerk on _____
10-25-2010