

IN BOARD OF SELECTMEN
MONDAY, FEBRUARY 26, 1996

Present: Chairman John C. Drobinski, Selectmen Lawrence L. Blacker and Maryann K. Clark.

The statutory requirements as to notice having been met, the meeting was convened by Chairman Drobinski at 7:35 p.m. in the Town Hall.

Continued Public Hearing - Application for Limousine and Taxi License

Present: Drew Goss, Applicant; Raymond E. Butler III, Vice-President, Sudbury Limousine Service.

The Board continued a hearing (continued from January 22, 1996) to consider the application of Drew W. Goss, 23 Davis Rd., Apt. 5C, Acton, MA, d/b/a Yellow Cab of Sudbury, 928 Boston Post Road, Marlborough, MA, to be granted a license to operate a taxi and limousine service in the Town of Sudbury.

In addition to materials already acknowledged in this matter, the Board acknowledged receipt of a letter to the Board from Raymond E. Butler III, Vice-President of Sudbury Limousine Service, dated Feb. 7, 1996, urging the Selectmen to deny the request for a license by Mr. Goss. Mr. Butler stated that he does not see the need for yet another provider of this service in Town. He also stated that he received information from the city clerk for Marlborough which indicates that Mr. Goss has no authorization to park or garage limousines, taxis or livery vehicles in Marlborough, where Mr. Goss has stated he keeps his vehicles. Mr. Butler further quoted Mr. Goss' proposed price schedule as being higher than other providers in the area; at the same time, he said that Mr. Goss' vehicles are older and yet he will charge higher prices than comparable companies do for newer vehicles. Mr. Butler stated that since Mr. Goss will not maintain an office in Sudbury, there will be no property taxes paid to the Town and no excise taxes paid to Sudbury for his vehicles. Mr. Butler concluded by enumerating his own company's positive dealings in the Town and enclosed a copy of SLS's rate schedule, driver handbook and a list of other ground transportation companies servicing Sudbury.

Selectman Clark stated that she does not believe that a need for this taxi service has been demonstrated. She said that there are already about a dozen taxi services available in Town. Interim Town Manager Thompson stated that his only comment would be that we live in a society based on competition.

Ms. Clark stated that this business is not to be located in Sudbury, but in Marlborough, and Mr. Goss responded that his location is just over the town line from Sudbury. He stated that he believes that there is a need for a Sudbury-based taxi company as people in Sudbury now call a Framingham taxi company when they need rides other than limousine rides (e.g. school pick-ups, rides home from restaurants after having consumed alcohol, etc.).

Mr. Drobinski asked how Mr. Goss would advertise and he responded that he would put out a Yellow Pages ad, hand out business cards, go to businesses such as restaurants and bars to let them know of his service. Mr. Drobinski asked Mr. Goss if he is currently operating in Marlborough and received a negative answer; Mr. Goss said he has no plans to service Marlborough at all, that his proposal is to create a Sudbury company.

Selectman Blacker said that he had driven a taxi for a number of years in Brookline so he understands the business and knows about police checks on drivers. He noted here that Mr. Goss has many complaints made against him. Mr. Goss responded that he has been charged with criminal violations but has never been convicted. He furthered that he had a Cambridge cab driver license since he was 18 years old

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with never a complaint. He said he has worked for Boston cabs as a dispatcher as well as Cambridge; he said he is polite and professional, and said he would be more than happy to accept a probationary license at first. He said that the Town would never get a complaint from one of his customers.

Mr. Blacker noted many motor vehicle violations listed on the police report submitted along with this application, especially one as recent as December of 1995 (a non-renewal of an inspection sticker). He noted several other inspection, speeding, and sticker violations. Mr. Goss said that he had been on his way to have the car inspected when he was stopped.

Selectman Drobinski asked if Mr. Goss had vehicles on which any stickers had expired and Mr. Goss responded in the negative. Ms. Clark clarified that Mr. Goss does not have a license in Marlborough, as she had thought at the last hearing that Mr. Goss would be trying to also get a license in that town. Mr. Goss said that his primary intention is to service Sudbury, but that if he is granted a license in Sudbury, he may also apply for one in Marlborough.

Ms. Clark reiterated that she does not see a need for this service in Sudbury at this time, and moved to deny this application. Chairman Drobinski seconded the motion and asked for any further comments.

Selectman Blacker commented that there might be a need for this service in Sudbury, as the other companies listed among the names provided to the Board this evening are primarily limousine companies. Selectman Clark responded that Mr. Goss would have a business located in an adjoining town, and sees no difference here from a similar business to be located in Concord, Lincoln, etc. Mr. Blacker stated that he is speaking here of the difference between primarily limousine service and a taxi service for short errands in Town, as different from, e.g. trips to Logan Airport. Mr. Blacker said that he does not see on the list a company that would service Sudbury residents such as the company "Framingham Taxi" which provides in-town taxi service.

Selectman Clark said that at the last hearing for this application, Mr. Goss said that he would be offering and concentrating on airport service; as a result, the comparison price list given to the Board this evening shows a concentration on such airport trip fares. Mr. Blacker reiterated that he has no idea of whether or not the services listed for comparison provide short-haul, door-to-door service. Mr. Thompson said that to the best of his knowledge they do not; he said that the only such service of which he is aware for Sudbury residents is Tommy's Taxi; he also said that about ten years ago Sudbury had a local taxi service run by Mr. Ed Brown.

Ms. Clark asked if the Board would like to continue this hearing again in order to investigate any available door-to-door taxi service in Sudbury.

Mr. Drobinski asked Mr. Goss how he would structure his rates for door-to-door service. Mr. Goss answered that he would push the reset button on his odometer as he began each trip with a customer. He said that although many companies charge for waiting time, etc. he would base his rate on mileage; thus, even if a trip is being made in rush-hour traffic, the charge would be the same as for off-times, even though it would take the driver longer to deliver a customer. Mr. Goss said he did want to abide by whatever price structure the Board feels is reasonable.

Ms. Clark stated she wished to speak again of the criminal history referenced earlier in the hearing. She asked Mr. Goss if he feels that a taxi driver should have a "clean slate"--especially in light of the recent negative publicity on Boston taxi drivers. Mr. Goss answered in the negative and opined that most taxi

drivers have been arrested, at least among his personal acquaintances. He reiterated that he has never been convicted of a crime, and furthered that his answer would depend on one's definition of "clean". Ms. Clark mentioned seeing assault and battery, operating to endanger, possession of a Class B controlled substance, receiving stolen property and that even though Mr. Goss had never been actually convicted, he has been in circles where there has been evidence enough with which to charge him.

Mr. Goss said again that he was found innocent in a court of law and cannot be called a criminal. Chairman Drobinski interjected here that Selectman Clark is not alleging that Mr. Goss is a criminal, but is just trying to ascertain if a person who will receive a license to operate in Sudbury will be protective of the people he is serving. Mr. Goss said that he is trying to ascertain Selectman Clark's definition of "clean"--is it someone who has never been arrested before? or someone who has never been actually convicted? He said he has driven a cab in Brookline, in Waltham, in Dedham, and in Cambridge with never a complaint, with well over ten years of experience.

Selectman Blacker stated that he would agree with a continuance because he would like to call a few of the people mentioned this evening in order to obtain some references. Selectman Clark said that to her, the police report shows a disposition of disregard for the law on the part of Mr. Goss, because there is a list of at least twenty incidents. Mr. Goss responded, saying that he has driven for thousands of miles in this State, and this greatly increases one's chances of being cited for a moving violation. Ms. Clark countered that "forgetting to get your license renewed" is hard to understand.

Selectman Clark retracted her earlier motion to deny this application. Chairman Drobinski then informed Mr. Goss that at the next hearing he should return with information for the Board as to why the service he is offering is needed and draw up something for the Selectmen on his proposed rate structure. Finally, Mr. Drobinski asked Mr. Goss to prepare some explanations for Selectman Clark as to his police record, as a resolution of the three issues just mentioned would be needed to satisfy the Board.

Mr. Thompson suggested to the Board that Mr. Goss submit to them in writing, before its next regular session, a rate schedule for the local taxi service proposed and the basis for charging these rates, so that the Board will have something concrete to discuss.

It was on motion unanimously

VOTED: To continue the public hearing on the question of granting a license to operate a taxi and limousine service in the Town of Sudbury to Drew W. Goss, 23 Davis Road, Apt. 5C, Acton, MA, d/b/a Yellow Cab of Sudbury, 928 Boston Post Road, Marlborough, MA, to March 11, 1996 at 8:45 p.m. for the purposes of obtaining from Mr. Goss a copy of his proposed rate structure for local taxi service, answers to the questions asked by the Board as to his record, and so that the Board will have time to ascertain concrete assurance of why such a service is needed in Sudbury.

Public Hearing - Utility Petition 96-2, Marlboro Road

The Board convened a public hearing to consider Utility Petition 96-2, Marlboro Road, submitted by Boston Edison Company and New England Telephone and Telegraph Company in order to provide new electric service to a new two-lot subdivision. The petition requests permission to construct, and a location for, such a line of conduits under the following public way of the Town: Marlboro Road - northerly approximately 560 feet southwest of Minuteman Lane, a distance of about 40 feet - conduit.

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Interim Town Manager Thompson noted that all appropriate abutters had been notified and approval had been recommended by the Inspector of Buildings and the Wiring Inspector under date of Feb. 23, 1996.

It was on motion unanimously

VOTED: To approve Utility Petition 96-2 from Boston Edison Company and New England Telephone and Telegraph Company for permission to install approximately forty (40) feet of conduit at pole 8/27 Marlboro Road, Sudbury, as shown on Boston Edison Company "Plan of: Marlboro Rd., Sudbury", dated Feb. 8, 1996, and New England Telephone "Plan No. 96-01 for Telephone Conduit in Sudbury, MA", dated February 13, 1996.

221st Town Forum

Present: Lucile P. Hicks, State Senator, and representatives of Town boards and departments.

At 8:00 p.m. Chairman Drobinski convened the 221st Session of the Town Forum. Various representatives of the Town's boards and departments updated the Town on their activities; following which Town Forum was adjourned and coffee and conversation enjoyed by those present.

This Town Forum was televised over the local Cable network, and a copy of the videotape is available for a period of one year by contacting the Selectmen's Office.

Public Hearing - MoonShadow Cafe & Catering Licensing

Present: Applicants Deborah R. Taylor and Dixie Lee W. Esseltine, of MoonShadow Cafe & Catering; and many abutters of Mill Village (residents of Maple Ave.) and other interested citizens.

The Board, acting as the Licensing Authority of the Town of Sudbury, in accordance with Ch. 138 of the Mass. General Laws, opened a hearing to consider the application of Deborah R. Taylor, Manager, d/b/a MoonShadow Cafe & Catering, Mill Village, 385 Boston Post Road, Building G, Store 2, for a License to Sell All Alcoholic Beverages as a Common Victualler on premises located at Mill Village, 385 Boston Post Road, Bldg. G, Store 2, described as follows: One floor, three rooms: kitchen, dining area, office; one entrance on south side and one entrance on north side. Further, the purpose of the hearing was to consider application of MoonShadow Cafe & Catering for a Common Victualler License and a License to Conduct Entertainment as follows: Live Band, not to exceed three pieces, on Sunday from 10 a.m. to 3 p.m. and on Friday and Saturday from 7 p.m. to 10 p.m., and taped background music during all hours of operation.

Interim Town Manager Thompson informed the Board that all abutters, the applicants, and any church or school within 500 feet had been given notice of the public hearing, by registered mail under date of February 13, 1996, and that the hearing had been advertised in the Middlesex News on February 16, 1996. In addition, the Building Inspector, the Fire Chief, the Health Director and the Police Chief had been notified.

The Board acknowledged receipt of the following:

1. Commonwealth of Massachusetts Application for Alcoholic Beverage License to the Alcoholic Beverages Control Commission (5 pages), dated Feb. 6, 1996, signed by Applicant Deborah Taylor;

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2. Form A (3 pages) of Commonwealth of Massachusetts Alcoholic Beverages Control Commission, dated Feb. 7, 1996, signed by Applicant Deborah Taylor;
3. Form C (for Financing), dated Feb. 7, 1996, signed by Applicant Deborah Taylor;
4. Acknowledgment of licensing process, signed by Applicant Deborah Taylor and dated Feb. 7, 1996.
5. Copy of Unanimous Written Consent Action of the Board of Directors of MoonShadow, Inc., dated Feb. 5, 1996, signed by Applicants Deborah Taylor and Dixie-Lee W. Esseltine;
6. Copy of Floor Plan for Proposed Restaurant, showing seating of 42 persons at 15 tables;
7. Copy of "Written Consent Action of the Sole Incorporator, MoonShadow, Inc", dated Dec. 21, 1995, signed by Donna B. Potember, Sole Incorporator, (accompanied by Articles of Organization, GL, Ch.156B, 9 pages);
8. Copy of U.S. Passport of Applicant Deborah Taylor, and of Massachusetts Driver's License and Alien Registration Card of Dixie-Lee W. Esseltine;
9. Copy of Commonwealth of Massachusetts Business Certificate, dated Feb. 9, 1996;
10. Town of Sudbury applications for licenses for Common Victualler, and Weekday and Sunday Entertainment, dated Feb. 9, 1996, signed by Applicant Deborah Taylor;
11. Memo to the Board from Building Inspector Jack Hepting, dated Feb. 22, 1996, in which Mr. Hepting states that he has inspected the proposed site premises and indicated (in conjunction with the Fire Chief) that two lit exit lights were required over the two means of egress, and a duplex emergency light was required on the east wall. Mr. Hepting furthered that since the renovations will not exceed \$50,000 in cost, no handicapped toilet or entrance is required under the rules of the Architectural Access Board, but that all renovated areas must comply. Mr. Hepting concluded by stating that as the bar area is very small, it is clearly for the benefit of dining patrons and thus he has no issue with the granting of an alcoholic beverage license for these premises.
12. Memo to the Board from Fire Chief Michael Dunne, dated Feb. 20, 1996, in which he states that he has no objection to issuing a License to Sell All Alcoholic Beverages as a Common Victualler to the Applicants, as this is the space previously occupied by Donacesca's Restaurant and the Fire Department had no problems with that occupancy.
13. Memo to the Board from Robert Leupold, for the Board of Health, dated Feb. 26, 1996, in which he states that "the proposed restaurant use in Mill Village is located in space restricted to 710 gallons per day septic flows. A water sub-meter in the establishment has been monitored for the previous two food service tenants. A broken sewer line from the building to the septic tank was repaired during 1995 which appears to have solved the odor/back-up problems for the building. The management company which is responsible for the Mill Village complex will be meeting with the Board of Health on Feb. 28, 1996 to assure all issues concerning the septic system usage are met."

14. Copy of a Verbal Report from Police Chief Peter Lembo, dated Feb. 26, 1996, in which Chief Lembo states that he has no objections to this licensing and that he has no record of complaints about speeding in the parking lot or noise from entertainment.

15. Letter from Gary and Judith Finerty, 28 Maple Ave., dated Feb. 22, 1996, requesting a delay in hearing to allow abutters time to prepare their materials, due to the length of time the certified mailing took to reach abutters and to the fact that two Selectmen and the Interim Town Manager would be unavailable to abutters during the week immediately preceding the scheduled hearing.

16. Letters citing objections to the granting of the licenses in question from several residents of the abutting Maple Avenue: a) from Gary and Judith Finerty - Feb. 22, 1996; b) from Ruth Green - Feb. 22, 1996; c) from Cheryl Salatino - Feb. 26, 1996; d) from Mary and Harry Ainsworth - Feb. 25, 1996; e) from Pippa and David Ader - Feb. 25, 1996; and f) from Steven and Carol Bradford - Feb. 26, 1996;

17. Copies of verbal communications citing objections to the granting of the licenses in question from three residents of Maple Avenue: a) from Barbara Twombly - Feb. 26, 1996, saying she objects to the license for musicians; b) from Edith Hull - Feb. 23, 1996, saying she is against the noise from the entertainment, liquor and polluting trash in Hop Brook and smell of septic system; and c) from Pippa Ader - Feb. 23, 1996, saying she will not be able to attend the hearing but that both she and her husband wish to go on record as objecting to the granting of the licenses for liquor and entertainment.

The Board also received from the Selectmen's Office some of the licensing history of this location.

Chairman Drobinski opened the hearing by welcoming the applicants and the many residents who were present and asked the applicants to come forward to make a presentation to the Board.

Deborah Taylor introduced herself and her co-applicant, Dixie-Lee W. Esseltine, and stated that they hoped to open a 42-seat cafe; she said that they believe that to be competitive they must also apply for a liquor license; additionally, she hoped to do Sunday brunches and wished to have a guitar player or a cello player, playing only soft music inside the building. Ms. Taylor said that the menu would be American-style, that the bar with a few stools would be only for the few people who are waiting to be seated (rather than for a patron to frequent only the bar and not the restaurant).

Chairman Drobinski told Ms. Taylor that there are many residents here this evening who wish to speak on this issue. He asked the Board if they have any comments and they deferred for the purposes of first hearing what the abutters have to offer. Before opening the hearing to comments from the abutters, Mr. Drobinski mentioned that in addition to letters received with tonight's agenda, he personally had received a number of telephone calls on the issue.

Judith Finerty of 28 Maple Avenue said that she is probably the most direct abutter. Ms. Finerty said she has no problem with a restaurant opening in the location which has been empty for a while (empty buildings do not benefit the Town); however, Ms. Finerty said she is vehemently opposed to live entertainment, because of the restaurant's extremely close proximity to the Maple Ave. residences (at least six homes along the border of Mill Village). She said that Mill Village took on tremendous environmental responsibilities when it built the rear building right along Hop Brook. She said that there have been problems with the site in the past. She wondered how the uses of the site had grown from Something Simple's uses to what is being petitioned for this evening. She said she has received the response from the Town, over and over, of "there have been no complaints". Ms. Finerty said she is here to say that there have

been complaints. She said that because the neighbors on Maple Ave. wished to be good neighbors, they tried to handle the problems of (e.g.) loud radios being played by employees of the restaurant by contacting the owners of Mill Village instead of the police or other Town agents. She said there is food being thrown on the embankment of Hop Brook; there is trash falling out of the dumpster; there are wine bottles and papers blowing everywhere. She said that residents had called the owners of Donacesca's eight or nine times to ask that their employees turn down their radios. She said that residents of Maple Ave. called Lighthouse Properties to say that trash is on the site, that there has been a stench coming out of the site due to a backing up septic system. Ms. Finerty said that these are just some of the complaints and it is this backdrop that makes her wary of live entertainment. She said that when one considers what the original restrictions were on the restaurant and what is being proposed this evening--it is easy to see where the fears of the residents arise. Ms. Finerty said she has heard "carioke" music is to be allowed, but Ms. Taylor denied such an intention. Ms. Finerty stated, however, that the residents worry about what will happen as time goes by, given the past history of augmentation of uses allowed. She said that the residents of Maple Ave. should not have to fear the loud boom of stereos. She said that they had spoken up in the past to have the lights shielded that were coming into their bedrooms and that the natural tree barrier had been erected as per the Bylaws, but it took months to get this satisfaction. She said she has a copy of the original restrictions on Something Simple and one of them says that there should be no dishwashers, that there was to be only seating for 26 people. She said that if these original restrictions have been allowed to grow into a full liquor license and seating for 46 people, and now live entertainment, what will be the augmentation in the future? Ms. Finerty mentioned the in-line water meter; she said there are no readings at the Board of Health for this meter and that nobody knows how much water goes through that site. She said that Mill Village has a responsibility to the residents of Maple Avenue, and the Town boards and departments do as well. Ms. Finerty concluded by asking the Selectmen to seriously consider the application and the impact it will have on the residential section in the Limited Business District.

Wendy MacPhedran, 34 Maple Avenue, asked what a live music license will allow the proposed restaurant to do. Chairman Drobinski answered that it would allow the applicants to do whatever the Board restricts them to do--hours can be restricted, number of band members, type of music. He said that a restriction could also be made that the music not be heard outside, and if so, the entertainment license can be disallowed in the future. Such an example in the past would be what happened with Bullfinch's Restaurant, where, when the neighbors complained about loud music, the Board stipulated that the restaurant doors must be closed and the Town has received no complaints since that time. In sum, Mr. Drobinski said that the Board has the authority to put restrictions on the establishment; the purpose of the public hearing is to ascertain what residents' concerns are in considering whether to grant, deny or impose modifications on the application.

Selectman Clark asked how in 1980 the original applicant was allowed 28 seats and now the application is up to 42 seats, yet in 1980 the restaurant was restricted to 1340 gallons of water used per day and now they are restricted to 710 gallons--should there not be less seating allowed and not more? Mr. Drobinski said that a clarification should be sought from the Board of Health. He said that the Board does not know if the septic system has been upgraded. Ms. Clark said that last summer the whole back of the area had been dug up and replacement work was being done on the septic system then. Mr. Drobinski told the abutters that there had been a complaint about a sewage odor and it was found to be due to a broken sewer line; according to the Board of Health, this was repaired in 1995 and the repair has solved the odor problems. Mr. Drobinski said that as to the seats vs. gallons of water usage permitted, he has no answer at this time. Selectman Blacker said that, as was brought out by Ms. Finerty, there is no sense in having a separately metered water usage if nothing is done to check it. Mr. Drobinski stated that the new applicants should not be held responsible for this matter which occurred in the past, but that the Board should

investigate it. Mr. Thompson said that the Board of Health does check the meter and is unsure why Ms. Finerty was not able to glean any information on this issue, as the Board of Health is usually very strict about this. He said that perhaps for that one building readings were not available, but certainly for the whole complex they are. Mr. Blacker said that the purpose of having a separate meter is that since that particular building is limited to 710 gallons, such use can be monitored specifically. He said he is curious as to what checking has been done on this water use issue.

Ms. Clark said she would like an answer to #9 in John Sullivan's letter of 1980 ("there shall be no physical expansion of this food service operation, no more than 28 seats"). Mr. Thompson said that after several years of operation, if the feedback is that other businesses in a complex use less water than expected, then a restaurant may be allowed to expand and use more than originally allowed. Something Simple was allowed to pick up some of the expansion that the system was not using. This happened also at The Rugged Bear. Ms. Clark said then that the Board needs an inventory of all of the water flows at this site, or something that explains the discrepancy in less water use allowed and more seating allowed. Chairman Drobinski agreed that a clarification is necessary.

Gary Finerty of 28 Maple Ave. clarified on the water issue, saying in the original memo there were 150 gallons used per day (July 15, 1980) but this was water use--the 1340 gallons referred to is sewage figure, not water. He discussed how much strain is put on a septic system by increasing the number of seats in a restaurant and said that the extra seating allowed over the years has put a 66% increase on the number of gallons per day that are put on the existing system; he said his figures can be substantiated by the Water Department. On the issue of noise, Mr. Finerty said he did speak with Patrick Delaney of the ZBA and there is a noise ordinance that applies here because Mill Village is in a Limited Business District; page 75 of the Zoning Bylaws does restrict "offensive noise" and while this definition can be open to interpretation, it definitely relates to the residents in close proximity to Mill Village. He said that at night, when a resident cannot call the owners of Mill Village after hours, and the Building Inspector is also unavailable, the police must be called. He said that this puts all the onus back on the residents of this quiet, pristine area, which is elevated and thus receives the noise which travels upwards from Mill Village.

Laura McCarthy of 55 Maple Avenue stated that she wished to point out that she did not receive notice of the meeting and did not know anything about the letter prepared by the residents. However, she also wished to know how the seating progressed from 26 seats to 42 and if the augmentation had ever been approved and if it had been done according to water use. Selectman Blacker answered that as other businesses in the complex had used less water than anticipated, the restaurant was eventually allowed to use more. Ms. McCarthy said as there are two hair salons in that complex, it is a mystery that less water was used than originally anticipated. She also said that if this hearing is continued, she wishes her opinion to be known that live music on Sundays is not a good idea as there is a church in that vicinity and the church should be asked as an abutter what its opinion is. Mr. Thompson responded that the church was notified prior to this hearing.

Chairman Drobinski asked Ms. Taylor to explain her choice of number of seating capacity. Ms. Taylor responded that she had been told that the prior approved seating capacity of the restaurant before her proposed business was 42 and was also told that she would be restricted to 700 gallons of water per day. Ms. Taylor said that for this reason, she had purchased low-flow equipment.

Ursula Lyons of the Planning Board said she was curious as to why Delectables in Mill Village is restricted to paper plates and fewer seating. Mr. Blacker said that we must keep in mind that Donacesca's had a full liquor license, for at least five years, so nothing new is being added here.

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Edith Hull of 15 Maple Avenue said she had not received notice of this hearing, but perhaps that is because she is on the other side of Maple Ave. from Mill Village and therefore not a direct abutter. She stated that she wants to emphasize that water makes noise travel and Hop Brook will carry the sound of any music being played to the neighborhood. She also asked how Donacesca's got its license as the neighbors were never notified at that time. Mr. Drobinski said there was a transfer by the Board of liquor license from Something Simple to Donacesca. Mrs. Hull concluded by saying that she had a letter this evening from Ann Baker and Katherine Bradshaw, 10 Maple Ave. who are also opposed but who could not be here this evening.

Marilyn Novak, 11 Raynor Road, said that she is concerned about the dumpster. She said that as a member of the Hop Brook Association, she helped with a survey and that even when Donacesca's was no longer in business, the dumpster in Mill Village was overflowing (this survey was done in May, 1995). The litter from the dumpster was flowing down the bank into the stream. This finding was worse than when the Association's first survey was done in December of 1994. Mr. Drobinski stated that obviously, this is not the fault of this applicant and Ms. Novak responded that adding a restaurant--Mr. Drobinski reiterated that we are not discussing adding a restaurant, as the site is already approved for this--but Ms. Novak clarified that since there was no restaurant operating in May and yet the dumpster problem was already bad, that re-opening the restaurant would exacerbate the problem. Her Association is concerned for the increase in litter that would be apparent with a restaurant and that they would like written down that if there continues to be an overflow of trash that the Mill Village proprietors should make sure that the dumpster is emptied much more frequently than it is now, or that the containment of the dumpster will be increased so that every windstorm will not blow trash out of the dumpster, down the bank of the stream. She concluded by saying that to date, they have had no compliance from Mill Village on this issue. Chairman Drobinski said that the Board can contact Mill Village about this issue, but reiterated that this is not part of the issues with this application.

Selectman Blacker stated that this site is in a Limited Business District and that he believes that in such a district a restaurant is allowed to operate as a matter of right. He said the main issue being discussed is a Board of Health issue. He said that while a restaurant does not have to have a liquor license, he does not believe that the concerns he has heard expressed this evening will be exacerbated by allowing liquor to be served with food consumption. However, he said that the entertainment license is a different issue; given the proximity of the residential district, this may pose an issue with which the abutters should not have to deal. Mr. Blacker said that if we can focus on the entertainment issue, we may be able to resolve differences expressed between applicants and abutters this evening, notwithstanding clarification needed from the Board of Health. Mr. Blacker was reviewing letters of objection from abutters as he spoke and mentioned that he had yet to witness an increase in traffic as a result of Dunkin Donuts, as was mentioned in some letters.

Cheryl Salatino, 14 Maple Avenue, said that she is in the entertainment business herself so knows the ramifications of this. She said she is not in favor of live entertainment, as she had suffered through the radios of workers at Donacesca's and the noise penetrated the rooms of her home. She said that the area has been impacted by Dunkin Donuts, from Lotus Blossom, from Mill Village. She said that while the restaurant may be allowed, the live entertainment would be a problem, because even if a site is "sound-proofed" the noise will still be a problem. Ms. Salatino concluded by asking that the Board please take the abutters' concerns over live entertainment into serious consideration in their decision. Selectman Blacker responded that he will take into consideration Ms. Salatino's comments on noise but that he still disagrees as to impact on traffic.

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Mr. Thompson noted here for the record that Something Simple had a liquor license granted on Dec. 9, 1985, for which he has the return receipts of notification of abutters. Mr. Thompson also has in his records the 1990 decision when the Board of Health allowed an augmentation to 42 seats.

Jeffrey Jacobson, 28 Babe Ruth Drive, stated here that the Board has within its power to change what has been ruled on in the past. He opined that basically all the nine conditions originally stipulated by the Board of Health are now being violated. Mr. Jacobson read from the nine conditions and said that because of changes over the years none of the conditions can be enforced.

Mr. Blacker strongly disagreed with everything Mr. Jacobson said; he said he disagreed with Mr. Jacobson's basic premise that the Board of Health has never changed anything, and if that premise is not true, then everything Mr. Jacobson just said is a "red herring". Mr. Blacker said that he is going on the assumption (yet to be investigated) that because water flows have decreased in other areas of the complex, they have been added to the restaurant area of the complex. Mr. Blacker said that if the premise just stated is a valid one, then a dishwasher can be on the premises, and other conditions originally prohibited, as the situation had changed from when the matter was originally ruled upon. Mr. Jacobson responded that, e.g. he had put a new septic system on his property already and the home had been built in 1988; Mr. Blacker countered that his home, built in 1960, has not yet needed a new system. Mr. Jacobson narrowed the discussion to the Mill Village septic problem and Mr. Blacker again countered that in this case a pipe had cracked. Mr. Jacobson concluded by saying that the Mill Village septic system has not gotten better since its repair two years ago.

David MacPhedran, 34 Maple Ave. stated that it is just as likely that the water could have changed from the use of one business to the other or it could be for many other reasons. However, Mr. MacPhedran and others stated that the septic system overflow has been a problem from time to time. Mr. Finerty said that three tenants of Mill Village last week told him that the septic system continually overflows and this is without a restaurant currently operating on site.

Ms. Clark mentioned that one of the differences between 1980 and 1996 is, as a resident said this evening, there are now two hairdressers on site; obviously these use a lot of water and Ms. Clark said she does not see how the Board could allow more seats when there are now tenants on site who were not there when the original determination was made.

Ursula Lyons of the Planning Board said that the Town has an Aquifer Protection Bylaw that should apply here. Chairman Drobinski said that it is a situation of pre-existing use. Ms. Lyons said that pre-existing or not, she believes it is time for the Town to admit that it made a mistake to allow building so close to Hop Brook. She said that the Hop Brook Association and the Planning Board are both very concerned about impact on wells. She questioned that if the septic system continues to be a problem without a restaurant operating, how much worse will it be when a restaurant is operating?

Chairman Drobinski stated here that the Board cannot second guess the Board of Health. If the Board of Health approves this restaurant, the Selectmen have no statutory basis to oppose it. At this point, Ms. Lyons asked Mr. Drobinski to read aloud the letter received in this matter from the Board of Health, and he did so. He then said that this Board will ask for clarification from the Board of Health as to what is going on.

Mr. Drobinski then said that he wished to return to the issue of why the applicant is present this evening, namely, to petition for a liquor and entertainment license. Mr. Thompson said that it has been

established that the site already has previously been approved for a liquor license. Mr. Drobinski said that he personally would not be in favor of denying this. However, Mr. Drobinski said that on the entertainment license, he would need some clarification from the applicants on this. Acknowledging that the music to be played had already been characterized by Ms. Taylor as "soft music", assuming that neighbors report being bothered by that music, Mr. Drobinski asked her what mechanism the owners of the restaurant would put in place to remedy such a situation. Ms. Taylor responded that if the Selectmen inform her of a problem, she would stop the problem. Mr. Drobinski asked her if she would respond to a call from neighbors, or must it be a call from the Selectmen? She answered that she would respond to either. Another resident requested that the music be restricted to acoustic music and not be amplified. Ms. Esseltine responded that the purpose of the music is primarily to enhance the dining experience rather than to focus on the music. A resident furthered that the musicians should not use any electronic amplifiers. Chairman Drobinski then said that the sound from the music should be kept in the building, so as not to disturb the neighbors; he said that Sunday hours can be worked out but that the main concern is not to let the sound escape from the restaurant. Another resident of Maple Ave. said that a problem occurs when the door opens and patrons are entering or exiting--then the noise drifts out.

Harry Ainsworth, 44 Maple Avenue, said that he has lived on that road since 1972; he said he wished to clarify that the Board is saying this evening that the septic system is up to the Board of Health. Mr. Ainsworth said he remembers that when Mr. Hall built that septic system in the wetlands there was a State board involved in setting limits. Mr. Hall had said that the rest of the establishments in the complex would all be retail, so that Something Simple was to be the only strain on the septic system. Mr. Ainsworth asked if the Board would check to see if initially any State board was involved in the approval of that site? Mr. Drobinski stated that the only State board that could possibly have been involved at that time would be the DEQE, but that possibly our own Conservation Commission knows the history, and said that the matter can be checked.

Selectman Clark queried as to how many septic systems are on site (because at first there were only the buildings along Post Road that were erected) and was told that there are five in Mill Village. It was clarified that there is one system under the parking lot near True Value, one by Duck Soup, one by the Frame Shop, one by DeWolfe and one by the bank. Selectman Clark wished to know which of these serviced the back building and was giving off odors and was told by Ms. Finerty that it was the one by True Value and that the hair salon has also been backing up. Ms. Finerty also said that the tanning salon wishes to add two hairdressing stations which will further stress the system. On the subject of live entertainment, Ms. Finerty said that even if the Board puts restrictions on such entertainment, given the site's history of augmentation from past restrictions, how can the neighbors be assured that the same thing will not happen with restrictions imposed in 1996? Ms. Finerty said she would like to be assured that the restrictions will be upheld so that she will not have to call the Selectman on, e.g., a Sunday afternoon!

Mary Ainsworth, 44 Maple Avenue, said that the previous restaurant had tables out on the sidewalk during the summer, and asked if the new restaurant would do the same. The applicants said that they did intend to have tables outside, but that no entertainment would be taken outside the restaurant.

A resident asked what would be criteria used to decide to rescind an entertainment license and Mr. Drobinski said that there should be no sound emanating from the building! Asked as to how many complaints would have to be received for the Board to act, Mr. Drobinski said only one valid complaint would be necessary. Asked as to how this complaint would be measured, and if the music should be taped so that the Board could hear it, Mr. Drobinski said that this would not be necessary, as he believes that the complainants would be acting as reasonable people.

Jeffrey Jacobson, 28 Babe Ruth Drive, asked for one final point of clarification, as to the duration or permanence of licenses issued. Mr. Drobinski responded that licenses can be issued for a duration; Interim Town Manager Thompson said that licenses are usually renewed annually, and Mr. Drobinski said that a six-month license would also be possible.

At the conclusion of the discussion, it was on recommendation by Chairman Drobinski, and on motion unanimously

VOTED: To continue the hearing to consider the above-stated license applications of Deborah R. Taylor, Manager, d/b/a MoonShadow Cafe & Catering, Mill Village, 385 Boston Post Road, Building G, Store 2 to March 11, 1996 at 9 p.m., for the purpose of giving the Board time to investigate issues with the Board of Health as to water and septic issues and to reach a clear understanding of the history of this site's progression from a restaurant which used paper utensils, to a restaurant using utensils which must be washed, from a restaurant with a smaller number of seats to a restaurant with an appreciably larger seating capacity.

Continued Public Hearing - Star Market Site Plan Special Permit (SP95-324)

Present: S. Grande, Attorney for Star Market; T. Houston and P. Paradis of C.I.D. Associates; J. Bierschenk of ENSR Consultants; and J. Civilinski of Gravestar, Inc., Ursula Lyons, Planning Board.

Chairman Drobinski reopened a public hearing (continued from February 12, 1996) to consider the application, SP95-324, dated August 15, 1995, of Sudbury Plaza Trust, c/o Gravestar, Inc., 1 Broadway, Cambridge, MA, for a Site Plan Special Permit for expansion of the Star Market Company store at 509 Boston Post Road.

In addition to all materials already acknowledged by the Board in this matter, the Board also acknowledged receipt of the following:

1. Draft of Site Plan Special Conditions, incorporating changes in language discussed at the hearing on February 12, 1996, by Steven Grande, Attorney for Star Market, (5 pages) and accompanied by a two-page sketch, drawn Feb. 16, 1996, by CID Associates, Inc., entitled "Star Sudbury Sketch";
2. Copy of a letter to Selectman Clark from Town Counsel Paul Kenny, dated February 23, 1996, in which Mr. Kenny answered Ms. Clark's request for an opinion (dated February 22, 1996 and also attached) regarding the application of the Zoning Bylaw with regard to the definitions contained under IX.(V,C) entitled "Parking Standards" and the interpretations given to Ms. Clark previously by Mr. Hepting (by letter of 01/24/96) and Mr. Place and Mr. Hepting (by letter of 01/22/96). Mr. Kenny stated that technically Mr. Hepting's and Mr. Place's "statements standing alone, are correct. However, in order to implement or understand design standards, you must take into consideration and apply the definitions as written. Therefore, it is my opinion that the application of the definition is necessary to the implementation of design standards or criteria. With regard to the graphic diagrams, it is my opinion that they are included in the definition. The diagram cannot be separated from the meaning of the term except where there appears to be a conflict. In the event of a conflict as in other matters of design, words or specifications take precedence over diagrams and plans. I have spoken to both" (Mr. Hepting and Mr. Place) "who agree that the definitions must be utilized in order to measure or interpret design standards or criteria. Your final question involves the designation of the entrance and access are at the CVS side of the Star expansion site. It is a fair statement that the first 20 feet in from Route 20 is an access driveway, as

that term is defined in IX.(V,C,1.a). Jack Hepting and Bill Place reviewed the plan presented and according to the definitions contained in IX.(V,C,1) the area adjacent to the access driveway appeared to be a maneuvering isle because motor vehicles enter and leave their parking spaces from that travel area as set forth in IX.(V,C,1.c). However, based on its location, this area functions as an interior driveway, based on its use and location. In my discussion with Jack Hepting, he concurred that this area functioned as an interior driveway and based upon design criteria, should be subject to the standards required of an interior driveway. As I understand Jack Hepting and Bill Place, they were asked to review the plan presented rather than suggest other designs. In the present configuration, the area adjacent to the access driveway is depicted as a maneuvering isle, while it performs functionally as both a maneuvering isle and an interior driveway. In my opinion, the bylaw provides by definition that an interior driveway and a maneuvering isle are mutually exclusive based on their definitions."

Selectman Clark began the discussion by going on record with her complaint to Star Market as to the terrible condition of the land all along the Access Road to Nobscot Road; Ms. Clark said there is dumping going on and said that there is so much debris on the site that it has the appearance of a dump. Ms. Clark stated that when the Town asked that the site be cleaned on a regular basis, this did not mean only cleaning once a year! Ms. Clark further stated that she is appalled, as this is a location where food is sold and such conditions would invite the presence of rodents. Attorney Grande responded that he will see to this matter immediately.

Mr. Grande thanked Selectman Clark for her time given to the drawing up of a composite of the special conditions that have been under discussion in the hearings for this site plan. He stated that he has only a few comments to make as to that composite, but wished to begin by telling the Board of a discussion he just had with the Conservation Commission on language in Condition 14 (o): Mr. Grande said that it was Mr. Meyer's recommendation that the phrase "all as per the policy of the Sudbury Conservation Commission" be changed to "as permitted by applicable law." Ms. Clark queried as to when this recommendation was made and Mr. Grande said that it had been made this evening, just prior to this hearing. Ms. Clark said that in a discussion with Mr. Meyer previous to this evening, he had said that the Commission did have a policy which was: 1) to keep channels of streams open and 2) that this should be done by Gravestar. Mr. Grande then said that the wording change and Ms. Clark's understanding of this issue are not exclusive. He said that Mr. Meyer agreed that the water courses shall be maintained, but that there are situations where water courses can be dammed up by, (e.g.) a storm, but if an agent goes into the wetland to touch the water courses he must go according to applicable law; the agent must get a permit from the Conservation Commission to go into wetlands to do any work. Ms. Clark stated here that on the site are huge trees that have fallen over because the site is so wet and roots are sticking up--in time, these roots will clog up the stream, and with this clogging will come a back-up which will kill more trees and eventually there will be no trees there at all. It will become a dead wetland. Selectman Clark said that Mr. Meyer had agreed with her that the Commission has a policy to prevent such an occurrence and wondered why he had changed his position.

Selectman Blacker stated that Mr. Meyer's language change did not signify a change in his position but rather a more exact legal wording of the process to be followed in maintaining water courses.

Selectman Clark asked Mr. Grande if it would require going to the Conservation Commission for approval in picking up litter in the wetlands and Mr. Grande said that apparently this would not be necessary, but that such clean-up would have to be done in a cautious manner. Ms. Clark then said that she understood that applicable law must be followed when there is to be an alteration of a water course, but when a water course is being maintained, she does not believe one must file a formal request with the

Conservation Commission; that her whole interest here is in keeping the streams open. She asked why "fallen trees" could not be added to #14 (o) in addition to the already-stated litter and debris. Mr. Grande responded that the Conservation Commission will not allow Star to go in and clean up fallen trees; they do want Star to clean the litter and keep the water course open. At the conclusion of discussion on this condition, consensus was reached as to the language change suggested by Mr. Meyer (as quoted by Mr. Grande) at Star's meeting with the Commission earlier this evening.

Mr. Grande noted that he had stricken Condition #3, but Selectman Clark had reinserted this condition. As to this issue, Ms. Clark then asked exactly how many overhead poles there are at CVS; she said that she believed that Mr. Grande had mentioned at the last hearing "two locations" (CVS and along Highland Avenue) and not "two poles." Mr. Grande said that Ms. Clark was correct and it was agreed to strike "two poles" in favor of "one overhead pole."

As to Condition #14 (u), Mr. Grande said that Selectman Clark had changed this wording back to something she had suggested, a reduction of the entrance in question to 20 feet. Mr. Grande said that in the plan sent to him by CID Associates, there was a drawing and with this, a suggestion by Mr. Houston that the entrance could not be reduced to 20', but it could be reduced "some". Ms. Clark recollected that it had been agreed upon to reduce this entrance "if possible" but also that she had been desirous of a reduction to 20'. Mr. Grande said he had introduced the language "if possible" as he thought had been agreed upon. However, Ms. Clark said that in her opinion the language in a site plan must be as finite as possible and this decision must be made prior to site plan approval. It was noted that originally, the entrance in question had been configured at 28'. A discussion ensued between Ms. Clark and Mr. Houston as to why he believed that the present configuration is as tight as could possibly be to allow trucks coming from the west to make the turn at that entrance. Ms. Clark then agreed to strike "twenty (20) feet" in her Composite Draft and insert "twenty-five (25) feet."

As to Condition #16, Mr. Grande questioned Ms. Clark as to why she had included so many items to be satisfied before a final occupancy permit could be issued. Ms. Clark said that she noted special cases here so that any future Board of Selectmen would not have to question, (e.g. #3 in the parentheses: "why are those poles along Highland Avenue still above ground?") and know that an exception had been intentionally made in a particular case such as this. Mr. Grande said he now understood this reasoning.

As to #6 in the parentheses under Condition #16, Mr. Grande asked why Ms. Clark had reinserted this. Ms. Clark responded that the Planning Board had requested this, as Star has a non-conforming sign. She said it was her understanding that Star would not be changing its sign; Mr. Grande said that there had been some proposals as to changing the sign, but expressed concern that the occupancy permit should not hinge upon the sign being changed or not. Ms. Clark agreed and said to strike Condition #6 in the parentheses on Condition #16.

Mr. Grande said that as to #7 in parentheses under Condition #16: Ms. Clark had reinserted this item also (which Star had deleted). Mr. Grande said that although Star is not allowed to store any chemicals on site, he has no objections to the item being included here.

Selectmen Clark said that on Condition #14 (e), Star had language on vertical granite which she felt needed the approval of the Town Engineer. Mr. Houston clarified that Star had used language provided by the Town Engineer; after a short discussion Ms. Clark stated that the language in #14 (e) as is should stand.

Mr. Houston asked for clarification from the Board for Condition #14 (f). He felt that the second sentence of this condition should read: The 12 parking spaces adjacent to Route 20 are to be referenced as "reserved parking". The Board concurred.

Mr. Houston then said that he had spoken with Janet Silva on the Friday previous to this hearing and Ms. Silva had informed him that from an administrative point of view, it would be best to have new plans drawn up which incorporate all changes to the original plans and would correspond to the Decision. He said that Star had endeavored to do this over the week-end and that the plan submitted to each Selectman this evening (February 26, 1996) is now up-to-date with exception of two new additions: the extension of the stockade fence all around and width changes on the entrances as requested by the Board.

Mr. Thompson said that he would take a Site Plan belonging to one of the Selectman to show to the Building Inspector and the Town Engineer.

Chairman Drobinski asked about Condition #14 (h): he said that Raytheon had spoken with him about the option of having the proposed traffic light include a manual override so that their traffic officer could direct rush-hour traffic; Mr. Drobinski noted that language as to this override was not in this item as is. Ms. Clark agreed to add the words "and shall have a manual override" to this item.

As to her compromise on Condition #14 (v): Selectman Clark stated that she now has an opinion from Town Counsel which disagrees with the those of the Building Inspector and Town Engineer. Ms. Clark read from Mr. Kenny's letter to her of Feb. 23, 1996, (referenced above) on the pre-existing, non-conforming, interior driveway at CVS which functions as a maneuvering aisle and which will require a special permit from the ZBA. Mr. Grande asked if the Building Inspector has been notified of this new opinion and Ms. Clark told him that Mr. Hepting does have a copy of Town Counsel's letter. Mr. Grande asked for a copy of this letter and Selectman Blacker gave him his. Mr. Grande read the letter and then asked Ms. Clark how this affects her desire for on-going monitoring of this interior driveway (as per #14 (v)). Ms. Clark said that the words would have to be added: "provided the ZBA grants a special permit for the use of this exit". Mr. Grande then asked what would happen if the ZBA denied a special permit, for whatever reason. Ms. Clark said that because Star is now coming in with a change on this driveway-aisle, the whole thing comes into review again and because this is a non-conforming use, the only alternative is for ZBA to review it and give its blessing, not for variance, but for special permit for this non-conforming use and non-conforming building. Ms. Clark then reviewed for the Board and for the representatives of Star the history of her disagreement on this issue with prior opinions issued by the Building Inspector and Town Engineer, and said that to come to closure on interpreting the Bylaws in this matter she had requested the opinion of Town Counsel, from which she had just read this evening. Mr. Grande wished to go on record as agreeing with the compromise represented in the present wording of Condition 14 (v); after a short discussion, it was agreed upon that the wording as is, without the proviso on special permit from ZBA quoted above, would stand (so long as the condition reads "if in the unanimous opinion of the Selectmen....."), as the Zoning Enforcement Agent has now been notified of Town Counsel's opinion and he must enforce the Bylaws before issuing a Certificate of Occupancy.

Selectman Clark stated that since there is a Planning Board member present, she would like from her the status of the Water Resource Protection District Permit. Ms. Lyons said that as the Planning Board had just received an evaluation from Woodard & Curran, she would like the Selectmen to hold off on making a decision this evening because there could be a conflict with the recommendations that the Planning Board will be making after considering the Woodard & Curran evaluation. Selectman Blacker asked Ms. Lyons why the Planning Board cannot set their own conditions. Chairman Drobinski cited Condition #8 as an example of how the Selectmen's Decision takes into account the Planning Board's approval. Ms. Clark also

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informed Ms. Lyons that in past hearings, discussions encompassed comments made by Jody Kablack in letters to the Board on this matter and her comments had been incorporated into the draft. However, Ms. Clark said that the Selectmen had not yet received the Woodard & Curran report and she would have liked to have seen that previous to this evening. Mr. Grande said that he too had just received the Woodard & Curran report and will be reviewing all the technical comments made to be sure "we are all on the same page". Chairman Drobinski then stated that perhaps the way to handle this would be to agree that the Board's decision tonight is subject to any additional issues of the Planning Board.

Reed Lowry of 25 Dudley Road queried as to whether the Board had heard back from the State Highway Department as to the traffic light issue and Mr. Thompson answered in the affirmative. Ms. Clark mentioned a traffic light in Marlborough on Rte. 20 at Raytheon's private entrance; this, she said, would strengthen our case for a light at a private entrance to a business in Sudbury, since the Highway Department stated previously to us that it was not its policy to place lights for other than public roads.

Interim Town Manager Thompson then recommended that the Board approve the draft of decision as composited by Selectman Clark and amended this evening, and direct the Selectmen's Office to draw up a final draft.

Following this discussion of February 26, 1996, based upon a determination that the foregoing evidence, together with the plans submitted, conformed to the intent and purpose of the Zoning Bylaw requirements, a motion was made by Chairman Drobinski and unanimously

VOTED: To grant a Site Plan Special Permit to Sudbury Plaza Trust, c/o Gravestar, Inc., One Broadway, Cambridge, MA in accordance with Application No. SP95-324, for the expansion of the Star Market Co. store involving removal of the 1,528+/- square foot addition at the east side of the building, construction of a new 10,261+/- square foot retail space at the south side (rear) of the building, takeover of existing retail space west of the existing Star Market, reconstruction of facade and entrance, revised exit/entrance vehicular traffic patterns, Route 20 exit with traffic light, and associated parking changes, for property at 509 Boston Post Road, LBD2, as shown on a plan entitled "Star Market Sudbury Plaza, Store 118", comprised of Sheets T-1, C-1.1, C-1.2, C-2, C-3, C-4, C-5, C-6, SE-1, A-1.1, A-1.2, A-2.1, dated October 30, 1995, and revised February 26, 1996; Sheet C-0, dated March 30, 1995; Sheet A-2.2, dated October 30, 1995; and Sheets SW-1 & 2, dated December 18, 1995, prepared by E. Berman Architects, Cambridge, MA, subject to compliance with all governmental laws and regulations including, but not limited to, zoning, building and health laws and regulations, and further subject to the following conditions:

1. An Order of Conditions under the Wetlands Protection Act by the Conservation Commission, if applicable.
2. Approval of the drainage system, including traps, catch basins, and periodic maintenance as required by the Town Engineer, and drainage improvements in an attempt to work toward "best management practices" shall be done as mutually agreed upon in writing by the Town Engineer and property owner.
3. Placement of all utilities underground except for one overhead pole at CVS and a line of five poles along Highland Avenue to the transformer in the rear that was recently replaced.
4. Approval of signs or advertising devices as required under applicable provisions of the Zoning Bylaw.

5. No storage or use of chemicals on site except in conformity with guidelines and requirements of the Board of Health and the Fire Chief, the owner or operator of the site shall comply with the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. Chapter 21E, as amended and all regulations issued thereunder.
6. The grant of a Water Resource Protection District Special Permit from the Planning Board.
7. Approval of the final landscaping plan by the Board of Selectmen.
8. Exterior lighting to be directed away from adjacent residences and have shields.
9. No use of salt or chemical de-icers on site.
10. If applicable, the grant by the owner to the Town of a restrictive covenant to run with the land, governing, restricting or prohibiting the following which shall conform to requirements of the Board of Health, Town Engineer and/or Conservation Commission as appropriate:
 - (a) the use of salt or chemical de-icers on the site;
 - (b) the installation by the owner per the requirements of DEP of one or more monitor wells on the site, including the Town's right of access for periodic testing and monitoring thereof, or another protective device as may be required by the Board of Selectmen.
11. Submission of an "as built" site plan. Any change in the physical condition of the site, including changes in the location or design of structures or systems, following approval of the site plan, will require approval of the Board of Selectmen.
12. In addition to the above and pursuant to the recommendations of various boards and officials, the following items are to be implemented:
 - (a) A covenant and grant of easement to the Town of Sudbury dated September 22, 1983, requires the inspection four times annually and cleaning twice yearly, of the drainage system on the Gravestar property.
 - (b) Install a crosswalk on the westerly side of the intersection from Raytheon with pedestrian signal poles. Pedestrian circulation within the site should be enhanced with a painted crosswalk from the CVS building to the corner of the Star Market building, and the installation of a 5 foot wide bituminous walkway along the front of the Star Market building, allowing no external displays or storage in that area which would decrease the width of the walkway below 5 feet.
 - (c) Install a 5 foot pedestrian walkway along the westerly side of the main entrance within the parking lot.
 - (d) The Vertical Granite/Precast Concrete Curb Detail be revised to a sloped granite detail for the entire site except near buildings where vehicle channelization is enhanced through use of

a vertical precast or granite curbing. Slope or vertical granite curb shall be installed along the edge of pavement to Boston Post Road between the easterly and westerly entrances.

- (e) Pursuant to Zoning Bylaw Article IX,V,A,8, Reserve Parking Spaces, the Board of Selectmen has waived 12 spaces of the required 481 parking spaces. The 12 parking spaces adjacent to Route 20 are to be referenced as "reserved parking". Since the new parking configuration does not meet the current requirements of parking to the rear of a structure, a special permit will be required from the Zoning Board of Appeals for alteration to a non-conforming use and structure.
- (f) The main entrance shall be 36 feet wide, comprised of three lanes, each being a 12 foot wide driveable travel lane.
- (g) If permitted by the Massachusetts Highway Department, the proposed traffic signal for the principal four way entrance to the Star Shopping Center and Raytheon Company should be synchronized with the planned traffic signal at Nobscot Road and Route 20 to facilitate ease of left turns in and out of the main entrance, and shall have a manual override. The light should also have the capability for emergency vehicle preemption, and should be changed to a flashing light in all directions after 11:00 p.m. each evening. The potential for synchronization with a future light at Horse Pond Road should also be explored by the applicant as a condition of approval of the site plan, and appropriate steps taken to ensure compatibility.
- (h) It is understood that Route 20 will be widened in the area of the main entrance to Star Plaza to improve east/west traffic flow at the applicant's expense.
- (i) To improve the traffic efficiency of Route 20, curb cuts that allow traffic inbound at the westerly end of the parcel and in-and-outbound at the center entrance with a traffic light, and right-in and right-out only on the easterly side of the plaza, shall be maintained in accordance with this site plan approval.
- (j) Restrict the use of the Access Road as shown on the plan to automobiles and commercial vehicles not in excess of 2 1/2 tons with signs complying with MUTCD posted at appropriate locations. The owner of the plaza consents to enforcement of this provision by the town police and agrees to monitor the use of this Access Road and report misuse to the town police for enforcement, as may be appropriate.
- (k) The existing septic system to be completely replaced. An alarm system shall be installed on the pumping tanks which shall ring not only at the Star office, but shall also ring at the office of the Pumping Company hired by Star for prompt pump-out before any pollution occurs.
- (l) Snow removal shall be hauled off-site, as the former snow storage area to the rear of the building is now proposed for parking. Parking lots including the Access Road shall be swept at least twice yearly and all debris removed off-site.
- (m) The wetlands on the easterly side of the parcel shall be cleaned of litter and debris on an ongoing basis, at least annually, and in addition, water courses shall be maintained as permitted by applicable law.

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- (n) The current freestanding sign is non-conforming (over-sized). If the applicant desires to change the sign, a special permit from the Zoning Board of Appeals will be required. The applicant is urged to consider a sign which is more in character with Sudbury and will be an attractive amenity from Route 20.
 - (o) The landscape plan is to be stamped by a Registered Landscape Architect. The buffer provided at the rear of the building and Residential Zone A-1 is 6 feet, and the buffer provided between Boston Post Road and the proposed parking lot ranges from 18 feet on the west to 26 feet on the east. Since the buffers do not meet current requirements, a special permit is required from the Zoning Board of Appeals. An entranceway by foot shall be provided for the abutting residences to access the shopping plaza to be located in a convenient and safe location from Highland Avenue.
 - (p) Parking lot lighting to be on a more human scale, i.e., the poles to be shortened and lights shall be shielded from the abutters. Provide a description of the type of outdoor lighting proposed - number and location of fixtures, wattage, etc.
 - (q) Screening of all service areas, loading areas, outdoor disposal facilities and mechanical equipment from Residential Zone A-1 shall be provided by the placement and maintenance of evergreen trees, at least six (6) feet in height at initial planting, spaced at intervals of five (5) feet on center, extending from a point 100 feet south of the intersection of the westerly side of this lot with Route 20 and continuing south and east along the east side of the proposed leaching fields to the Access Road as shown on said plan to the extent approved by the Conservation Commission. Choice of evergreen trees shall be made by CID Associates, to provide for the appropriate screening. In lieu of evergreen trees along the easterly sideline of the septic system leaching field adjacent to the wetland, and, in addition to the evergreen trees, along the entire westerly sideline adjacent to Highland Avenue, install and maintain a 6 foot high stockade fence.
 - (r) A sprinkler system must be accurately coded to the annunciator lights on the building.
 - (s) The entrance to the parking area located over and on top of a portion of the septic system shall be narrowed to 25 feet. This will allow additional feet of landscape width to each of the two islands on the side of this entrance, which will reduce the deficiency in open space and will provide protection for the main entrance to Star Market, its outdoor seating and parking in this area.
 - (t) If in the unanimous opinion of the Selectmen, the exit from the shopping center onto Route 20 at CVS shall become an internal, on-site, traffic circulation problem causing the blocking of parking spaces by autos waiting to exit, among other things, or shall become an external, off-site traffic circulation problem causing interruption with the traffic flow and safety on Route 20, among other things, then the owner shall close off this exit.
13. No building permit shall be issued until certain items noted above (1,2,6,7) as specified by the Board, are complied with.

14. No final occupancy permit shall be issued until certain items noted above (3,5,8,10,11 & 12) as specified by the Board, are complied with.
15. This Special Permit shall lapse if construction and a substantial use thereof, have not commenced except for good cause within one (1) year from the effective date of said Permit.

Appeals of the grant of the Special Permit, if any, shall be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws and shall be filed within twenty (20) days after the date of filing notice of this Special Permit in the office of the Town Clerk.

Minutes

It was on motion unanimously

VOTED: To approve the regular session minutes of February 12, 1996, as amended.

Council on Aging - Van Donation

It was on motion unanimously

VOTED: To accept \$119.87 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

Sunday Entertainment License Renewal - Jezebel's

It was on motion unanimously

VOTED: To grant renewal of a Sunday Entertainment License for Lamijo Corp., d/b/a Jezebel's, 8 Village Green, 29 Hudson Road, for a 1 to 4-piece musical group. which may include a singer, from 12 Noon to 12 Midnight, March 17, 1996 through March 9, 1997.

Appointment of Republican Election Officers

It was on motion unanimously, as recommended by the Assistant Town Clerk and Republican Town Committee Chairman,

VOTED: To appoint Cheryl Anderson, 4 Spiller Circle, and Paul Davis, 4 Spiller Circle, as Republican Election Officers in the position of Teller, for a term to expire August 14, 1996.

Sudbury Earth Week and Spring Cleanup Day

It was on motion unanimously

VOTED: To proclaim the week of April 21-27, 1996, as SUDBURY EARTH WEEK and to designate April 27, 1996, as SPRING CLEANUP DAY.

Amendment of "Rules and Regulations for the Recycling and Disposal of Solid Wastes at the Sudbury Landfill"

Interim Town Manager Thompson informed the Board that this amendment has already been advertised in The Tab, The Middlesex News, and The Town Crier, and notification has been mailed to a list of several local companies who currently use the landfill, such list and advertisement wording being included with this evening's agenda items.

Upon Interim Town Manager Thompson's recommendation, it was on motion unanimously

VOTED: To amend the Town of Sudbury "Rules and Regulations for the Recycling and Disposal of Solid Wastes at the Sanitary Landfill" to ban commercial disposal of solid waste and disposal of solid waste from local businesses starting March 4, 1996.

Garden Club Request

The Board acknowledged receipt of a copy of a letter to Mr. Thompson from Sande Weiskopf of the Thursday Garden Club, dated February 16, 1996, requesting permission to use the Town Common (or Heritage Park) on Saturday, May 4, 1996, for a breakfast for its members and a few town officials. Ms. Weiskopf stated the purpose of the breakfast (and a requested sandwich board sign on the Common) would be for a viewing of the daffodils planted by the club and to publicize the Daffodil Trail and the fact that donations to the 1996-97 planting are more than welcome. Ms. Weiskopf concluded by stating that a \$250 grant was awarded to the Garden Club by Petals, sponsored by Shell Oil Co, with which the club will continue to beautify the Town.

A short discussion was held by the Board as to its reluctance to permit a proliferation of signs on the Town Common; the only sign permitted should be the "reminder to vote" sign. In response to Selectman Clark's question regarding the "community bulletin board" idea as per in Wayland Center, Mr. Thompson informed the Board that such advertising is available in Sudbury at the Fire Stations on Route 20 and on Route 117, but that using the Town Common for this purpose would (in his opinion) contribute to a "junkyard" atmosphere. Ms. Clark noted Janet Silva's recommendation that Heritage Park would be an appropriate location for the proposed activities, and the Board concurred. Also, placement of a small sign near Town Hall for a short time might be an alternative, subject to approval of the Interim Town Manager.

It was on motion unanimously

VOTED: To deny the request, dated Feb. 16, 1996, from Sande Weiskopf, Thursday Garden Club, for use of the Town Common for a breakfast and use of signs in conjunction with its Daffodil Trail project, on Saturday, May 4, 1996, and to assist her in making arrangements for use of Heritage Park for the breakfast, and other possible sign locations.

Honorary Reading of Article One at Annual Town Meeting

On the selection of a person to give the motion under Article One at the 1996 Annual Town Meeting, Selectman Clark stated a preference for Virginia Howard, who has served the Town in various capacities over many years and this year was selected by the League of Women Voters as Woman of the Year. After discussing same, the Board unanimously agreed.

Long Range Planning Committee Appointment

On the subject of the two candidates recently interviewed by the Board for a vacant position on the Long Range Planning Committee, Selectman Clark stated that she would be in favor of appointing Herbert Shanzer. Interim Town Manager Thompson stated that he had hoped to balance the LRPC with the addition of a female member; he further stated that as William Katz of the LRPC had reiterated that his Board expresses no preference for one candidate over the other, it is up to the Selectmen to make this choice. After a short discussion, the Board concurred with Ms. Clark's recommendation of Mr. Shanzer.

It was on motion unanimously

VOTED: To appoint Mr. Herbert Shanzer, 47 Chanticleer Road, to fill the vacancy on the Long Range Planning Committee for a term to expire April 30, 1999, and to thank him in advance for his service to the Town.

Hosmer House

Selectman Clark questioned Interim Town Manager Thompson as to whether or not state or federal funds had been sought relative to Hosmer House. Mr. Thompson responded in the affirmative, that in the past the Town has received grants for Hosmer House and Heritage Park through the Massachusetts Historical Commission, as First Parish is seeking. However, Mr. Thompson stated that he would contact Lyn McLean to review with her possibilities of projects that might be under consideration that would be eligible for funding.

Finance Committee Request for Joint Meeting with Board of Selectmen

Chairman Drobinski informed the Board that the Finance Committee has requested a joint meeting with the Selectmen to update them on the budget and ascertain how much the two boards are in agreement on several items. After a short discussion, the Board agreed to schedule a meeting but will decide on a convenient date and time in the near future.

First Parish Church - Preservation Grant Application

Interim Town Manager Thompson recommended that the Board indicate its support for the First Parish of Sudbury's pre-application for Round II of Massachusetts Preservation Projects Fund, as the matching grant for which First Parish is applying will be used for the restoration and preservation of the Church's steeple and exterior, and as historic Sudbury Centre is dominated by the First Parish Church on the "Rocky Plain", it will benefit the whole community to restore this historic structure. The Board concurred, and signed a letter of support.

Sudbury Foundation - Wood-Davison Fund

On the subject of Wood-Davison funds, Interim Town Manager Thompson discussed briefly with the Board the recent letter received from the Sudbury Foundation and stated that he would pursue their recommendations if the Board had no objections. The Board concurred. In addition, Mr. Thompson reported, and the Board agreed, that he would use Town Counsel Paul Kenny to pursue in the courts the "change in use of funds" that remain in the Wood-Davison account.

Sudbury Grange Invitation

Interim Town Manager Thompson reminded the Board of the invitation he brought to them this evening from the Sudbury Grange for Tuesday, March 12, 1996 at 8:00 p.m. in the Grange Hall. At that time the Grange will be celebrating its 111th year in the Town with entertainment, a speaker, an awards ceremony and old-fashioned fellowship. The Board decided to see if Hasty Evans would be attending this event and if so, to ask her to present the Board's greetings to the Grange to mark this special occasion.

Metropolitan Area Planning Council Invitation

The Board is in receipt of a letter from William G. Constable, president of the Metropolitan Area Planning Council, dated February 20, 1996, informing the Selectmen that they are specifically invited to one of the first public discussions of a controversial reform proposal on MBTA assessments. This meeting will be held at 6:00 p.m. on Wednesday, February 28, 1996 at Anthony's Pier 4 Restaurant. After a short discussion, it was determined that none of the Selectmen will be available to attend that meeting.

Executive Session

At 11:15 p.m., it was on motion by Chairman Drobinski, and by roll call unanimously

VOTED: To go into Executive Session to discuss contract negotiations for new Town Manager Steven Ledoux and the extension of contract of Interim Town Manager Thompson.

(Chairman Drobinski, aye; Selectman Blacker, aye; Selectman Clark, aye).

Chairman Drobinski announced that public session would not reconvene following Executive Session.

There being no further business, the meeting was adjourned at 11:30 p.m.

Attest: _____
Richard E. Thompson
Interim Town Manager-Clerk