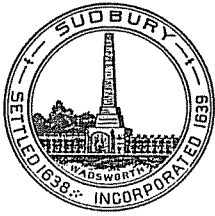


2016 APR 29 AM 11:08



# Town of Sudbury

## Planning Board

planningboard@sudbury.ma.us

<http://www.sudbury.ma.us/services/planning>

Flynn Building  
278 Old Sudbury Rd  
Sudbury, MA 01776  
978-639-3387  
Fax: 978-443-0756

April 27, 2016

### DECISION

#### STORMWATER MANAGEMENT PERMIT

#### Grocery Store at Meadow Walk Sudbury

#### 526 & 528 Boston Post Road

DECISION of the Planning Board of the Town of Sudbury, Massachusetts (the "Board") on the petition of BPR Development LLC, c/o National Development (together with its successors and assigns, the "Applicant") for the construction of a new 45,000 sq. ft. grocery store, driveways, parking and associated improvements, including stormwater management facilities, utility improvements, landscaping and lighting (the "Project") on a portion of the property (the "Property") located at 526 & 528 Boston Post Road, Sudbury, MA, as shown on the Plan (defined below) (such portion, the "Project Site"). The Property comprises approximately 49.498 acres, identified on Sudbury Town Assessors' Maps K07 as Lots 0011 and 0013, and is zoned Limited Industrial District and Residential A-1. This Decision is issued in response to an application submitted to the Board on November 12, 2015 by the Applicant for a Stormwater Management Permit (the "Permit") under Article V (F), Section 5.C of the Town of Sudbury Bylaws (the "Bylaw") and the Town of Sudbury Stormwater Management Bylaw Regulations (the "Regulations").

After causing notice of the time and place of its public hearing and of the subject matter thereof to be published, posted and mailed to the Applicant, abutters and other parties in interest, as required by law, Peter Abair, Chairman of the Board, called the public hearing to order on December 9, 2015. The hearing was continued to December 16, 2015, January 13, 2016, January 27, 2016, February 10, 2016, February 24, 2016, March 9, 2016, March 23, 2016, March 30, 2016, April 13, 2016, April 27, 2016 and was closed at the end of the April 27, 2016 proceedings. Board members Stephen Garvin and Christopher Morely were present throughout the proceedings. Martin Long was absent at the February 10, 2016 hearing and, pursuant to G.L. c. 39, § 23D, has certified that he has examined all of the evidence received by the Board on this subject and is therefore eligible to vote on the subject application. Peter Abair was absent at the April 13, 2016 hearing and, pursuant to G.L. c. 39, § 23D, has certified that he has examined all of the evidence received by the Board on this subject and is therefore eligible to vote on the subject application. Craig Lizotte recused himself from consideration of this application. The records of the proceedings and submissions upon which this decision is based may be referred to in the office of the Town Clerk or the Board office.

Submitted for the Board's consideration was:

- 1) Stormwater Management Permit application and materials dated November 10, 2015 (received November 12, 2015);

- 2) Site plans entitled "Grocery Store at Meadow Walk Sudbury, 526-528 Boston Post Road, Sudbury, MA" prepared by VHB dated November 10, 2015, containing 11 sheets: C-1 Legend and General Notes (last revised 3/3/2016); C-2 Overall Site Plan (last revised 3/3/2016); C-3 Site Preparation and Erosion and Sedimentation Control Plan (last revised 4/5/16); C-4 Layout and Materials Plan (last revised 3/9/16); C-5 Grading and Drainage Plan (last revised 4/5/16); C-6 Utility Plan (last revised 4/5/16); C-7.1 and 7.2 Site Details (last revised 3/3/2016); C-7.3 Site Details (last revised 4/5/16); L-1 Planting Plan (last revised 3/3/2016); L-2 Planting Notes and Details (last revised 3/3/2016), (the "Plan");
- 3) Stormwater Management Report; Phase 1 Meadow Walk at Sudbury: Grocery Store, prepared by VHB, issued March 2016, revised April 2016;
- 4) Preliminary Stormwater Management Master Plan, 526 & 528 Boston Post Road Redevelopment Sudbury, MA, prepared by VHB, issued November 2015, revised April 2016;
- 5) Memo from Bill Place, DPW Director, dated February 25, 2016.
- 6) Peer Review for Preliminary Stormwater Management Master Plan Meadow Walk, prepared by Horsley Witten Group, dated March 22, 2016;
- 7) Peer Review for Stormwater Phase I Meadow Walk at Sudbury, prepared by Horsley Witten Group, dated March 28, 2016;
- 8) Response memo to Stormwater Master Plan Peer Review Comment Letter, prepared by VHB, dated April 5, 2016;
- 9) Response memo to Whole Foods Marketplace Stormwater Peer Review Comment Letter, prepared by VHB, dated April 5, 2016;
- 10) Peer Review Memo for Phase I Meadow Walk at Sudbury, Grocery Store Boston Post Road, prepared by Horsley Witten Group, dated April 12, 2016;
- 11) Peer Review for Preliminary Stormwater Management Master Plan Meadow Walk, Boston Post Road, prepared by Horsley Witten Group, dated April 12, 2016;
- 12) Memo from Karen Staffier, VHB, Water Impact Report, dated April 12, 2016;
- 13) Water Impact Report, 526 & 528 Boston Post Road Redevelopment Sudbury, MA prepared by VHB, dated March 30, 2016.

## I. BASIS FOR DECISION

The Board bases its Decision on the following findings:

- A. Granting the Permit is in harmony with the general purpose and intent of the Bylaw in that the proposed drainage system design and controls will protect, maintain and enhance the public health, safety, environment and general welfare of the Town by (i) controlling the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with the proposed development, and (ii) controlling runoff and preventing soil erosion and sediment resulting from construction/alteration and development.
- B. The Project complies with the Regulations and the performance standards of the most recent version of the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Standards.

- C. The development and related activities shown on the Plan shall maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics from the site in order to avoid flooding, stream bank erosion, siltation, nonpoint source pollution, property damage and to maintain the integrity of stream channels and aquatic habitats.
- D. The Project is designed to avoid damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff. The Project conforms to the general criteria of the Bylaw and Regulations.
- E. The Plan establishes provisions for the long term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
- F. The Project represents the initial phase of a multi-phase, master-planned redevelopment of the Property, a 49.5-acre existing industrial site. The Project will occur primarily on the Project Site, an approximately 8.5-acre portion of the Property that currently contains approximately 4.7 acres of impervious area (constituting 55% of the Project Site). Construction of the Project will reduce impervious coverage on the 8.5-acre Project Site by approximately 0.8 acres, to approximately 3.9 acres (constituting 46% of the Project Site). Additional demolition, utility, and grading work to facilitate the Project, as shown on the Plan, will occur on portions of the Property outside of the Project Site. Additional potential redevelopment upon the Project Site and Property as contemplated by the master plan for the Property that does not relate to the Project or the Plan will require separate approval and is not subject to this Permit.
- G. The existing, functioning retention basin and portions of the existing stormwater management system will be used for the redevelopment of the Project Site. The proposed design will include best management practices and pre-treatment of runoff for water quality improvement. Erosion and sedimentation control are proposed on the Plan. Long term maintenance, operation and reporting will be required.
- H. The Phase 1 Stormwater Plan is consistent with the overall Preliminary Stormwater Management Master Plan developed for the Project.
- I. The Applicant has submitted a Stormwater Management System Operation and Maintenance Manual, which is satisfactory.

THEREFORE, the Board hereby GRANTS the requested Stormwater Management Permit, as requested in the application and shown on the Plan, located in Sudbury, Middlesex County, Massachusetts, with the benefit of the following Plan modifications, conditions and limitations. The approval herein granted is based on the Plan as described above.

## II. CONDITIONS AND REQUIREMENTS

The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and Permit conditions shall give the Town the rights and remedies set forth in Section 12 of the Regulations.

- A. **Conformity:** All Project-related construction at the Project Site shall be in substantial conformity with the Plan, which is on file with the Board and representations made by the Applicant during the public hearing.
- B. **Access During Construction:** The Applicant shall ensure safe and convenient vehicular access to the Project Site during the entire duration of the construction period. The Board and its representatives shall be permitted access to the Project Site to observe and inspect the site and construction progress until such time as the Project has been completed.
- C. **Conditions prior to any soil disturbance or construction activities:**
  - 1) The Applicant shall submit \$5,000.00 to the Board for the purpose of the Town hiring a construction monitor to perform the inspections set forth in Section G below. If prior to completion of the Project, the Board finds that this initial deposit is not sufficient to cover actual costs incurred by the Town for these purposes, the Applicant shall be required to submit forthwith such additional amount as is deemed required by the Board to cover such costs. If the actual cost incurred by the Town for such purposes is less than the amount on deposit as specified above, the Board shall authorize that such excess amount be refunded to the Applicant concurrently upon issuance of a Certificate of Completion.
  - 2) The Project will disturb more than 1 acre of land and is therefore required to obtain coverage under the Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Construction General Permit. A draft Stormwater Pollution Prevention Plan (SWPPP) has been included in the application. The draft SWPPP includes recommended construction period pollution prevention and erosion and sedimentation controls. The final SWPPP shall be submitted to the Board prior to commencement of any work in connection with the Project. All work on the Project Site shall be conducted in accordance with the requirements of those permits and plans.
  - 3) Erosion control methods shall be installed as shown on the Plan, and shall be updated as the work progresses on the Project Site.
- D. **Prior to issuance of a Building Permit, the Applicant shall submit the following information to the Board, or its representative, for review and approval:**
  - 1) Receipt of this Permit as recorded in the Middlesex South District Registry of Deeds.
  - 2) A covenant requiring maintenance of the stormwater management system in accordance with Best Management Practices and the Operation and Maintenance Plan shall be recorded on the Project Site. This covenant shall allow for the placement of municipal liens on the Project Site if the Applicant fails to maintain the system and the Town needs to do so. The Applicant shall submit the covenant for review and approval of the Board or its representative prior to recording at the Middlesex South District Registry of Deeds.
  - 3) Deep test pits shall be conducted immediately following demolition of the buildings to determine actual soil conditions. The Applicant shall provide documentation verifying that the subsurface infiltration system has been sized and located properly. In addition, a mounding calculation will

be required if, after soil testing conducted as required by this condition, the vertical separation from the bottom of the proposed infiltration system to estimated seasonal high groundwater is less than four feet and the system is designed to attenuate the 10-year storm event.

- 4) In the event that it is infeasible to install the infiltration system as proposed, Water Quality Unit 3 (WQU 3) shown on the Plan shall be adjusted to treat the larger catchment area.

E. Additional Conditions:

- 1) The Applicant shall remove sediment collected in silt sacks on a regular basis as needed during construction.
- 2) A Stormwater Construction Site Inspection Report shall be generated by the Applicant or its representative for the Project, at a minimum after every major storm event. All reports shall be available for review by the Planning Board at its request.
- 3) Approximately 7,000 square feet of snow storage is shown on the Plan for the grocery store component of the development. If additional snow storage is required, it will be provided by using excess parking spaces, using on-site snow storage areas in other areas of the redevelopment plan area, or by trucking snow off site.
- 4) Access to the drainage structures for inspection and maintenance shall be kept clear of obstruction.
- 5) The Applicant and its successors and assigns shall be responsible for maintaining the stormwater management system for the development in accordance with the Operation and Maintenance (O&M) Plan submitted and DEP regulations. An annual Operation and Maintenance status report shall be delivered to the Board demonstrating compliance with the O&M Plan.

F. The following source control and pollution prevention measures shall be employed on the site to prevent contamination of stormwater runoff:

- 1) Sweep pavement areas regularly, preferably with a vacuum or regenerative air sweeper
- 2) Employ measures to control litter on the site
- 3) Store lawn and deicing chemicals under cover
- 4) Apply fertilizers and pesticides sparingly to prevent washoff
- 5) No fertilization or pesticide application within any wetland resource area
- 6) Limit exterior washing of vehicles and equipment to locations that drain to pervious surfaces and away from storm drains
- 7) Clean up spills immediately with absorbent materials; avoid washing of pavement
- 8) Educate personnel on implementation of spill abatement and containment procedures
- 9) Use alternative deicers such as calcium chloride and magnesium chloride in lieu of sodium based deicers
- 10) Designate areas for snow storage in upland locations where meltwater can drain onto pervious surfaces away from water resources and wells
- 11) No coal tar based pavement sealants are to be used on any site subject to a Stormwater Management Permit
- 12) To the maximum extent feasible, the Project shall be designed to improve/upgrade existing stormwater management on the site

G. Inspections: In accordance with Section 9.B of the Regulations, the Board, or its designee, may inspect the Project Site at the following stages, at a minimum. The Applicant shall inform the Board

of these stages in construction at least one day prior to commencement or completion, whichever is applicable, for scheduling of an inspection:

- 1) Pre-Construction Site Inspection – prior to commencement of construction.
  - 2) Erosion and Sediment Control Inspection – to ensure erosion control practices during and after construction are in accordance with the approved Plan.
  - 3) Construction Inspection – an inspection will be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.
  - 4) Final Inspection – after the system has been constructed and before the certificate of occupancy for the building has been issued.
- H. As-built Plan: The Applicant shall submit an as-built plan, containing all elements listed in Section 11.A.2 of the Regulations, to the Board upon completion of the Project and prior to the issuance of the Certificate of Occupancy. The plan shall be signed by the professional engineer of record, who shall certify that the work has been completed in accordance with the approved Plan and this Permit.
- I. Certificate of Completion: No land disturbance authorized by this Permit shall be occupied or used, and no activity, except the construction activity authorized by this Permit, shall be conducted on the site until a Certificate of Completion has been issued by the Board in accordance with Section 11.0 of the Regulations.
- J. Violation of Conditions: Violation of any of the conditions of this Permit shall be grounds for revocation of this Permit, or of any building or occupancy permit granted hereunder for the Project, or both. In the case of violation of the continuing obligations of this Permit, the Town shall notify the Applicant of such violation and give the Applicant reasonable time, not to exceed thirty (30) days, to cure the violation. If at the end of said thirty (30) day period, the Applicant has not cured the violation, or, in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure expeditiously, the Board may, after notice to the Applicant or owner of the Project, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of the Permit. As an alternative, the Town may enforce compliance with the conditions of this Permit by an action for injunctive relief before any court of competent jurisdiction. The Applicant agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Permit.
- K. The Applicant by accepting this Permit warrants that the Applicant has included all relevant documentation, reports, and information available to Applicant, in the application submitted and that this information is true and valid to the best of the Applicant's knowledge.
- L. The Applicant shall be responsible for maintaining the stormwater management as shown on the Plan in conformance with the Operation and Maintenance Plan submitted to the Board, as approved by this Decision.

### III. LIMITATIONS

The authority granted to the Applicant by this Permit is limited as follows:

- A. Applicability of Permit: This Permit applies only to the proposed construction of a new 45,000 sq. ft. grocery store, driveways, parking and associated improvements including stormwater management facilities, utility improvements, landscaping and lighting on the Project Site, as shown on the Plan. This Permit does not apply to other portions of the Property. Construction of the Project shall be conducted in accordance with the terms of this Permit and shall be limited to improvements shown on the Plan referenced above as amended by the conditions of this Decision. Any change of use for the Project shall require a new or amended Stormwater Management Permit from the Board.
- B. Grant of this Permit is conditioned on the approval of a Site Plan by the Planning Board which is in substantial conformance with the Plan noted above.
- C. Limitations of Further Development: There shall be no further development, increase in intensity of use, change in use as per the Sudbury Zoning Bylaw, or modification of the approved Plan without the written consent of the Board. This does not absolve the Applicant from securing any permits required by other governmental boards, agencies or bodies having jurisdiction related to water quality or quantity.
- D. Other Permits or Approvals: This Decision applies only to the requested Stormwater Management Permit. Other permits or approvals required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- E. Bylaw Compliance: The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all inclusive or to negate the remainder of the Bylaw.
- F. Lapse of Permit: Should the land-disturbing activity approved under this Permit not begin within 12 months following Permit issuance, the Board, upon written notice to the Applicant, may elect to evaluate the existing stormwater management plan to determine whether the plan still satisfies local program requirements and to verify that all design factors are still valid. If the Board finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the commencement of land-disturbing activities. If the Project associated with an approved Stormwater Management Permit granted under the Bylaw has not been substantially completed within three (3) years of Permit issuance, a new Permit or a Permit extension will be required by the Board.
- G. Appeals: Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 249, Section 4.

The provisions of this Permit shall be binding upon the owner or owners of the Project and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, in full force and effect for the benefit of and enforceable by the Town of Sudbury.

This Permit shall not take effect until a copy of this Decision has been recorded with the Middlesex South District Registry of Deeds and until a certified copy of the recorded document is submitted to the Board.

Witness our hands this 27<sup>th</sup> day of April, 2016.

SUDBURY PLANNING BOARD

*Peter Abair*  
Peter Abair, Chairman

*Stephen Garvin*  
Stephen Garvin, Vice Chair

*Christopher Morely*  
Christopher Morely, Clerk

*Martin Long*  
Martin Long

COMMONWEALTH OF MASSACHUSETTS

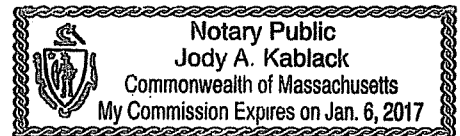
MIDDLESEX, ss

April 27, 2016

On this 27<sup>th</sup> day of April, 2016, before me, the undersigned notary public, personally appeared the above-named Peter Abair, Stephen Garvin, Christopher Morely and Martin Long, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding document; and acknowledged to me that they signed it voluntarily for its stated purpose as members of the Sudbury Planning Board.

*Jody A. Kablack*  
Jody A. Kablack, Notary Public  
My commission expires Jan. 6, 2017

- cc: Town Clerk
- Town Engineer
- Conservation Commission
- Building Inspector
- Board of Health
- Applicant



A TRUE COPY, ATTEST:  
*Thomas A. Howell*  
TOWN CLERK