

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9612
Fax (978) 264-9630
E-Mail: BOS@acton-ma.gov

Board of Selectmen
Paulina Knibbe, Chair

April 30, 2009

Acton Zoning Board of Appeals
472 Main Street
Acton, MA 01742

Dear Members of the Board of Appeals:

On April 27, 2009, The Acton Board of Selectmen discussed the proposed Next Generation Day Care facility and received input from concerned citizens on the project.

It is the sense of the Board of Selectmen that this development is not in the best interest of the town. The scale of this project is not in keeping with the Master Plan and will have a detrimental effect on the character of the Town.

- Traffic is already a major problem on Main Street, with the entrance ramps to Route 2 already in failure;
- The size of the proposed building and lack of screening will have a negative impact on the neighborhood;
- There is concern that should the business fail; the building might be abandoned because of limitations on its reuse.

We urge you to take these issues into consideration as you deliberate on this matter.

Sincerely,

Paulina S Knibbe
Chair, Board of Selectmen

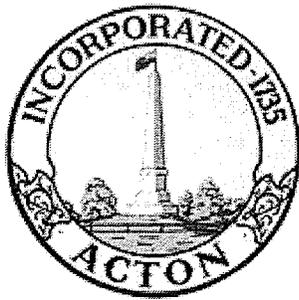
Cheryl Frazier

From: Robert Craig
Sent: Thursday, April 30, 2009 10:39 AM
To: Board of Appeals; Planning Department
Cc: Steve Ledoux
Subject: Petition #09-01 348-352 Main Street

Please be advised that I have reviewed the plans for the project and do not have any objection to the proposed access or turning radii as shown. At this point fire hydrant locations and fire alarm connections have not been shown which would require further review and approval.

Robert C. Craig, Fire Chief
Acton Fire Department
371 Main Street - Acton, MA 01720

Phone: (978) 264-9645 / Fax: (978) 266-2885
rcraig@acton-ma.gov



TOWN OF ACTON
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Acton, Massachusetts 01720
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Building Department

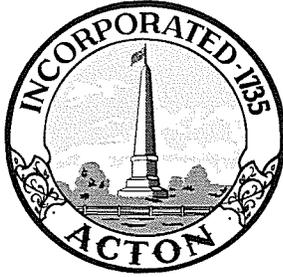
Date: April 29, 2009
To: Scott Mutch, Zoning Enforcement Officer
From: Frank Ramsbottom, Building Commissioner
Subject: Next Generation BOA Hearing

Regarding the plans submitted I have no comment at this time.

A complete set of building plans would be required for a permit review.

Respectfully submitted

Frank Ramsbottom
Building Commissioner



TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
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planning@acton-ma.gov

Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Chairperson and Members
Board of Appeals **Date:** April 27, 2009

From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

Subject: Next Generation Child Care Facility - Petition for Review under Section 10.1.1 of
Town of Acton Zoning Bylaw to Appeal Decision of Zoning Enforcement Officer

Location: 348 - 352 Main Street
Applicant: Walker Realty, LLC., 2 Lan Drive, Westford, MA 01886
Owner: Walker Realty, LLC., 2 Lan Drive, Westford, MA 01886
Engineer: Hancock Associates, 315 Elm Street, Marlborough, MA 01752
Zoning: R-2 (Residence 2)
Groundwater Protection District Zone 4
Proposed FAR: 0.23 (maximum is 0.10)
Proposed Net Floor Area: 24,085 square feet (maximum is 1,000 square feet)
Open Space: 39% (35% minimum)
Proposed Uses: Child Care Facility
Map/Parcel: F-3/54, 61 & 61-1
Hearing Date: May 4, 2009
Decision Due: July 16, 2009

Attached are the legal ad, application, site plan sheets, and departmental comments. As of this date, comments have been received from the Town of Acton's Fire Department, Transportation Advisory Committee, Acton Historic District Commission, Economic Development Committee, Design Review Board, Engineering Department, Water Supply District of Acton, Municipal Properties Department/Tree Warden, Conservation Commission, Building Department and the Health Department.

The applicant is proposing to construct a new regional child care facility. The development proposal consists of a new 2-story, 24,085 ft² structure with outdoor play areas for enrolled children, a 77 space parking lot and landscaping areas. The subject development is to be located entirely within an R-2 Residential zoning district. To date, the Planning Department is in receipt of 1) an up-dated, 1 page, Site Plan drawing dated March 15, 2009 and prepared by Hancock Associates which is sealed by the Engineer of Record on April 1, 2009; and 2) a 1 page, Open Space Exhibit drawing dated March 31, 2009 which is also prepared by Hancock Associates and sealed by the Engineer of Record on April 1, 2009.

Multiple meetings with municipal agencies and input from pertinent disciplines have contributed to the most recent site plan and open space exhibit submitted as part of the Zoning Board of Appeal Petition for Review. It has been discussed and reviewed that the proposed use is subject to special zoning status and protections afforded specifically to child care facilities under Massachusetts General Laws Chapter 40A, Section 3. Documentation in this regard has also been received by the Planning Department.

However, previous paragraph aside, the Town of Acton's Zoning Bylaw, Section 5.3.9 sets forth zoning standards governing child care facilities located in residential districts that the proposed facility would not meet. Additionally, the proposed site plan as currently designed, does not comply with the Parking Standards set forth in Section 6 of the Town of Acton's Zoning Bylaw.

The Site Plan:

The entire site is approximately 2.44 acres (106,188 ft²) and consists of three smaller individual parcels of land which are now in common ownership. The subject property is immediately bound by Route 2 to the west and southwest, residential dwellings to the north and northeast, and residentially zoned land to the south and southeast. The property immediately east is presently being utilized as a commercial landscaping business.

There are currently two single family dwelling units on the subject property. The dwelling located at 348 Main Street is a 1,349 ft² existing single story structure built in 1927 (as per the Town of Acton Assessor Office information). The dwelling located at 352 Main Street is a 1,669 ft² existing two story structure built in 1900 (as per the Town of Acton Assessor Office information). Both dwelling units are currently vacant and boarded up.

The proposed relevant zoning information for the subject site is summarized in the following table:

By-Law Requirements	Required	Existing	Proposed
Min. Lot Area (ft ²)	20,000 ft ²	106,188 ft ²	106,188 ft ²
Min. Lot Frontage (ft)	150'-0"	504.33'	504.33'
Min. Front Yard (ft)	30'-0"	N/A	46'-0"
Min. Side Yard (ft)	10'-0"	N/A	62'-0"
Min. Rear Yard (ft)	10'-0"	N/A	28'-0"
Max. Building Height (ft)	36'-0"	N/A	Unknown
Max. F.A.R. (Floor Area Ratio)	0.10	N/A	0.23
Max. Net Floor Area	1,000 ft ²	N/A	24,085 ft ²
Min. Open Space	35%	N/A	39%
Parking Requirements	Required	Existing	Proposed
Use: Child Care Facility 1 space per 10 children of rated capacity plus 1 space for each staff person on the largest shift	77	4	77
Regular Spaces	54	4	54
Small Car Spaces (30% Max.)	23	0	23

Planning Department Comments

Section 5.3.9 of the Zoning Bylaw specifically sets forth standards for child care facilities that are located in Residential Districts.

- 1) Maximum Floor Area Ratio (FAR) – The maximum permitted FAR is 0.10. The proposed site plan indicates a 0.23 FAR. The proposed FAR is only listed as a number on the plans at this time. It greatly exceeds the maximum permitted FAR. Complete floor plans should be detailed to reveal an accurate FAR.
- 2) Maximum Net Floor Area – The maximum permitted net floor area is 1,000 square feet. The proposed site plan indicates approximately 24,085 square feet. The proposed total square footage is only listed as a number on the plans. It greatly exceeds the maximum permitted net floor area. Complete floor plans should be detailed to reveal an accurate overall net floor area.
- 3) Minimum Open Space (not including outdoor play areas) – The minimum open space required is 35%. The proposed site plan indicates that 39% open space is being provided. The applicant has provided additional open space drawings which indicate how the proposed 39% open space was calculated. Planning Department Staff is comfortable with the submitted open space calculations.

In addition to the specific Bylaw requirements set forth above, the following is another Table of Standard Dimensional Regulation of the Town of Acton's Zoning Bylaw which may or may not be in conformance.

- 4) Maximum Permitted Building Height – Currently there are no building permit plans submitted which identify the proposed building height of the structure. The submitted site plan and associated documentation provided to date, indicates a two (2) story structure which may or may not be able to comply with the maximum height requirement. Based on previous experience, it is conceivable that the structure would be in compliance with this requirement.

Furthermore to the above identified Bylaw requirements, the following are dimensional requirements set forth in Section 6 of the Town of Acton' pertaining to Parking Standards which are not in conformance.

- 5) Section 6.7.1 of the Bylaw states that "*parking requirements shall be met by utilization of parking lot cells having a maximum of forty (40) parking spaces per parking lot cell. There shall be a minimum separation distance of thirty (30) feet between parking lot cells*". The submitted site plan does not currently meet or satisfy this requirement.
- 6) Section 6.7.7 of the Bylaw states that "*a minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, of a parking lot cell containing more than twenty-five (25) parking spaces must be planted as landscape island areas*". The submitted site plan indicates that only 4.5% (1,146 square feet) is being provided. However, it is unclear exactly how this number was calculated. The submission of shaded drawings which clearly show which areas are being included and which are not would be extremely helpful in understanding how this number is being calculated.

The aforesaid violations came as a result of plan changes following discussions with Town staff to achieve compliance with the open space requirements of the bylaw.

- 7) Section 6.7.3 of the Bylaw states that *“each lot may have one access driveway through its frontage which shall be 24 feet wide”*. The submitted site plan indicates that the entrance access drive at the point where it intersects the property line at Main Street is approximately 50 feet in width. However, a Special Permit Granting Authority could waive this requirement based upon safety considerations.
- 8) Section 6.7.4 of the Bylaw states that *“interior driveways shall be at least 20 feet wide for two-way traffic”*. The submitted site plan indicates that the interior driveway weaving around the front of the building is 24 feet wide. Reducing the width to the minimum 20 feet, would provide additional space for landscaping along Main Street.

Should the Zoning Board of Appeals conclude to overturn the decision of the Zoning Enforcement Officer, the following is a list of suggested conditions which the Board of Appeals may wish to impose upon any development.

- 1) The applicant has verbally agreed to not utilize the existing Isaac Davis Way right-of-way for any ingress or egress from the proposed child care facility for other than perhaps emergency apparatus. Should the proposed development move forward, this should be formalized in writing and recorded in the Middlesex South District Registry of Deeds.
- 2) The proposed site plan indicates garbage dumpsters to be provided on the northern side of the parking lot area. These garbage dumpsters should be sufficiently screened from view. This could be accomplished through the introduction of an adequate height stockade fence or dumpster enclosure.
- 3) The applicant should make every attempt possible to preserve the existing stone walls along the Main Street frontage. It is understood that a portion of the existing stone wall would be removed or relocated to allow for the creation of the access drive, but the remaining stone walls should be maintained and preserved as much as possible.
- 4) The applicant should submit a complete landscape plan for the entire property to be reviewed and approved by the applicable disciplines prior to building permit issuance. The landscape plan should be very specific as to the proposed species. Additionally, the Acton Water District is now promoting drought sensitive species and varieties. A landscape architect should review any proposed planting list.
- 5) The applicant should submit a complete lighting plan for the subject property. The lighting plan should verify that all light being produced by the proposed development would not extend beyond the subject property extents in a detrimental or harmful way to any of the abutting properties. The minimum requirements in order to adequately satisfy this requirement are set forth in Section 10.6 of the Town of Acton’s Zoning Bylaw.
- 6) The applicant should post a bond to cover any cost associated with the improvements currently identified for Main Street. The amount of the bond and the degree of work required or proposed should be negotiated between the applicant and the Town of Acton Engineering Department.

Cheryl Frazier

From: Frannyola [frannyola@aol.com]
Sent: Sunday, April 26, 2009 10:49 PM
To: Cheryl Frazier; Board of Selectmen; Steve Ledoux
Cc: Transportation Advisory Committee
Subject: TAC opinion on Proposed Day Care Facility Discussion, April 27 BOS meeting

At our April 23, 2009 meeting, TAC reviewed the site plans for the Proposed Day Care Facility at 348-352 Main St., Acton. This was our first meeting since receiving the site plans; apologies for our therefore not meeting the April 20 deadline. The overall response was mixed, with significant concerns about increased traffic and unnecessary development, coupled with appreciation for the mitigation. More details follow:

--TAC estimated the additional trips during commuter hours to be approximately 900 (including drop off and pick-up by parents, and staff arrival and departure), which is a significant number compared to 17,000 trips per day.

--The efforts at traffic mitigation are laudable: extra turning lanes and the change of sidewalk and crossing locations.

--We heard two citizens' concerns about the negative traffic impact and increase in accidents.

--We heard two citizens' concerns that this new construction is not necessary and is not ecologically advisable when existing properties in town could be used. Suggested locations include Discovery Way, Boxborough's Tech Central buildings, and the Old Beacon Building on Route 27. Why remove trees and add pavement when nearby alternatives exist?

Thank you.

Franny Osman
Chair, TAC

Scott Mutch

From: Ann Sussman [annsmail@pipeline.com]
Sent: Thursday, November 06, 2008 11:17 AM
To: 'Elizabeth Ahern'
Cc: Design Review Board; Roland Bartl; Scott Mutch
Subject: re: Walker Realty LLC Development of 348-352 Main Street, Acton

Hi Elizabeth and Robert,

Thank you for visiting the Design Review Board on Wednesday, November 5th 2008.

The child care facility you propose is an ambitious project at 22,000 s.f. (about the size of Acton's new Public Safety Facility down the street) and we look forward to working with you to develop a design that enhances town character, the pedestrian experience and follows the precepts laid out by our Design Review Guidelines.

As mentioned, the proposed project, with 88 parking spaces, will be highly visible in Acton since it sits at a key entrance point: directly across from Rte 2 ramp & next to the Rte 2 overpass used by thousands of residents and commuters daily.

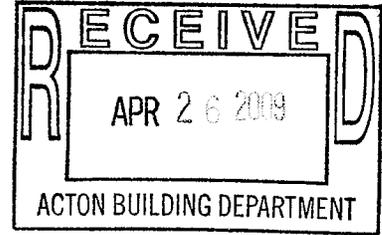
We look forward to meeting with you in the future.

As mentioned, at such time, if you could bring a plot plan showing contiguous properties, their footprints, driveways as well as the highway egresses it would be most helpful. We would also like to review the elevations as they would be viewed from Main Street as well as the proposed landscape plan. We also request applicants bring digital photos of existing conditions.

Please contact us if you have any questions.

Best,

Ann Sussman, Chair
Design Review Board
Town of Acton
978 790 7776



Acton Historic District Commission

472 Main Street
Acton, MA. 01720

By E-Mail and Hand Delivery

Zoning Board of Appeals
Town of Acton
472 Main Street
Acton, MA 01720

Re: Next Generation Daycare proposal, 348-52 Main Street

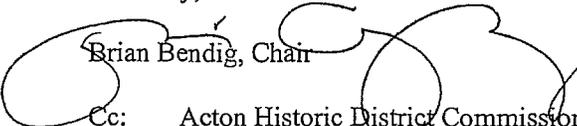
To the Members of the Board:

The Historic District Commission (HDC) offers the following for the record:

The referenced project, although outside any of the designated historic district areas of the Town of Acton, is nonetheless of significant concern to us, because of the project's scale and design features, and its location on Main Street as one approaches the Acton Center historic district area from the south.

From the standpoint of the town's character, the proposed project would be a disaster. It would efface numerous stone walls and mature trees, and obliterate the 1920s building on site. In their stead, this prominent location would receive a huge and undistinguished building, as well as enormous expanses of asphalt parking and driveway space to accommodate the heavy car traffic that would negatively affect the local area. The net effect would be a vast derogation from the town's remaining historic and rural character.

Sincerely,


Brian Bendig, Chair

Cc: Acton Historic District Commission file (by email and hand delivery)
Board of Selectmen/Town Manager (by email and hand delivery)
Scott Mutch (by hand delivery)
Design Review Board (by email and hand delivery)

Scott Mutch

From: Corey York
Sent: Friday, May 01, 2009 11:57 AM
To: Scott Mutch
Cc: Bruce Stamski
Subject: FW: Next Generation Children's Center - BOA #09-01 - 348-352 Main Street

After looking at the plans yesterday with the Fire Chief, I realized I forgot to mention in my original comments that the sidewalk ramp at the proposed crosswalk on Main Street at Next Generation's driveway is shown on private property. The Town will need an easement to ensure that the sidewalk on private property will remain and be open for public use.

Thank you
Corey York

From: Russell Robinson
Sent: Friday, May 01, 2009 9:24 AM
To: Corey York; Highway Department
Subject: RE:

Cory, it is not the best but I think it is manageable

*Russell Robinson, Superintendent
Acton Highway Department
978-264-9624 (office)
508-320-6849 (cell)
rrobinson@acton-ma.gov*

From: Corey York
Sent: Friday, May 01, 2009 9:12 AM
To: Highway Department
Subject:

Russ

I attached a copy of the plan showing the new driveway for the proposed daycare at the corner of Route 27 & Route 2. I had sent comments to the BOA last week. While I was looking at the plan yesterday I realized the sidewalk ramp on the daycare side of Main Street is located on private property. The alignment of this handicap ramp at their driveway is not ideal but moving the crosswalk will impact the left turn lane. From a maintenance point of view, do you see any issues with the sidewalk as it is shown. The zoning enforcement officer, Scott, suggested that I forward an email to him. We need an easement to ensure the Town has the right to have the sidewalk on private property and it remains open for public use. If you think that the alignment of the ramp will be an issue for the sidewalk plow, etc.. let me know and I will add it to my email.

Thank You,
Corey

TOWN OF ACTON
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Acton, Massachusetts, 01720
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Engineering Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Appeals

Date: April 22, 2009

From: Engineering Department

Subject: Board of Appeals Hearing #09-01 – 348-352 Main Street
Next Generation Children Center

We have the following comments regarding the site plan for the Next Generation Children's Center dated March 15, 2009:

1. The Site Plan does not label the limit of the State Layout for Route 27. Attached are copies of the 1950 Alteration Plan for Route 2 and the 1954 County Layout for Main Street showing the limit between state and county layouts. This should be shown on the plans.
2. Any proposed work within the limit of the State Layout will require a permit from the State.
3. The new access for the daycare is located on the Town-controlled portion of Route 27. Any work such as, but not limited to, the relocated driveway, underground utilities, etc... within the Town-controlled section of Main Street will require the Town's Permit to Construct Within A Public Way.

Traffic / Pedestrian issues

4. The Engineering Department reviewed the traffic study by MDM dated 7/18/08 that was submitted to the Town on 1/15/09. We were concerned with the impact of the predicted 50 to 76 vehicles turning left off of Main Street into the site during the peak PM hour. The recent traffic study for Hayward Road at Main Street determined the number of left turns at the Hayward Road intersection to be in the same ballpark as the proposed Children's Center (96 vs. 76). We know the turning movements at the Hayward Road intersection cause queues to extend beyond the new Public Safety Building. Attached is a memo we sent to the Planning Department that raised these concerns relating to the traffic study. In

response to the concerns raised by staff, the applicant proposed some road widening measures to incorporate left turn only lanes for the Children's Center and the Route 2 westbound on-ramps. We had asked VHB to conduct a review of the suggested improvements to ensure consistency with the 2001 Main Street Corridor Study. Attached is a copy of the memorandum from VHB dated March 17, 2009 indicating that the left turn lanes are consistent with the 2001 Corridor Study. As part of this project, the applicant will also be relocating the crosswalk from its present location at the end of the Route 2 westbound ramp to the new access driveway at Isaac Davis Way. If this project is approved, we recommend that the Board make it a condition prior to the applicant obtaining a Certificate of Occupancy that the roadway modifications and sidewalk relocation as shown on the plan be completed.

5. We would defer comment to the Fire Chief to ensure emergency personnel can safely access and maneuver within the site. There had been some discussion about a secondary gated emergency access that would intersect Main Street about opposite the Route 2 westbound ramps. However, the state controls this portion of Main Street and the applicant would need to seek final approval from MassHighway. We sent a conceptual layout to the MHD District 3 Traffic Engineer for their preliminary comments. MHD responded that allowing the emergency gated access opposite the Route 2 ramps would require a break in the existing "no access" area and is probably not-likely to be approved.
6. The applicant is proposing to relocate the existing crosswalk from the end of the Route 2 ramp to the new access for the Children's Center. In doing so, the existing sidewalk on the northbound side of Main Street between the crosswalk locations would be removed and the sidewalk on the southbound side would be reconstructed to facilitate the road widening.
7. We would like the plans to show the old driveway for 348 Main Street along with notes clearly stating that the sidewalk & curbing will be reconstructed to close-off the existing driveway opening.
8. We would like the applicant to label the sight distance for the new driveway location to ensure the visibility is adequate for the actual 85% speed of the traffic on Main Street.
9. There is an existing chain across Isaac Davis Way that prevents traffic through the private way. The applicant has noted on the plan that this gate is to remain.
10. There has been prior discussion about landscaping on the property. I would defer comments to our Tree Warden.

Drainage

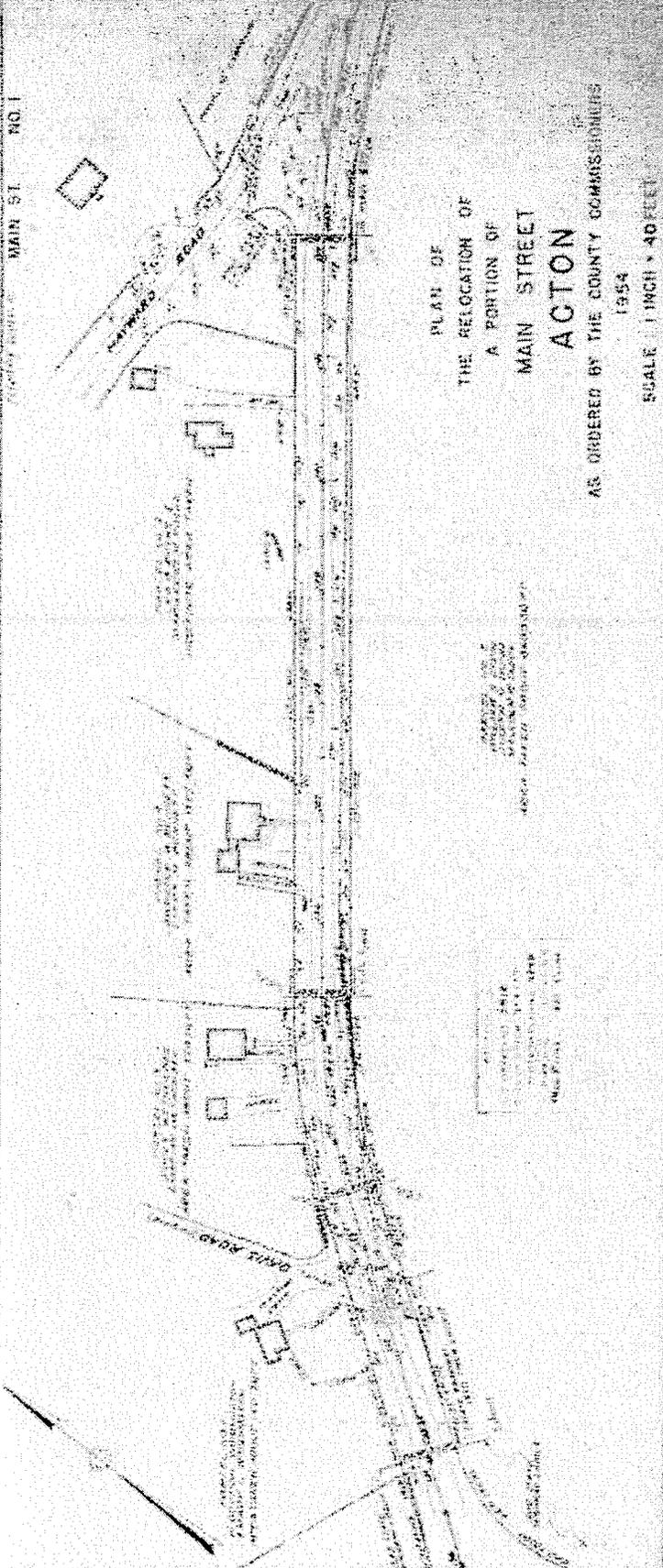
11. We have not seen calculations to support the proposed on-site drainage system. As a result, we cannot review the adequacy of their drainage design. It is our assumption that when the applicant submits their wetland application to the Conservation Commission that they will be required to comply with the Massachusetts Stormwater Policy. At which time, the applicant's engineer will have to show how they comply with the State's policy on items such as, controlling the peak rate of runoff, groundwater recharge, water quality, etc...If the engineer is required to submit a copy of their detailed drainage calculations, we can conduct a more comprehensive review of their drainage design.
12. There is a drain pipe from the existing catch basin on Main Street that heads toward the driveway for house #348. Any construction on this property should be conducted in a manner that does not damage and/or obstruct any existing Town drainage systems.
13. Based on prior plan submittals, we noted that a short section of the new access will drain toward Main Street. We also noted a longer section of Isaac Davis Way also drains towards Main Street at this location. We want to make sure that drainage is designed to prevent as much runoff as possible from discharging onto Main Street. Prior plan submittals had shown the new driveway to be crowned along with a proposed trench drain. We would prefer to see standard catch basins at the gutter line to maximize the inlet capacity at the gutter lines.

Parking

14. The site plan shows the maneuvering aisle in the southwesterly portion of the parking area by the 9-compact car parking spaces to be less than 24 feet wide. If allowed, we recommend that the applicant consider one-way traffic during the peak pick-up/drop-off times to avoid circulation issues due the maneuvering aisle at this location being only about 18 feet wide.
15. Prior plan submittals had indicated the proposed grading for the site. The site plan submitted for the Board of Appeals did not include this information. The Town had some concerns related to the proposed retaining wall and/or slope between the parking area and Main Street.

ACTON

MAIN ST. NO. 1



PLAN OF
 THE RELOCATION OF
 A PORTION OF
 MAIN STREET
 ACTON

AS ORDERED BY THE COUNTY COMMISSIONERS
 1934

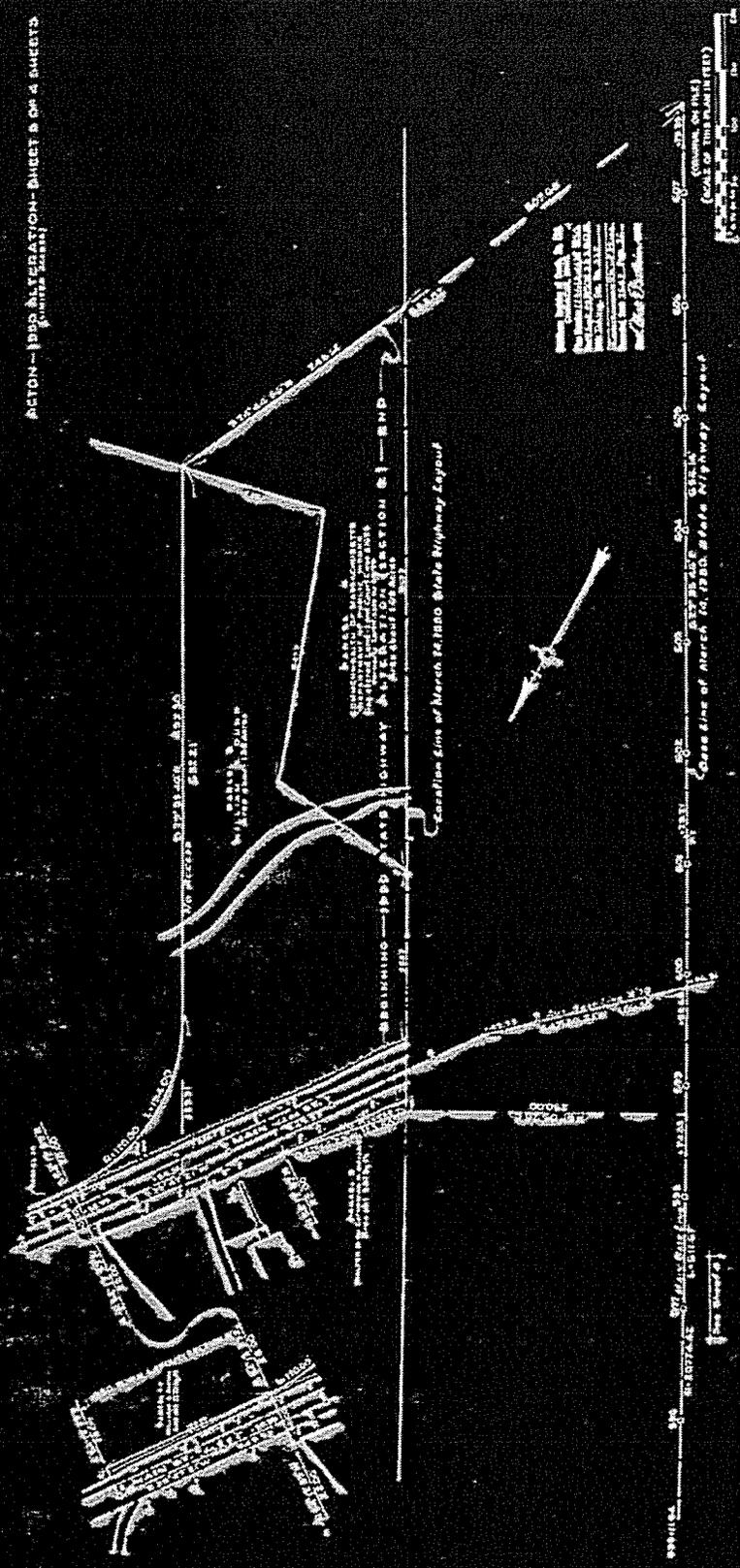
SCALE 1 INCH = 40 FEET

5033

APPROVED FOR THE
 COUNTY COMMISSIONERS
 JULY 15, 1934
 HENRY J. BAKER, COUNTY COMMISSIONER

ACTON
 DISTRICT OF MIDDLESEX
 COUNTY OF MIDDLESEX
 MAP FILE NO. 425-11-34

ACTON - 1920 REVISION - SHEET 5 OF 4 SHEETS



This drawing is a reproduction of the original drawing. It is not to be used for construction purposes. It is the property of the State of Massachusetts and is loaned to you for your information only. It is to be returned to the State of Massachusetts when you are no longer in possession of it.

(Scale of this plan 1/4")



Vanasse Hangen Brustlin, Inc.

101 Walnut Street
P. O. Box 9151
Watertown, MA 02471-9151
617 924 1770
FAX 617 924 2286

Memorandum

To: Bruce Stamski
Town Engineer/Director of Public
Works
472 Main Street
Acton, MA 01720

Date: March 17, 2009

Project No.: 10849

From: Heidi U. Richards, P.E.
Vanasse Hangen Brustlin, Inc

Re: Review of Proposed NGCC at 350 Main
Street, Acton MA

VHB, Inc., as requested by the Town of Acton, reviewed the conceptual design plan and corresponding traffic analysis¹ for a proposed Next Generation Children's Center (NGCC) to be located at 350 Main Street (Route 27) in Acton, Massachusetts. The purpose of this review was to identify any differences between the proposed NGCC roadway design plan and the recommendations made by VHB as part of the 2001 Route 27 (Main Street) Corridor Study.

Consistency with Route 27 Corridor Study

The following highlights the consistency between the proposed NGCC plan and the 2001 Route 27 Corridor Study.

Route 2 Westbound Ramps. The proposed NGCC plan is consistent with the Route 27 Corridor Study in that both plans propose installing a left turn lane on Route 27 southbound to the Route 2 westbound on-ramp. It is anticipated that the proposed 150-foot turn lane will be adequate to accommodate the queuing resulting from the projected traffic volumes. In general the traffic volumes counted in the NGCC traffic study are slightly lower than those projected for 2010 in the 2001 Route 27 study.

Connector Road. The major inconsistency between the original 2001 Route 27 study and the proposed NGCC site plan, is that the NGCC site plan precludes the option of building the proposed long term improvements of a connector road between Hayward Road and Route 27 (opposite the Route 2 westbound ramps). Provision of the new connector road, included signalization of Route 27 at the Route 2 westbound ramps was. The signalized connector road would have replaced the signalization of Hayward Road at Route 27. The signalization of Route 27 at the Route 2 westbound ramps (without the previously proposed connector road) could still be carried forward as a long-

¹ Proposed Next Generation Children's Center, 348,350, & 352 Main Street, Acton Massachusetts, by MDM Transportation Consultants, Inc., July 18, 2008.

term option with the proposed location of the NGCC site driveway off Isaac Davis Way. It should be noted however, that the length of the left turn lane on Route 27 southbound *may* need to be extended with the signalization of the Route 2 westbound ramps at Route 27 under a future scenario as traffic volumes increase. The need for an extended turn lane southbound could adversely impact the proposed left turn lane into Isaac Davis Way by reducing the length or available space for this turn lane. One solution to this could be to relocate the NGCC driveway opposite the Route 2 westbound ramps. This would leave open the option of providing the connector road from Haywood Road at some future time.

Isaac Davis Way. There is also a left turn lane proposed on Route 27 northbound approaching the Isaac Davis Way intersection which was not included in the 2001 Study. The left turn lane along Route 27 northbound into Isaac Davis Way (and the site) is designed to be approximately 100 feet which is expected to be adequate for the projected traffic volumes at this location. The results of the intersection analysis of Route 27 at Isaac Davis Way, which is on one of the key Route 27 study intersections, should be included in Table 6 of the July 18, 2008 Memorandum. In addition, although it appears that the operations of the intersections are likely to improve with the construction of left turn lanes on Route 27, unsignalized intersection analysis for Route 27 at the Route 2 westbound ramps and Route 27 at Isaac Davis Way should be run to show the change in operations that can be expected with these improvements.

Route 2 Eastbound Ramps. Signalization of the Route 2 Eastbound Ramps at Route 27 was proposed in the 2001 Route 27 Study, however, based on the current traffic volumes, the intersection will only meet Signal Warrant 3 with the construction of the NGCC. A traffic signal at this location is "not strongly supported or recommended at this time". It should be noted however, that the accident rate at this location is much higher than the District average and the intersection operations are currently at LOS F and therefore should be monitored for future signalization.

Sidewalks/Crosswalks

The proposed sidewalk along the west side of Route 27, in front of the NGCC site is consistent with the 2001 Route 27 Study. The proposed sidewalk will provide a continuation from the existing Route 2 overpass sidewalk and help to establish a pedestrian link along Route 27.

The NGCC improvements call for moving the crosswalk across Route 27 at the Route 2 westbound ramps proposed in the 2001 Route 27 Study to just south of Isaac Davis Way. The new crosswalk would connect to a sidewalk on the east side of Route 27. It is suggested that consideration be given to placing the crosswalk north of Isaac Davis Way. Moving the crosswalk to the north of the intersection will reduce the crosswalk length (because of the acute angle of Isaac Davis Way with Route 27). This will also reduce the number of conflicts between the pedestrians crossing Route 27 and motor vehicles entering and exiting Isaac Davis Way to and from Route 2. Although a stopping sight distance evaluation was conducted for vehicles exiting Isaac Davis Way, sight distance for pedestrians waiting on the east side to cross Route 27 should be evaluated.

Emergency Access

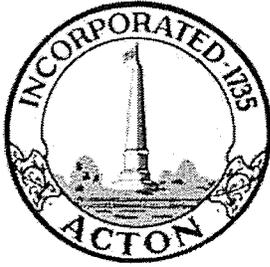
Another item that should be confirmed is emergency vehicle access through the proposed NGCC driveway. With the newly relocated emergency services station on Route 27, the maneuvering of a fire truck should be confirmed with turning templates.

Summary

Overall, the proposed NGCC site plan is consistent with the 2001 Main Street (Route 27) Corridor Study. The sidewalks as well as the left turn lane at the Route 2 westbound ramps are consistent with the plan. It is suggested to look at relocating the proposed Route 27 crosswalk from south of Isaac Davis Way to north of Isaac Davis Way.

The major inconsistency is that the proposed NGCC site plan precludes the previously proposed long-term improvement of a connector road from Hayward Road to Route 27, across from the Route 2 westbound ramps. Signalization of the Route 2 westbound ramps was also part of this long-term improvement.

As mentioned earlier, the emergency access to the site should be carefully assessed. It is assumed that design details such as lane width, sidewalk width and material, and AAB/ADA compliance will be reviewed by the Town or MassHighway, as appropriate.



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9628
Fax (978) 264-9630
bstamski@acton-ma.gov

Bruce M. Stamski, P.E.
Town Engineer/Director of Public Works

January 27, 2008

Roland Bartl, AICP
Planning Director

Re: Next Generation Children's Center – Traffic Study

Roland,

I have reviewed the traffic study by MDM dated 7/18/08 supplied by the project proponents on 1/15/09. I am very concerned with the impact of the predicted 50 to 76 vehicles turning left off of Main Street into the site during the peak PM hour. I can not find in the study the length of queue this will create on Main Street. To put my concern into perspective we only have to look up the road to the Hayward and Main Street intersection. Our recent traffic study determined the number of left turns at this intersection to be in the same ballpark as the proposed Children's Center (96 vs. 76). We know these turning movements cause queues to extend beyond the new Public Safety Building. In addition neighbors reported, during public hearings, that cars often jump the curb and drive on the sidewalk to go around cars waiting to turn. The Town will be undertaking improvements to this intersection this summer. Included in the improvements will be widening the road a few feet to allow cars to sneak by the queued up cars and installation of vertical granite curbing and a grass strip between the road and sidewalk to prevent driving up on the sidewalk.

It appears this project will create the same situation just a few hundred feet away. This could be critical for cars trying to enter and exit Route 2 from Main Street as well as the site. I believe this critical turning movement should be addressed in the traffic study and mitigation measures taken by the project's proponent for the safety of their clients and the public in general.

Sincerely,

Bruce M. Stamski, P.E.
Town Engineer/Director of Public Works

Scott Mutch

From: Dean Charter
Sent: Monday, April 13, 2009 10:05 AM
To: Scott Mutch
Subject: BOA Hearing, 348-352 Main Street

Scott,

I have reviewed the Petition for Review for the above noted proposed child care facility. I have previously inspected the site, and attended the Preliminary Site Plan meeting. The plans submitted do not include any landscape details, so there is nothing for me to review or comment on at this time.

Regards,

Dean A. Charter, MCPPO
Municipal Properties Director
Town of Acton

4/15/2009

Scott Mutch

From: Chris Allen [Chris@actonwater.com]
Sent: Tuesday, April 21, 2009 4:04 PM
To: Scott Mutch
Subject: Comments on 348-352 Main St

Scott,

My apologies for the tardiness of this communication. I was in and out of the office last week, and only received the packet for this project today.

I don't see any annotation of proposed, or existing, water infrastructure anywhere on the site plan. I'm not sure how you'd like me to make comment on any of the proposed installation. I would expect the owner/developer would solicit input from The Water District prior to installation of any mains, services or appurtenances, and any installations would adhere to AWD specifications.

Please let me know if there is anything else that you require from me.

Thanks.

Best regards,

Chris Allen
District Manager
Water Supply District of Acton
PO Box 953
Acton, MA 01720
Ph # 978-263-9107
Fax# 978-264-0148
email: chris@actonwater.com

4/24/2009

Scott Mutch

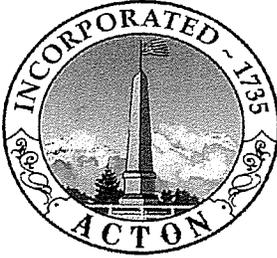
From: Justin Snair
Sent: Wednesday, April 22, 2009 8:44 AM
To: Scott Mutch

Hi Scott,

After reviewing the petition for review for 348-252 Main St., the Health Dept. finds the following:

1. Use of a Presby SAS with a design flow over 2000 gpd without pressure distribution will require BOH review and approval.
2. Any variances request associated with the use of Presby SAS used for New Construction requires BOH approval
3. The assumed GPD does not include any kitchen flow. Will the site have food preparation?
4. The the proposed contours shown on the plan indicates a change in grade well over what is required for the setback to Estimated Seasonal High Ground Water to bottom of system. Why?

Justin T. Snair
Environmental Health Agent
Health Department
Town of Acton



TOWN OF ACTON
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BUILDING DEPARTMENT

INTERDEPARTMENTAL COMMUNICATION

To: *Fire Department, Water District, Conservation Commission, Board of Health, Planning Department, Engineering Department, Transportation Advisory Committee, Municipal Properties, Design Review Board, Economic Development Committee, Sidewalk Committee, Building Department and Board of Selectmen*

Date: *April 8, 2009*

From: *Cheryl Frazier, Board of Appeals Secretary*

Subject: *Board of Appeals Hearing #09-01 348-352 Main Street*

I am in receipt of a Board of Appeals application for a **PETITION FOR REVIEW** to appeal the decision of the Zoning Enforcement Officer set forth in a letter dated March 26, 2009 determining that a building permit may not be issued for a proposed child care center located at 348-352 Main Street.

Please provide your comments to Scott Mutch in the Planning Department no later than Monday, April 20, 2009. Due to the controversial nature of the proposed application, it is imperative that comments be received by the above noted due date.

Scott,

- ① A Notice of Intent will be required for the proposed child care center. Conservation will require that the wetlands be flagged and an ANRAD be filed prior to the NoI.*
- ② All stormwater treatment will be required to meet the new DEP Stormwater Management Guidelines and standards.*

Tom Tidman.



**Design Review Board
Town of Acton
Memo**

Date of Reviews: 4/15/09; 2nd Review, w/out proponent
11/5/08; 1st review, w/proponent, see DRB minutes on-line

Project: **Next Generation Daycare**
348, 350 & 352 Main Street
Acton, MA

Proponent: Walker Reality, LLC
Plans Submitted: Site Plan (Revised): 3-31-09; Architectural Elevation: 2008

Scott Mutch provided the DRB with the updated revised site plan to review. Our comments follow:

The DRB finds the location of this project as shown is deleterious to Town welfare and sets dangerous precedent violating local bylaw. Indeed, it calls into question Acton's very ability to follow its own planning initiatives and respond to citizens' concerns about eroding rural and historic character, which are key quality-of-life issues that many feel keep Acton an attractive place to live.*

While we understand that the Dover Amendment permits non-profit educational uses in residential zones, we also believe the amendment provides for "reasonable regulations" concerning size, open-space, parking and setbacks, which have yet to be applied here.

Located elsewhere in town, this project as scaled might work; not at Acton's front door, a mere 100-feet from the main Rte 2 exit, where it will come to define, for better or worse, Acton's identity.

Additionally, the DRB notes the traffic engineering required here, including widening of Main St, appears to add yet another new congestion point to an already congested artery a few hundred feet from Acton's new, centralized public safety building. *One has to ask whether this project's current site design could negatively impact the safety of all.*

In terms of specific *Design Review Guidelines for the Town of Acton*, unanimously accepted by the Board of Selectmen in 2007 (and on the Town website), the DRB finds:

- **Building Placement on Site:** The building fails to face the street as the guidelines recommend;

- **Building Massing/Scale:** The 22,000 sf building ignores New England vernacular; this building could be anywhere, contradicting guideline recommendations;
- **Existing Structures:** The proposal fails to re-use the existing 1920's cottage or save mature trees or historic stone walls on site, all defining local characteristics, as recommended;
- **Parking:** The parking lot proposed is located in the most prominent area of the site, again opposing the recommendations; we note its high retaining walls will be highly visible from both Rte 2 *and* Main Street;
- **Sidewalks:** With its oversized entry drive, and relocation of a Main St. crosswalk at the drive itself the proposal turns the pedestrian experience into an uncomfortable and potentially unsafe one, contradicting both the letter and spirit of the guidelines;
- **Architectural Elements:** As the planning department noted, the architectural plans submitted are incomplete which makes full project review difficult. We note with dismay, however, the placement of the day care play yard, due north, will provide little if any sunlight for children playing outside, another sign, we believe, of an over-scaled project, that has failed to date to consider the real constraints of its location.

The DRB has a history of working with developers to mutual benefit of both their projects and local neighborhoods and we would be happy to meet with the proponent again. We would request additional drawings at that time, including grading, planting plans and sections to enable us to better understand existing and proposed conditions. We welcome any comments or questions.

Respectfully Submitted,

The Design Review Board
Town of Acton
drb@acton-ma.gov

* For a working summary of Acton citizen views, see:

<https://doc.acton-ma.gov/dsweb/View/Collection-2176>

ECONOMIC DEVELOPMENT COMMITTEE

TOWN OF ACTON

Acton, Massachusetts

April 17, 2009

Board of Selectmen
Acton, Massachusetts 01720

Members:

The Town of Acton Economic Development Committee, at its regular monthly meeting on April 16, 2009, held an "Open Mike" session after having received requests from people opposed to the Next Generation day care project to express their concerns about the project and its impact on both their businesses and the Town.

This is a summary report to the Acton Board of Selectmen.

Five members of the public attended and unanimously expressed opposition to the construction of this project. In addition, the EDC Board has received more than twenty five E-Mails, letters, and telephone calls expressing opposition. These expressions of opposition resulted from word of mouth among those affected. The EDC did not solicit comments from either proponents or opponents of the project, and the EDC did not attempt to hold a public hearing on the matter. No proponents for the day care facility attended the Open Mike session, although one letter of support was received from an individual who is apparently employed in early childhood education in another town.

The EDC explained to those present that its powers in this matter were extremely limited and that the progress of the Next Generation project had more to do with the application of state law governing day care development projects than it did with policy considerations at the Town level. In addition it was explained that the project is now going through the prescribed process of a Board of Appeals hearing on the "reasonableness" of the Town's bylaw. A lively discussion was held, and the members of the public expressed deep concerns about the potential negative impact of the project.

At the invitation of the EDC, Scott Mutch (Acton's Zoning Enforcement Officer and Assistant Town Planner) was present to answer questions and to help clarify the applicability of the Town's zoning bylaws in light of the state law requirements. He also prepared some background information for the April 16th EDC meeting which showed that there are at least 11 Day Care Centers already operating in Acton with a maximum permitted enrollment of 868 children.

This, together with information furnished by a representative of a local Council representing day care services providers in our area, indicated that there are no more than 1170 permitted enrollment slots in the day care operations currently operating in Acton, although they indicated that there is a similar number of such providers in the surrounding towns as well as an uncounted number of spaces in small "mom and pop" operators in the area. Based on the size of the facility and other pertinent information provided by the Town's planning department, the Next Generation project would probably add an additional 230 day care slots, representing an

increase in market capacity of between 20 and 25%. The day care providers present explained that enrollments were down in their own facilities at present and that the new facility would have a severe impact on their ability to operate a profitable business in Acton. None of the providers was prepared to give us an analysis of the typical day care center business plan, although they were candid in saying that there were cycles in their business.

The EDC explained that competition *per se* was not a basis for the EDC to weigh in with Town staff or elected officials for or against any particular new business proposal for Acton. The discussion then centered on the process that had led to the creation of this project in that particular location. Much comment was received on the awkward traffic situation, the close proximity of a residential neighborhood, the large scale of the projects, and the impact that it would have on Main Street north of Route Two. EDC explained that we were seeing the project information late in the approval process and that the final decision was in the hands of the ZBA, and perhaps the courts.

Subsequently the question was raised as to what would become of this development if the day care business were to fail. Could this 24,000 square foot facility be converted by this or a successor owner to some other commercial use even though it would never have been built but for the applicability of the DA?

As a result of these discussions the EDC has a number of questions and concerns as to this project, the Town's review process, the applicability of the state law known as the Dover Amendment (DA), and what steps we might be taking as a Town to proactively defend ourselves in the future.

We understand that the developers of the Next Generation project will now make their case at a hearing with the Acton Board of Selectmen on April 27, 2009 and with the Acton Zoning Board of Appeals on May 4, 2009. It is unclear if the affected parties have any ability to influence events short of a lawsuit at this time. Nevertheless, we understand that the basis upon which the decision will ultimately be made will be the "reasonableness" of our existing zoning bylaw. We therefore urgently ask the Town to conduct an evaluation of the sufficiency of our existing bylaw, and to the extent that it can be made to be more effective or "reasonable," then we may be able to take more effective defensive action in the future.

This brings us to a concern about the appropriateness of applying the Dover Amendment, with its emphasis on religious or educational institutions, to commercial day care providers, particularly to the sort of "for profit" businesses like the present applicant. We assume that the inclusion of day care providers in this legislation was originally intended to protect small scale enterprises operating in existing residential areas so that child care for preschool age children could be available on a neighborhood level. However, whatever public policy may have been served at the time the DA was conceived seems to be overwhelmed when the day care project is, as is this one, ten times the size of the average home in our community.

We must ask ourselves why we are offering these businesses such extraordinary protection under the law. If the law has not yet been effectively challenged, either legally or politically, on the inclusion of for profit commercial day care providers under its protections, then perhaps the time has come for that to occur.

We therefore urge that the Board of Selectmen invite our legislative delegation to explain why this state law should be perpetuated in its present form. In the event that they are unable to identify a compelling public purpose for its continuance, we request that the Board instruct our representatives on Beacon Hill that Acton thinks it's time to reexamine this law. We would also

ask the Board to place this subject on the agenda in its relations with other towns or associations of towns so that a basis can be established for effectively lobbying the Legislature by other towns in the Commonwealth acting in concert.

If we are to assume that this project in its present form is essentially a creature of the DA, and if we also assume that we are not able to either sufficiently strengthen our bylaws or to achieve changes on the legislative level, then it is appropriate for us to determine what other remedies we may have available to us.

For example, is it possible for the Town to acquire parcels that might become subject to inappropriate development? Does eminent domain offer us any potential in preventing harmful projects? Could we use "open space" funds to achieve such acquisitions? Whereas with traditional open space approaches we acquire land and hold the investment indefinitely, here we might acquire land for public purposes, perhaps for playgrounds or parks, and some time later re-sell it to developers who operate in sympathy with the Town's community vision. The proceeds of such a sale would then be promptly available for acquisition of other sensitive properties or for more traditional targets such as forest lands or wildlife areas.

Finally, our fundamental concern arises from our conception of the role of the Economic Development Committee. We conceive the mission of the committee to be the enhancement of opportunities for the Town to acquire new businesses as well as to serve as a sort of ombudsman for the existing business community. It is for this reason that the Chamber of Commerce has been granted two permanent member seats on the EDC. Not surprisingly, the EDC is often thought of as being very "pro business."

Since property and business development are complex areas often involving Town staff in a variety of regulatory concerns, these developments can be lengthy and time consuming for all involved. It seems to make sense that the EDC should be among the first of the Town's agencies to be made aware of pending projects and to be a meaningful participant as the projects unfold.

To the extent that the EDC is able to bring to bear the experience and skills of its constituent members, it enables the Town to identify different opportunities and creative solutions that might not otherwise materialize. Accordingly we have asked that the Planning Department and others involved in the permitting process notify the EDC early on as pending projects unfold.

Since both the Next Generation project, and some other pending projects have reached us long after they were under way with other Town staff, officials, or boards, we urgently request that the Board of Selectmen reemphasize to all concerned that the EDC should be an early participant with respect to both business development and the enhancement of existing business in our Town.

We thank you for taking the time to review this letter. If you have any questions or concerns, we would be happy to discuss them with you.

Sincerely,

Doug Tindal
Nicholas Francis
Co-Chairs

Economic Development Committee