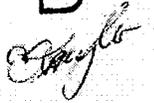


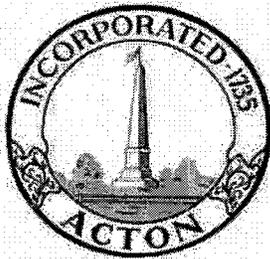
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MAR 24 2010

TOWN CLERK, ACTON



West Acton Village Ecology (WAVE)
Use Special Permits, Site Plan Special Permit & Site Plan Special Permit Amendment (Knibbe)
525-545 Massachusetts Avenue & 3-7 Spruce Street
March 22, 2010



Board of Selectmen

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
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DECISION

- #01/19/10-426 – Use Special Permits
- #01/19/10-427 – Site Plan Special Permit
- #02/01/89-307 – Site Plan Special Permit Amendment

West Acton Village Ecology (WAVE)

Use Special Permits and Site Plan Special Permit
including Amendment of prior Site Plan Special Permit
March 22, 2010

GRANTED with Conditions

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of 531 Mass Ave LLC (Rosenfeld) of 543 Massachusetts Avenue, Acton, MA (hereinafter the Applicant), dated January 15, 2010 and received on January 19, 2010, for:

- (1) Five Use Special Permits pursuant to Section 3 of the Acton Zoning Bylaw (hereinafter the Bylaw) for properties located at 525-541 Massachusetts Avenue in Acton, MA owned by the Applicant and by 525 Mass Ave LLC, 537 Mass Ave LLC, and 541 Mass Ave LLC; shown on the 2007 Acton Town Atlas map F-2A as parcels 103, 104, 105, 113, and 114.
- (2) A Site Plan Special Permit pursuant to Section 10.4 of the Bylaw and the Site Plan Special Permit Rules and Regulations (hereinafter the Rules) for properties located at 525-541

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Massachusetts Avenue in Acton, MA owned by the Applicant and by 525 Mass Ave LLC, 537 Mass Ave LLC, and 541 Mass Ave LLC; shown on the 2007 Acton Town Atlas map F-2A as parcels 103, 104, 105, 113, and 114.

- (3) A Site Plan Special Permit Amendment pursuant to the Rules for properties located at 3-7 Spruce Street in Acton, Massachusetts, owned by Bitterroot Group LLC, 543-545 Mass Ave Limited Partnership, Presti Family Limited Partnership, and 541 Mass Ave LLC; shown on the 2007 Acton Town Atlas map F-2A as parcels 94, 97, 112, and 113.

The properties listed in (1) through (3) above are referred to hereinafter as the Site.

The Board held a duly noticed public hearing on March 8, 2010. Board members Paulina Knibbe (Chair), Peter Berry (Vice Chair), Terra Friedrichs, Mike Gowing, and Lauren Rosenzweig (Clerk) were present throughout the hearing. The minutes of the hearing and submissions upon which this Decision is based may be found in the Town Clerk's office or the Board's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A plan entitled "Site Plan for West Acton Village Ecology, 525-541 Massachusetts Avenue, 3-7 Spruce Street, Acton, Massachusetts", dated July 31, 2009 and last revised on February 17, 2010, drawn by Stamski and McNary, Inc. of 80 Harris Street, Acton, MA, consisting of 8 sheets.
- 1.2 A plan entitled "Site Plan, WAVE, Acton, Massachusetts, Landscape Plan", dated October 28, 2009, drawn by Kim Ahearn Landscape Architects of 40 Foster Street, Littleton, MA, consisting of 2 sheets.
- 1.3 A plan entitled "Site Plan, WAVE, Acton, Massachusetts, Phasing Plan", dated June 31, 2009, last revised on February 2, 2010, drawn by Stamski and McNary, consisting of 2 sheets.
- 1.4 A plan entitled "West Acton Village Ecology (WAVE)", dated February 26, 2010, drawn by The Office of Michael Rosenfeld, Inc., Architects of 543 Massachusetts Avenue, Acton, MA, consisting of 24 sheets.
- 1.5 A plan entitled "Building Height", dated February 16, 2010, drawn by The Office of Michael Rosenfeld, Inc., Architects.
- 1.6 An application book "For West Acton Village Ecology, Acton, MA" dated January 15, 2010 with the following items and documentation as required by the Rules or additionally provided:
 - Table of Contents
 - A cover letter from The Office of Michael Rosenfeld (OMR), dated 12/21/09.
 - Application submission notices to the Board of Selectmen and the Town Clerk, dated 01/15/10.
 - Project Overview (by OMR Architects) with use, zoning, and parking summaries.
 - A properly executed Application for a Site Plan Special Permit for 525-541 Massachusetts Ave., dated 06/24/09.

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- A properly executed Application for a Use Special Permits for 525-541 Massachusetts Ave., dated 06/24/09.
- A properly executed Application for a Site Plan Special Permit Amendment for 541-545 Massachusetts Ave. and 3-7 Spruce Street, dated 06/24/09.
- Filing fee.
- Certified abutters list.
- A use description & project summary.
- A list of other permits and variances.
- Record plans and deeds.

1.7 Other information submitted by the Applicant:

- A letter from The Office of Michael Rosenfeld, Inc., Architects, regarding project phasing, dated 02/08/10.
- A Traffic Impact Study prepared by AECOM Technical Services, Inc. of 300 Baker Avenue, Concord, MA, dated August 2009.
- An Addendum to Traffic Impact Study prepared by AECOM, dated October 2009.
- A book entitled "Supplemental Engineering Data" prepared by Stamski and McNary, Inc., dated 08/26/09 containing drainage calculations, earth removal calculations, water balance calculations and a draft stormwater pollution prevention plan.
- An "Addendum to Drainage Calculations" prepared by Stamski and McNary, Inc., dated 02/26/10 containing supplemental narrative, revised pre- and post-development hydrology, rain garden sizing calculations, and revised drainage maps.

1.8 Interdepartmental communication received from:

- Acton Planning Department, dated 03/01/10.
- Acton Engineering Department, dated 03/05/10.
- Acton Design Review Board, dated 02/03/10 and 03/03/10.
- Acton Historic District Commission, dated 03/03/10 with attached Certificates #0906/A, #0906/B, #0906/B-Part II, and #0906/C, dated 06/26/09.
- Acton Sidewalk Committee, dated 02/28/10.
- Acton Fire Chief, Robert Craig, dated 02/26/10 and 03/05/10.
- Acton Transportation Advisory Committee (TAC; Franny Osman, Bengt Mutén), dated 02/16/10.
- Acton Tree Warden (Dean Charter), dated 02/11/10 and 03/08/10.
- Acton Water District, dated 02/10/10.
- Acton Health Department (Justin Snair), dated 01/25/10.

1.9 Correspondence received from Acton residents:

- Ron Beck, 02/13/10.
- Ron Beck, Pamela Cochran, Rosalie De Quattro, Bob Ingram, Celia Kent, Clare Siska, and Ann Sussman, 02/28/10.
- Franny Osman, 03/05/10.
- Joseph Pitta, Lucille Barker, Page Pitta, 03/05/10.
- Jennifer Taylor, 03/05/10.
- Lynn Parker, 03/05/10.
- Ann Corcoran, 03/06/10.
- Ann Chang, 03/07/10.

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- Anne Forbes, 03/08/10.
- Ronald Rose, 03/08/10.
- Kathryn Acerbo-Bachmann, 03/08/10.

Exhibits 1.1 through 1.7 are referred to herein as the Plan.

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the West Acton Village (WAV) zoning district and Groundwater Protection District Zone 3. The northeasterly portion is in the Flood Plain District associated with Fort Pond Brook. No construction or other improvements are proposed in the flood plain except the removal of a shed.
- 2.2 The Site has wetlands on it that more or less coincide with the area in the Flood Plain District. The easterly portion of the site is in the 200-foot riverfront area of Fort Pond Brook. In 2003, the Acton Conservation Commission issued an Order of Conditions for the proposed development and extended it in 2006. Site work under the Order of Conditions has commenced.
- 2.3 The Plan shows erosion and sedimentation control measures, properly designed and sized stormwater management and mitigation facilities including but not limited to a stormceptor, rain garden, porous pavement, bioretention area, infiltration basin, and subsurface infiltration chamber, and a drainage system operation and maintenance plan.
- 2.4 The Site is located in the West Acton Local Historic District. The Historic District Commission has issued Certificates of Appropriateness for the proposed development. (Certificates Nos. 0906/A, 0906/A-Conditions, 0906/B, 0906/B-Part II and 0906/C). Conditions in these Certificates require the Applicant to receive subsequent approval by the Historic District Commission for specific architectural design details of each phase of project construction prior to the issuance of a Building Permit for that phase. (Certificate #0906A-Conditions).
- 2.5 Pursuant to section 10.4.3.9 of the Bylaw, the Board finds that the design and placement of buildings, structures and other site improvements has been carefully considered to ensure the retention and enhancement of the village character and environment; the proposed buildings and structures are related harmoniously to the terrain and to the scale and architecture of existing buildings in the village, which have a functional or visual relationship to the proposed buildings or structures; the proposed buildings and structures are compatible with their surroundings with respect to: height, facade facing the street, rhythm of solid surfaces and openings, spacing of buildings or structures, roof slopes; and scale. This finding is made solely for purposes of the Zoning Bylaw and has no binding effect on the Historic District Commission ("HDC") for purposes of the HDC statute, bylaw and regulations.
- 2.6 The Board of Health has issued all required permits and variances.

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- 2.7 The Site is comprised of eight recorded lots measuring +/-5.27 acres with frontage on Massachusetts Avenue and Spruce Street. The lots are shown in the Acton Town Atlas on page F-2A as parcels 94, 97, 103, 104, 105, 112, 113, and 114.
- 2.8 The Applicant proposes to merge parcels 103, 104, 105, 113, and 114 along Massachusetts Avenue into one new lot, proposed Lot A with +/-4.06 acres.
- 2.9 On Lot A the Applicant proposes to preserve, and rehabilitate and in part relocate existing houses and one barn; then integrate three of the preserved buildings with a new larger building in the rear that also connects the preserved buildings along the Massachusetts Avenue frontage. The finished project would be a multi-functional commercial building complex that accommodates a range of commercial and cultural uses including retail space, offices, studios, a restaurant, and space for conferences, recreation, and education. In addition, anchoring the complex is a proposed +/-1,500 square foot flexible performance space with a maximum seating capacity for 175 persons, with removable seating to make the theater space available for a variety of alternate uses. In addition, there would be two existing buildings to the west of the larger complex that would be renovated and modified to various degrees. The total building Net Floor Area on Lot A would be +/-33,000 square feet. Seventy vehicle parking spaces would be provided on Site through surface and underground garage parking spaces.
- 2.10 For the development / redevelopment and use on proposed Lot A the Applicant requested a Site Plan Special Permit and Use Special Permits to allow the following uses listed in the Bylaw's Table of Principal Uses as requiring such special permit:
- a) Commercial Education and Instruction (Bylaw, s. 3.4.11).
 - b) Restaurant (Bylaw, s. 3.5.5).
 - c) Conference Center (Bylaw, s. 3.5.7) not including hotel, motel or inn.
 - d) Commercial Recreation (Bylaw, s. 3.5.15).
 - e) Commercial Entertainment (Bylaw, s. 3.5.16).
- All requested special permit uses are appropriate for the Site. The commercial entertainment use with a proposed maximum seating capacity of 175 persons anchors the complex, and provides a venue for using the complex as a conference center, commercial recreation, and commercial education as alternate uses of the proposed theater space. The proposed 95-seat restaurant(s) complements these uses. Other proposed uses, such as retail and office, do not require special use permits. Together, the project and the proposed uses would greatly improve the east end of West Acton Village and promise to bring new energy and revitalization into West Acton Village.
- 2.11 The proposed project also involves improvements and changes on adjacent parcels at the corner of Massachusetts Avenue and Spruce Street where the Board had issued Site Plan Special Permit #02/01/89-307 in 1989 for parcels 94, 97, 112, and 113 as shown on page F-2A of the Town Atlas. The Applicant requested an amendment of that special permit to relocate a small barn onto parcel 94 and to make improvements for pedestrian circulation on parcel 113.
- 2.12 The applicant proposes to complete the project in phases:

- a) The first phase, as described below, would comprise the proposed work on parcels 94, 113, and 114 to the extent that it does not infringe on the Massachusetts Avenue State highway layout:

Relocating a barn from parcel 114 to parcel 94; renovating the house on parcel 114 (537 Massachusetts Avenue), including relocating the back wing to the westerly side of the house; improving facilities for pedestrian circulation on parcel 113, and related landscaping. This phase is the smaller part of the project.

- b) The second phase would complete the remainder of the project. It is conceivable that this phase may progress in sub-phases, if commercially appropriate.

- 2.13 The application contains a traffic study which documents and concludes that the area's street and roadway conditions can accommodate the additional traffic from the proposed project with certain improvements recommended and itemized in the study report and further depicted on the Plan, including but not limited to extensive improvements in and along Massachusetts Avenue, and traffic signal timing adjustments at the Massachusetts Avenue and Central Street intersection.
- 2.14 The Plan shows as part of the project that the Applicant will make street improvements in Massachusetts Avenue over approximately the length of the project's frontage, including new and rebuilt sidewalks, on-street parking, a crosswalk to Gardner Field, and related landscaping and street scape improvements. Massachusetts Avenue is a State highway. In a meeting with the Applicant and certain Town staff, MassDOT officials indicated that MassDOT would not allow the proposed improvements in a State highway. However, the officials suggested that the Town could pursue instead a transfer of the necessary section of Massachusetts Avenue into Town jurisdiction and control. The Board views the proposed street improvements as an important element of the project, and therefore will vigorously pursue the jurisdictional transfer and seek to complete it as quickly as possible.
- 2.15 The Plan also calls for developing a traffic and parking management plan for large events in the theater/flexible performance space.
- 2.16 At this time the Applicant proposes no specific outdoor lighting installations on the Site.
- 2.17 The proposed project as approved hereunder will be one of the larger building complexes in the West Acton Village area. The project design is intended to attract more people to the village for shopping, dining, enjoyment of cultural activities, to encourage walking in the village, and it is designed to be used in conjunction with the enjoyment of Gardner Field, the Town's park and playground across Massachusetts Avenue from the project. It is therefore important to consider public access to restrooms within the project.
- 2.18 The Board has received comments from various Town departments, and comments from numerous Acton residents in writing and verbally at the hearing. Written comments are listed in Exhibits 1.8 and 1.9 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as the Board deemed appropriate.
- 2.19 The proposed special permit uses and the project and Plan as conditioned, modified, and amended herein are consistent with the Master Plan; will not be detrimental or injurious to the neighborhood in which the uses are to take place; are appropriate for the

Site; protect the neighborhood and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment; provide for convenient and safe vehicular and pedestrian movement with driveway locations and openings situated conveniently and safely in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the Site; provide an adequate arrangement of parking and loading spaces in relation to the proposed uses of the Site; provide adequate methods of disposal of refuse or other wastes resulting from the uses permitted on the Site; are in harmony with the purpose and intent of the Bylaw; will not derogate from the intent of this Bylaw to limit the adverse effects of the use and development of land on the surface and groundwater resources of the Town of Acton; and comply with all applicable requirements of this Bylaw.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following Plan modifications, conditions, and limitations, the Board voted on March 22, 2010, four in favor – one opposed, to GRANT:

- a) The requested Use Special Permits for 525 - 541 Massachusetts Avenue (Town Atlas parcels 103, 104, 105, 113, and 114 on map F-2A) to allow the following uses:
 - Commercial Education and Instruction.
 - Restaurant.
 - Conference Center.
 - Commercial Recreation.
 - Commercial Entertainment.
- b) The requested Site Plan Special Permit for 525 - 541 Massachusetts Avenue (Town Atlas parcels 103, 104, 105, 113, and 114 on map F-2A).
- c) The requested amendment to Site Plan Special Permit #02/01/89-307 for 541 – 545 Massachusetts Avenue and 3-7 Spruce Street (Town Atlas parcels 94, 97, 112, and 113 on map F-2A).

3.1 PLAN MODIFICATIONS

The Building Commissioner shall not issue a Building Permit for this project or any portion thereof, nor shall any construction activity approved hereunder begin on the Site, until and unless the Zoning Enforcement Officer confirms that the Plan is revised to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Zoning Enforcement Officer. Where approvals are required from persons, boards, commissions, or agencies other than the Zoning Enforcement Officer, the Applicant shall be responsible for providing evidence of such approvals to the Zoning Enforcement Officer.

- 3.1.1 Submit an outdoor lighting plan for the Site that demonstrates compliance with section 10.6 of the Zoning Bylaw and Chapter P (Local Historic District) of the Town Bylaws.
- 3.1.2 In the large building with the flexible performance space and restaurant, modify the street level floor plan so that bathroom facilities are in a location that is conveniently accessible to the general public during times that the building is open for business; label

these bathrooms as public restrooms; and indicate appropriate directional signage to the public restrooms in one or more suitable locations.

- 3.1.3 At the proposed crosswalk over Massachusetts Avenue show crosswalk signage in accordance with MUTCD guidelines and lighting, with details, to ensure that pedestrians in and approaching the crosswalk are visible to drivers at all times.
- 3.1.4 Submit for the Town's record the existing shared parking agreement for parcels 94, 97, 112, and 113 as shown on the Town Atlas map F-2A.
- 3.1.5 Relocate the proposed underground infiltration chamber in Massachusetts Avenue so that the system is located in the road shoulder by Gardner Field instead of under a travel lane. The final location for the underground chamber shall be determined after precisely locating in the field all existing underground utilities.
- 3.1.6 Show street addresses for the various buildings and portions of buildings as approved by the Acton Engineering, Police and Fire Departments.
- 3.1.7 Re-evaluate the landscaping elements and species selection to ensure that irrigation water needs are minimized. Modify the landscaping plan accordingly with the approval of the Tree Warden.
- 3.1.8 In the large infiltration basin at the rear of the Site, change the specification for the basin lining, including the depth to which the re-specified lining shall replace the already existing lining, to encourage vegetation growth without measurably diminishing the basins infiltration capacity; and specify appropriate ground cover and plantings in the basin. The specifics of the material mixture for the basin lining and the depth to which it shall be applied, and of the plantings shall be subject to approval by the Acton Engineering Department and Natural Resources Director.
- 3.1.9 Submit an updated List of Other Permits, Approvals, and Variances identifying (1) the certificates issued by the Acton Historic District Commission, which require subsequent approvals described herein in paragraph 2.4; and (2) the permits and variances issued by the Board of Health.
- 3.1.10 The Plan shall be modified to comply in all respects with the Bylaw. Unless directed otherwise by this decision, the Plan shall also be modified to comply with all requirements of the Rules, and to address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.2 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the special permits that are granted with this decision null and void, without force and effect, and shall constitute grounds for the revocation of any or all of these special permits, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with these special permits using any and all powers available to it under the law.

- 3.2.1 The restaurant use as approved herein may consist of one or more restaurants on the Site and shall be limited to 95 seats overall.

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- 3.2.2 The conference center as approved herein shall not include a hotel, motel, or inn.
- 3.2.3 The theater or flexible performance space as approved herein, including the surrounding hallway and lobby area, shall not be converted into or used for residential uses of any kind, or converted into or used for any retail store, office, services, building trade shop, vehicle repair, parking facility, or manufacturing as such terms are defined in the Bylaw without prior approval by the Board.
- 3.2.4 The improvements in and along Massachusetts Avenue as shown on the Plan shall be designed, implemented, constructed and completed by the Applicant as a required component of the project as approved herein prior to the issuance of a Certificate of Occupancy. Phase 1 of the project shown in the Plan as approved hereunder is exempt from this requirement. Said Phase 1 may therefore proceed immediately without completion of the said Massachusetts Avenue improvements shown on the Plan and described herein.
- 3.2.5 To facilitate the Massachusetts Avenue improvements, the Applicant shall assist the Town of Acton in all necessary ways to obtain the jurisdictional transfer to the Town from MassDOT of Massachusetts Avenue (Route 111) from approximately STA 47+70 to approximately STA 54+00. Such assistance shall include, but not be limited to, providing and developing required documentation, data, surveys and plans, and statistics as MassDOT may require, and attendance at any meetings with MassDOT officials as required and advisable.
- 3.2.6 Immediately following the transfer of that section of Massachusetts Avenue into the Town's jurisdiction, including acceptance by Town Meeting of said section as a Town street, the Applicant shall produce the necessary survey plan(s), and set and certify new stone road bounds, to demarcate and record the new Town layout of this section of Massachusetts Avenue.
- 3.2.7 After two years and within three years following the transfer of that section of Massachusetts Avenue into the Town's jurisdiction, including acceptance by Town Meeting as a Town street, and the completion of the project including the Massachusetts Avenue improvements as approved hereunder, the Applicant shall re-evaluate vehicle and pedestrian traffic on Massachusetts Avenue and, in accordance with MassDOT standards and requirements, shall prepare:
 - a) A speed study to ascertain appropriate speed limits for the redesigned section of Massachusetts Avenue.
 - b) A traffic signal warrant analysis study to ascertain if a pedestrian crossing signal at the crosswalk between the development project and Gardner Field is necessary.
- 3.2.8 The Applicant shall then promptly proceed to install any necessary traffic and pedestrian signs, speed limit signs, speed warning signs, pavement markings, and a pedestrian signal as the reported study results and recommendations call for and as approved by the Board and, as applicable, by MassDOT, replacing or supplementing any signage and other traffic control measures otherwise approved and required hereunder. For signage, lighting, and signals that require electricity to operate, the Applicant shall, with Acton Engineering Department's approval, consider solar powered equipment.

- 3.2.9 In the event that MassDOT does not transfer the jurisdiction of this section of Massachusetts Avenue to the Town, or that Town Meeting does not accept it as a Town street, the Applicant shall assist the Town in petitioning MassDOT to allow the construction of the Massachusetts Avenue improvements within the State highway layout more or less as shown on the approved Plan. If the petition is successful, the Applicant shall design, implement, construct, and complete the Massachusetts Avenue improvements prior to the issuance of a Certificate of Occupancy for any project phase after Phase 1.
- 3.2.10 In the event that both the jurisdictional transfers of this section of Massachusetts Avenue fails and that MassDOT, following a petition, refuses to allow the Massachusetts Avenue improvements as approved hereunder to proceed in the State highway layout, the Applicant shall apply for a site plan special permit amendment for the sole and limited purpose of submitting proposals for feasible alternative traffic controls and street improvements that will provide substantially equivalent mitigation levels in the West Acton Village area as the Plan approved hereunder.
- 3.2.11 Prior to the issuance of a Building Permit for any part of the project following Phase 1 the Applicant shall demonstrate to the Building Commissioner that the lots at 525, 531, 537 and 541 Massachusetts Avenue (parcels 103, 104, 105, 113, and 114 shown on map F-2A of the Acton Town Atlas) have merged into a single lot under one ownership.
- 3.2.12 Prior to the issuance of a Certificate of Occupancy for any part of the project following Phase 1, the Applicant shall complete the signal timing adjustments at the intersection of Massachusetts Avenue and Central Street.
- 3.2.13 Prior to the issuance of a Certificate of Occupancy for any part of the project following Phase 1, the Applicant shall provide the Town with a recordable plan and document for the proposed sidewalk easement alongside Spruce Street as shown on the Plan. The easement shall be wide enough to allow for a minimum future sidewalk width of 5 feet and a rounding at the intersection with Massachusetts Avenue.
- 3.2.14 Prior to the issuance of a Certificate of Occupancy for the theater/flexible performance space the Applicant shall submit to the Acton Planning Department for review and approval a traffic and parking management plan for events in the theater/flexible performance space.
- 3.2.15 No Certificates of Occupancy shall be issued for 537 Massachusetts Avenue until all work is completed under Phase 1 as shown on the approved Plan, and no Certificate of Occupancy shall be issued for the subsequent phase without full completion of the entire Site work as shown on the approved Plan. If the subsequent phase is broken up further into sub-phases, the same rule shall apply to the sub-phases.
- 3.2.16 No changes to the existing parking agreement and no new or additional parking agreements shall be made or implemented for any lot or parcel governed under this special permit and special permit amendment without first submitting them to the Acton Zoning Enforcement Officer for approval, along with documentation and explanation of zoning compliance.
- 3.2.17 The applicant shall be responsible for the maintenance and upkeep of the sidewalk in Massachusetts Avenue along the frontage of Lot A as shown on the Plan.

- 3.2.18 The applicant shall be responsibility for the maintenance and upkeep of all ornamental trees and other landscaping that is shown on Plan as located within the Massachusetts Avenue layout.
- 3.2.19 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion that results in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Building Commissioner may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.2.20 All requirements of Title V and of the Board of Health's permits, special permits, and variances must be met.
- 3.2.21 If applicable, all taxes, and penalties and back charges resulting from the non-payment of taxes shall be paid in full prior to issuance of a Building Permit.
- 3.2.22 No work on the Site governed by a building permit shall begin prior to the issuance of a Building Permit.
- 3.2.23 All work on the Site shall be conducted in accordance with the terms of this special permit and shall conform with and be limited to the improvements shown on the Plan as conditioned, modified, and approved herein.
- 3.2.24 All water service lines shall be installed in accordance with the procedures and specifications of the Acton Water Supply District including but not limited to the Applicant's submission of a water impact report and as-built plans.
- 3.2.25 All work on the Site shall be performed in compliance with the applicable law and regulations protecting wetlands and wildlife habitat in the Town of Acton.
- 3.2.26 All renovations of existing buildings and construction of new buildings as approved hereunder shall comply with Chapter P of the Bylaws of the Town of Acton (Local Historic District Bylaw).
- 3.2.27 All construction activity on the property relating to this special permit shall be limited to the following hours: Monday – Friday: 7:00am – 6:00pm; Saturday 8:00am – 5:00pm; Sundays & Holidays: No work permitted.
- 3.2.28 Every attempt shall be made to minimize adverse construction conditions, such as dust and noise, on neighboring and abutting properties.
- 3.2.29 Any changes to the Site that are not in conformance with this special permit and the Plan approved hereunder shall require the approval of the Board.
- 3.2.30 All activities on the Site shall comply with the Town of Acton Hazardous Material Control Bylaw.
- 3.2.31 The Applicant shall follow the Drainage System Operation and Maintenance Plan outlined on the Site Plan and shall follow the manufacturer's recommendations for the maintenance of the Stormceptor Unit.
- 3.2.32 The Applicant shall record this Decision at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a Building Permit.

- 3.2.33 Upon completion of construction of each of the phases (Phase 1 and Phase 2) respectively, the Applicant shall submit to the Zoning Enforcement Officer as-built plans stamped by a land surveyor and/or engineer as required for the information shown, showing the buildings, pavement, drainage, walkways, utilities, and pavement markings in their true relationship to lot lines, and outdoor lighting and appropriate grades and elevations as they pertain to each phase of the project. The as-built plans shall be accompanied by a Professional Engineer's certification stating that they witnessed the construction of the project and that the project conforms to the approved Plan.
- 3.2.34 The existing historic structures on the Site shall be kept water tight to the satisfaction of the Building Commissioner.

3.3 LIMITATIONS

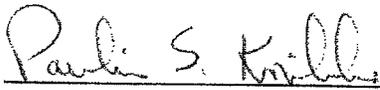
The authority granted to the Applicant under this special permit is limited as follows:

- 3.3.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.3.2 This special permit applies only to the Site identified in this decision and to the proposed uses and activities shown and noted in the Plan.
- 3.3.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.3.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. The issuance of a Building Permit for Phase 1 as shown on the Plan shall be considered commencement. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 2 years. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.3.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the filing date of this decision with the Town Clerk.

The Town of Acton Board of Selectmen



Paulina S. Knibbe, Chair

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Taylor Town Clerk

Date

Copies furnished:

Applicant -	Building Commissioner	Health Director
certified mail #	Engineering Administrator	Municipal Properties Director
Town Clerk	Conservation Administrator	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor
Historic District Commission		

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Decision	#01/19/10-426 – Use Special Permits
WAVE	#01/19/10-427 – Site Plan Special Permit
March 22, 2010	#02/01/89-307 – Site Plan Special Permit Amendment

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