

Acton Plaza Shopping Center
Amendment # 2 Site Plan Special Permit #04/30/71-15
291, 295, 313 and 315 Main Street and 381 and 401 Massachusetts Avenue
June 24, 2013



Board of Selectmen

TOWN OF ACTON
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SECOND AMENDMENT OF DECISION
#04/30/71-15 – Site Plan Special Permit

Acton Plaza Shopping Center

June 24, 2013

GRANTED

Decision of the Acton Board of Selectmen (hereinafter the Board) on the request of E&A Northeast LP, of 21 Custom House Street, Suite 450 Boston MA 02110 (hereinafter the Applicant), dated May 29, 2013 for an amendment of a Site Plan Special Permit dated April 30, 1971, previously amended on May 17, 1994 (together the Original Decision). The subject property is located at 291, 295, 313 and 315 Main Street and 381 and 401 Massachusetts Avenue (hereinafter the Site).

The Board considered the request at a duly noticed public hearing on June 24, 2013. Board members **Janet Adachi (Chair)**, **David Clough**, **Mike Gowing (Vice Chair)**, **Katie Green (Clerk)**, and **John Sonner** were present. The minutes of the hearing and submissions upon which this Amendment Decision is based on 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 Cover Letter dated, May 29, 2013, by Brian C. Levey Esq. of Beveridge & Diamond;
- 1.2 Memorandum dated, May 29, 2013, by Brian C. Levey Esq. of Beveridge & Diamond;
- 1.3 Certified Abutters List;
- 1.4 Site Plan "Acton Plaza" by LEA Group, prepared for Samuels and Associates, dated 08/24/1994.
- 1.5 A letter from Bohler Engineering to Town Engineer, dated 06/28/13;
- 1.6 State Highway Access Permit 3-2013-0023 from the Massachusetts Department of Transportation;
- 1.7 Request for Determination of Applicability, filed with the Acton Conservation Commission on May 21, 2013;
- 1.8 A Site Plan set entitled: "Proposed Site Improvements at Acton Plaza" dated 01/16/13 and last revised on 05/28/13 consisting of eleven sheets, prepared by Bohler Engineering of 352 Turnpike Road Southborough, MA 01772 for Edens;
- 1.9 A Plan set entitled: "Edens: Acton Plaza I&II Redevelopment: Construction Document Submission, 291-307 Main Street and 371-395 Massachusetts Avenue, Acton, MA 01720"; dated March 7, 2013.
- 1.10 Interdepartmental and other communication:
 - E-mail from Frank Windmayer III, Chief of Police, dated 06/13/13;
 - E-mail from the Engineering Department, dated 05/29/13;
 - E-mail from Patrick Futterer, Fire Chief, with follow up from Kristen Guichard, Assistant Planner, dated 06/17/13;
- 1.11 The Original Decision of April 30, 1971.
- 1.12 The first amendment decision of May 17, 1994.

Exhibits 1.1 through 1.8 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 amendment request is for approval of maintenance and modernization improvements on the Site, which include:
 - a. Reconfiguration of parking areas and curbing to improve site circulation;
 - b. Addition of a right-in/right-out driveway on Massachusetts Avenue;
 - c. Addition of a playground area;

- d. Addition of walkways, sidewalks and other pedestrian amenities;
 - e. Re-pavement of several areas in disrepair;
 - f. Minor grading improvements;
 - g. Landscape enhancements;
 - h. Minor outdoor lighting adjustments and fixture replacements to accommodate the above changes.
- 2.2 The proposed modifications will provide an additional nineteen (19) parking spaces. As proposed, the on-site parking arrangement remains in compliance with zoning.
- 2.3 The proposed modifications, excluding the additional sidewalk along Main Street, will decrease impervious pavement by 2,000 square feet on the site.
- 2.4 The proposed curb cut configuration at the north plaza "Acton I" off Non Name Road accommodates an SU-30 vehicle.
- 2.5 The applicant has provided verification of approval from the Massachusetts Department of Transportation to perform and complete the proposed right-in/right-out driveway on Massachusetts Avenue.
- 2.6 The applicant proposes a 6' wide asphalt sidewalk along the frontage of Main Street and a proposed 5' wide crosswalk on the north end of No-name Road. Students cross Main Street from the school campus to the stores in the "Acton I" building mid-block in the area of the proposed new sidewalk.
- 2.7 The proposed plan shows a public outdoor seating area along the front of the "Acton I" building.
- 2.8 The proposed plan shows a bicycle parking rack outside the "Acton I" building.
- 2.9 The applicant has agreed to grant the Town a sidewalk easement along the frontage of Main Street.
- 2.10 Overall, Site drainage patterns will remain unchanged. In some areas, stormwater conveyance to the existing onsite storm drainage system will be change from uncontrolled sheetflow conditions to controlled pipe connection.
- 2.11 The applicant proposes to perform construction work between the hours of 5 p.m. and 7:00 a.m. during a five week period:
- Upper Acton Plaza (Acton I) – Total night work duration = 2 weeks
 - 1. Milling and Grading = 5 nights
 - 2. Asphalt Paving = 5 nights
 - Lower Acton Plaza (Acton II) – Total night work duration = 3 weeks
 - 1. Concrete Curb Installation = 5 nights
 - 2. Milling & Grading = 3 nights
 - 3. Asphalt Paving = 5 nights

- 2.12 The applicant suggested they provide a night construction work schedule to the Police Department, Board of Selectmen, and Planning Department at least one week prior to the start of construction.
- 2.13 The applicant stated that signs will be posted at each driveway entrance on the Site alerting the public of scheduled night work a minimum of one week prior to construction.
- 2.14 The Chief of Police requested the applicant contact the Police Department prior to any construction.
- 2.15 The proposed Plan changes and the requested amendments of the special permits granted in the Original Decision have been determined to be minor in nature and do not trigger a new Special Permit as they do not expand the net floor area, ground area or impervious materials; rather the proposed modifications decrease the amount of impervious materials.

3 BOARD ACTION

Therefore, the Board voted on June 24, 2013 in favor of GRANTING the special permit amendments as the Applicant had requested and as delineated in the Exhibits listed herein, subject to the following conditions.

4 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 permit amendment granted with this decision null and void, and shall constitute grounds for the revocation of any or all building or occupancy permits issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 4.1 The applicant shall contact the Police Department, Planning Department and Manager's Office one week prior to commencing construction to confirm the construction work schedule and details, and keep them posted throughout the project of progress and any changes.
- 4.2 The applicant shall post signs at each driveway entrance on the Site alerting the public of scheduled night work a minimum of one week prior to construction. Such signs shall be removed once construction is completed.
- 4.3 All construction activity on the property relating to this special permit amendment shall be limited to Monday through Saturday; No work is permitted on Sundays & Holidays.
- 4.4 The Applicant shall make every reasonable effort to minimize adverse construction conditions, such as dust, noise and lights, on neighboring and abutting properties.
- 4.5 All proposed new outdoor lighting shall comply with Bylaw Section 10.6.2.2 to control light trespass and glare.
- 4.6 Amend the plan to show additional landscaping elements (plantings and/or split rail or other fencing) along the proposed new Main Street sidewalk designed to encourage

pedestrians to consider crossing Main Street using the crosswalk at the No-name Street intersection.

- 4.7 Amend the plan to show a bicycle parking rack near the proposed playground area to accommodate bike parking for the "Acton II" building.
- 4.8 The Applicant shall work with the Town to establish a sidewalk easement along the frontage of the property on Main Street.
- 4.9 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.
- 4.10 Upon completion of construction, the Applicant shall submit to the Zoning Enforcement Officer an as-built plan 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. The as-built plans shall be accompanied by a Professional Engineer's certification stating that the project conforms to the approved Plan.
- 4.11 The Applicant shall record this Decision at the Middlesex South District Registry of Deeds.
- 4.12 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.

5 EFFECT AND SCOPE OF THIS AMENDMENT DECISION

This Amendment Decision only responds and decides on the limited matters before the Board as outlined herein. Except as herein specified, the Original Decision shall remain in full force and effect.

The Town of Acton Board of Selectmen

Janet K. Adachi, Chair

Copies furnished:

Applicant -	Building Commissioner	Health Director
certified mail #	Town Engineer	Municipal Properties Director
Town Clerk	Natural Resources Director	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor

*Decision Amendment (#2) 04/30/11-15 – Site Plan Special Permit
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