



Town of Stow
PLANNING BOARD

380 Great Road
Stow, Massachusetts 01775
(978) 897-5098
FAX (978) 897-4534

NOTICE OF DECISION AND DECISION
SPECIAL PERMIT
EXPANSION OF AN EXISTING COMMERCIAL COMPLEX
LOWER VILLAGE PLACE

Kede Realty Trust
148-156 Great Road
Stow, MA 01775

March 21, 2006

1. Application

This document is the DECISION of the Planning Board (hereinafter, the Board) on the application of Kede Realty Trust, (hereinafter, the Petitioner) for property located at 148-156 Great Road. Said property is shown on the Stow Property Map Sheet R-29 as Parcel 92 (hereinafter, the site). This decision is in response to a Petition filed for Special Permit for expansion of an existing commercial complex, submitted to the Board on June 7, 2005 under Section 9.3 of the Stow Zoning Bylaws.

The Petitioner seeks permission for expansion of an existing commercial complex with (3) businesses to a seven (7)-business plaza, including a new access driveway, parking area, site grading and associated utility work.

2. Petitioner/Owner

Kede Realty Trust
c/o Eftihia Asprogiannis, Trustee
156 Great Road
Stow, MA 01775

3. Location

Said property is shown on the Stow Property Map Sheet R-29 as a portion of Parcel 92.

4. Board Action

After due consideration of the Petition, the record of proceedings, and based upon the findings set forth above, the Board, on February 28, 2006, by a vote of five members present at the public hearing, voted to **GRANT** the application for Special Permit, subject to the following findings and conditions.



5. Proceedings

The Board held a duly noticed public hearing on June 21, 2005. The public hearing was continued to July 26, 2005, August 9, 2005, August 30, 2005, September 27, 2005, November 8, 2005, January 10, 2006 and February 28, 2006, and was closed at the conclusion of the February 28, 2006 session. Board members Bruce E. Fletcher, Ernest E. Dodd, Malcolm S. FitzPatrick, Laura Spear and Kathleen Willis were present throughout the proceedings. The record of proceeding and submission upon which this decision is based may be referred to in the Offices of the Planning Board and Town Clerk.

6. Exhibits

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

EXHIBIT 1 Plan entitled "Site Plan, Lower Village Place" dated May 20, 2005, revised through January 7, 2006, prepared by Consolidated Design Group, Inc. The Plan includes the following sheets:

- a) Sheet 1 of 5, Cover
- b) Sheet 2 of 5, Existing Conditions Plan
- c) Sheet 3 of 5, Site Plan
- d) Sheet 4 of 5, Landscape Plan
- e) Sheet 5 of 5, Detail Plan

EXHIBIT 2 Supplementary documents required by the Rules consisting of the following:

1. Petition for Special Permit
2. Drainage Summary, dated June 6, 2005, revised through January 5, 2006
3. Certified List of Abutters
4. Filing Fee
5. Architectural rendition, prepared by Architectural Inovations, received by the Board on June 21, 2005

EXHIBIT 3 Correspondence and other documents:

1. Letters dated June 21, 2005, August 9, 2005 and February 28, 2006 from the Planning Board's Consulting Engineer, Susan C. Sullivan, P. E.
2. Memo dated August 15, 2005, from John P. Wallace, Town of Stow Health Agent
3. Letter dated November 14, 2005, from The Department of Environmental Protection (MassDEP)
4. Letter dated January 11, 2006, from Stephen E. Poole, P. E. of Consolidated Design Group, Inc. to The Department of Environmental Protection
5. Memo dated January 4, 2006, from the Stow Light Pollution Sub-Committee
6. Letter dated February 17, 2006, from Meeting House at Stow Condominium Trust

EXHIBITS 1 and 2 are referred to herein as the Plan.

7. Findings, Conclusions, Conditions, and Waivers

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

7.1 **Finding** - The approval hereby granted is based on, and specifically applies to a parcel of land located at 148-156 Great Road, shown on Assessors Map Sheet R-29 as Parcel 92.

- 7.2 **Finding** - The Site is located in the Business District.
- 7.3 **Finding** - The proposed use, expansion of an existing commercial complex, is a permitted use in the Business District.

Condition - Any expansion of the proposed use will require an additional permitting process.

- 7.4 **Waiver** - The Board reviewed and considered the Petition, as submitted and accepts the Petition and supporting documentation as adequate for the type of Site Plan Approval applied for as conditioned herein.

- 7.5 **Finding** - This approval shall not be deemed approval by the Board of Health, the Conservation Commission, Highway Department, Fire Department or other authority having its separate jurisdiction and inspection requirements.

- 7.6 **Finding** - The Petition, as conditioned herein, satisfies the mandatory findings by Special Permit Granting Authority, as required in Section 9.2.6 of the Zoning Bylaw.

- 7.7 **Finding** - The Department of Environmental Protection (MassDEP) identified the facility as an unapproved public water system (PWS), as defined in the Massachusetts Drinking Water regulations, 310 CMR 22.00, and advised that the Petitioner may not expand or modify the facility until full compliance with MassDEP drinking water requirements are met.

Condition - This approval is contingent upon the approval of a public water supply by MassDEP. Any changes resulting from the issuance of a permit from MassDEP shall be submitted to the Planning Board for a determination, if a formal modification to this decision would be required.

Condition - Until such time a public water supply is approved, site work shall be limited to rough grading and landscaping (no paving or building construction), provided that adequate erosion control measures are in place.

- 7.8 **Finding** - The Planning Board's Light Pollution Sub-Committee recommends that all sign lights be modified to comply with both current zoning bylaws and recommended specific criteria for lighting.

Condition - All exterior lights on the LOT, to which the Special Permit applies, shall be modified to comply with the following conditions and definitions. Any fixtures which cannot be modified to comply shall be completely removed:

- 1) Before the installation of any parking lot lighting, a plan showing the type, output, shielding and location of all fixtures and signs must be submitted to the Planning Board for review and approval.
- 2) Uplighting of signs is not permitted, and signs may not be illuminated between 9 p.m. and 5 a.m., unless the business is open and employees are present to receive customers. Sign lighting shall be FULL CUTOFF and may not shine DIRECT LIGHT onto any STREET or any other LOT.
- 3) The total INITIAL DESIGN OUTPUT of all fixtures illuminating parking lots and driveways may not be greater than 4 lumens per square meter of parking lot or driveway.
- 4) The total INITIAL DESIGN LIGHT OUTPUT of all exterior lighting on the LOT shall be subject to a cap of 25000 lumens/acre.
- 5) Each EXTERIOR LIGHT fixture must comply with the following specific conditions:

Fixture-Specific Conditions

Fixture Type:	Conditions:
All EXTERIOR LIGHT Fixtures	<ul style="list-style-type: none"> • Must be FULL-CUTOFF FIXTURES. • Must be installed in the proper orientation so as to emit no light above the horizontal. • Support pole must be no taller than 35 feet.
EXTERIOR LIGHT Fixtures with an INITIAL DESIGN LIGHT OUTPUT of more than 4000 lumens	<ul style="list-style-type: none"> • Must comply with all above conditions and: • Must not shine DIRECT LIGHT onto any other LOT located within a RESIDENTIAL or RECREATION/CONSERVATION district.
EXTERIOR LIGHT Fixtures with an INITIAL DESIGN LIGHT OUTPUT of more than 10000 lumens	<ul style="list-style-type: none"> • Must comply with all above conditions and: • Must not shine DIRECT LIGHT onto any other LOT located within any district. • Must not shine DIRECT LIGHT onto any STREET.

Definitions (Adapted from IDA's Information sheet #9)

FULL-CUTOFF FIXTURE: a luminaire having a light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire. This kind of luminaire emits no light above the horizontal.

DIRECT LIGHT: light that leaves a fixture and travels directly to a location, in contrast to light that is reflected from, e.g. a building surface or ground. The full cutoff definition is (neglecting the 80 degree rule) roughly equivalent to saying that no direct light shines at any angle above 90 degrees above nadir.

INITIAL DESIGN LIGHT OUTPUT: the light output of a fixture or lamp, measured in lumens, after 100 hours of operation.

To provide a concrete test for violation of these definitions, we observe that being able to see a light source (as opposed to an illuminated object), no matter how bright or dim, from any point which is higher than a fixture is clear and convincing evidence that a fixture is not FULL CUTOFF. Being able to see a light source (filament, bulb, a reflector component of a fixture, a diffuser, or any other perceptibly bright component) from a location is clear evidence of a violation of a condition that DIRECT LIGHT not reach that location.

- 7.9 **Finding** - During the public hearing, concern was raised that there is poor visibility from the westerly access drive. The Plan shows the access drive relocated in the easterly direction. The Board finds that the amended plan provides adequate sight lines.

7.10 **Finding** – The Plan shows access to the abutting property to aid in reducing the number of turning movements on Great Road. The Plan shows a proposed roadway area to the abutting property.

7.11 **Finding** – The proposed parking area does not meet the requirements of Section 7.7.1 of the Bylaw, which prohibits parking spaces or other paved surfaces to be located within thirty (30) feet of the front lot line. The Plan shows the westerly parking area located approximately 22 feet from Great Road and 17 feet from Dudley Court. The Board finds the parking area cannot meet the setback requirement due to the shape of the property, as the depth from the street line of Great Road to Dudley Court is only 100 feet and 122 feet would be required to meet the setback. The parking area, as proposed, is depressed below the street level and is buffered by a vegetative screen. The Board finds that the proposed parking complies with the “intent” of the Bylaw in that visual impact is mitigated and will support a request to the Zoning Board of Appeals for a variance from the requirements of Section 7.7.1 of the Bylaw.

Condition – In the event that the Petitioner is not successful in obtaining a variance from the requirements of Section 7.7.1 of the Bylaw, the Plan shall be amended to show compliance with the Bylaw.

7.12 **Finding** - The Plan shows a streetscape design in keeping with the standard streetscape design, as adopted by the Lower Village Sub-Committee and the Board.

7.13 **Finding** - The plan shows proposed trees in close proximity to the proposed dry wells.

Condition – The landscaping plan shall be adjusted to shift these plantings away from the dry wells to prevent interference with the root structures.

7.14 **Finding** - The Plan shows parking spaces, grading and drainage close to a 36” and 48” caliper elm trees and a 24” caliper maple tree. The Board finds it is likely that work, relative to the drain line, within 4-10’ of these mature trees will cause these mature trees damage.

Plan Modification – The Plan shall be modified to adjust the drain line so that these trees have a better chance of survival.

7.15 **Condition** - During the public hearing process, concern was raised about landscaping and adequate screening to the abutting residential properties. The Board finds that the Plan provides adequate screening to abutting residential properties.

Plan Modification - The Plan shall be modified to show additional deciduous street trees along the frontage of Great Road.

7.16 **Condition** – Any site work, other than building construction, begun after submission of the Petition, shall be finalized as shown on the Approved Plan within two years of issuance of this Special Permit.

7.17 **Condition** - This Special Permit shall lapse on March 14, 2008, if a substantial use has not commenced, except for good cause.

7.18 **Condition** - The Planning Board hereby reserves the power to modify or amend the terms and conditions of this approval on the petition of the owner, lessee, or mortgagee of the premises or upon its own motion for cause. All provisions of this paragraph applicable to approval shall, where appropriate, be applicable to such modification or amendment. Such power is hereby reserved.

7.19 **Condition** - The Special Permit granted by this decision shall not take effect until a copy of the decision has been recorded, at the owner's expense, in the proper Registry of

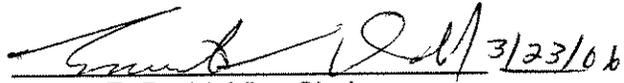
Deeds and duly indexed or noted on the owner's Certificate of Title. A copy of the recorded decision, certified by the Registry, or notification by the Owner of the recording, including recording information, shall be furnished to the Town Clerk and the Planning Board.

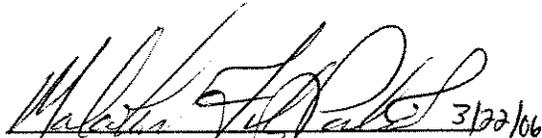
8. APPEALS

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

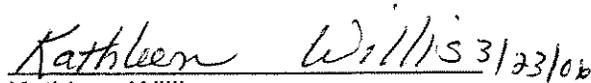
Witness our hands this 21st day of March 2006

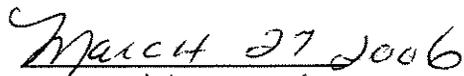

Bruce E. Fletcher, Chair 3/23/06


Ernest E. Dodd, Vice Chair 3/23/06

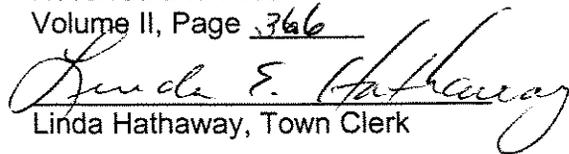

Malcolm S. FitzPatrick 3/23/06


Laura Spear 3/24/06


Kathleen Willis 3/23/06


date

Received and Filed
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Linda Hathaway, Town Clerk

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

Linda Hathaway, Town Clerk

Date