

TOWN OF ACTON  
Building Department

**INTERDEPARTMENTAL COMMUNICATION**

11/29  
(16)

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**To:** Board of Selectmen                      **Date:** November 19, 2004  
**From:** Garry A. Rhodes, Building Commissioner  
**Subject:** Site Plan Special Permit #10/09/03-394 Amended  
1 & 19 Maple Street

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The Board received a request to amend the above referenced Site Plan Special Permit on May 18, 2004. The Decision had been appealed pursuant to MGL C 40A § 17. I recommended at that time the Board vote to take no action on this request until the appeal is settled. The appeal has now been settled. The appeal was over the shape and size of Parcel A. It appears to have been resolved.

I would recommend the plan be accepted as a minor amendment. I have drafted an amended decision for your consideration.

#####

**DECISION** of the Board of Selectmen (hereinafter the Board) on the petition of Montuori Realty Trust (hereinafter the Petitioner) for the property located at 1 & 19 Maple Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map H2A Parcels 42 and 42-1.

This Amended Decision is in response to an application submitted to the Board on May 18, 2004 by the Petitioner for an amendment of the Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to reconfigure the size of the buildings and Parcel A.

Under the Rules and Regulations of Site Plan Special Permits § 5.12 the Board may amend a decision without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the bylaw. Board members F. Dore` Hunter, Peter Ashton, Walter Foster, William Shupert III, and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

**Exhibit I**

An amended plan dated October 8, 2003 and revised through May 18, 2004

Exhibit I is hereinafter referred to as the Plan

**1.0 Findings and Conclusions**

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The Board finds the amendment is not significant to the public interest and is consistent with the purpose and intent of the bylaw.
- 1.2 The Decision Site Plan Special Permit # 10/09/03-394 will remain in effect except as revised by the amended Plan.
- 1.3 The Plan as herein modified:
  - Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
  - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
  - Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
  - Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
  - Is consistent with the Master Plan.
  - Is in harmony with the purpose and intent of this Bylaw.
  - Will not be detrimental or injurious to the neighborhood in which it is to take place.
  - Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted to **GRANT** the requested amended Site Plan Special Permit.

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2.0 **Appeals**

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this                    day of November                    ,2004

\_\_\_\_\_  
F. Dore Hunter, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

\_\_\_\_\_  
Christine Joyce, Recording Secretary

\_\_\_\_\_  
Date filed with Town Clerk

\_\_\_\_\_  
Edward J. Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Montuori Realty Trust. has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Edward J Ellis, Town Clerk

- cc: Petitioner
- Building Commissioner
- Planning Board
- Engineering
- Conservation
- Director of Municipal Properties
- Board of Health
- Town Clerk
- Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury



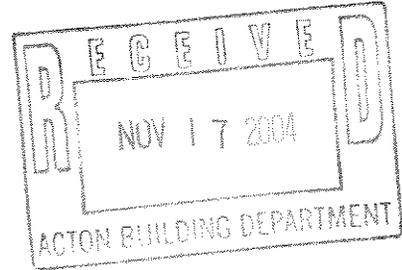
D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

Attorneys at Law

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Louis N. Levine  
F. Alex Parra  
Cathy S. Netburn  
Lisa Bergemann

268 Main Street | P.O. Box 2223 | Acton, MA 01720  
tel 978.263.7777  
fax 978.264.4868

November 16, 2004



Civil Clerk's Office  
Superior Court Department  
of the Trial Court  
Middlesex Division  
40 Thorndike Street  
East Cambridge, Massachusetts 02141

RE: *Gordon Richards v. F. Dore' Hunter, Walter Foster, Robert Johnson, Peter Ashton, William Shupert, As they are the Members of and Constitute the Board of Selectmen for the Town of Acton, Middlesex County, Massachusetts and Montuori Realty Co.*  
Middlesex Superior Court Civil Action No. 04-2176L

Dear Sir/Madam:

In connection with the above-referenced matter, enclosed for filing please find a Voluntary Stipulation of Dismissal Without Prejudice.

Very truly yours,

D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

By: *Louis N. Levine*  
Louis N. Levine  
e-mail: [llevine@dlpnlaw.com](mailto:llevine@dlpnlaw.com)

LNL/jlc

Enclosure

cc: Gordon Richards  
*Garry A. Rhodes*  
Martin C. Pomeroy, Esq.

Letter\Filing Letter

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
MISC. ACTION NO. 04-2176L

GORDON RICHARDS )  
Plaintiff )

VS. )

F. DORE' HUNTER, WALTER FOSTER, )  
ROBERT JOHNSON, PETER ASHTON, )  
WILLIAM SHUPERT, As They Are The )  
Members of and Constitute the Board of )  
Selectmen for the Town of Acton, )  
Middlesex County, Massachusetts AND )  
MONTUORI REALTY CO., )  
Defendants )

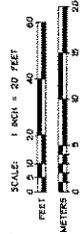
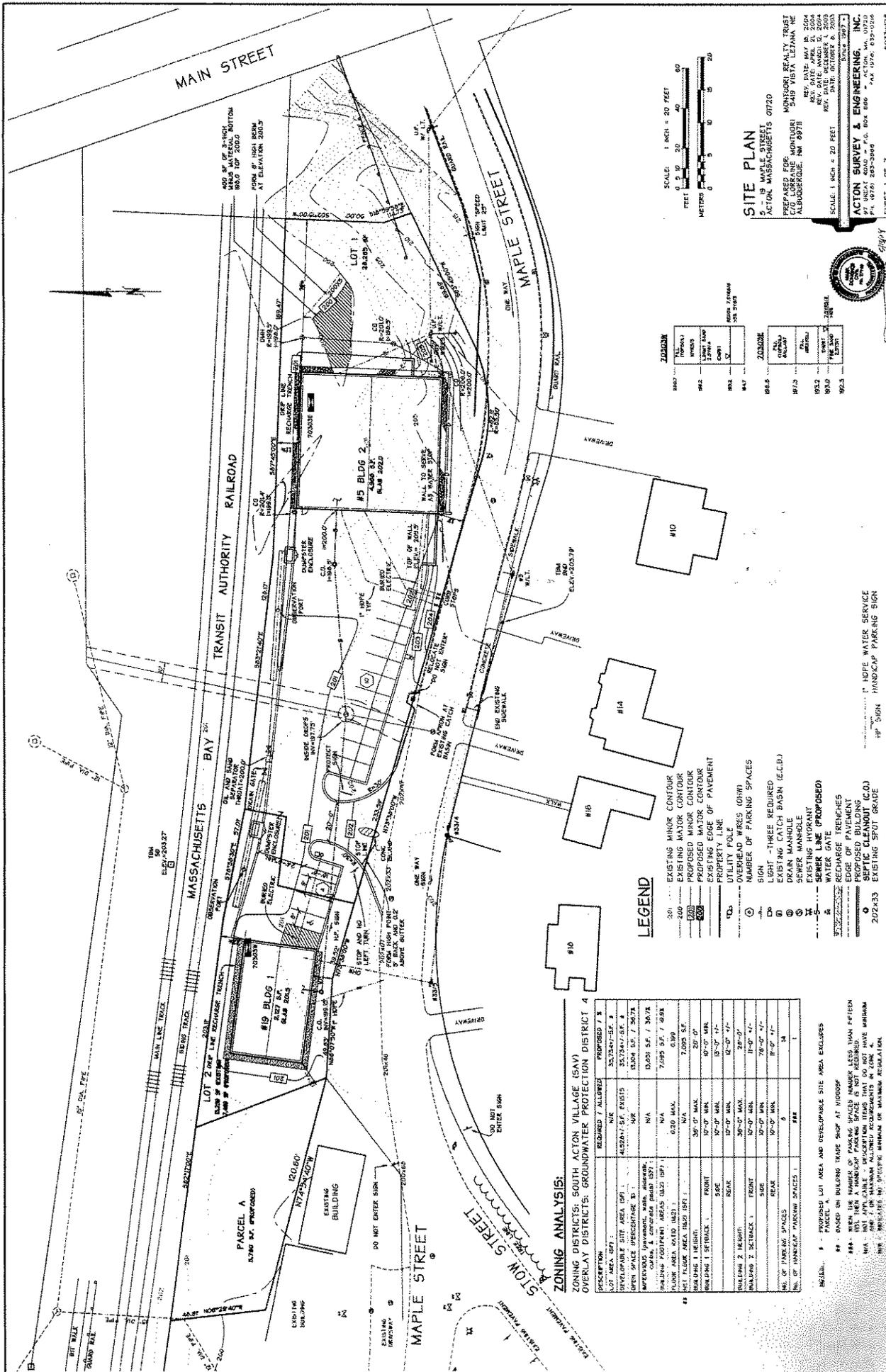
**VOLUNTARY STIPULATION OF  
DISMISSAL WITHOUT PREJUDICE**

Now comes the Plaintiff and without prejudice, voluntarily dismisses the Complaint in the above-entitled action.

Respectfully submitted,  
GORDON RICHARDS,  
The Plaintiff,  
By his Attorneys  
D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

By: \_\_\_\_\_  
Louis N. Levine BBO #296880  
F. Alex Parra BBO #390315  
268 Main Street  
P.O. Box 2223  
Acton, Massachusetts 01720-6223  
(978) 263-7777  
November 16, 2004

MAIN STREET



**SITE PLAN**

5 - 19 MAPLE STREET  
 ACTON, MASSACHUSETTS 01720  
 PREPARED FOR: MONDORI REALTY TRUST  
 110 LOCKRIDGE AVENUE  
 GUNNERSBORO, NY 14456  
 REF. DATE: MAY 18, 2004  
 NEW DATE: MARCH 24, 2004  
 REF. DATE: OCTOBER 6, 2003  
 NEW DATE: OCTOBER 6, 2003



**ACTION SURVEY & ENGINEERING, INC.**  
 97 UNCAT ROAD - P.O. BOX 888  
 ACTON, MA 01720  
 TEL: 978-253-3888 FAX: 978-253-0226  
 SHEET 1 OF 7

ZONING	PERMITS	REQUIREMENTS
R-1	YES	NO
R-2	YES	NO
R-3	YES	NO
R-4	YES	NO
R-5	YES	NO
R-6	YES	NO
R-7	YES	NO
R-8	YES	NO
R-9	YES	NO
R-10	YES	NO

**ZONING ANALYSIS:**

ZONING DISTRICTS: SOUTH ACTON VILLAGE (SAY)  
 OVERLAY DISTRICTS: GROUNDWATER PROTECTION DISTRICT 4

DESCRIPTION	REQUIRED / ALLOWED	PROPOSED / AS
LOT AREA (SQ. FT.)	N/A	25,724.07 / 25,724.07
DEVELOPABLE SITE AREA (SQ. FT.)	N/A	25,724.07 / 25,724.07
OPEN SPACE (PERCENTAGE %)	N/A	0.00 / 0.00
MAXIMUM BUILDING HEIGHT (FEET)	N/A	35.00 / 35.00
MAXIMUM FOOTPRINT AREA (SQ. FT.)	N/A	10,000.00 / 10,000.00
FLOOR AREA RATIO (FAR)	N/A	0.39 / 0.39
SETBACK FRONT (FEET)	30'-0"	30'-0"
SETBACK SIDE (FEET)	10'-0"	10'-0"
SETBACK REAR (FEET)	10'-0"	10'-0"
MINIMUM 2' SETBACK (FEET)	2'-0"	2'-0"
MINIMUM 7' SETBACK (FEET)	7'-0"	7'-0"
MINIMUM 10' SETBACK (FEET)	10'-0"	10'-0"
MINIMUM 15' SETBACK (FEET)	15'-0"	15'-0"
MINIMUM 20' SETBACK (FEET)	20'-0"	20'-0"
MINIMUM 25' SETBACK (FEET)	25'-0"	25'-0"
MINIMUM 30' SETBACK (FEET)	30'-0"	30'-0"
MINIMUM 35' SETBACK (FEET)	35'-0"	35'-0"
MINIMUM 40' SETBACK (FEET)	40'-0"	40'-0"
MINIMUM 45' SETBACK (FEET)	45'-0"	45'-0"
MINIMUM 50' SETBACK (FEET)	50'-0"	50'-0"
MINIMUM 55' SETBACK (FEET)	55'-0"	55'-0"
MINIMUM 60' SETBACK (FEET)	60'-0"	60'-0"
MINIMUM 65' SETBACK (FEET)	65'-0"	65'-0"
MINIMUM 70' SETBACK (FEET)	70'-0"	70'-0"
MINIMUM 75' SETBACK (FEET)	75'-0"	75'-0"
MINIMUM 80' SETBACK (FEET)	80'-0"	80'-0"
MINIMUM 85' SETBACK (FEET)	85'-0"	85'-0"
MINIMUM 90' SETBACK (FEET)	90'-0"	90'-0"
MINIMUM 95' SETBACK (FEET)	95'-0"	95'-0"
MINIMUM 100' SETBACK (FEET)	100'-0"	100'-0"

REMARKS: # - PROPOSED LOT AREA AND DEVELOPABLE SITE AREA ENCLOSES  
 PARCEL A.  
 ## - GARAGE OR BUILDING TRADE SHOP AT 100000'.  
 ### - WHEN THE NUMBER OF PARKING SPACES NUMBER LESS THAN FIFTEEN.  
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 \*\*\*\*\* - NOT APPLICABLE - DESCRIPTION ITEMS THAT DO NOT HAVE MINIMUM  
 REQUIREMENTS. \*\*\*\*\* - NOT APPLICABLE - DESCRIPTION ITEMS THAT DO NOT HAVE MINIMUM  
 REQUIREMENTS. \*\*\*\*\* - NOT APPLICABLE - DESCRIPTION ITEMS THAT DO NOT HAVE MINIMUM  
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