



City of Springfield

Hearings Meeting

~ Final ~

36 Court Street
Springfield, MA 01103
<http://www.springfieldcityhall.com>

Linda Fitzpatrick
413-787-6559

Monday, November 24, 2014

7:00 PM

Springfield City Hall -- Council Chambers

I. Hearings

7:00 PM Meeting called to order on November 24, 2014 at Springfield City Hall -- Council Chambers, 36 Court Street, Springfield, MA.

Attendee Name	Title	Status	Arrived
Zaida Luna	Ward 1 Councilor	Present	
Timothy C. Allen	Ward 7 Councilor	Present	
E. Henry Twiggs	Ward 4 Councilor	Present	
Kenneth E. Shea	Ward 6 Councilor	Present	
Kateri B. Walsh	Vice President - At-Large Councilor	Present	
Melvin A. Edwards	Ward 3 Councilor	Present	
Bud L. Williams	At-Large Councilor	Present	
Orlando Ramos	Ward 8 Councilor	Present	
Timothy J. Rooke	At-Large Councilor	Absent	
Clodo Concepcion	Ward 5 Councilor	Present	
Justin Hurst	At Large Councilor	Present	
Thomas M. Ashe	At-Large Councilor	Present	
Michael A. Fenton	President - Ward 2 Councilor	Present	

Moment of Silence Pledge of Allegiance

II. Special Permits

1. Order (ID # 2858)

Order - Martone Place-Leave to Withdraw Without Prejudice See Agenda Items #2744 and #2745

COMMENTS - Current Meeting:

Read and an explanation was given by Jay Caron, Project Director Martone Place RMV Office project stated that he is requesting "leave to withdraw without prejudice" of the 2 special permits (agenda item 2 #2744 and agenda item 3 #2745) in as much as the developer has agreed to convert Martone Place into a public way and to comply with all the requirements requested by DPW and the Planning Department and thus no need for the 2 special permits. Councilor Allen asked Deputy Planning Director Phil Dromey if the leave to withdraw is granted what effect will it have on the 2 special permits and Mr. Dromey said that building of the new RMV Office would not require Council approval because it would comply with the underlining zoning ordinances. Under the current zoning ordinance the project would only require a "site plan review" and not a full Council special permit review and the Order for "leave to withdraw without prejudice" passed by the following roll call vote and agenda item 2 #2744 and item 3 #274 were withdrawn.

RESULT:	ADOPTED [11 TO 1]
MOVER:	Timothy C. Allen, Ward 7 Councilor
SECONDER:	Bud L. Williams, At-Large Councilor
AYES:	Luna, Allen, Shea, Walsh, Edwards, Williams, Ramos, Concepcion, Hurst, Ashe, Fenton
NAYS:	E. Henry Twiggs
ABSENT:	Timothy J. Rooke

2. Petition (ID # 2744)

To Amend an Existing Special Permit (Motor Vehicle Service Station-Gas Station), Granted December 27, 2005, by Deleting Condition #5 (Requirement to Make Martone Place a Public Way) at the Property Formally Known as 11-13 Tapley Street and Now Known as SS Tapley Street (11415-0032), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.3(1).

Request:	See Above
Owner:	HDC Two, LLC
By:	Michael W. Frisbie
Petitioner:	HDC Two, LLC
By:	Michael W. Frisbie

HISTORY:

09/29/14

City Council

REFER TO COMMITTEE

Next: 11/24/14

COMMENTS - Current Meeting:

Read and an explanation was given by Jay Caron, Project Director Martone Place RMV Office project stated that he is requesting "leave to withdraw without prejudice" of the 2 special permits (agenda item 2 #2744 and agenda item 3 #2745) in as much as the developer has agreed to convert Martone Place into a public way and to comply with all the requirements requested by DPW and the Planning Department and thus no need for the 2 special permits. Councilor Allen asked Deputy Planning Director Phil Dromey if the leave to withdraw is granted what effect will it have on the 2 special permits and Mr. Dromey said that building of the new RMV Office would not require Council approval because it would comply with the underlining zoning ordinances. Under the current zoning ordinance the project would only require a "site plan review" and not a full Council special permit review and the Order for "leave to withdraw without prejudice" was granted upon the passage of said Order (#2858).

ATTACHMENTS:

- Tapley_St_11_13_Tax_Formal (PDF)
- Tapley_St_St_James_Ave_2014 (PDF)
- Josephson 09 26 2014 decision -- HDC Four (PDF)

RESULT:	WITHDRAWN
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3. Petition (ID # 2745)

To Amend an Existing Special Permit (Drive-Up Service Window), Granted December 27, 2005, by Deleting Condition #5 (Requirement to Make Martone Place a Public Way) at the Property Formally Known as 559 St James Avenue and Now Known as 557 St James Avenue

(11170-0314), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 19.1(2).

Request:	See Above
Owner:	HDC Four, LLC
By:	Michael W. Frisbie
Petitioner:	HDC Four, LLC
By:	Michael W. Frisbie

HISTORY:**09/29/14****City Council****REFER TO COMMITTEE****Next: 11/24/14****COMMENTS - Current Meeting:**

Read and an explanation was given by Jay Caron, Project Director Martone Place RMV Office project stated that he is requesting "leave to withdraw without prejudice" of the 2 special permits (agenda item 2 #2744 and agenda item 3 #2745) in as much as the developer has agreed to convert Martone Place into a public way and to comply with all the requirements requested by DPW and the Planning Department and thus no need for the 2 special permits. Councilor Allen asked Deputy Planning Director Phil Dromey if the leave to withdraw is granted what effect will it have on the 2 special permits and Mr. Dromey said that building of the new RMV Office would not require Council approval because it would comply with the underlining zoning ordinances. Under the current zoning ordinance the project would only require a "site plan review" and not a full Council special permit review and the Order for "leave to withdraw without prejudice" was granted upon the passage of said Order (#2858).

ATTACHMENTS:

- St_James_Ave_559_Tax_Formal (PDF)
- Tapley_St_St_James_Ave_2014 (PDF)
- Josephson 09 26 2014 decision -- HDC Four (PDF)

RESULT: WITHDRAWN

4. Petition (ID # 2827)

For a Special Permit to Relocate an Existing, Static, Non-Accessory Sign and Convert it to a Digital, Non-Accessory Sign, at the Property Known as SS Clinton Street (02900-0050), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 9, Section 9.9.24 and 9.9.30.

Request:	See Above
Owner:	Park View South, LLC
By:	Peter Picknelly, Manager
Petitioner:	Lamar Central Outdoor, LLC
By:	Stephen E. Hebert, Vice President/General Manager

COMMENTS - Current Meeting:

Hearing held at which Valerie Barsom, Esq., and Stephan Herbert appeared on behalf the Petitioner Lamar Central Outdoor, LLC requesting a special permit to relocate an existing, static non accessory sign and to convert it to a digital, non-accessory billboard sign. The petitioner intends to remove the existing billboard and replace it with a new digital

billboard that would comply with the current zoning ordinances. Mr. Herbert also stated that studies has shown that digital signs do not cause a distraction and the Lamar is currently paying over \$480,000 per year in taxes (chart attached). Mr. Herbert said he had met with the New North Citizens Council and the New North Council had approved the project (letter attached). John Gormally, Russell Selig and Timothy Ryan, Esq., all appeared in opposition stating among other things that proposed sign is in violation of the current ordinances dealing with distance from "American Heritage River", park, another sign and bike path and the special permit should be denied. Valerie Barsom, Esq., and Stephan Herbert appeared in rebuttal to the opposition stating they are in full compliances with the current ordinances and the sign would using "led" lights and recycle materials. John Gormally, Russell Selig and Timothy Ryan, Esq., all appeared in opposition to the proponents stating that the Petitioner accepts adult entertainment on his signs, and the sign would be visible within 500 feet "American Heritage River", park, another sign and bike path or 2000 feet from a park thus violating the City's Zoning Ordinances. Councilors Walsh, Allen, Twiggs, Ramos, Williams, and Shea all expressed concerns about voting tonight up or down, who set the taxes on billboards sign, whether it within 500 feet of an "American Heritage River", park, another sign and bike path and the like of information to make an informed decision. Deputy Planning Director Phil Dromey spoke saying that he had not looked the distance issues but the 2000 feet distance did not make into the final version of the zoning ordinances and the hearing was closed. Councilor Shea made a motion to refer to committee and was seconded by Councilor Ashe and Twiggs.

ATTACHMENTS:

- Clinton_St_SS_Formal_Tax (PDF)
- Clinton_St_SS_2014 (PDF)
- SS CLINTON BB TAXES (PDF)
- SS CLINTON MAPS (PDF)
- SS Clinton ST (PDF)

RESULT:	REFER TO COMMITTEE	Next: 1/26/2015 7:00 PM
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Motion To: A. Motion to Refer to Committee

COMMENTS - Current Meeting:

Councilor Shea made a motion to refer to committee and was seconded by Councilor Ashe and Twiggs and said motion passed by the following roll call vote. The said motion was referred to the Special Permit Review Committee.

RESULT:	ADOPTED [7 TO 5]
MOVER:	Kenneth E. Shea, Ward 6 Councilor
SECONDER:	E. Henry Twiggs, Thomas M. Ashe
AYES:	Allen, Twiggs, Shea, Walsh, Hurst, Ashe, Fenton
NAYS:	Luna, Edwards, Williams, Ramos, Concepcion
ABSENT:	Timothy J. Rooke

5. Petition (ID # 2828)

For a Special Permit to Relocate an Existing, Static, Non-Accessory Sign and Convert it to a Digital, Non-Accessory Sign, at the Property Known as 6 Liberty Street (07770-0001), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 9, Section 9.9.24 and 9.9.30.

Request: See Above
Owner: 6 Liberty Street, LLC
By: Hansraj Gada, Manager
Petitioner: Lamar Central Outdoor, LLC
By: Stephen E. Hebert, Vice
President/General Manager

COMMENTS - Current Meeting:

Read and Councilor Walsh asked if the matter was going to go to committee there was no need to have a hearing but Councilor Williams said the outcome might be different on this request. Council President Fenton asked the Petitioner attorney Ms. Barsom if they wanted to go forward or to send the matter to committee and Attorney Barsom said the Petitioner had no objection to the matter going to committee since SS Clinton Street was in Committee. Associate City Solicitor Anthony Wilson said the correct procedure would be to "table" the matter until the committee had a chance to meet. Councilor Walsh made a motion to "lay on table" and was seconded by Councilor Edwards.

ATTACHMENTS:

- Liberty_St_6_Formal_Tax (PDF)
- Liberty_St_6_2014 (PDF)
- 6 Liberty ST NNCC (PDF)

RESULT: LAY ON TABLE**Next: 1/26/2015 7:00 PM****Motion To:** A. Motion to Lay on the Table**COMMENTS - Current Meeting:**

Councilor Walsh made a motion to "lay on the table" and was seconded by Councilor Edwards and said motion passed by a majority voice vote with Councilor Williams voting no and Councilor Rooke absent.

RESULT: ADOPTED VOICE



City of Springfield

ADOPTED

2.1

Meeting: 11/24/14 07:00 PM

Initiator: Wayman Lee

Sponsors:

DOC ID: 2858 C

Order - Martone Place-Leave to Withdraw Without Prejudice See Agenda Items #2744 and #2745 ()

To : Mr.Orlando Ramos, Springfield City Council, Sub Com Chair -Special
Permits

Mr. Wayman Lee Springfield City Clerk

From: Jay Caron RMV Project Director

RE: Request to amend Special permit(s)

Gentlemen,

Thank you both for taking my call today regarding HDC's request to postpone our subcommittee meeting to amend the current Special permit(s) in place in the area behind the Irving C Store at the intersection of St James and Tapley Streets known as Martone Place. I have mentioned to you both that our group is still waiting for the delivery of plot plans, site engineering, traffic studies and a variety of other reports that would make the scheduled meeting on Tuesday, November 6th both informative and productive. I do not want to ask your committee members to set aside their free time only for the HDC team to deliver a partial presentation, leave questions un-answered and further-confuse your members or anyone else in attendance.

Therefore, this email is requesting **leave to withdraw without prejudice** until we are fully prepared.

Thank you both for your assistance regarding this matter.

Sincerely

Jay Caron
Project Director
413. 737. 3114.

RESULT:	ADOPTED [11 TO 1]
MOVER:	Timothy C. Allen, Ward 7 Councilor
SECONDER:	Bud L. Williams, At-Large Councilor
AYES:	Luna, Allen, Shea, Walsh, Edwards, Williams, Ramos, Concepcion, Hurst, Ashe, Fenton
NAYS:	E. Henry Twiggs
ABSENT:	Timothy J. Rooke


City of Springfield

36 Court Street
Springfield, MA 01103

WITHDRAWN

PETITION (ID # 2744)

Meeting: 11/24/14 07:00 PM
Department: Economic Development
Category: Special Permit
Prepared By: Phil Dromey
Initiator: Phil Dromey
Sponsors:
DOC ID: 2744 A

To Amend an Existing Special Permit (Motor Vehicle Service Station-Gas Station), Granted December 27, 2005, by Deleting Condition #5 (Requirement to Make Martone Place a Public Way) at the Property Formally Known as 11-13 Tapley Street and Now Known as SS Tapley Street (11415-0032), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.3(1).

Request: See Above
Owner: HDC Two, LLC
By: Michael W. Frisbie
Petitioner: HDC Two, LLC
By: Michael W. Frisbie

HISTORY:

09/29/14 City Council

REFER TO COMMITTEE

Next: 11/24/14

RESULT: WITHDRAWN

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

to amend an existing special permit (motor vehicle service station-gas station), granted December 27, 2005, by deleting condition #5 (requirement to make Martone Place a public way) at the property formally known as 11-13 Tapley Street and now known as SS Tapley Street (11415-0032), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 12.3(1).

Mailing Address:

P.O. Box 366
 East Longmeadow, MA 01028

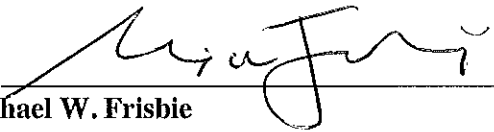
Owner & Petitioner:

HDC Two, LLC.

I hereby certify that I am the owner and petitioner or I that I am acting on behalf of the owner and petitioner.

BY: _____

Michael W. Frisbie



Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

August 25, 2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 575 Saint James Avenue – 11170-0314
36 Martone Place – 08325-0001
11-13 Tapley Street – 11415-0032

Petitioner: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

Landlord: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

A handwritten signature in black ink, appearing to read "Stephen J. Lonergan", is written over a horizontal line.

Stephen J. Lonergan: Treasurer/Collector

Attachment: Tapley St 11 13 Tax Formal (2744 : 11-13 Tapley Street)

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**SS TAPLEY STREET (FORMALLY KNOWN AS 11-13 TAPLEY STREET) & 557 ST JAMES
AVENUE (FORMALLY KNOWN AS 559 ST JAMES AVENUE)**

AMEND EXISTING SPECIAL PERMITS (GAS STATION/DRIVE-UP SERVICE WINDOW)

General Information

Petitioner:	HDC Four, LLC and HDC Two, LLC
Request:	To amend two (2) existing special permits, granted December 27, 2005, for the properties formally known as 11-13 Tapley Street and 559 St James Avenue, by allowing the deletion of condition #5 (requirement to make Martone Place a public way).
Proposed use of the property:	Gas station/convenience store with drive-up service window.
Size:	88,769 s.f.
Compatibility with current planning documents:	The Bay Neighborhood Plan shows no changes to this area.
Neighborhood council Notification:	McKnight Neighborhood Council and Bay Area Neighborhood Council: 9-4-14
Tax Status:	SEE ATTACHED
Site Visit:	9-4-14
Urban Renewal Status:	This parcel is not located within an urban renewal area.
Hearing Date:	9-22-14

Staff Analysis

Neighborhood characteristics:

The parcel is currently zoned Business B and is in an area that has a mix of commercial and industrial uses. The surrounding land uses include:

- To the north is an oil distribution facility zoned Business B.
- To the south is a warehouse zoned Business B.
- To the east is are an auto glass company and Oak Grove Cemetery zoned Business B and Residence B.
- To the west is are a warehouse and manufacturing operation zoned Business B and Industrial A.

Attachment: Tapley St St James Ave 2014 (2744 : 11-13 Tapley Street)

Review:

The petitioner has requested to amend two (2) special permits for the properties formally known as 11-13 Tapley Street and 559 St James Avenue. This is the current location of an Irving gas station/convenience store with a Dunkin Donuts drive-up service window. The special permits to be amended were approved by the City Council on December 27, 2005. The specific request is to amend condition #5 on both special permits. Condition #5 states:

- 5. The petitioner shall petition and submit all required materials to the Board of Public Works to make Martone Place a public way upon completion of all construction.**

In order to properly review the proposed request, a review of the history of this site is required and is as follows:

As noted above, the special permits for the current development were approved by the City Council in December 2005. Prior to this development the site consisted of a used car lot, bar, vacant gas station, car wash and a retail store. At that time, the petitioner intended to demolish all the existing structures and construct a new Irving gas station with an accessory convenience store with a drive-up service window. It should be noted that as part of the original plans, a new car wash was also to be constructed on the property formally known as 36 Martone Place, but this was never constructed. Since a building permit was never issued for the car wash, the special permit for that use has lapsed.

An important piece to this overall development was the proposal by the developer to relocate a portion of the existing Martone Place approximately three hundred (300) feet to the south. This was needed as the existing Martone Place was to become part of the parking area for the new convenience store/gas station. It should be noted that Martone Place could not just be discontinued as it still provided access to two (2) existing businesses located at the end of Martone Place. These businesses are still in existence today. Further, it has also now been determined, through information submitted by the developer, that Martone Place is actually privately owned registered land, owned by the heirs of the Martone family. Therefore, a typical discontinuance through the Board of Public Works would not have been allowed.

The plans submitted by the developer in 2005 showed that the "old" Martone Place would be discontinued and the "new" Martone Place would be reconstructed to the south and be accepted by the City as a public way. The proposed plans for this relocation were fully reviewed and approved at that time by the Department of Public Works (DPW). Aerial photos have been attached to this report showing the layout of the site in 2003 as well as the most recent aerial photos taken in 2013. As can be seen by the attached photos, while the "old" Martone Place was relocated, the acceptance of the "new" Martone Place was never completed by the developer.

It should also be noted that in addition to the requirement that the "new" Martone Place become a public way upon completion of the development, an additional condition was also added requiring that an ANR plan be submitted for the reconfiguration of the parcels. This is a very important piece of the proposed development as the proposed convenience store building extended across an existing property line. Building permits were only issued for the development on the condition that the ANR plan was to be filed. However, despite a concerted effort on the part of the City, neither the discontinuance/acceptance plans for the creation of the "new" Martone Place nor the ANR plans were ever submitted by the developer. As such, the development has been in violation of the special permits conditions since they were approved in 2005.

Proposed Request:

With regards to the proposed request to amend the existing special permits, it needs to be stressed that the proposed amendments are tied directly to a new development being proposed on this and the adjacent property.

The petitioner has submitted plans for a new 14,300 square foot office building which is being proposed for the new location of the Massachusetts Registry of Motor Vehicles (RMV). The proposed building is to be located on the parcel formally known as 36 Martone Place. The building that was located on this site has been demolished.



The plans submitted also indicate that the parking for the new RMV will be located on a portion of the property formally known as 559 St James Avenue. This is the parcel in which the existing convenience store and drive-up window are also located. Copies of the proposed RMV plans have been attached as part of this report.

It should be noted that based on the size of the proposed building, this new RMV development triggered an Administrative Site Plan Review under the new Zoning Ordinance. A review was completed by the Office of Planning & Economic Development in July. As part of that review and a further supplemental review, a number of conditions were placed on the approval. These included the need to amend the existing special permits as well as obtaining all approvals from DPW. Although the staff does recognize that these are two (2) separate developments, as noted above, they are directly tied together. Therefore, to the extent possible, conditions need to be placed in this special permit to ensure the proper development of the proposed RMV.

As part of the review for the proposed RMV, the staff, as well as the Director of Public Works, Chris Cignoli, have made it clear to the developer that the City does not hold an opinion on whether the “new” Martone Place becomes a public way or remains private, however, depending on that determination, a number of issues would need to be addressed in order to move the project forward. The city was informed by the developer in writing at the end of July that the “new” Martone Place was to remain private. It is very important to note that due to this decision by the developer, the “new” Martone Place will now not become a “way”. This “new” Martone Place is and will continue to be located completely on privately owned property and will be considered a driveway into this new development beginning at its access point off Saint James Avenue. As such, the DPW will no longer be responsible to maintain this access, as they have been doing for the past nine (9) years. This maintenance included snow plowing. This maintenance requirement, including snow plowing, will now be the full responsibility of the developer. Further, easements across this land by the existing businesses, the City or other utility companies servicing this development will need to be required to ensure that they will continue to have legal access across this property.

Since the determination was made by the developer to keep the “new” Martone Place private, the staff has continued to outline the process which needs to be followed in order to move the proposed RMV project forward. First and foremost, the special permits granted in 2005 need to be amended by the City Council.

Second, since the current proposal is now to abandon plans to complete the public way of the “new” Martone Place, the developer will no longer meet the parking location requirements established by Article 7, Section 7.1.52 of the Springfield Zoning Ordinance. Specifically, under Section 7.1.52, a review is completed to determine the location of the off-street parking for new developments based on the character of the immediate neighborhood (1,000 feet in each direction). In this particular case, a determination has been made by the Office of Planning & Economic Development, confirmed by the Building Commissioner, that the predominate character of the immediate neighborhood are buildings up to the street line with off-street parking located to the side and rear. As such, the proposed development would need to follow this development pattern.

As can be seen by the attached plans, the proposed RMV has the building set back with parking in the front. Therefore, in order for this development to proceed, the building must either be moved forward with parking located to the side or rear or a variance must be obtained from the Springfield Board of Appeals. It should be noted that if the “new” Martone Place was to become a public way, as originally proposed by the developer, the proposed RMV project could move forward as designed as the building would have fronted on Martone Place with the parking to the side. A review of setbacks for the proposed building would need to be completed but the parking location requirements outlined in Section 7.1.52 would have been met.

Further, as noted above, there is still an outstanding issue with regards to the submission of an ANR plan. As per the special permit conditions, an ANR plan was to have been submitted to reconfigure the parcels once the new development was completed. As mentioned earlier, this was needed as the proposed convenience store building was proposed to be constructed over an existing property line. Also, the “old” Martone Place was now going to be incorporated into the new development.

Again, as noted above, the building permits were only issued for this development, back in 2005, based on assurances by the developer that an ANR plan was to be submitted. This step was never completed. Further, due to the fact that an ANR plan was never submitted by the developer, the “old” Martone Place, which is now part of the parking lot for the gas station/convenience store, has never been properly taxed. Therefore, the developer has been utilizing this piece of land for a commercial use but has paid no taxes on this land since 2005 and continues to pay no taxes for the commercial use of this property. The developer indicated that due to the fact that this land is registered land within land court, an ANR plan cannot be completed; however, this is not the case. While the staff agrees that changing property lines for land court registered property is indeed more complicated and time consuming, it is not something that cannot be completed.

Overall, the staff does not object to the amendments to the existing special permits granted in 2005, however, due to the number of issues outlined above as well as this developer’s track record within the City of Springfield, the staff believes that conditions need to be imposed, if the amendments are approved, that will ensure that the developer follows all the proper procedures.

Recommendation

Approve, with conditions.

***Recommended Conditions: SS TAPLEY STREET (FORMALLY KNOWN AS 11-13 TAPLEY STREET)-
GAS STATION***

1. All conditions placed on the original special permit, granted December 27, 2005, shall remain in effect with the exception that Martone Place will now remain private.
2. Since the “new” Martone Place will remain privately owned property, the petitioner shall be fully responsible for all maintenance, including snow removal.
3. An ANR plan shall be submitted, as required under the original special permit, to the Planning Board for review and approval. The ANR plan shall then be filed with either the Registry of Deeds and/or the Massachusetts Land Court Registration Office.
4. Any and all easements, including access rights for the existing business located on Martone Place, shall be filed at the Hampden County Registry of Deeds with copies submitted to the Department of Public Works.
5. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in enforcement by the Code Enforcement Department punishable by fine of up to \$200 per day for each day a violation exists.

***Recommended Conditions: 557 ST JAMES AVENUE (FORMALLY KNOWN AS 559 ST JAMES
AVENUE) - DRIVE-UP SERVICE WINDOW***

1. All conditions placed on the original special permit, granted December 27, 2005, shall remain in effect with the exception that Martone Place will now remain private.
2. Since the “new” Martone Place will remain privately owned property, the petitioner shall be fully responsible for all maintenance, including snow removal.
3. An ANR plan shall be submitted, as required under the original special permit, to the Planning Board for review and approval. The ANR plan shall then be filed with either the Registry of Deeds and/or the Massachusetts Land Court Registration Office.
4. Any and all easements, including access rights for the existing business located on Martone Place, shall be filed at the Hampden County Registry of Deeds with copies submitted to the Department of Public Works.
5. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in enforcement by the Code Enforcement Department punishable by fine of up to \$200 per day for each day a violation exists.

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

August 25, 2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 575 Saint James Avenue – 11170-0314
36 Martone Place – 08325-0001
11-13 Tapley Street – 11415-0032

Petitioner: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

Landlord: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

Stephen J. Lonergan: Treasurer/Collector

Attachment: Tapley St St James Ave 2014 (2744 : 11-13 Tapley Street)



Attachment: Tapley St St James Ave 2014 (2744 : 11-13 Tapley Street)



Attachment: Tapley St St James Ave 2014 (2744 : 11-13 Tapley Street)

APPLICATION FOR TIER 1 ADMINISTRATIVE SITE PLAN REVIEW CITY OF SPRINGFIELD

PROPOSED REGISTRY OF MOTOR VEHICLES MARTONE PLACE

APRIL 14, 2014



Project Location

LIST OF DRAWINGS

Survey	
C1.01	General Notes
C1.02	Demolition Plan
C-2.01	Site Layout Plan
C3.01	Site Utility Plan
C3.02	Grading & Drainage Plan
C3.03	Site Lighting Plan
C4.01	Erosion Control Plan
C5.10 - C5.90	Site Details

PRELIMINARY
NOT FOR CONSTRUCTION

LOCUS
SCALE: 1" = 1000'

Owner/Applicant:

HUNTER
DEVELOPMENT
CORPORATION
P.O. Box 300
East Longmeadow, MA 01028

Engineer:



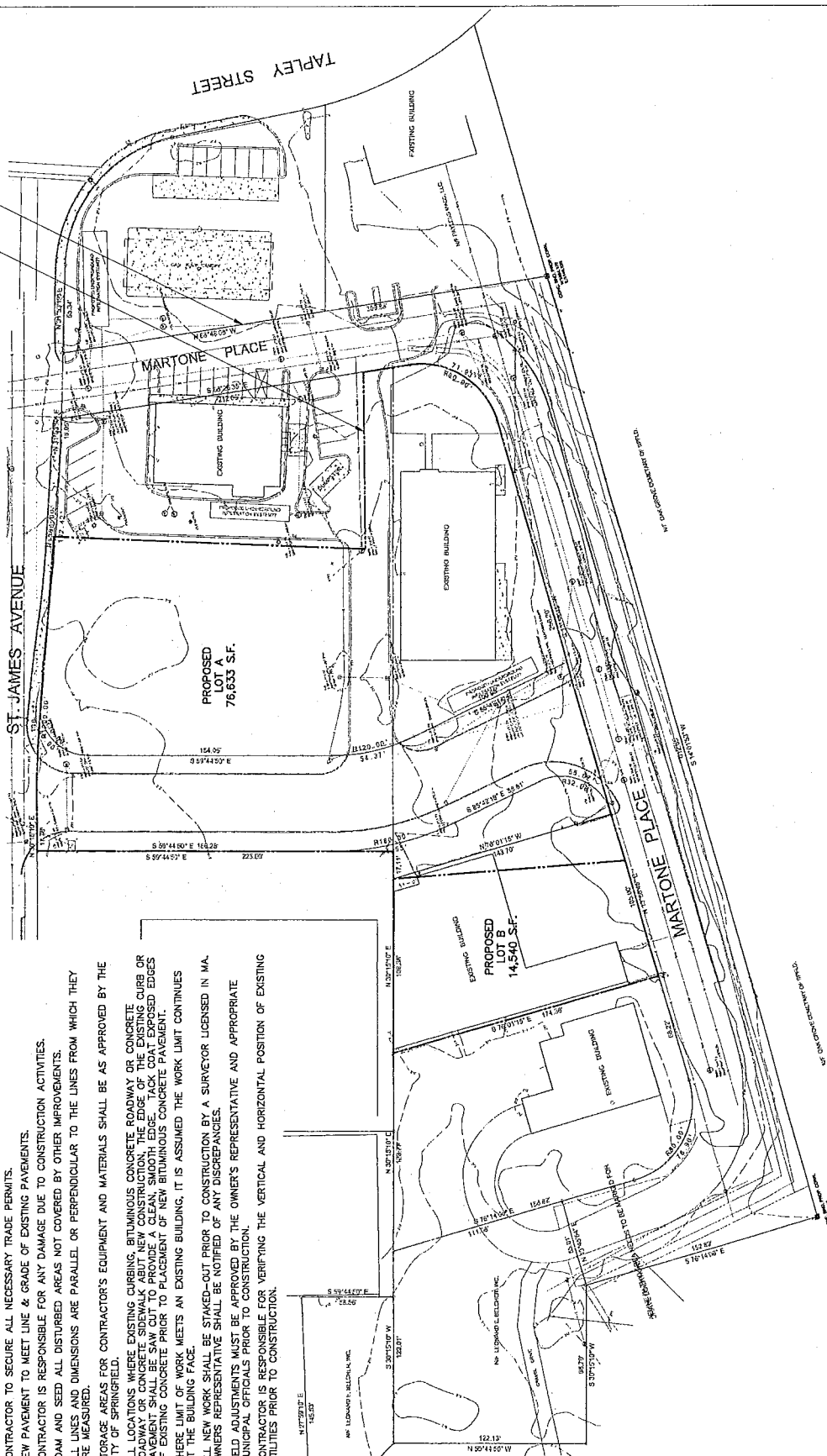
Job No. 70115.00

[illegible]

GENERAL NOTES:

1. THE CONTRACTOR SHALL MAINTAIN A SAFE WORK AREA AT ALL TIMES AND COMPLY WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS. CONSTRUCTION AREAS SHALL BE LOCKED OFF FROM THE PUBLIC AND WARNING SIGNS SHALL BE POSTED.
2. THE CONTRACTOR SHALL PERFORM ALL WORK AT TIMES MUTUALLY AGREED UPON BETWEEN THE OWNER AND THE CONTRACTOR.
3. AURIED BENESON AND COMPANY HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. CONTRACTOR IS TO VERIFY FOR HIMSELF THE LOCATION OF ALL UTILITIES WITH IN THE PROJECT LIMITS.
4. THE CONTRACTOR SHALL CONTACT "BIG SUE" (1-888-344-7233) FOR SPRINGFIELD WATER AND SEWER DEPARTMENT TO OBTAIN ANY NECESSARY PERMITS AND TO OBTAIN ANY NECESSARY UTILITY LOCATING NUMBERS PRIOR TO THE START OF CONSTRUCTION. UTILITY MARKINGS SHALL BE MAINTAINED FOR THE DURATION OF THE PROJECT.
5. ALL WORK SHALL BE IN ACCORDANCE WITH MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUREAU OF RESOURCE PROTECTION-METLANDS, WPA FORM 5 - ORDER OF CONDITIONS DEP FILE NUMBER: 294-0634ALS AND CONSTRUCTION PROCEDURES SHALL COMPLY WITH MA DOT AND THE TOWN OF SHREWSBURY SPECIFICATIONS.
6. CONTRACTOR TO SECURE ALL NECESSARY TRADE PERMITS.
7. NEW PAVEMENT TO MEET LINE & GRADE OF EXISTING PAVEMENTS.
8. CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE DUE TO CONSTRUCTION ACTIVITIES.
9. LOAM AND SEED ALL DISTURBED AREAS NOT COVERED BY OTHER IMPROVEMENTS.
10. ALL LINES AND DIMENSIONS ARE PARALLEL OR PERPENDICULAR TO THE LINES FROM WHICH THEY ARE MEASURED.
11. STORAGE AREAS FOR CONTRACTOR'S EQUIPMENT AND MATERIALS SHALL BE AS APPROVED BY THE CITY OF SPRINGFIELD.
12. ALL LOCATIONS WHERE EXISTING CURBING, BITUMINOUS CONCRETE ROADWAY OR CONCRETE ROADWAY OR CONCRETE SIDEWALK ABUT NEW CONSTRUCTION, THE EDGE OF THE EXISTING CURB OR PAVEMENT SHALL BE SAW CUT TO PROVIDE A CLEAN, SMOOTH EDGE. TACK COAT EXPOSED EDGES OF EXISTING CONCRETE PRIOR TO PLACEMENT OF NEW BITUMINOUS CONCRETE PAVEMENT.
13. WHERE LIMIT OF WORK MEETS AN EXISTING BUILDING, IT IS ASSUMED THE WORK LIMIT CONTINUES AT THE BUILDING FACE.
14. ALL NEW WORK SHALL BE STAKED-OUT PRIOR TO CONSTRUCTION BY A SURVEYOR LICENSED IN MA. OWNERS REPRESENTATIVE SHALL BE NOTIFIED OF ANY DISCREPANCIES.
15. FIELD ADJUSTMENTS MUST BE APPROVED BY THE OWNER'S REPRESENTATIVE AND APPROPRIATE MUNICIPAL OFFICIALS PRIOR TO CONSTRUCTION.
16. CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE VERTICAL AND HORIZONTAL POSITION OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.

17. CONTRACTOR SHALL CONTROL DUST CAUSED BY HIS OPERATIONS BY APPLYING WATER OR DUST SUPPRESSANT OTHER THAN CALCIUM CHLORIDE.
18. CONTRACTORS SHALL CONTROL NOISE TO AS GREAT AN EXTENT AS POSSIBLE. ALL POWER EQUIPMENT USED DURING CONSTRUCTION SHALL BE EQUIPPED WITH MUFFLERS.
19. MANUFACTURED ITEMS SHALL BE INSTALLED, CONNECTED AND CLEANED ACCORDING TO THE MANUFACTURER'S DIRECTIONS.
20. PRIOR TO PROJECT CLOSE-OUT, CONTRACTOR SHALL REMOVE ALL DEBRIS AND EXCESS MATERIALS FROM SITE. ALSO, ANY DAMAGE TO FIELD OR FACTORY APPLIED FINISHES SHALL BE REPAIRED.
21. EXPANSION AND SCORE JOINTS FOR NEW CONCRETE WALLS SHALL BLEND TO MATCH EXISTING PATTERNS.
22. PROVIDE EXPANSION JOINTS FOR NEW CONCRETE PAVING AT CURBS, TREE GRATES, BUILDING FOUNDATION PERIMETER FIRST FLOOR TIE BARS, MANHOLES, GRATES/VALLITS. EXISTING CONCRETE PAVING, STOP LIGHTS, FIRE HYDRANTS AND ALL OTHER FIXED MATERIALS. MAXIMUM DISTANCE BETWEEN EXPANSION JOINTS SHALL NOT EXCEED 25 FEET.



General Notes

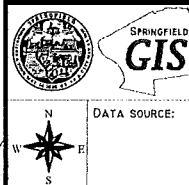
[illegible]

Proposed Location

Tapley St

Saint James Av

Martone Pl



City of Springfield, Massachusetts

DATA SOURCE:

SSTapley Street/
559 St James Avenue

Attachment: Tapley St St James Ave 2014 (2744 : 11-13 Tapley Street)

Commonwealth of Massachusetts
CLERK OF COURTS
Hampden County Superior Court

Laura S. Gentile, Esquire
Clerk of Courts

HALL OF JUSTICE
P.O. BOX 559, 90 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01102-0559



ASSISTANT CLERKS

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Brian R. Dolaher
William L. Eason
John J. Fitzgerald
Terrence C. Ginley
Daphne G. Moore, Esq.
Stephanie A. Roscoe, Esq.

FAX TRANSMITTAL COVER LETTER

DATE: 9-26-14TIME: 12:45 PM

PLEASE DELIVER TELEFAX TO THE FOLLOWING:

Atty. Bart Heemskerk - 739-7168Atty. Edward Pikula - 787-6173RE: CASE NO. 14-627PLEADING NO. FROM: Hampden County Superior Court Clerk's Office - Mary CullinanTOTAL NUMBER OF PAGES TRANSMITTED (Including Cover Page) 7

IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED, PLEASE CALL
413-748-7629

ADDITIONAL MESSAGE:

enclosed please find a courtesy copy of the
intended decision on the Petition for Mandamus. The
original decision is in the mail from Judge Josephson
in Franklin Superior to the Hampden Superior Clerk's Office. The
decision will be sent out as soon 413-748-7629
PLEASE NOTE: If this message has been received in error by a party to whom it is NOT addressed, please call and destroy the
transmittal material. as it is received in Hampden Superior.
Thank you Thank You.

Office
Civil (413) 735-6016 Criminal (413) 735-6017
Fax (413) 737-1611 TTY (413) 827-9379

Mary

Attachment: Josephson 09 26 2014 decision -- HDC Four (2744 : 11-13 Tapley Street)

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT
HAMPDEN, ss. SUPERIOR COURT
CIVIL ACTION 14-627**

**HDC FOUR, LLC
Petitioner**

vs.

**BUILDING COMMISSIONER OF SPRINGFIELD
Respondent**

**MEMORANDUM OF DECISION ON
VERIFIED EMERGENCY PETITION FOR MANDAMUS RELIEF**

This action arises out of the Springfield Building Commissioner's non-issuance of a building permit sought by HDC Four, LLC ("HDC Four"), to construct an office building.¹ Before the Court is HDC Four's petition for mandamus relief for an order that the building commissioner issue the building permit. For the reasons set forth below, the petition is *denied*.

BACKGROUND

In 2004, HDC Four purchased property at 36 Martone Place in Springfield. The following year, it obtained a special permit to construct a car wash there. The special permit was conditioned on HDC Four transforming a private way on the site into a public way. HDC Four partially constructed a road but it was not completed and it remains a private way.

HDC Four abandoned the car wash plans, and in 2014 decided to develop the property as an office building for the Registry of Motor Vehicles. The property lies in a zone in which a non-medical office building is a permitted use subject only to administrative site plan review.

¹HDC Four initially sought relief from the Supreme Judicial Court, which transferred this case to the Hampden Superior Court.

2014-09-26 12:26 FROM-

T-448 P.003/007 F-959

On May 6, 2014, HDC Four applied for administrative site plan review. On July 1, 2014, the Office of Planning and Economic Development issued an Administrative Site Plan Review Conditional Approval which imposed over a dozen conditions to be met before the building permit could be issued. Some conditions were dependent upon determinations or approvals by the Department of Public Works (DPW). Those included:

"6. Any and all reviews/approvals required by the Department of Public Works shall be obtained prior to the issuance of a building permit. As part of that review, a final determination shall be made regarding the status of the new Martone Place.

"7. If the final DPW review results in a change to the approved site plan, a revised site plan shall be submitted to the Office of Planning & Economic Development for review and approval prior to issuing a building permit.

"8. If the determination is made that Martone Place is to remain a private way and is approved as such by DPW, the petitioner shall apply to the City Council to amend the existing special permits granted December 27, 2005 . . . requiring that the newly laid out Martone Place become a public way. . . .

"9. If the determination is made that Martone Place is to become a public way and is approved as such by DPW, all required material shall be submitted to the Board of Public Works for the acceptance of Martone Place as a public way prior to issuing a building permit."

The Administrative Site Plan Review Conditional Approval adverted that "Compliance with these conditions, as well as any and all zoning regulations, is required."

HDC Four failed to satisfy the DPW-related conditions. Nonetheless, on July 18, 2014, HDC Four filed an application for a building permit with the Springfield Building Commissioner. While the application was pending, the DPW studied the site and raised several concerns, including traffic and the difficulty of vehicles in entering and exiting. The DPW noted that these challenges would be compounded with the narrower streets during snow season and with the additional traffic generated from the proposed use of the site. The DPW reiterated the

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T-446 P.004/007 F-058

need to address questions about, *inter alia*, (1) the location of the proposed building and the parking in relation to abutting parcels and (2) resolving whether the private way would become public.

On July 29, 2014, a representative from the Springfield Building Department informed HDC Four in a telephonic communication that the building commissioner would not issue a building permit until he received final approval from the DPW.

DISCUSSION

1. Mandamus Relief

HDC Four seeks relief in the nature of mandamus, which is appropriate to compel a public official to perform an act which the official has a legal duty to perform. See *Lutheran Serv. Ass'n of New England, Inc. v. Metro. Dist. Comm'n*, 397 Mass. 341, 344 (1986). Mandamus relief is not a matter of right but of judicial discretion. *Id.* at 345. It "may not be granted except to prevent a failure of justice in instances where there is no other adequate remedy." *Id.* at 344.

HDC Four has not established that the building commissioner has a legal duty, much less authorization, to issue the building permit sought here. The Springfield Zoning Ordinance authorizes the building commissioner to "enforce compliance with . . . the Site Plan . . . , including any conditions in the Site Plan approval." Springfield Zoning Ordinance, Section 12.3.22. Moreover,

"If a proposed structure or use requires Site Plan Review and/or a special permit, after such approval has been issued, the applicant shall submit a building permit application to the Building Commissioner's Office, consistent with all conditions and requirements of such approval. The Building Commissioner, in reviewing the application, shall ensure

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T-446 P.005/007 F-955

that all such conditions and requirements have been satisfied"

Springfield Zoning Ordinance, Section 12.1.21(c).

Until HDC Four satisfies the conditions imposed in the Administrative Site Plan Conditional Approval, the building commissioner lacks authority under the Springfield Zoning Ordinance, Section 12.1.21(c), to issue the building permit. There is no support for HDC Four's argument that the building commissioner's non-issuance of the building permit was due to improper DPW interference or for any other reason than HDC Four's failure to comply with Administrative Site Plan Review Conditional Approval conditions. In this context, there is nothing unjust in the building commissioner's non-issuance of the building permit. Accordingly, the mandamus relief sought is inappropriate. See *Lutheran Serv. Ass'n of New England, Inc. v. Metro. Dist. Comm'n*, 397 Mass. at 344-345.

2. Exhaustion of Administrative Remedies

"The statutorily required submission of zoning disputes to local authority is so central to the architecture of G.L. c. 40A that we have required the exhaustion of administrative remedies as a prerequisite to judicial review. . . . Within the zoning context, therefore, principles of exhaustion require that a person aggrieved by the action of a local zoning administrator (the building inspector in most municipalities) must first attempt to redress the grievance through the local board of appeals before seeking judicial review. See G.L. c. 40A, §§ 8, 13, 14, and 17"

Quincy v. Planning Board of Tewksbury; Sullivan, 39 Mass. App. Ct. 17, 20 (1995). Related to the principle that one must exhaust administrative remedies before seeking relief in the courts is the doctrine of primary jurisdiction.

"The exhaustion doctrine prevents premature judicial interference with pending administrative proceedings, while the primary jurisdiction doctrine denies jurisdiction where agency proceedings have not yet begun. Both doctrines are in theory and practical effect the same and stem from the general principle which ordinarily serves to preclude judicial consideration of a question while there remains any possibility of further

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T-446 P.006/007 F-868

administrative action."

Boston Edison Co. v. Brookline Realty & Investment Corp., 10 Mass. App. Ct. 63, 66 (1980)

(internal quotations and citations omitted).

"The doctrine of primary jurisdiction is founded on the principle which counsels a court to stay its hand when the issue in litigation is within the special competence of an agency. . . . By permitting an agency to apply its expertise to the statutory scheme which it is charged to enforce, courts preserve the integrity of the administrative process while sparing the judiciary the burden of reviewing administrative proceedings in piecemeal fashion."

Leahy v. Local 1526, American Federation of State, County, and Municipal Employees, 399

Mass. 341, 346 (1987) (internal quotations and citations omitted).

HDC Four has not shown that the administrative process has been unavailable or that utilizing it would be futile. Its complaint that it has been unable to obtain a building permit is appealable under G. L. c. 40A, § 8. which reads in relevant part:

"An appeal to the permit granting authority as the zoning ordinance . . . may provide, may be taken by any person aggrieved by reason of his inability to obtain a permit . . . by the regional planning agency in whose area the city . . . is situated, or by any person including an officer or board of the city or town, . . . or other administrative official, in violation of any provision of this chapter or any ordinance or by-law adopted thereunder."

HDC Four's litany of arguments concerning the merits of its application for a building permit, the building commissioner's non-issuance of the building permit, and the DPW's involvement in the application process are all matters first and best addressed through an appeal before the appropriate local administrative agency rather than the courts.

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T-446 P.007/007 F-858

CONCLUSION

For the foregoing reasons, HDC Four, Inc.'s Verified Emergency Petition for Mandamus Relief is **DENIED**.

Bartha D. Josephson
Justice of the Superior Court

Dated: , 2014

SIGNED AND SENT OUT FROM FRANKLIN 9/25/14

*** Receive Results ***

Receive job successful.

Job No.	6271
Address	
Name	
Start Time	09/26 12:59 PM
Call Length	01'12
Sheets	7
Result	OK

Attachment: Josephson 09 26 2014 decision -- HDC Four (2744 : 11-13 Tapley Street)


City of Springfield

 36 Court Street
 Springfield, MA 01103

WITHDRAWN
PETITION (ID # 2745)

 Meeting: 11/24/14 07:00 PM
 Department: Economic Development
 Category: Special Permit
 Prepared By: Phil Dromey
 Initiator: Phil Dromey
 Sponsors:
 DOC ID: 2745 A

To Amend an Existing Special Permit (Drive-Up Service Window), Granted December 27, 2005, by Deleting Condition #5 (Requirement to Make Martone Place a Public Way) at the Property Formally Known as 559 St James Avenue and Now Known as 557 St James Avenue (11170-0314), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 19.1(2).

Request:	See Above
Owner:	HDC Four, LLC
By:	Michael W. Frisbie
Petitioner:	HDC Four, LLC
By:	Michael W. Frisbie

HISTORY:

09/29/14 City Council

REFER TO COMMITTEE

Next: 11/24/14

RESULT:	WITHDRAWN
----------------	------------------

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

to amend an existing special permit (drive-up service window), granted December 27, 2005, by deleting condition #5 (requirement to make Martone Place a public way) at the property formally known as 559 St James Avenue and now known as 557 St James Avenue (11170-0314), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 4, Table 4-4, Section 19.1(2).

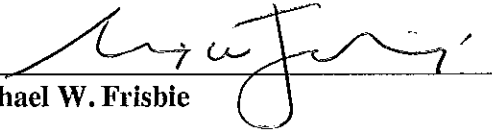
Mailing Address:

P.O. Box 366
East Longmeadow, MA 01028

Owner & Petitioner:

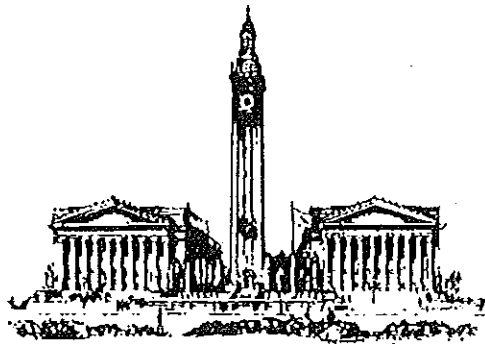
HDC Four, LLC.

I hereby certify that I am the owner and petitioner or I that I am acting on behalf of the owner and petitioner.

BY: 
Michael W. Frisbie

Attachment: St_James_Ave_559_Tax_Form (2745 : 559 St James Avenue)

Stephen J. Loneragan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

August 25, 2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 575 Saint James Avenue – 11170-0314
36 Martone Place – 08325-0001
11-13 Tapley Street – 11415-0032

Petitioner: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

Landlord: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

A handwritten signature in black ink, appearing to read "Stephen J. Loneragan", is written over a horizontal line.

Stephen J. Loneragan: Treasurer/Collector

Attachment: St_James_Ave_559_Tax_Formal (2745 : 559 St James Avenue)

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**SS TAPLEY STREET (FORMALLY KNOWN AS 11-13 TAPLEY STREET) & 557 St JAMES
AVENUE (FORMALLY KNOWN AS 559 St JAMES AVENUE)**

AMEND EXISTING SPECIAL PERMITS (GAS STATION/DRIVE-UP SERVICE WINDOW)

General Information

Petitioner:	HDC Four, LLC and HDC Two, LLC
Request:	To amend two (2) existing special permits, granted December 27, 2005, for the properties formally known as 11-13 Tapley Street and 559 St James Avenue, by allowing the deletion of condition #5 (requirement to make Martone Place a public way).
Proposed use of the property:	Gas station/convenience store with drive-up service window.
Size:	88,769 s.f.
Compatibility with current planning documents:	The Bay Neighborhood Plan shows no changes to this area.
Neighborhood council Notification:	McKnight Neighborhood Council and Bay Area Neighborhood Council: 9-4-14
Tax Status:	SEE ATTACHED
Site Visit:	9-4-14
Urban Renewal Status:	This parcel is not located within an urban renewal area.
Hearing Date:	9-22-14

Staff Analysis

Neighborhood characteristics:

The parcel is currently zoned Business B and is in an area that has a mix of commercial and industrial uses. The surrounding land uses include:

- To the north is an oil distribution facility zoned Business B.
- To the south is a warehouse zoned Business B.
- To the east is are an auto glass company and Oak Grove Cemetery zoned Business B and Residence B.
- To the west is are a warehouse and manufacturing operation zoned Business B and Industrial A.

Attachment: Tapley St St James Ave 2014 (2745 : 559 St James Avenue)

Review:

The petitioner has requested to amend two (2) special permits for the properties formally known as 11-13 Tapley Street and 559 St James Avenue. This is the current location of an Irving gas station/convenience store with a Dunkin Donuts drive-up service window. The special permits to be amended were approved by the City Council on December 27, 2005. The specific request is to amend condition #5 on both special permits. Condition #5 states:

- 5. The petitioner shall petition and submit all required materials to the Board of Public Works to make Martone Place a public way upon completion of all construction.**

In order to properly review the proposed request, a review of the history of this site is required and is as follows:

As noted above, the special permits for the current development were approved by the City Council in December 2005. Prior to this development the site consisted of a used car lot, bar, vacant gas station, car wash and a retail store. At that time, the petitioner intended to demolish all the existing structures and construct a new Irving gas station with an accessory convenience store with a drive-up service window. It should be noted that as part of the original plans, a new car wash was also to be constructed on the property formally known as 36 Martone Place, but this was never constructed. Since a building permit was never issued for the car wash, the special permit for that use has lapsed.

An important piece to this overall development was the proposal by the developer to relocate a portion of the existing Martone Place approximately three hundred (300) feet to the south. This was needed as the existing Martone Place was to become part of the parking area for the new convenience store/gas station. It should be noted that Martone Place could not just be discontinued as it still provided access to two (2) existing businesses located at the end of Martone Place. These businesses are still in existence today. Further, it has also now been determined, through information submitted by the developer, that Martone Place is actually privately owned registered land, owned by the heirs of the Martone family. Therefore, a typical discontinuance through the Board of Public Works would not have been allowed.

The plans submitted by the developer in 2005 showed that the “old” Martone Place would be discontinued and the “new” Martone Place would be reconstructed to the south and be accepted by the City as a public way. The proposed plans for this relocation were fully reviewed and approved at that time by the Department of Public Works (DPW). Aerial photos have been attached to this report showing the layout of the site in 2003 as well as the most recent aerial photos taken in 2013. As can be seen by the attached photos, while the “old” Martone Place was relocated, the acceptance of the “new” Martone Place was never completed by the developer.

It should also be noted that in addition to the requirement that the “new” Martone Place become a public way upon completion of the development, an additional condition was also added requiring that an ANR plan be submitted for the reconfiguration of the parcels. This is a very important piece of the proposed development as the proposed convenience store building extended across an existing property line. Building permits were only issued for the development on the condition that the ANR plan was to be filed. However, despite a concerted effort on the part of the City, neither the discontinuance/acceptance plans for the creation of the “new” Martone Place nor the ANR plans were ever submitted by the developer. As such, the development has been in violation of the special permits conditions since they were approved in 2005.

Proposed Request:

With regards to the proposed request to amend the existing special permits, it needs to be stressed that the proposed amendments are tied directly to a new development being proposed on this and the adjacent property.

The petitioner has submitted plans for a new 14,300 square foot office building which is being proposed for the new location of the Massachusetts Registry of Motor Vehicles (RMV). The proposed building is to be located on the parcel formally known as 36 Martone Place. The building that was located on this site has been demolished.



The plans submitted also indicate that the parking for the new RMV will be located on a portion of the property formally known as 559 St James Avenue. This is the parcel in which the existing convenience store and drive-up window are also located. Copies of the proposed RMV plans have been attached as part of this report.

It should be noted that based on the size of the proposed building, this new RMV development triggered an Administrative Site Plan Review under the new Zoning Ordinance. A review was completed by the Office of Planning & Economic Development in July. As part of that review and a further supplemental review, a number of conditions were placed on the approval. These included the need to amend the existing special permits as well as obtaining all approvals from DPW. Although the staff does recognize that these are two (2) separate developments, as noted above, they are directly tied together. Therefore, to the extent possible, conditions need to be placed in this special permit to ensure the proper development of the proposed RMV.

As part of the review for the proposed RMV, the staff, as well as the Director of Public Works, Chris Cignoli, have made it clear to the developer that the City does not hold an opinion on whether the “new” Martone Place becomes a public way or remains private, however, depending on that determination, a number of issues would need to be addressed in order to move the project forward. The city was informed by the developer in writing at the end of July that the “new” Martone Place was to remain private. It is very important to note that due to this decision by the developer, the “new” Martone Place will now not become a “way”. This “new” Martone Place is and will continue to be located completely on privately owned property and will be considered a driveway into this new development beginning at its access point off Saint James Avenue. As such, the DPW will no longer be responsible to maintain this access, as they have been doing for the past nine (9) years. This maintenance included snow plowing. This maintenance requirement, including snow plowing, will now be the full responsibility of the developer. Further, easements across this land by the existing businesses, the City or other utility companies servicing this development will need to be required to ensure that they will continue to have legal access across this property.

Since the determination was made by the developer to keep the “new” Martone Place private, the staff has continued to outline the process which needs to be followed in order to move the proposed RMV project forward. First and foremost, the special permits granted in 2005 need to be amended by the City Council.

Second, since the current proposal is now to abandon plans to complete the public way of the “new” Martone Place, the developer will no longer meet the parking location requirements established by Article 7, Section 7.1.52 of the Springfield Zoning Ordinance. Specifically, under Section 7.1.52, a review is completed to determine the location of the off-street parking for new developments based on the character of the immediate neighborhood (1,000 feet in each direction). In this particular case, a determination has been made by the Office of Planning & Economic Development, confirmed by the Building Commissioner, that the predominate character of the immediate neighborhood are buildings up to the street line with off-street parking located to the side and rear. As such, the proposed development would need to follow this development pattern.

As can be seen by the attached plans, the proposed RMV has the building set back with parking in the front. Therefore, in order for this development to proceed, the building must either be moved forward with parking located to the side or rear or a variance must be obtained from the Springfield Board of Appeals. It should be noted that if the “new” Martone Place was to become a public way, as originally proposed by the developer, the proposed RMV project could move forward as designed as the building would have fronted on Martone Place with the parking to the side. A review of setbacks for the proposed building would need to be completed but the parking location requirements outlined in Section 7.1.52 would have been met.

Further, as noted above, there is still an outstanding issue with regards to the submission of an ANR plan. As per the special permit conditions, an ANR plan was to have been submitted to reconfigure the parcels once the new development was completed. As mentioned earlier, this was needed as the proposed convenience store building was proposed to be constructed over an existing property line. Also, the “old” Martone Place was now going to be incorporated into the new development.

Again, as noted above, the building permits were only issued for this development, back in 2005, based on assurances by the developer that an ANR plan was to be submitted. This step was never completed. Further, due to the fact that an ANR plan was never submitted by the developer, the “old” Martone Place, which is now part of the parking lot for the gas station/convenience store, has never been properly taxed. Therefore, the developer has been utilizing this piece of land for a commercial use but has paid no taxes on this land since 2005 and continues to pay no taxes for the commercial use of this property. The developer indicated that due to the fact that this land is registered land within land court, an ANR plan cannot be completed; however, this is not the case. While the staff agrees that changing property lines for land court registered property is indeed more complicated and time consuming, it is not something that cannot be completed.

Overall, the staff does not object to the amendments to the existing special permits granted in 2005, however, due to the number of issues outlined above as well as this developer’s track record within the City of Springfield, the staff believes that conditions need to be imposed, if the amendments are approved, that will ensure that the developer follows all the proper procedures.

Recommendation

Approve, with conditions.

***Recommended Conditions: SS TAPLEY STREET (FORMALLY KNOWN AS 11-13 TAPLEY STREET)-
GAS STATION***

1. All conditions placed on the original special permit, granted December 27, 2005, shall remain in effect with the exception that Martone Place will now remain private.
2. Since the “new” Martone Place will remain privately owned property, the petitioner shall be fully responsible for all maintenance, including snow removal.
3. An ANR plan shall be submitted, as required under the original special permit, to the Planning Board for review and approval. The ANR plan shall then be filed with either the Registry of Deeds and/or the Massachusetts Land Court Registration Office.
4. Any and all easements, including access rights for the existing business located on Martone Place, shall be filed at the Hampden County Registry of Deeds with copies submitted to the Department of Public Works.
5. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in enforcement by the Code Enforcement Department punishable by fine of up to \$200 per day for each day a violation exists.

***Recommended Conditions: 557 ST JAMES AVENUE (FORMALLY KNOWN AS 559 ST JAMES
AVENUE) - DRIVE-UP SERVICE WINDOW***

1. All conditions placed on the original special permit, granted December 27, 2005, shall remain in effect with the exception that Martone Place will now remain private.
2. Since the “new” Martone Place will remain privately owned property, the petitioner shall be fully responsible for all maintenance, including snow removal.
3. An ANR plan shall be submitted, as required under the original special permit, to the Planning Board for review and approval. The ANR plan shall then be filed with either the Registry of Deeds and/or the Massachusetts Land Court Registration Office.
4. Any and all easements, including access rights for the existing business located on Martone Place, shall be filed at the Hampden County Registry of Deeds with copies submitted to the Department of Public Works.
5. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in enforcement by the Code Enforcement Department punishable by fine of up to \$200 per day for each day a violation exists.

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

August 25, 2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 575 Saint James Avenue – 11170-0314
36 Martone Place – 08325-0001
11-13 Tapley Street – 11415-0032

Petitioner: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

Landlord: HDC FOUR LLC – Michael Frisbie, Manager
HDC TWO LLC – Michael Frisbie, Manager

Stephen J. Lonergan: Treasurer/Collector

Attachment: Tapley St St James Ave 2014 (2745 : 559 St James Avenue)



Attachment: Tapley St St James Ave 2014 (2745 : 559 St James Avenue)



APPLICATION FOR TIER 1 ADMINISTRATIVE SITE PLAN REVIEW CITY OF SPRINGFIELD

PROPOSED REGISTRY OF MOTOR VEHICLES MARTONE PLACE

APRIL 14, 2014



Project Location

LIST OF DRAWINGS

	Survey
C1.01	General Notes
C1.02	Demolition Plan
C-2.01	Site Layout Plan
C3.01	Site Utility Plan
C3.02	Grading & Drainage Plan
C3.03	Site Lighting Plan
C4.01	Erosion Control Plan
C5.10 - C5.50	Site Details

PRELIMINARY
NOT FOR CONSTRUCTION

LOCUS
SCALE: 1" = 1000'

Owner/Applicant:

HUNTER
DEVELOPMENT
CORPORATION
P.O. BOX 300
East Longmeadow, MA 01028

Engineer:



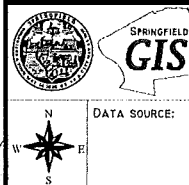
Job No. 70115.00

Proposed Location

Tapley St

Saint James Av

Martone Pl



City of Springfield, Massachusetts

DATA SOURCE:

SSTapley Street/
559 St James Avenue

Attachment: Tapley St St James Ave 2014 (2745 : 559 St James Avenue)

Commonwealth of Massachusetts
CLERK OF COURTS
Hampden County Superior Court

Laura S. Gentile, Esquire
Clerk of Courts

HALL OF JUSTICE
P.O. BOX 559, 50 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01102-0559



ASSISTANT CLERKS

Lois A. Cignoli
Kevin J. Claffey, Esq.
Mary C. Cullinan
Brian R. Dolaher
William L. Eason
John J. Fitzgerald
Terrence C. Ginley
Daphne G. Moore, Esq.
Stephanie A. Roscoe, Esq.

FAX TRANSMITTAL COVER LETTER

DATE: 9-26-14TIME: 12:45 PM

PLEASE DELIVER TELEFAX TO THE FOLLOWING: _____

Atty. Bart Heemskerk - 739-7168Atty. Edward Pikula - 787-6173RE: CASE NO. 14-627

PLEADING NO. _____

FROM: Hampden County Superior Court Clerk's Office - Mary CullinanTOTAL NUMBER OF PAGES TRANSMITTED (Including Cover Page) 7

IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED, PLEASE CALL
413-748-7629

ADDITIONAL MESSAGE:

enclosed please find a courtesy copy of the
intended decision on the Petition for Mandamus. The
original decision is in the mail from Judge Josephson
in Franklin Superior to the Hampden Superior Clerk's Office. The

PLEASE NOTE: decision will be sent out as soon 413-748-7629
If this message has been received in error by a party to whom it is NOT addressed, please call _____ and destroy the
transmittal material. as it is received in Hampden Superior.
Thank you Thank You.

Office
Civil (413) 735-6016 Criminal (413) 735-6017
Fax (413) 737-1611 TTY (413) 827-9379

Mary

Attachment: Josephson 09 26 2014 decision -- HDC Four (2745 : 559 St James Avenue)

2014-09-26 12:26 FROM-

T-446 P.002/007 F-858

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT****HAMPDEN, ss.****SUPERIOR COURT
CIVIL ACTION 14-627****HDC FOUR, LLC
Petitioner****vs.****BUILDING COMMISSIONER OF SPRINGFIELD
Respondent****MEMORANDUM OF DECISION ON
VERIFIED EMERGENCY PETITION FOR MANDAMUS RELIEF**

This action arises out of the Springfield Building Commissioner's non-issuance of a building permit sought by HDC Four, LLC ("HDC Four"), to construct an office building.¹ Before the Court is HDC Four's petition for mandamus relief for an order that the building commissioner issue the building permit. For the reasons set forth below, the petition is *denied*.

BACKGROUND

In 2004, HDC Four purchased property at 36 Martone Place in Springfield. The following year, it obtained a special permit to construct a car wash there. The special permit was conditioned on HDC Four transforming a private way on the site into a public way. HDC Four partially constructed a road but it was not completed and it remains a private way.

HDC Four abandoned the car wash plans, and in 2014 decided to develop the property as an office building for the Registry of Motor Vehicles. The property lies in a zone in which a non-medical office building is a permitted use subject only to administrative site plan review.

¹HDC Four initially sought relief from the Supreme Judicial Court, which transferred this case to the Hampden Superior Court.

On May 6, 2014, HDC Four applied for administrative site plan review. On July 1, 2014, the Office of Planning and Economic Development issued an Administrative Site Plan Review Conditional Approval which imposed over a dozen conditions to be met before the building permit could be issued. Some conditions were dependent upon determinations or approvals by the Department of Public Works (DPW). Those included:

"6. Any and all reviews/approvals required by the Department of Public Works shall be obtained prior to the issuance of a building permit. As part of that review, a final determination shall be made regarding the status of the new Martone Place.

"7. If the final DPW review results in a change to the approved site plan, a revised site plan shall be submitted to the Office of Planning & Economic Development for review and approval prior to issuing a building permit.

"8. If the determination is made that Martone Place is to remain a private way and is approved as such by DPW, the petitioner shall apply to the City Council to amend the existing special permits granted December 27, 2005 . . . requiring that the newly laid out Martone Place become a public way. . . .

"9. If the determination is made that Martone Place is to become a public way and is approved as such by DPW, all required material shall be submitted to the Board of Public Works for the acceptance of Martone Place as a public way prior to issuing a building permit."

The Administrative Site Plan Review Conditional Approval adverted that "Compliance with these conditions, as well as any and all zoning regulations, is required."

HDC Four failed to satisfy the DPW-related conditions. Nonetheless, on July 18, 2014, HDC Four filed an application for a building permit with the Springfield Building Commissioner. While the application was pending, the DPW studied the site and raised several concerns, including traffic and the difficulty of vehicles in entering and exiting. The DPW noted that these challenges would be compounded with the narrower streets during snow season and with the additional traffic generated from the proposed use of the site. The DPW reiterated the

2014-09-26 12:27 FROM-

T-446 P.004/007 F-058

need to address questions about, *inter alia*, (1) the location of the proposed building and the parking in relation to abutting parcels and (2) resolving whether the private way would become public.

On July 29, 2014, a representative from the Springfield Building Department informed HDC Four in a telephonic communication that the building commissioner would not issue a building permit until he received final approval from the DPW.

DISCUSSION

1. Mandamus Relief

HDC Four seeks relief in the nature of mandamus, which is appropriate to compel a public official to perform an act which the official has a legal duty to perform. See *Lutheran Serv. Ass'n of New England, Inc. v. Metro. Dist. Comm'n*, 397 Mass. 341, 344 (1986). Mandamus relief is not a matter of right but of judicial discretion. *Id.* at 345. It "may not be granted except to prevent a failure of justice in instances where there is no other adequate remedy." *Id.* at 344.

HDC Four has not established that the building commissioner has a legal duty, much less authorization, to issue the building permit sought here. The Springfield Zoning Ordinance authorizes the building commissioner to "enforce compliance with . . . the Site Plan . . . , including any conditions in the Site Plan approval." Springfield Zoning Ordinance, Section 12.3.22. Moreover,

"If a proposed structure or use requires Site Plan Review and/or a special permit, after such approval has been issued, the applicant shall submit a building permit application to the Building Commissioner's Office, consistent with all conditions and requirements of such approval. The Building Commissioner, in reviewing the application, shall ensure

2014-09-26 12:27 FROM-

T-446 P.005/007 F-955

that all such conditions and requirements have been satisfied"

Springfield Zoning Ordinance, Section 12.1.21(c).

Until HDC Four satisfies the conditions imposed in the Administrative Site Plan Conditional Approval, the building commissioner lacks authority under the Springfield Zoning Ordinance, Section 12.1.21(c), to issue the building permit. There is no support for HDC Four's argument that the building commissioner's non-issuance of the building permit was due to improper DPW interference or for any other reason than HDC Four's failure to comply with Administrative Site Plan Review Conditional Approval conditions. In this context, there is nothing unjust in the building commissioner's non-issuance of the building permit. Accordingly, the mandamus relief sought is inappropriate. See *Lutheran Serv. Ass'n of New England, Inc. v. Metro. Dist. Comm'n*, 397 Mass. at 344-345.

2. Exhaustion of Administrative Remedies

"The statutorily required submission of zoning disputes to local authority is so central to the architecture of G.L. c. 40A that we have required the exhaustion of administrative remedies as a prerequisite to judicial review. . . . Within the zoning context, therefore, principles of exhaustion require that a person aggrieved by the action of a local zoning administrator (the building inspector in most municipalities) must first attempt to redress the grievance through the local board of appeals before seeking judicial review. See G.L. c. 40A, §§ 8, 13, 14, and 17"

Quincy v. Planning Board of Tewksbury; Sullivan, 39 Mass. App. Ct. 17, 20 (1995). Related to the principle that one must exhaust administrative remedies before seeking relief in the courts is the doctrine of primary jurisdiction.

"The exhaustion doctrine prevents premature judicial interference with pending administrative proceedings, while the primary jurisdiction doctrine denies jurisdiction where agency proceedings have not yet begun. Both doctrines are in theory and practical effect the same and stem from the general principle which ordinarily serves to preclude judicial consideration of a question while there remains any possibility of further

2014-09-26 12:27 FROM-

T-448 P.006/007 F-868

administrative action."

Boston Edison Co. v. Brookline Realty & Investment Corp., 10 Mass. App. Ct. 63, 66 (1980)

(internal quotations and citations omitted).

"The doctrine of primary jurisdiction is founded on the principle which counsels a court to stay its hand when the issue in litigation is within the special competence of an agency. . . . By permitting an agency to apply its expertise to the statutory scheme which it is charged to enforce, courts preserve the integrity of the administrative process while sparing the judiciary the burden of reviewing administrative proceedings in piecemeal fashion."

Leahy v. Local 1526, American Federation of State, County, and Municipal Employees, 399

Mass. 341, 346 (1987) (internal quotations and citations omitted).

HDC Four has not shown that the administrative process has been unavailable or that utilizing it would be futile. Its complaint that it has been unable to obtain a building permit is appealable under G. L. c. 40A, § 8. which reads in relevant part:

"An appeal to the permit granting authority as the zoning ordinance . . . may provide, may be taken by any person aggrieved by reason of his inability to obtain a permit . . . by the regional planning agency in whose area the city . . . is situated, or by any person including an officer or board of the city or town, . . . or other administrative official, in violation of any provision of this chapter or any ordinance or by-law adopted thereunder."

HDC Four's litany of arguments concerning the merits of its application for a building permit, the building commissioner's non-issuance of the building permit, and the DPW's involvement in the application process are all matters first and best addressed through an appeal before the appropriate local administrative agency rather than the courts.

2014-09-26 12:27 FROM-

T-446 P.007/007 F-858

CONCLUSION

For the foregoing reasons, HDC Four, Inc.'s Verified Emergency Petition for Mandamus Relief is **DENIED**.

Bartha D. Josephson
Justice of the Superior Court

Dated: , 2014

SIGNED AND SENT OUT FROM FRANKLIN 9/25/14

*** Receive Results ***

Receive job successful.

Job No.	6271
Address	
Name	
Start Time	09/26 12:59 PM
Call Length	01'12
Sheets	7
Result	OK

Attachment: Josephson 09 26 2014 decision -- HDC Four (2745 : 559 St James Avenue)


City of Springfield

36 Court Street
Springfield, MA 01103

TABLED

PETITION (ID # 2827)

Meeting: 11/24/14 07:00 PM
Department: Economic Development
Category: Special Permit
Prepared By: Phil Dromey
Initiator: Phil Dromey
Sponsors:
DOC ID: 2827

For a Special Permit to Relocate an Existing, Static, Non-Accessory Sign and Convert it to a Digital, Non-Accessory Sign, at the Property Known as SS Clinton Street (02900-0050), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 9, Section 9.9.24 and 9.9.30.

Request:	See Above
Owner:	Park View South, LLC
By:	Peter Picknelly, Manager
Petitioner:	Lamar Central Outdoor, LLC
By:	Stephen E. Hebert, Vice President/General Manager

RESULT: REFER TO COMMITTEE

Next: 1/26/2015 7:00 PM

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

for a special permit to relocate an existing, static, non-accessory sign and convert it to a digital, non-accessory sign, at the property known as SS Clinton Street (02900-0050), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 9, Section 9.9.24 and 9.9.30.

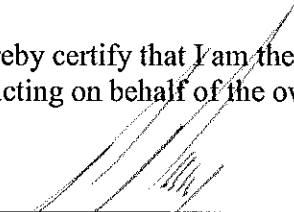
Mailing Address:

1776 Main Street
 Springfield, MA 01002

Owner:

Park View South, LLC

I hereby certify that I am the owner or I that I am acting on behalf of the owner.

BY: 

Peter Picknelly, Manager

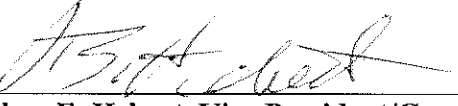
Mailing Address:

32 Midland Street
 Windsor, CT 06095

Petitioner:

Lamar Central Outdoor, LLC.

I hereby certify that I am the petitioner or I that I am acting on behalf of the petitioner.

BY: 

Stephen E. Hebert, Vice President/General Manager

Stephen J. Loneragan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

10/22/2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: SS Clinton Street -- 02900-0050

Petitioner: Lamar Central Outdoor LLC

Landlord: Park View South LLC

Stephen J. Loneragan: Treasurer/Collector

Attachment: Clinton_St_SS_Formal_Tax (2827 : SS Clinton Street)

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**SS CLINTON STREET (02900-0050)
DIGITAL NON-ACCESSORY SIGN (BILLBOARD)**

General Information

Petitioner:	Lamar Central Outdoor, LLC.
Request:	To allow a digital billboard.
Proposed use of the property:	Billboard
Parcel Size:	57,159 s.f.
Neighborhood council Notification:	New North Citizens Council: 9-10-14
Tax Status:	SEE ATTACHED
Site Visit:	11-18-14
Urban Renewal Status:	This parcel is not located within an urban renewal plan.
Hearing Date:	11-24-14

Staff Analysis

Neighborhood characteristics:

The parcel is currently zoned Industrial A and is located in an area that has a mix of commercial and industrial uses.

To the north is Interstate 91.

To the south are rail road tracks and an electrical sub-station zoned Industrial A.

To the west is vacant land zoned Industrial A and Connecticut Riverfront.

To the east are rail road tracks and a bus maintenance facility zoned Industrial A.

Site plan review:

The petitioner has requested a special permit to convert an existing, static non-accessory (billboard) sign into a digital non-accessory sign at the property known as SS Clinton Street. As part of the conversion to a digital non-accessory sign, the petitioner has indicated that the sign will be move slightly to the northwest to ensure that it is outside of the five hundred (500) foot radius of another non-accessory sign.

Understanding that this new technology is being implemented around the country, the City of Springfield recently amended the Zoning Ordinance to include a new section which regulates the installation of digital billboards (Article 9, Section 9.9.30).

As noted in the previous analysis for this proposed request, during the drafting of these new digital billboard regulations, the staff reviewed other city policies to see how this issue of digital billboards has been handled in

other communities. After completing this review, the staff found that in many communities, a requirement has been put into place which requires billboard companies to remove a number of existing billboards for each digital billboard installed. An example of this is in Marietta, Georgia. This community has implemented a new ordinance that requires billboard companies to remove four (4) existing billboard panels for every one (1) digital billboard installed.

However, after meeting with representatives of Lamar, it was determined that a number of billboards have already been removed over the last few years. These include smaller billboards as well as the larger highway signs. While the staff will always continue to advocate for the continued removal of billboards throughout Springfield, especially along the I-91 corridor, the staff does believe that credit should be given to Lamar for the number of billboards already removed.



Recommendation

Approve, with conditions.

Recommended Conditions:

1. This special permit is granted to this petitioner only.
2. This special permit is granted solely for the installation of one (1), two (2) panel, digital, non-accessory sign at the property known as SS Clinton Street (02900-0050).
3. The use shall be developed as per the attached site plan and elevations, with the addition of conditions #4 and #5.
4. The proposed sign shall meet all underlying regulations as outlined in Article 9, Section 9.9.30 of the Springfield Zoning Ordinance and the regulations outlined in the Massachusetts Department of Transportation, 700 CMR 3.00: Control and Restrictions of Billboards, Signs and Other Advertising Devices, as amended.
5. A sign permit shall be obtained through the Springfield Building Department and the Massachusetts Department of Transportation prior to installation.
6. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in enforcement by the Code Enforcement Department punishable by fine of up to \$50 per day for each day a violation exists.

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

10/22/2014

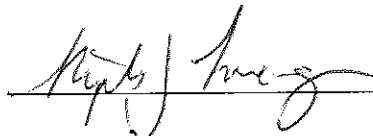
Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

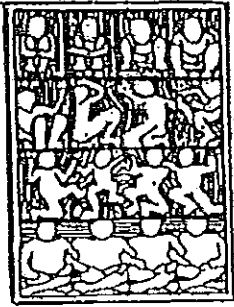
Special Permit: SS Clinton Street – 02900-0050

Petitioner: Lamar Central Outdoor LLC

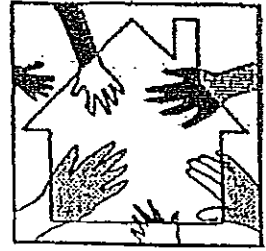
Landlord: Park View South LLC


Stephen J. Lonergan: Treasurer/Collector

Attachment: Clinton_St_SS_2014 (2827 : SS Clinton Street)



New North Citizens' Council, Inc.
 El Instituto
 de La Familia, Inc.



2383 Main Street • Springfield, Massachusetts 01107-1907
 (413) 747-0090 • (413) 746-4885 • Fax (413) 737-2321

September 10, 2014

Mr. Wayman Lee, Esquire
 City Clerk
 Springfield City Hall
 36 Court Street, Room 123
 Springfield, MA 01103

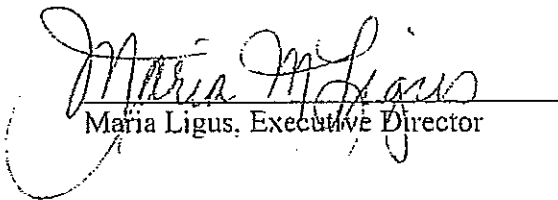
Dear Clerk Lee,

At the New North Citizens Council Board of Directors meeting held on September 10, 2014 it was voted to support Lamar Central Outdoor, LLC for a special permit to install an electronic (digital) sign at the property known as South Side Clinton Street, MAP # 1010, Parcel # 50, as allowed by M.G.L. and the Springfield Zoning Ordinance, Article XVIII-A, Non-Accessory (Billboard) Sign Regulations.

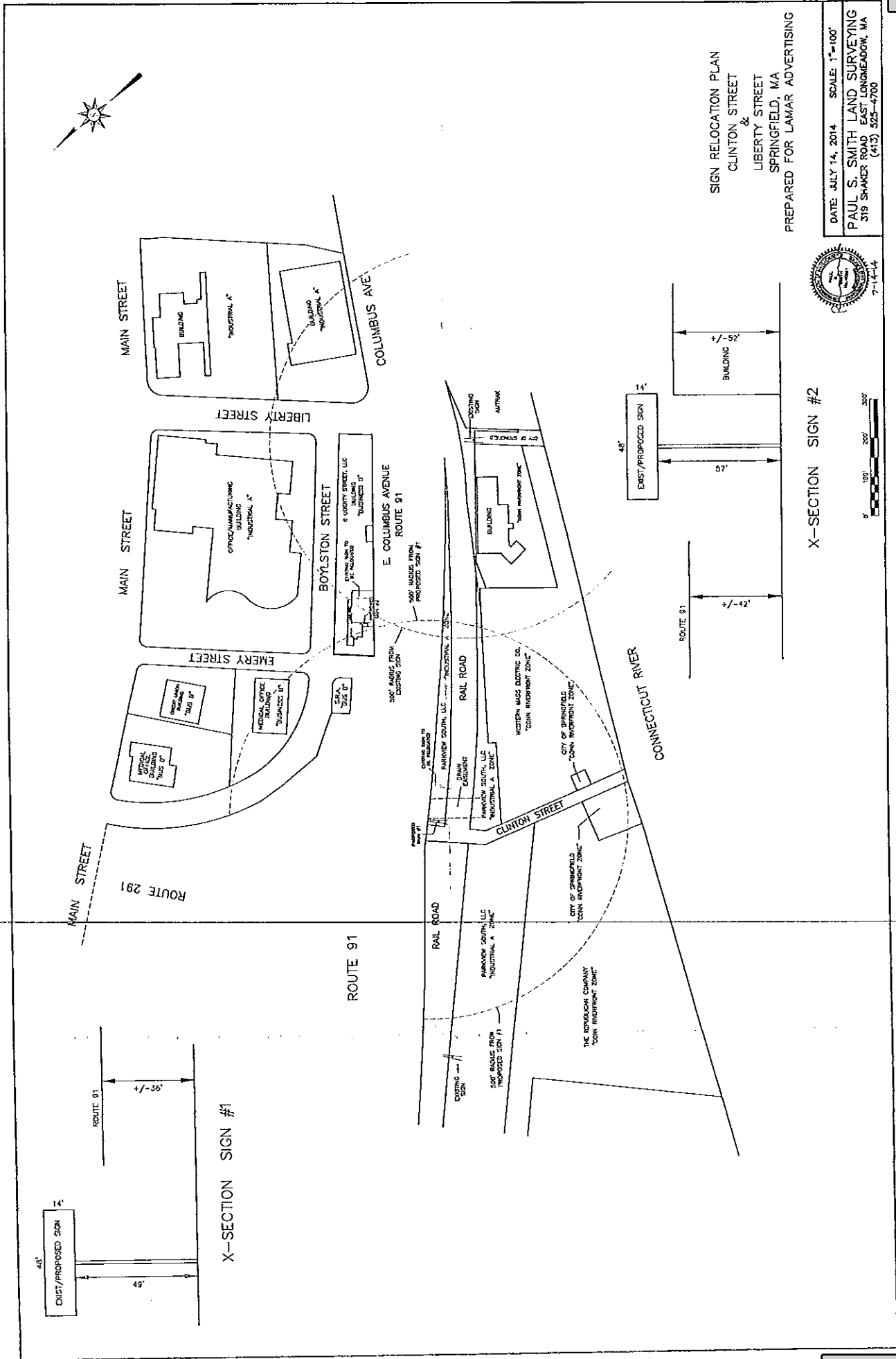
Lamar Central Outdoor LLC has met with Board members to discuss the conversion of this existing sign to a digital sign and they have answered all questions and concerns to the satisfaction of the Board members. The sign will not have an adverse effect on the neighborhood and if successful will have a positive impact both esthetically in addition to enhancing the public safety of the community.

Again, we support this request.

Sincerely,


 Maria Ligus, Executive Director

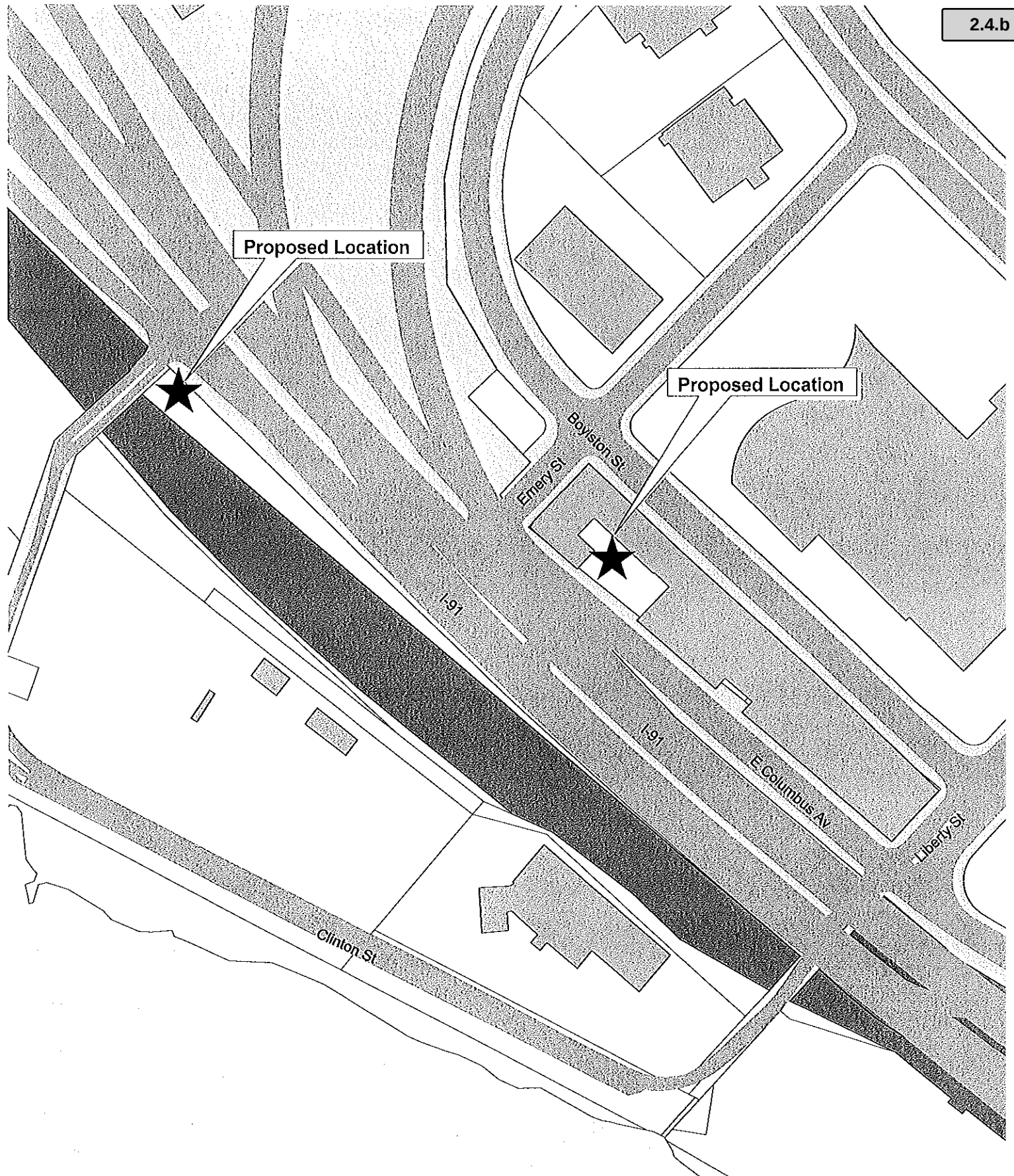
Attachment: Clinton_St_SS_2014 (2827 : SS Cliton Street)



SIGN RELOCATION PLAN
CLINTON STREET
&
LIBERTY STREET
SPRINGFIELD, MA
PREPARED FOR LAMAR ADVERTISING

DATE: JULY 14, 2014 SCALE: 1"=100'
PAUL S. SMITH LAND SURVEYING
319 SHAKER ROAD EAST LONGMEADOW, MA
(413) 525-4700





Attachment: Clinton St SS 2014 (2827 : SS Clinton Street)

	SPRINGFIELD GIS	City of Springfield, Massachusetts	
	DATA SOURCE:	6 Liberty Street/ SS Clinton Street	

SPRINGFIELD BULLETIN BY PANEL EVALUATION AND TAX

Year	Valuation	Tax Rate	Tax Amount
2006	200,000	33.02	136,281.00
2007	200,000	31.91	141,021.00
2008	200,000	32.04	140,449.00
2009	200,000	36.98	147,780.00
2010	325,000	39.25	292,410.00
2011	325,000	38.97	285,030.00
2012	325,000	39.99	292,410.00
2013	325,000	38.98	285,030.00
2014	426,000	39.04	379,462.00

Attachment: SS CLINTON BB TAXES (2827 : SS Cliton Street)

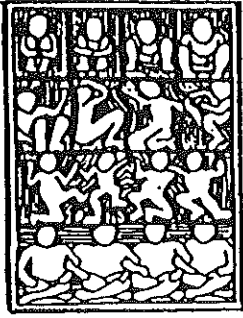
The Clinton Street billboard sign does not conform to local zoning as it is within 500 feet of the Connecticut River Walk and Bikeway path which runs along the our American Heritage River. The Clinton Street billboard is also within 500 feet of the shores of the Connecticut River.

*(The photos below are intended to show the bike path
and do not represent the exact billboard location in question)*

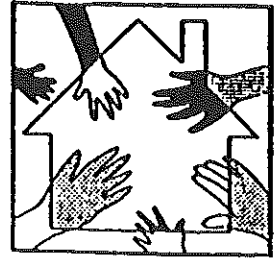








New North Citizens' Council, Inc.
El Instituto
de La Familia, Inc.



2383 Main Street • Springfield, Massachusetts 01107-1907
 (415) 747-0090 • (413) 746-4885 • Fax (413) 737-2321

September 10, 2014

Mr. Wayman Lee, Esquire
 City Clerk
 Springfield City Hall
 36 Court Street, Room 123
 Springfield, MA 01103

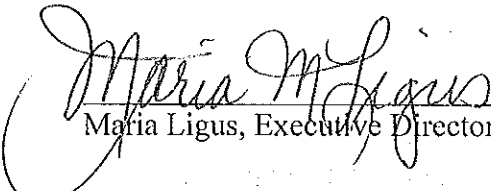
Dear Clerk Lee,

At the New North Citizens Council Board of Directors meeting held on September 10, 2014 it was voted to support Lamar Central Outdoor, LLC for a special permit to install an electronic (digital) sign at the property known as South Side Clinton Street, MAP # 1010, Parcel # 50, as allowed by M.G.L. and the Springfield Zoning Ordinance, Article XVIII-A, Non-Accessory (Billboard) Sign Regulations.

Lamar Central Outdoor LLC has met with Board members to discuss the conversion of this existing sign to a digital sign and they have answered all questions and concerns to the satisfaction of the Board members. The sign will not have an adverse effect on the neighborhood and if successful will have a positive impact both esthetically in addition to enhancing the public safety of the community.

Again, we support this request.

Sincerely,


 Maria Ligus, Executive Director

NOTED FOR THE CITY CLERK
 SEP 11 2014
 CITY OF SPRINGFIELD
 OFFICE OF THE CITY CLERK


City of Springfield

36 Court Street
Springfield, MA 01103

TABLED

PETITION (ID # 2828)

Meeting: 11/24/14 07:00 PM
Department: Economic Development
Category: Special Permit
Prepared By: Phil Dromey
Initiator: Phil Dromey
Sponsors:
DOC ID: 2828

For a Special Permit to Relocate an Existing, Static, Non-Accessory Sign and Convert it to a Digital, Non-Accessory Sign, at the Property Known as 6 Liberty Street (07770-0001), as Allowed by M.G.L. and the Springfield Zoning Ordinance, Article 9, Section 9.9.24 and 9.9.30.

Request:	See Above
Owner:	6 Liberty Street, LLC
By:	Hansraj Gada, Manager
Petitioner:	Lamar Central Outdoor, LLC
By:	Stephen E. Hebert, Vice President/General Manager

RESULT: LAY ON TABLE

Next: 1/26/2015 7:00 PM

To The City Council of the City of Springfield:
The undersigned respectfully petition your honorable body

for a special permit to relocate an existing, static, non-accessory sign and convert it to a digital, non-accessory sign, at the property known as 6 Liberty Street (07770-0001), as allowed by M.G.L. and the Springfield Zoning Ordinance, Article 9, Section 9.9.24 and 9.9.30.

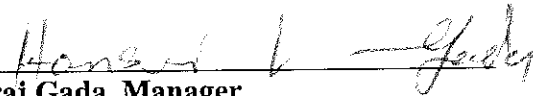
Mailing Address:

15 Millbrook Circle
 Agawam, MA 01001

Owner:

6 Liberty Street, L.L.C.

I hereby certify that I am the owner or I that I am acting on behalf of the owner.

BY: 

Hansraj Gada, Manager

Mailing Address:

32 Midland Street
 Windsor, CT 06095

Petitioner:

Lamar Central Outdoor, LLC.

I hereby certify that I am the petitioner or I that I am acting on behalf of the petitioner.

BY: 

Stephen E. Hebert, Vice President/General Manager

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

10/22/2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 6 Liberty Street – 07770-0001

Petitioner: Lamar Central Outdoor LLC

Landlord: 6 Liberty Street LLC

A handwritten signature in black ink, appearing to read "Stephen J. Lonergan", is written over a horizontal line.

Stephen J. Lonergan: Treasurer/Collector

Attachment: Liberty_St_6_Formal_Tax (2828 : 6 Liberty Street)

**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
ANALYSIS FOR A SPECIAL PERMIT**

**6 LIBERTY STREET (07770-0001)
DIGITAL NON-ACCESSORY SIGN (BILLBOARD)**

General Information

Petitioner:	Lamar Central Outdoor, LLC.
Request:	To allow a digital billboard.
Proposed use of the property:	Billboard
Parcel Size:	24,142 s.f.
Neighborhood council Notification:	New North Citizens Council: 9-10-14
Tax Status:	SEE ATTACHED
Site Visit:	11-18-14
Urban Renewal Status:	This parcel is not located within an urban renewal plan.
Hearing Date:	11-24-14

Staff Analysis

Neighborhood characteristics:

The parcel is currently zoned Business B and is located in an area that has a mix of commercial and industrial uses.

To the north is a warehouse zoned Business B.

To the south is the Peter Pan Bus maintenance operation zoned Industrial A.

To the west is Interstate 91.

To the east is the Republican Newspaper zoned Industrial A.

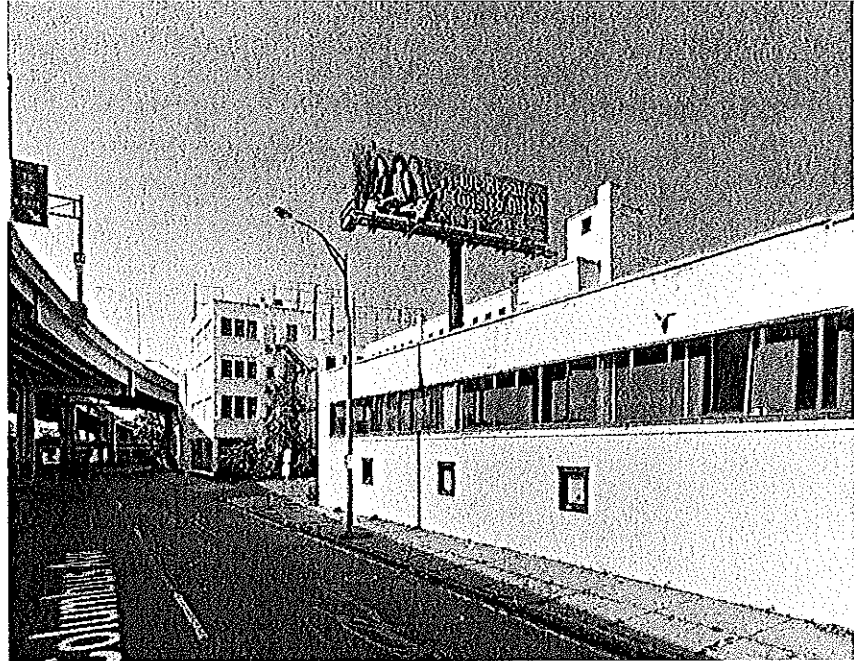
Site plan review:

The petitioner has requested a special permit to convert an existing, static non-accessory (billboard) sign into a digital non-accessory sign at the property known as 6 Liberty Street. As part of the conversion to a digital non-accessory sign, the petitioner has indicated that the sign will be move slightly to the north to ensure that it is outside of the five hundred (500) foot radius of another non-accessory sign.

Understanding that this new technology is being implemented around the country, the City of Springfield recently amended the Zoning Ordinance to include a new section which regulates the installation of digital billboards (Article 9, Section 9.9.30).

As noted in the previous analysis for this proposed request, during the drafting of these new digital billboard regulations, the staff reviewed other city policies to see how this issue of digital billboards has been handled in

other communities. After completing this review, the staff found that in many communities, a requirement has been put into place which requires billboard companies to remove a number of existing billboards for each digital billboard installed. An example of this is in Marietta, Georgia. This community has implemented a new ordinance that requires billboard companies to remove four (4) existing billboard panels for every one (1) digital billboard installed. However, after meeting with representatives of Lamar, it was determined that a number of billboards have already been removed over the last few years. These include smaller billboards



as well as the larger highway signs. While the staff will always continue to advocate for the continued removal of billboards throughout Springfield, especially along the I-91 corridor, the staff does believe that credit should be given to Lamar for the number of billboards already removed.

Recommendation

Approve, with conditions.

Recommended Conditions:

1. This special permit is granted to this petitioner only.
2. This special permit is granted solely for the installation of one (1), one (1) panel, digital, non-accessory sign at the property known as 6 Liberty Street (07770-0001).
3. The use shall be developed as per the attached site plan and elevations, with the addition of conditions #4 and #5.
4. The proposed sign shall meet all underlying regulations as outlined in Article 9, Section 9.9.30 of the Springfield Zoning Ordinance and the regulations outlined in the Massachusetts Department of Transportation, 700 CMR 3.00: Control and Restrictions of Billboards, Signs and Other Advertising Devices, as amended.
5. A sign permit shall be obtained through the Springfield Building Department and the Massachusetts Department of Transportation prior to installation.
6. Compliance with these conditions, as well as any and all zoning regulations, is required. Failure to comply may result in enforcement by the Code Enforcement Department punishable by fine of up to \$50 per day for each day a violation exists.

Stephen J. Lonergan
Collector/Treasurer



THE CITY OF
SPRINGFIELD, MASSACHUSETTS

10/22/2014

Special Permit Tax Certification

I certify that all identifiable real estate, personal property and excise taxes have been paid by the petitioner and/or landlord associated with the special permit request shown below:

Special Permit: 6 Liberty Street – 07770-0001

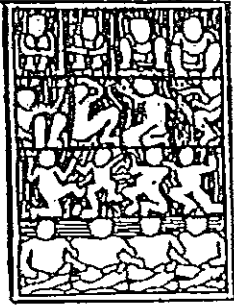
Petitioner: Lamar Central Outdoor LLC

Landlord: 6 Liberty Street LLC

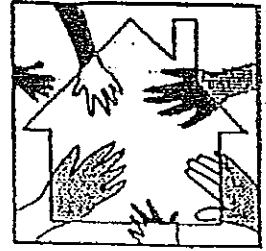
A handwritten signature in black ink, appearing to read "Stephen J. Lonergan", is written over a horizontal line.

Stephen J. Lonergan: Treasurer/Collector

Attachment: Liberty_St_6_2014 (2828 : 6 Liberty Street)



New North Citizens' Council, Inc.
El Instituto
de La Familia, Inc.



2383 Main Street • Springfield, Massachusetts 01107-1907
(413) 747-0090 • (413) 746-4885 • Fax (413) 737-2321

September 10, 2014

Mr. Wayman Lee, Esquire
City Clerk
Springfield City Hall
36 Court Street, Room 123
Springfield, MA 01103

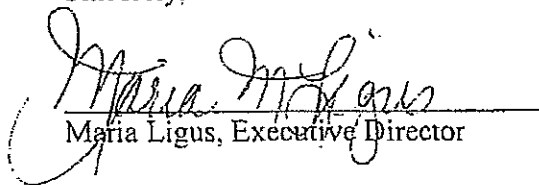
Dear Clerk Lee,

At the New North Citizens Council Board of Directors meeting held on September 10, 2014 it was voted to support Lamar Central Outdoor, LLC for a special permit to install an electronic (digital) sign at the property known as 6 Liberty Street, as allowed by M.G.L. and the Springfield Zoning Ordinance, Article XVIII-A, Non-Accessory (Billboard) Sign Regulations.

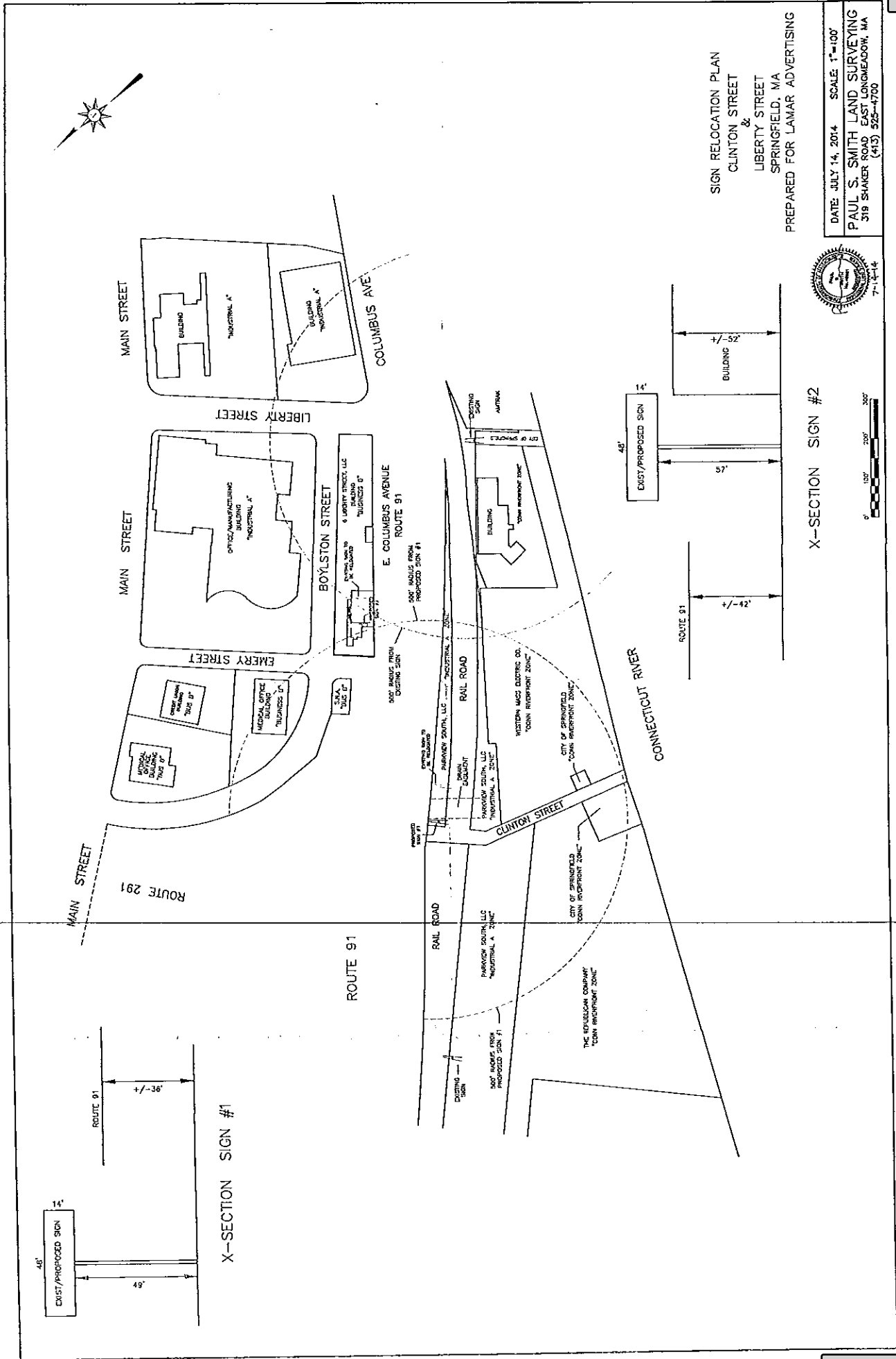
Lamar Central Outdoor LLC has met with Board Members to discuss the conversion of this existing sign to a digital sign and they have answered all questions and concerns to the satisfaction of the Board members. The sign will not have an adverse effect on the neighborhood and if successful will have a positive impact both esthetically in addition to enhancing the public safety of the community.

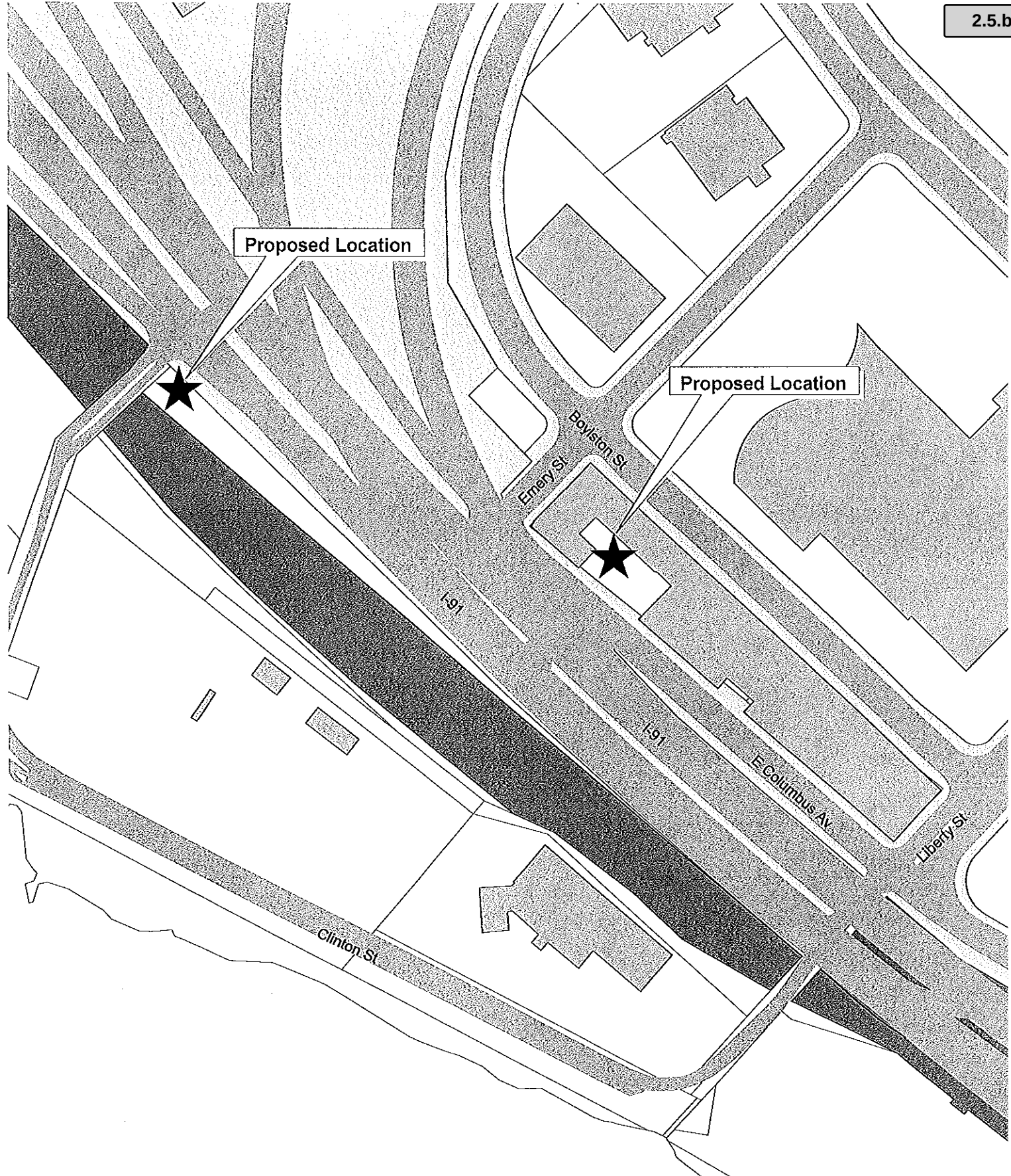
Again, we support this request.

Sincerely,


Maria Ligus, Executive Director

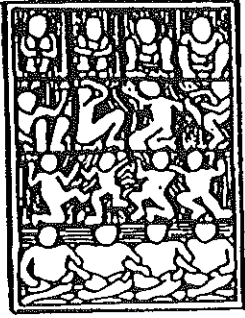
Attachment: Liberty_St_6_2014 (2828 : 6 Liberty Street)



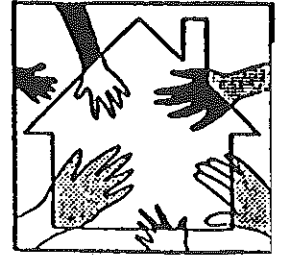


Attachment: Liberty St 6 2014 (2828 : 6 Liberty Street)

   N W E S	City of Springfield, Massachusetts 6 Liberty Street/ SS Clinton Street
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New North Citizens' Council, Inc.
El Instituto
de La Familia, Inc.



2383 Main Street • Springfield, Massachusetts 01107-1907
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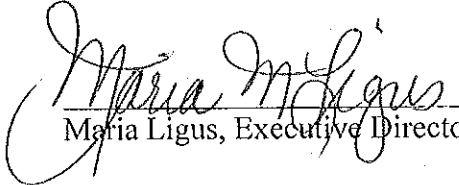
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Again, we support this request.

Sincerely,


 Maria Ligus, Executive Director

2014 SEP 19 P 2:49
 RECEIVED
 CLERK OF CITY

Attachment: 6 Liberty ST NNCC (2828 : 6 Liberty Street)