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Norfolk County Land Court

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## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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WALTER B. ADAMS  
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ZBA 2019-67  
Petition of Wellesley Plaza LLC &  
State Street Center LLC  
442-452 Washington Street,  
10 & 16 State Street

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05-11-2023 @ 03:12P

### INTRODUCTION

Gravestar, Inc., as manager of Wellesley Plaza LLC and State Street Center LLC (the "Applicant") has requested from the Zoning Board of Appeals (the "Board") the issuance of a site plan approval permit subject to the Zoning Bylaw Chapter 16A, §§.(C)(2)(a) and (b), authorizing the Applicant to demolish an existing residence at 16 State Street, and to renovate its parking lot at 10 State Street, and expand its parking lot onto 16 State Street on a lot containing in the aggregate 153,793<sup>1</sup> sf (3.53± acres) of land (the "Site") lying partially in a Business District and partly in a Single Residence A District.

### THE PROJECT

#### Description

The Site consists of land located along Washington Street and State Street. The Site includes two retail buildings totaling approximately 32,670± sf, as well as a two-family residence (16 State Street). Onsite parking includes a total of 200± spaces (195 commercial and five residential), located principally on the lot at 10 State Street. The Applicant proposes to demolish the existing residence at 16 State Street, and to clear, grub and strip the lot, removing the existing residential driveway. The lot at 16 State Street will be excavated to provide for the installation of the piping and recharge chambers of a new stormwater management system for the new lot and for the expanded parking lot, and parking spaces and maneuvering aisles will be installed both on 16 State Street and 10 State Street. Certain new lights will be installed, and some existing lights will be

<sup>1</sup> Drawing C-1 of the Approved Plans indicates there is a discrepancy among the prior surveys that were done. The aggregate of the area of the land according to Assessor's records is 155, 125 sf (3.56 ± acres).

MARGINAL REFERENCE

BOOK 8385 PAGE 608

HAND TO  
LAND COURT

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TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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TOWN OF WELLESLEY  
MASSACHUSETTS

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relocated. A new handicapped parking space will be added in front of the Whole Foods Market building, and the existing stormwater system will be refurbished (collectively, the "Project").

## **The site and surrounds**

The Site is the aggregate of four separate parcels located in the northeast quadrant of the four-way intersection of Washington Street/State Street/Kingsbury Street that aggregate to 153,793 sf (3.53± acres). Along Washington Street, with frontage along both Washington and State Streets, lies the first parcel of 62,080<sup>2</sup> sf, in a Business District. This parcel contains two one-story buildings, the first housing Brookline Bank, Lapels Dry Cleaning, and Naturepedic Organic Mattress Gallery (452 Washington), and the second housing Whole Foods Market (440-448 Washington). Abutting the first parcel on the east is the second parcel (8 State Street) of 30,894 sf that fronts on State Street. This parcel, zoned Single Residence A District and formerly known as the Cochituate Aqueduct, is leased by the Town of Wellesley to the Applicant for use as a parking lot. The third parcel (10 State Street) of 48,246 sf, currently comprises the bulk of the customer parking for the Site. The fourth parcel (16 State Street) of 12,573 sf is also zoned Single Residence A District and currently contains a two-family dwelling.

The Site is bounded on the west by Washington Street, and on the south by State Street. To the north, the Site abuts Hunnewell Field, conservation and parkland owned by the Town. To the east the Site abuts a three-family dwelling in a SR-10 District.

Beyond Washington Street to the west, land use is principally business along Washington Street, and single-family residences beyond the MBTA commuter rail tracks. Beyond State Street to the south, land use is principally business along Washington Street, and General Residence and SR-10 Districts away from Washington Street. To the north land use is parkland for some distance. To the east land use is parkland north of Smith Street and residential south of Smith Street.

Overall the Site exhibits about 12 feet of elevation change from the high point at Washington Street to the low point at the northeastern corner, with a relatively uniform slope from high to low.

Along the northern boundary bordering the conservation land there is an intermittent stream, and the northernmost reaches of the Site are subject to a special flood hazard area and a wetlands buffer zone that arise from the intermittent stream and from the adjacent Fuller Brook.

Access to the Site is provided by an unsignalized right-in/right-out driveway along Washington Street and an unsignalized three-lane (one turn in, one right turn out and one left turn out), full access driveway on State Street approximately 250± feet east of the Washington Street/State Street/Kingsbury Street intersection and approximately 100± feet west of Atwood Street. Access to the residential home at 16 State Street is provided by a driveway adjacent to the Applicant's driveway, which will be demolished along with the residence. The Applicant proposes to relocate the existing T-intersection State Street driveway approximately 100 ft east to form a four-legged intersection with Atwood Street.

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<sup>2</sup> Assessor's records show this parcel as 63,412 sf.

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## **RECORD OF DISCUSSIONS**

The Board held public hearings on August 8, 2019, September 24, 2019, September 22, 2020, November 5, 2020 and December 10, 2020. The September 24, 2019 hearing was continued to but not opened on December 3, 2019 and was thereafter continued to but not opened on January 14, 2020 and February 18, 2020. In accordance with Chapter 53 of the Acts of 2020, the hearing was continued to April 7, 2020, May 26, 2020, June 30, 2020 and September 22, 2020. The public hearing was closed on December 10, 2020.

## **FINDINGS OF FACT**

### **Zoning**

The Zoning ByLaw provides, for each zoning district, requirements for the use of land and structures, as well as dimensional requirements for the land and structures erected upon the land.

#### ***Use Requirements***

As described above, the Project is comprised of four parcels, one located in a Business District, and three located in the Single Residence A District. Among the uses allowed in the Business District are those for a retail store having less than 50,000 sf where all items are kept within a building, and those for storage or parking of motor vehicles. Among the uses of land in a Single Residence A District is the temporary open surface parking of passenger cars of employees, customers or guests of establishments for which its use is permitted in the district or on which it abuts such use. Hence, the Project and Site comply with the use requirements of the Zoning Bylaw.

#### ***Dimensional Requirements***

In the Business District, there are no requirements for minimum lot area, frontage, front yard width or depth, side yard width, or rear yard depth. The maximum floor area ratio is 0.30, while the existing building coverage is 0.23 and the proposed is 0.21.

#### ***Land Use and Planning***

The Wellesley Unified Plan dated March 2019 (the Town's comprehensive plan) envisions areas such as that in which the Project is located as potentially mixed-use zones, combining housing with retail stores. The current Zoning ByLaw requirements for business districts and for residential development do not allow such mixed uses.

As noted above, under the Zoning ByLaw, the parking use proposed in the Project is allowed in the Business and Single Residence A Districts, so the Project is consistent with the Town's land use and planning requirement as set forth in the Zoning Bylaw.

### ***On-Site Parking***

Under the Zoning Bylaw, a business use in a Business District is required to provide one parking space for each 150 sf of ground coverage of buildings, but not less than 3.2 spaces per 1,000 sf of floor area. Since the two buildings are both single story and the first standard controls, the parking requirement is 218 spaces. The Project contains 152 standard sized spaces, 74 compact spaces, and seven accessible spaces for an aggregate of 233 spaces.

In addition to the requirements for numbers of spaces, the Zoning Bylaw also contains dimensional requirements for those spaces. Standard spaces are to be at minimum 8.5 ft by 18.0 ft, and compact spaces are to be at minimum 7.5 ft wide and 15.0 ft long. All of the standard spaces meet the minimum space size requirement. Fifteen of the standard spaces exceed the requirements with 14 nine ft wide spaces and one 10 ft wide space. All 74 of the compact spaces exceed the minimum length requirements at 16.0 ft, and all exceed the width requirement with 58 having 8.5 ft width and 16 having 9.5 ft width. Given the generous size of the compact spaces, the 30 percent limitation on compact spaces does not apply.

Except for the one-way aisle at 458 Washington, all of the maneuvering aisles meet the minimum 24 ft width requirements. The one-way aisle at 458 Washington, which has been in service for at least ten years, is 14.3 ft wide.

### **Off-Site Impacts**

#### **Stormwater Management**

The proposed stormwater management system consists of a closed stormwater collection system in the parking lot which flows through a treatment unit before being recharged to groundwater using subsurface chambers.

Consistent with accepted engineering practice, Meridian Associates prepared and submitted to the Applicant the "Stormwater Management Report" dated May 31, 2019 and the Supplemental Stormwater Management Report dated February 26, 2020 (collectively, the "Stormwater Report") that compared the runoff from the existing lot to the runoff from the Project. In addition, the Stormwater Report analyzed the stormwater management system to determine compliance with MassDEP Stormwater Management Policy.

With implementation of the stormwater management system as proposed, for all design storm events neither peak flow rates nor volumes will exceed those of existing conditions for the 2-, 10-, 50- and 100-year storm events. In accordance with Wellesley's Wetland Protection Regulations, a five percent reduction in peak flow rates and volumes is achieved in the 2- and 10-year design storms.

With implementation of the stormwater management system as designed, full compliance with the MADEP Stormwater Management regulations and handbook is achieved, and compliance with the Town's Wetland Protection Regulations is met to the maximum extent practicable.



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### **Transportation Assessment**

MDM Transportation Consultants, Inc. ("MDM") prepared for the Applicant a traffic impact assessment dated October 24, 2019 (the "TIA"). The TIA included roadways at Washington Street, Kingsbury Street, State Street, Atwood Street, and Smith Street, and the signalized intersections at Kingsbury/Washington/State Streets, and the unsignalized intersections at Washington/Site Drive, State/Site Drive, and State/Atwood Street. MDM collected traffic volume data at the study intersections in October 2019 during the weekday morning peak period (7:00 am – 9:00 am), and the weekday evening peak period (4:00 pm – 6:00 pm). MDM utilized accepted industry practice in the collection of the data and the preparation of the TIA, as confirmed by the Board's peer review engineer, EP Environmental, Inc.

The Board also received a copy of a memorandum commissioned by Safe Streets for Wellesley Neighborhood Alliance and prepared by TEPP LLC entitled "Transportation Review – Wellesley Plaza Site Modifications" dated November 18, 2020 (the "Transportation Review"). The Transportation Review is a limited review that focused on certain of the features of the proposed Project modifications, principally the fact that the parking lot is proposed to be expanded and the relocation of the State Street driveway. The Transportation Review considered certain (unspecified) documents prepared on behalf of the Town and the Applicant, as well as a field assessment of the vicinity of the Site. The Board's assessment of the issues raised is provide below in 'Resolution of Principal Concerns'.

### **Trip Generation**

The TIA reported collected turning movement count data in October 2019 during the weekday morning peak period (7:00 AM – 9:00 AM) and the weekday evening peak period (4:00 PM - 6:00 PM) at the study intersections. As the Project does not involve a change in use, accepted engineering practice is that it will not generate any additional trips. The existing parking lot generates 260 vehicle trips (147 entering and 113 exiting) during the weekday morning peak hour and 553 (314 entering and 239 exiting) during the weekday evening peak hour.

The parking lot driveway use is heavily skewed (80 percent±) toward the State Street driveway during both the weekday morning and weekday evening peak hours. The travel patterns indicate approximately 25 percent of the trips use State Street to/from the east and 10 percent of the trips use Atwood Street to/from the south.

### **Traffic Operations**

MDM performed a capacity analysis of each of the study intersections using computer software, which implements the methods of the 2010 Highway Capacity Manual. The TIA used 2019 as both the baseline and design year given the objective of the Project and that no additional vehicle trips are being added to the roadway network.

The Synchro analysis indicates all movements operate at a LOS D or better during the weekday morning peak hour and a LOS C or better during the weekday evening peak hour under both the baseline and design year conditions.

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MDM indicated in the TIA that the State Street westbound queue lengths from the signalized intersection at Washington Street (Route 16) occasionally extend beyond Atwood Street for short periods of time during the morning period (7:30 – 8:00 am), and consequently block the existing site driveway. The Project will relocate the site driveway approximately 100 feet further easterly from the intersection, thereby reducing the period of time each day the driveway is blocked by the queue spillback along State Street. Although the relocated driveway will not remedy queues from blocking the driveway under all circumstances, EP agrees this is an improvement to the existing conditions.

### **Intersection Crash History**

In order to identify crash trends and safety characteristics the TIA gathered crash data from MassDOT for the Town of Wellesley for the five-year period covering 2014 – 2018 (the most recent full year of data currently available from MassDOT), and calculated crash rates for comparison to MassDOT official District 6 (which includes the Town of Wellesley) crash rate of 0.52 for unsignalized intersections and 0.71 for signalized intersections. This rate represents MassDOT's "average" crash experience for District 6 communities and serves as a basis for comparing reported crash rates for the study intersections. The signalized Washington/Kingsbury/State Street intersection had a crash rate of 1.49, higher than the District average. The unsignalized intersections at State/Site Driveway, and State/Atwood Street had crash rates of 0.11 and 0.31, respectively, each well below the District average.

None of the study intersections are listed as Highway Safety Improvement Project locations, and no additional safety countermeasures are warranted based on the review of the crash records and associated crash rates.

### **On-Site Parking Analysis**

The TIA included an on-site parking evaluation consisting of an inventory of the existing on-site parking supply, a survey of existing parking activity during the study period and a quantification of the adequacy of the proposed parking supply to meet the peak parking demands of the Project.

Under the Project the residential home at 16 State Street would be removed and replaced with an expansion of the existing retail parking lot from 195± spaces to 233± spaces resulting in a peak occupancy rate of 78 percent. The 38± space parking expansion will improve the overall functionality and safety of the lot by standardizing parking space size, enhancing circulation aisles, improving on-site flow patterns and expanding the overall parking capacity.

The expansion of the lot to the east will also allow for the consolidation of curb cuts along State Street at a location further away from Washington Street.

### **Driveway Relocation**

The TIA indicates that the existing Site driveway is impacted by vehicle queuing that extends from the nearby Washington Street signal. This condition results in periodic blockage of the driveway, limiting sight distances for vehicles approaching or exiting the driveway and further requiring that

eastbound through traffic stop for left-turn vehicles until the westbound State Street queue dissipates sufficiently to allow the turning vehicle to pass. These existing conditions warrant design modifications to the driveway that address several recommended operational, geometric and safety criteria cited by the Institute of Transportation Engineers (ITE) for urban street design as highlighted in the ITE *Urban Street Geometric Design Handbook*. The proposed relocation of the driveway to a location opposite Atwood Street represents a design modification that: (1) reduces crash risk for traffic movements along State Street; (2) improves traffic operations; and (3) provides geometry that meets appropriate safety-based sight line criteria and vehicle maneuvering requirements. MDM, the Applicant's traffic engineer assessed, and EP, the Board's peer reviewer reviewed, the relocation of the driveway by considering the impacts of the relocation on five aspects of traffic design:

Corner Clearance at Public Street Intersections. The existing driveway, located only 230 feet of the Washington Street signal, is well within the vehicle queuing area of the Washington Street signal. Analysis indicates that these queues periodically extend to and past the driveway during peak periods. Accordingly, relocation of the driveway beyond this functional (queue) area to the extent feasible is consistent with ITE recommended practice, reducing the potential for vehicle conflicts and operational impacts along State Street associated with blocked driveway movements.

Offset T-Intersections. The existing driveway is located less than 100 feet from Atwood Street, and is also located within the functional area of the nearby Washington Street signalized intersection. The close proximity of the driveway, which falls well below minimum recommended offsets, results in shortly spaced turn maneuvers between the driveway and Atwood Street that require a slow, controlled "jog" maneuver between the driveway and Atwood Street that ITE recommends be avoided if possible. Relocation of the driveway opposite Atwood eliminates these "jog" movements by directly aligning the intersections while also reducing crash risk currently caused by driveway blockage, limited sight distance and associated operational impacts (e.g., secondary queuing on State Street caused by delayed left-turns into the driveway).

Intersection Sight Lines. Intersection sight distances (ISD) at the existing driveway are impaired by queuing on State Street during peak hours, blocking visibility partially or even entirely to vehicles approaching the driveway on State Street. Under such circumstances, which occur within the functional area of the Washington Street signalized intersection, vehicle approaching the driveway eastbound on State Street may not see an exiting vehicle, or vice-versa. Awkward maneuvers may also result including "nosing out" from the driveway to gain visibility to oncoming traffic from behind the queue. These conditions raise the risk of vehicle conflicts at higher rates of speed. Relocation of the driveway opposite Atwood Street reduces potential for queue blockage during peak hours, improving ISD beyond existing conditions and reducing the risk potential for higher speed vehicle crashes. Proposed sight lines at the driveway meet or exceed applicable design criteria for ambient travel speeds on State Street and reduce the potential for impaired sight lines that are periodically caused by queues along State Street.



**Traffic Operations.** Operational analysis provided in the TIA indicates that operations at the relocated driveway and intersection at Atwood Street will experience only modest delays (Level-of-Service B for Atwood Street, Level-of-Service C or better for the driveway), conditions that are considered acceptable for urban locations. Relocation of the driveway will also reduce potential for operational conflicts along State Street that are caused by driveway blockage within the functional area of the Washington Street signal.

**Safety Characteristics.** Crash records for the driveway and Atwood Street intersections indicate below-average crash rates with no warrants for safety countermeasures. Relocation of the driveway opposite Atwood Street is consistent with ITE recommended practice, meets applicable safety-based criteria including sight lines, operations and vehicle maneuvering and serves to minimize potential crash risks along State Street that otherwise exist for the current driveway location. The proposed relocated driveway does not present any warrant or basis to require special safety countermeasures. Further, pedestrian accommodations (sidewalks) at and crossing the relocated driveway are designed to current Town requirements, will be compliant with ADA requirements and present an enhancement relative to the existing at-grade pedestrian crossing at the driveway.

The Board also heard oral testimony from the Chair of the Town's Traffic Committee with respect to the proposed driveway relocation and the traffic in the State/Atwood Site Driveway intersection. The Traffic Committee is comprised of representatives from the Select Board, Police Department, Engineering Division, and the Town's peer review consultant, and is charged with examining long term traffic in the Town, as well as specific neighborhood traffic and safety concerns with the view of concluding whether traffic calming measures are warranted. The Traffic Committee met with a group of neighbors from the vicinity of the Project to listen to the concerns they expressed both for existing conditions and for traffic safety should the Project be implemented. The Traffic Committee reported that it didn't see any data that caused them to conclude that there is currently or in the proposed Project a safety issue at either the intersection or on Atwood Street that needs their intervention.

With respect to the driveway relocation, the Board sought and received input from four entities with knowledge, expertise and experience in aspects of traffic, including MDM as Applicant's traffic engineer, EP as the Board's peer reviewer, the Town's Traffic Committee, and the Town Engineer. All felt that the proposed relocation was better than the existing condition, and the outside consultants opined that the proposed relocation of the State Street driveway along State Street to the new location opposite Atwood Street follows recommended engineering practices, stands to reduce potential crash risks along State Street and is consistent with the provisions of Wellesley Zoning Bylaw. The Board accepts the view of the knowledgeable professionals and finds that the driveway relocation is an improvement over the existing conditions.

### ***Pedestrian Facilities***

An inventory of the existing pedestrian and bicycle accommodations indicated the following existing characteristics in the immediate study area.

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Sidewalks are provided along the eastern and western side of Washington Street. Marked pedestrian crossings are provided at the intersection of Washington/Kingsbury/State Street intersection which provides an exclusive pedestrian signal phase. The handicap ramps and pedestrian signal push buttons within the study area appear to be ADA compliant. "Sharrow" bike lane markings are provided along Washington Street throughout the study area.

Sidewalks are provided along the northern and southern side of State Street and Smith Street. Sidewalk connection across State Street into the Site are provided to the west at the Washington Street intersection and to the east at the Crosstown Trail at Smith Street. A marked pedestrian crossing is provided at Atwood Street on the south side of State Street, but no marked pedestrian crossing is provided across State Street at Atwood.

A marked pedestrian crossing is provided across the Site driveway approach to State Street.

The handicap ramps within the study area appear to be ADA compliant. Bicycle racks are provided within the Project adjacent to State Street.

Within the study area, the Crosstown Trail provides a trail connection to the network of trails within Wellesley including the Brook Path. Access to the Crosstown Trail is provided through the northeast corner of the Site.

## **Environmental Considerations**

### **Wetlands Protection Act**

The Massachusetts Wetlands Protection Act and the Wellesley Wetlands Protection Bylaw prohibit altering land, water or vegetation in lakes, streams, wetlands, floodplains, or areas within 100 feet of wetlands (and 200 feet of perennial streams) without a permit from the Wellesley Wetlands Protection Committee ("WPC"). In addition, the 310 CMR 10:00 Massachusetts Wetlands Protection Regulations defines and clarifies the process and procedures by which conservation commissions and the Massachusetts Department of Environmental Protection (DEP) may carry out the Wetlands Protection Act. The Town of Wellesley's Wetland Protection Regulations defines a similar guiding process to carry out the Wellesley Wetlands Protection Bylaw.

Because the northern reaches of the Site lie within the wetland buffer zone, and the special flood hazard area, and because the stormwater management system impacts these areas, the Applicant applied to the WPC for the requisite permit. After due notice and public hearing, the WPC and the MA DEP found that the Project was approved subject to the Order of Conditions issued April 14, 2020.

### **Electric Service/ Site Lighting**

There are a total of eight light poles within the parking lot at the Site. The operation of the lights is controlled by adjustable timers located within the Whole Foods Market building, while the pedestrian bollard lights along the State Street sidewalk are controlled via an adjustable timer

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located in the Brookline Bank building. The parking lot lights are separated into two separate circuits.

The Site lighting in the parking lot will be operated from dusk to one hour after closure of Whole Foods Market. Overnight one of the two parking lot lighting circuits will be turned off to reduce lighting levels, while one will be kept on to ensure public safety.

All Site lighting is proposed to be operated to be in compliance with the Section 16G (Outdoor Lighting) of the Zoning Bylaw.

## **RESOLUTION OF PRINCIPAL CONCERNS**

### **Pedestrian Safety**

The neighbors asserted, in both written and oral testimony, that the Project does little by way of pedestrian safety, and further, that an increase in traffic accidents will result from the relocation of the State Street driveway. To remedy such increase in traffic accidents, the neighbors say, adequate pedestrian safety measures such as pedestrian crosswalks across State Street to allow for safe crossing should be installed.

The Board finds that Project contains features to enhance pedestrian safety both within the parking lot, and at the pedestrian crosswalk in front of the relocated driveway. Within the parking lot, the Project includes a new marked pedestrian walkway from the Whole Foods Market to the renovated accessible parking spaces adjacent to the building. At the pedestrian crossing fronting the relocated drive, a Portland cement concrete apron with wide striping provides a visual notice to the pedestrian of the walkway, while detectible panels at each end of the crossing provide a similar tactile notice. Further, the exiting traffic lanes have a stop sign, a stop bar, and the legend "STOP" on the travel lanes. Hence, the Project takes reasonable steps to enhance pedestrian safety.

With respect to a marked pedestrian crossing of State Street at Atwood Street, the Board notes that such crossing is under the jurisdiction of the Select Board, so the Board has no legal authority to grant such request.

### **Traffic and Traffic Safety**

Traffic and traffic safety concerns were expressed during the public hearing in both written and oral testimony, and arose in two principal ways. The first relates to the trip generation and traffic volume from the expanded parking lot. The neighbors assert that the increase in parking spaces, and the relocation of the driveway to align with Atwood Street, would increase traffic on Atwood Street and therefore reduce safety.

The assertion that the number of parking spaces or the location of the driveway is related to the trip generation or volume of traffic is inconsistent with both the TIA and other traffic studies the Board has reviewed for other projects. What both the TIA and traffic engineering tell the Board is that trip generation is determined by land use, not the number of parking spaces. The TIA states

that since the size of the businesses remains fixed, there is no change in use and hence no change in traffic volume. The Board has reviewed within the past year traffic studies for both parking lot renovation and expansion projects and commercial residential projects in which the traffic volume was determined by land use, not parking lot size. Hence, consistent with the TIA, the Board finds that there is no increase in traffic from the expanded parking lot over the existing conditions because there is no change in use of the Site.

The second concern arose from the consolidation of two closely spaced T-shaped intersections (the existing Site driveway and the State/Atwood Street intersection) into a single four-way intersection (State/Site driveway/Atwood Street). The neighborhood asserted that technical data showed that three-way intersection would have fewer conflict points than a four-way intersection, and hence the proposed driveway relocation would necessarily result in a less safe intersection and therefore could not be approved.

The Board acknowledges that a three-way intersection has fewer conflict points than a four-way intersection. But the Board believes that the safety of the proposed relocated four-way driveway is impacted by more than simply a single variable. The traffic professionals considered five different variables in conjunction with the relocation of the driveway and concluded that the proposed driveway relocation is an improvement over the existing conditions. The Board has accepted that view.

## Lighting

Public testimony about Site lighting focused on glare from the existing parking lot lights shining into the adjacent neighborhood, especially in the hours after businesses have closed at the Site. In response, the Applicant has committed to operate the lighting system so that the Site lighting in the parking lot will be operated from dusk to one hour after closure of Whole Foods Market. Overnight one of the two parking lot lighting circuits will be turned off to reduce lighting levels, while one will be kept on to ensure public safety.

## Other Issues Raised

### Whole Foods Re-Use as "Dark Store"

Citizens raised on several occasions the re-use of the Whole Foods Market building as a "dark store", that is, a retail distribution center or outlet that caters to on-line shopping, generally a large warehouse, that can either be used to facilitate a "click-and-collect" service or which dispatches a "click-and-deliver" service. The relationship of dark store operation to the proposed expanded parking lot was not articulated. Further, certain neighbors suggested that the Board should include a condition in any permit for the Project that would re-open the permit for Board approval of any such re-use as a dark store, and further that the Board should require neighborhood approval as well.



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The Board declined to consider re-use of any of the existing buildings on the Site as a dark store, finding that: (1) the issue of a dark store is not properly part of the Project; (2) the issue of property re-use is already covered in the Zoning Bylaw; and (3) the Board is not authorized under the Zoning Bylaw to direct an Applicant to submit a future unrelated project for its review, nor is it authorized to delegate its powers for project approval to any group of neighbors.

### **Traffic Calming on Atwood Street**

In both written and oral testimony neighbors asserted that currently a high volume of parking and cut thru traffic already exist on Atwood Street because of local businesses, church, senior center, funeral home, police station, deliveries, contractors, and the middle school, high school, and Hunnewell fields. Neighbors assert that traffic calming measures are clearly already necessary for Atwood Street and neighboring streets, and these neighbors recommend introducing signage for "no through traffic" on both ends of Atwood, and "no trucks permitted" signage. The Board takes no position on the definition of trip generation versus cut-through traffic or on whether Atwood Street needs traffic calming measures because such issues and traffic calming measures are not within the scope of the Board or the Zoning Bylaw, but are rather the responsibility of the Traffic Committee and the Select Board. The Board is not empowered to deal with such issues.

## **DECISION**

The Applicant has requested from the Board the issuance of a site plan approval permit subject to the Zoning Bylaw Section 16A, §§(C)(2)(a) and (b), authorizing the Applicant to construct the Project.

The Board has made a careful study of the materials submitted and the information presented at the hearing, and has documented the results of the study herein. Based on the results of the study, on March 17, 2021 the Board voted unanimously to grant the Site Plan Approval Permit pursuant to Section 16A of the Zoning Bylaw for a Major Construction Project subject to Site Plan Review.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans. If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

## **CONDITIONS TO THE DECISION**

The Board's approval of the Site Plan Approval Permit is subject to the Applicant's and the Project's compliance with the following conditions. All requirements imposed by these conditions or this Site Plan Approval Permit shall be applicable to the Applicant, its successors and assigns, and all owners and residents of the Project, regardless of whether the condition



specifically identifies the Applicant or no entity as having responsibility for a particular condition.

## **General**

1. This Permit authorizes the construction, use and occupancy of a project comprised of authorizing the Applicant to demolish an existing residence at 16 State Street, and to renovate its parking lot at 10 State Street, and expand its parking lot onto 16 State Street on a lot containing in the aggregate 153,793 sf (3.53± acres) of land lying partially in a Business District and partly in a Single Residence A District as shown on the Approved Plans (listed and defined in Condition 2) below.

2. The Project shall be constructed in accordance with the following plans and written materials, subject to modifications required below:

## **Submittals from the Applicant**

- Application for Site Plan Approval
- Letter to Zoning Board of Appeals, dated, June 11, 2019, re: Site Plan Approval Application – Wellesley Plaza Site Development – 442-452 Washington Street, 10 & 16 State Street- MAI Project No. 8337
- Site Plan Approval Review Plans and Submittal Checklist
- Development Prospectus
- Waiver Requests
- Stormwater Management Report, dated May 31, 2019, prepared by Meridian Associates, Inc.
- Supplemental Stormwater Management Report, dated June 26, 2019, revised August 14, 2019, & December 10, 2019, prepared by Meridian Associates, Inc., with supplements dated February 11, 2020 & February 26, 2020
- Stormwater Management Operation and Maintenance Plan, dated October 3, 2019, revised February 26, 2020
- Construction Management Plan, dated July 30, 2019, revised November 24, 2020, prepared by Construction Management & Builders, Inc.
- Site Operation and Maintenance Plan, dated December 2020, with attachments:
  - Appendix A: Order of Conditions, approved April 15, 2020 by the Town of Wellesley Wetlands Project Committee
  - Appendix B: Stormwater Management Operation and Maintenance Plan, dated October 3, 2019, revised February 2020
  - Appendix C: Layout and Materials Plan, revised December 1, 2020
  - Appendix D: Photometric Lighting Plan, dated June 4, 2019

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- Letter to George J. Saraceno, Department of Public Works, dated August 20, 2019, from Mark Beaudry, PE, Meridian Associates, Inc., re: Response to Department of Public Works Site Plan Review Comments
- Memorandum to Michael Doherty, Gravestar, Inc., dated August 21, 2019, from Robert J. Michaud, P.E. and Daniel A. Dumais, P.E, MDM Transportation Consultants, Inc., re: Proposed Wellesley Plaza Parking Expansion & Driveway Relocation, with attachments:
  - Traffic Volume Data
  - Seasonal/Yearly Growth Data
  - Sight Distance Calculations
  - Capacity Analysis
- Memorandum to Michael Doherty, Gravestar, Inc., dated October 24, 2019, from Robert J. Michaud, P.E. and Daniel A. Dumais, P.E, MDM Transportation Consultants, Inc., re: Proposed Wellesley Plaza Parking Expansion & Driveway Relocation, with attachments
  - Traffic Volume Data
  - Seasonal/Yearly Growth Data
  - Crash Data
  - Sight Distance Calculations
  - Public and Pedestrian Transportation
  - Capacity Analysis
  - Parking Analysis
  - AutoTURN® Analysis
- Memorandum to Michael Doherty, Gravestar, Inc., dated October 16, 2020, from Robert J. Michaud, P.E. and Daniel A. Dumais, P.E, MDM Transportation Consultants, Inc., re: Response to Requested Data – Historical Wellesley Plaza Trip Patterns, with attachments:
  - October 1, 2010 Memorandum
  - Traffic Volume
  - Trip Generation Calculations
  - Trip Distribution Calculations
  - Capacity Analyses
- Letter to Michael Doherty, dated December 9, 2020, re: Whole Foods Plaza – State Street Driveway Relocation, from Robert Michaud, P.E., MDM Transportation Consultants, Inc.

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
	Cover Sheet – with Locus Map	6/11/19		
C-0	General Notes	6/11/19	Meridian Associates	8/14/19, 9/25/19, 10/03/19,

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				12/10/19, 2/11/20, 2/26/20, 3/5/20
C-1	Existing Conditions Plan	6/11/19	Kevin Danahy, PLS	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
C-1	Layout and Materials Plan	6/11/19	Meridian Associates	
C-2	Plot Plan	6/11/19	Kevin Danahy	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
C-2	Grading, Drainage and Utilities Plan	6/11/19	Meridian Associates	
C-3	Layout and Materials Plan	6/11/19	Mark E. Beaudry, P.E.	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 4/25/20, 3/5/20, 12/1/20
C-3	Landscape and Lighting Plan	6/11/19	Meridian Associates	
C-4	Grading, Drainage and Utilities Plan	6/11/19	Mark E. Beaudry, P.E.	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20

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C-4	Erosion & Sedimentation Control Plan	6/11/19	Meridian Associates	
C-5	Landscape and Lighting Plan	6/11/19	Mark E. Beaudry, P.E.	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
C-5	Construction Details	6/11/19	Meridian Associates	
C-6	Erosion Control & Site Preparation Plan	6/11/19	Mark E. Beaudry, P.E.	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
C-6	Construction Details	6/11/19	Meridian Associates	
C-7	Construction Details	6/11/19	Mark E. Beaudry, P.E.	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
C-8	Construction Details	6/11/19	Mark E. Beaudry, P.E.	8/14/19, 9/25/19, 10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
CF-1	Cut and Fill Calculations	6/11/19	Meridian Associates	6/26/19, 7/2/19, 8/14/19
	Revised Photometric Plan	8/19/19	OmniLite	
	Operation and Maintenance Plan	6/11/19	Meridian Associates	8/14/19, 9/25/19,

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				10/03/19, 12/10/19, 2/11/20, 2/26/20, 3/5/20
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**Submittals on behalf of the Town of Wellesley:**

Memorandum to Meghan C. Jop Executive Director, dated May 4, 2020, from James D. Fitzgerald, P.E., Environmental Partners, re: Proposed Wellesley Plaza Parking Expansion & Driveway Relocation Peer Review

Memorandum to Meghan C. Jop Executive Director, dated November 4, 2020, from James D. Fitzgerald, P.E., Environmental Partners, re: Historical Wellesley Plaza Trip Patterns Peer Review

On April 14, 2020, the Wetlands Protection Committee issued an Order of Conditions, Mass DEP File: #324-0920

On July 24, 2019, Deputy Chief Mortarelli, Wellesley Fire Department, reviewed the Project and approved the plans.

On July 23, 2019, George Saraceno, Senior Civil Engineer, Town of Wellesley, Department of Public Works, Engineering Division, reviewed the Project and submitted comments.

On August 7, 2019, the Planning Board reviewed the Project and submitted a recommendation.

On July 22, 2019, the Design Review Board reviewed the Project and voted to approve the Project.

On June 12, 2019, the Wellesley Historical Commission issued a Preservation Determination for 16 State Street: Not Preferably Preserved.

On October 29, 2020, Chief Jack Pilecki, Wellesley Police Department, submitted comments regarding Gravestar Driveway Location.

On July 25, 2008 and September 3, 2019, the Natural Resources Commission submitted comments regarding ZBA 2019-67: 442-452 Washington St. (Wellesley Plaza LLC & State St. Center LLC)

(collectively, the "Approved Plans").



3. By accepting this Site Plan Approval the Applicant agrees to the terms, covenants and conditions and agreements contained herein. This Site Plan Approval shall expire two years from the date hereof unless construction has begun by that date. The Applicant may apply to the Board for reasonable extensions to this Site Plan Approval for good and sufficient reason.
4. Except for the relief granted by the Board as listed in these Conditions, the Applicant shall comply with all provisions of the Zoning Bylaw and general bylaws generally applicable to a project approved on March 17, 2021. No fees are waived in connection with the Project. Fees shall be those then in effect at the time of application for the permit or approval subject to the fee.
5. Contract documents, including working drawings and specifications for the Project shall undergo the usual and customary review and approvals of the Building Inspector, the Town Engineer, or any other applicable local inspector or board.
6. The Project shall be designed and constructed substantially in compliance with the drawings and data submitted with the Application for Site Plan Approval, except as modified by these Conditions.

### **Design Conditions**

7. Design and construction of the Project shall fully comply with all applicable federal and state laws and regulations, including, but not limited to, the requirements of the Massachusetts State Building Code (780 CMR) and the Massachusetts Architectural Access Board (521 CMR). The Project shall be designed and constructed on the Site in accordance with the Approved Plans, except as provided in this Site Plan Approval, including these Conditions. Any requirement of consistency with the Approved Plans means as those Approved Plans are modified by the Conditions.
8. The stormwater management system design shall function consistent with the Approved Plans, as revised, and with the Supplemental Stormwater

Management Report, dated June 26, 2019, revised August 14, 2019 and December 20, 2019, prepared by Meridian Associates, Inc. with supplements dated February 11, 2020 and February 26, 2020, and shall be maintained by the Applicant in accordance with the Stormwater Management Operation & Maintenance Plan, dated October 3, 2019, revised February 26, 2020.

9. There shall be no pavement added to the Project beyond that which is depicted on the Approved Plans and there shall be no additional accessory structures added to the Project or to the Site other than what is shown on the Approved Plans.
10. The Applicant shall add one EV charging station with two connectors capable of charging two vehicles concurrently.

**Construction Conditions**

11. The Applicant shall implement its Construction Management Plan dated December 10, 2020, as modified by these Conditions.
12. During the period of construction, all construction equipment and materials delivery vehicles shall utilize: (1) Route I-95 to Route 9 to Washington Street to State Street to enter and exit the Site; or (2) any other such route as the Applicant shall agree with the Wellesley Police Department prior to its use. No construction equipment and no construction trucks shall use Atwood Street or Smith Street to enter or exit the Site.
13. During the period of construction, all deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 a.m. and no later than 6:00 p.m. Construction work may be performed on the Site Monday through Friday commencing not earlier than 7:00 a.m. and completing not later than 6:00 p.m., or Saturday commencing not earlier than 8:00 a.m. and completing not later than 4:00 p.m. No work shall be performed on Sundays or local, state or national holidays celebrated in the Town.
14. During the period of construction, on-site parking for construction workers and for construction equipment is specifically permitted, and no vehicles of construction workers and no construction equipment shall be parked on Washington Street, State Street, Atwood Street or any other public way of the

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Town. Trucks and construction vehicles on-site shall shut off engines when not in use, or when idling time exceeds five minutes.

15. All construction and delivery vehicles entering the site shall stop at an established construction exit for a wheel wash to prevent the entrance of deleterious materials onto the streets of the Town. The Applicant shall cause State Street to be swept as frequently as required in the event that dust, dirt and debris not completely removed by the truck wash are deposited on State Street.
16. Insofar as practicable, refueling of construction equipment on the site shall be prohibited. In the event that on-site refueling cannot be avoided, such refueling shall be performed with due consideration to spill prevention and control measures.

#### **Use Conditions**

17. Operation and maintenance of the stormwater run-off and drainage system shall comply with the requirements of the Town's "Municipal Stormwater Drainage System Rules and Regulations" in effect as of September 18, 2014.
18. Landscaping shall be in conformance with the Landscaping Plan and shall be maintained, repaired, or replaced as needed by the Applicant.
19. Debris and trash from the parking lot and surrounding site areas will be cleaned regularly to avoid potential migration to the nearby intermittent stream, resource areas, catch basins, and Town properties. The parking lot will be swept six days per week (excepting Sunday). On-site cleaning including property wide litter pickup, emptying of trash barrels, and general cleaning will occur three times per week, as well as daily cleanings of Whole Foods sidewalk and outdoor eating areas. In addition, off-site inspection and litter pickup of adjacent Town public areas, including but not limited to sidewalks, trailhead area, grass and wooded areas, stream and stream bank will be undertaken two times per week in the spring, summer and fall and twice per month in the winter.

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- 20 Post-construction, delivery trucks larger than SU-30 shall not use the State Street driveway to enter the Site. Preferably, delivery trucks larger than SU-30 shall arrive at the Site on the eastbound side of Washington Street and access the loading dock directly. No employee vehicles shall park in the loading dock.
- 21 The Applicant shall make a capital contribution of \$5,000 to fund observations of the State/Atwood/Site driveway intersection in order to collect, analyze, and report data that reflects the impacts of the relocation of the State Street driveway on traffic safety, whether in the intersection or on State or Atwood Streets. The Applicant may use its current traffic engineer or other reputable traffic engineer to perform such observations, which shall be made at six and 12 months after the driveway enters service. The traffic engineer shall identify whether the changes in the data warrant further consideration by the Town's Traffic Committee for traffic calming either in the intersection or on Atwood Street. Copies of the report shall be furnished to the Applicant, Board, and Traffic Committee.

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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

Robert W. Levy (L.M.)  
Robert W. Levy, Acting Chairman

Walter B. Adams (L.M.)  
Walter B. Adams

Derek B. Redgate (L.M.)  
Derek B. Redgate

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Applicant       Wellesley Plaza LLC & State Street Center LLC  
Address        442-452 Washington Street, 10 & 16 State Street

**NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK**

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

\_\_\_\_\_  
Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm