



Town of Lexington
Planning Board

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Charles Hornig, Chair
Robert D. Peters, Vice Chair
Michael Schanbacher, Clerk
Melanie Thompson
Robert Creech
Michael Leon, Associate

**DECISION OF THE LEXINGTON PLANNING BOARD
DEFINITIVE SUBDIVISION PLAN (NON-RESIDENTIAL)
10 MAGUIRE ROAD
DECISION VOTED DECEMBER 15, 2021**

General Property Information

Property Address: 10 Maguire Road
Assessor's Information: Map 85, Lot 15
Zoning District: Manufacturing (CM)

Application Information

Application: Non-Residential Definitive Subdivision Plan
Filed with the Town Clerk: October 4, 2021
Public Hearing: December 1, 2021

General Project Contact Information

Property Owner Name and Address: SRE Flag, LLC
Attorney: Peter Tamm, Goulston & Storrs
Project Contact: Dave Robinson Allen & Major Associates, Inc.
Civil Engineer: Carlton M. Quinn, MA P.E. 49923 Allen & Major Associates, Inc.
Land Surveyor: Norman Lipsitz, MA P.L.S. 38380, Allen & Major Associates, Inc.

Legal Ad and Public Hearing Information

Minuteman Newspaper run dates of the Legal Ad (more than 14 days prior) November 11, 2021 and November 18, 2021
Date of opening public hearing: December 1, 2021
Date of continued public hearing: December 15, 2021
Date the public hearing was closed: December 15, 2021
Date of Planning Board vote: December 15, 2021
Abutters notified via postcard

PLANNING BOARD PLAN APPROVAL INFORMATION

Date of Plan: September 24, 2021

PROJECT DESCRIPTION

The 16.7-acre property at 10 Maguire Road is presently improved with a three-story commercial building and surface parking. The property is bordered by Maguire Road to the east, Kiln Brook and wetlands to the east and south, an old railroad spur line to the south and the driveway to 20 Maguire Road to the north.

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The Applicant requests approval of a definitive subdivision plan proposing to subdivide the property into three lots around an approximately 260-foot long, 26-foot wide roadway within a 50-foot wide right-of-way with vertical granite curbing ending with a cul-de-sac bulb. Lots 1 and 2 will continue to have frontage along Maguire Road, a public way. Lot 3 will have approximately 51.4 feet of frontage along the proposed subdivision road.

PUBLIC HEARING

The Lexington Planning Board held a virtual public hearing on December 1, 2021. The following individuals appeared on behalf of the Applicant: Peter Tamm of Goulston & Storrs; David Robinson from Allen & Major Associates, Inc; and Teri Ford of Greatland Realty Partners. Planning Board Chair Charles Hornig, Vice-Chair Roberts Peters, and Members Robert Creech, Melanie Thompson and Michael Schanbacher were present.

Summary of the Minutes

On December 1, 2021, the Planning Board opened the public hearing, read the legal advertisement into the record, and requested a presentation from the Applicant.

The Applicant's team provided the following summary of the project:

The property at 10 Maguire Road will be subdivided into three (3) lots. Lot 3 will have frontage along the subdivision road. Lots 1 and 2 will continue to have frontage along Maguire Road, a public way in the Town of Lexington.

The Planning Board provided the following comments on December 1, 2021.

- Robert Creech encouraged the Applicant to consider accommodating sidewalks along the entire length of the Maguire Road frontage.
- Charles Hornig noted that the submittal does not include a landscape plan. He asked whether the Applicant was proposing an easement over Lot 1 to provide water and sewer connections for any future buildings on Lots 2 and 3. Mr. Hornig was also interested in whether the Applicant had determined if it will be possible to match the sewer inverts in the subdivision to the ones on Maguire Road. Finally, Mr. Hornig recommended that the Board's decision for the Definitive Subdivision include conditions regarding deadlines for preparing a final plan for endorsement by the Planning Board and for the start of construction of the Subdivision itself.

On December 1, 2021, the Planning Board opened the floor for public comments. There was one public comment relating to the types of buildings that may be built on the two newly created lots.

On December 15, 2021, the Planning Board took the following votes relative to the project.

The Planning Board voted five (5) in favor, zero (0) in opposition, and zero (0) in abstention to close the public hearing for the project at 10 Maguire Road.

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FINDINGS

During the course of the public hearing process, the Planning Board took under advisement all information received from various municipal departments in addition to comments received during the Development Review Team (DRT) meeting; comments made by members of the public; and information submitted by the Applicant. The Planning Board arrived at this Decision based on Lexington Subdivision Rules and Regulations and made the following findings specifically for the project at 10 Maguire Road:

- A. The plan meets the requirements for a subdivision as defined in MGL c. 41 §81L.
- B. As modified under the conditions below, the Application and Plan submitted comply with all applicable provisions of Lexington's Zoning By-Law, Subdivision Rules and Regulations, relevant to this review.

CONDITIONS OF APPROVAL

Accordingly, the Planning Board voted to approve this definitive subdivision plan subject to the following conditions:

A. General Provisions

1. This approval is limited to the three (3) lots as shown on the approved Definitive Plan. Any additional lots or further subdivision of lots is subject to approval of the Planning Board pursuant to M.G.L. Chapter 41, Sections 81T and 81U.
2. The Applicant shall record this Decision with any exhibits, and the endorsed Definitive Subdivision Plan, along with a Subdivision Covenant in a form approved by the Planning Department with the Middlesex South Registry of Deeds prior to the commencement of authorized site activity and shall submit proof of recording to the Planning Board. Failure to record this Decision prior to the commencement of authorized site activity shall result in rescission of this Decision.
3. A copy of this Decision shall be kept on the Site in a location that is highly visible and accessible.
4. The subdivision and its construction shall comply in all respects to all applicable Subdivision Rules and Regulations unless specifically waived by a vote of the Planning Board and recorded in writing.
5. No material corrections, additions, substitutions, alterations, or any changes shall be made in any plans, proposals, or supporting documents approved and endorsed by the Planning Board without a modification of this approval by the Planning Board. Any request for a material modification of this approval shall be made to the Planning Board in accordance with M.G.L. c. 41, Section 81W, with the exception of minor modifications made at the request of the Conservation Commission. Such modifications shall be reviewed and approved by the Fire Department, Town Engineer, and the Planning Department.

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6. Prior to the commencement of any authorized site construction activity, copies of the approved endorsed Definitive Subdivision Plan (as revised to reflect the conditions of this Decision) shall be provided to the Planning Board Office for distribution to town departments, in order to be reviewed for compliance with this decision.
7. The Department of Public Works and the Planning Board shall be notified at least thirty-six (36) hours in advance of any roadway, municipal service, or utility construction.
8. Member or agents of the Planning Board shall have the right, with prior notice to the Applicant, to enter the site and to gather all information, measurements, photographs, or other materials needed to ensure compliance with this approval. Members or agents of the Planning Board entering onto the site for these purposes shall comply with all safety rules, regulations and directives of the Applicant and the Applicant's contractors.
9. All notices and other communications required or permitted hereunder shall be in writing and made by prepaid postage, registered mail. In the case of the Applicant all mailings will be sent to the following:

SRE Flag, LLC, One Federal Street, Suite 1810, Boston, MA

and in the case of the Planning Board all mailings will be sent to the following:

Lexington Planning Board, Town Hall, 1625 Massachusetts Avenue, Lexington, MA

or in the case of any other party, to such other address as shall be designated by written notice given to the other parties. Any notice or communication shall be deemed given, if mailed as aforesaid, when deposited with the U.S. Postal Service.

10. Outside construction hours shall comply with the Lexington Noise Control By-Law (Chapter 80).
11. Prior to the conveyance of any lot shown on the Plan, the easements described in the condition #17 above and #25 below shall be prepared for review and approval by Lexington's legal counsel. Upon approval of Lexington's legal counsel, the Applicant shall file the appropriate easement with Middlesex South Registry of Deeds.

B. Site Preparation and Pre-Construction

12. A minimum of fourteen (14) days prior to commencing construction the Applicant or designee shall contact the Planning Office to schedule a pre-construction meeting.
13. At the pre-construction meeting, the project team shall provide the name, address, and emergency contact telephone number of the individual or individuals who shall be responsible for all activities on site and who can be reached twenty-four (24) hours a day, seven (7) days a week. In the event project management changes, all new contact information shall be submitted to the Planning Board within twenty-four (24) hours.

C. Construction and Site Development

14. Any work within the existing public right-of-way shall be required to have a police detail during the duration of said work for the purpose of public safety.

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15. The limits of clearing of land or grading for the installation of any common Subdivision improvements, including, but not limited to the roads, stormwater management systems, and utilities, shall be the limits of the grading shown on the Definitive Plans. Prior to any clearing of the land, the limits of such clearing and grading as shown on the approved Plan shall be clearly marked in the field and shall remain in place until the completion of the Subdivision construction.
16. The Applicant shall perform daily cleanup of construction debris, including soil on adjoining roads within 200 yards from the entrance to the Subdivision roads caused by Subdivision construction. Damage shall be monitored by photographic documentation by the Applicant and at least monthly inspections by the Department of Public Works. The Applicant shall repair any damage to the adjacent roadways caused by the Subdivision construction. The Applicant shall provide an elevated crushed stone apron at the entrance of the proposed Subdivision Street at least twenty (20) feet in width and twenty (20) feet in length to remove dirt from truck wheels, and to mitigate dust and provide erosion control.
17. During construction and land disturbance activities, soil erosion and sedimentation to watercourses and water bodies or wetlands will be minimized by an active program meeting the requirements of the Department of Environmental Protection Best Management Practices, and shall be in accordance with any Order of Conditions of the Conservation Commission.

D. Prior to Planning Board Endorsement of the Definitive Subdivision Plan

18. An easement must be shown on Lot 1 on the Plan that will allow for future water and sewer connections from Lots 2 and 3 to existing facilities on Lot 1.
19. The Plan must be modified to strictly comply with the Section 175-7.4(B)(2) with respect to a looped water system.
20. Landscaping must be shown on the plan and must strictly comply with the provisions of Section 175-7.6.
21. The Plan must show sewer connections complying with the Town's standards from all of the Lots created in the subdivision to the existing infrastructure on Maguire Road.

E. Mandatory Conditions

Pursuant to Section 175-6.3 of Lexington's Subdivision Rules and Regulations, the Board must include the following conditions in any approval of a definitive subdivision plan:

22. Failure to Obtain Endorsement. The Applicant must obtain the endorsement of the definitive plan by Board within 180 days of the date of approval. Failure to do so may result in the rescission of the approval.
23. Failure to Complete Construction. The Applicant must complete the construction of all ways and services within two years of the date of endorsement of the definitive plan. Failure to do so may result in the rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the Applicant not less than 20 days before the expiration of said period.

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24. Construct Street and All Required Utilities. As a condition of approval of a subdivision, the Applicant agrees to construct streets and complete all other work specified on the definitive plan or required under Lexington's Subdivision Rules and Regulations, meet all relevant provisions of the Zoning By-Law and other by-laws, including the installation or required utilities in such subdivision, and all work incidental to them, such as grading of lots to provide drainage, construction of retaining walls and other details or as specifically required by the Board.
25. Perpetual Rights and Easements.
- a. As a condition of approval of a subdivision, the owner must grant to the Town a right and easement to construct, repair, replace, extend, operate, use and forever maintain all water mains, sewer mains, and all surface and subsurface stormwater drains in, through or under the streets and easements as indicated on the Definitive Plans.
 - b. In consideration of being allowed to connect to the public street system and to enable the Town to protect public health and safety, the owner must grant the Town the perpetual right or easement to pass and repass over the streets, street signs, and all appurtenances or components of them, in all of the subdivision and outside it if installed to serve the subdivision. To accomplish this, the owner must retain and reserve the necessary rights and easements in any conveyances or mortgaging of land or lots and in the recording of plans and easements.
 - c. The owners must grant the Town the right to enforce on-street parking regulations within the subdivision and on any streets connecting the subdivision to the public street system.
26. Post-Construction Responsibilities of Owners. Notwithstanding condition #25 above (and Section 176-6.3(D) of Lexington's Subdivision Rules and Regulations), it is the responsibility of the owners and owners' successors in title to all or any portion of the subdivision to maintain the landscaping, streets, and utilities within the subdivision until formally accepted by the Town. The owner must provide a supplemental covenant agreeing to maintain the streets and utilities, including snow removal, and permitting the Town to maintain them if necessary at the expense of the owners.

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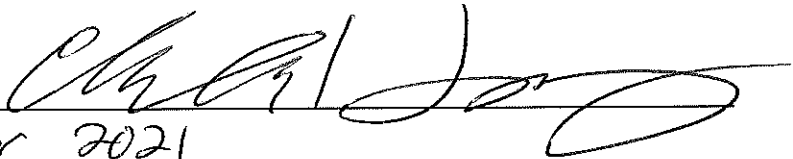
VOTE

Mr. Peters moved that the Planning Board approve the definitive plan for 10 Maguire Road subject to the conditions including in this decision. Michael Schanbacher seconded the motion. The Planning Board voted in favor of the motion 5-0-0 (Roll call: Robert Peters – yes; Melanie Thompson – yes; Michael Schanbacher – yes; Charles Hornig – yes; Robert Creech - yes). MOTION PASSED

- Charles Hornig. yes
- Robert Peters. yes
- Michael Schanbacheryes
- Robert Creech. yes
- Melanie Thompson yes

RECORD OF VOTE

On October 20, 2021, by roll call (*Robert Peters – yes; Charles Hornig – yes; Michael Schanbacher – yes; Melanie Thompson – yes; and Robert Creech – yes*) the Planning Board voted to allow the Planning Board Chair to all decisions.

Signature of the Chair: 
Date: 16 December 2021

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Documents Submitted to the Planning Board

Not attached unless indicated

All of these plans, reports and correspondence are contained in the Planning Board's files and are hereby incorporated into this Decision by reference.

1. Form B – General Application for Approval of a Plan for Development dated September 24, 2021, and stamped in with the Town Clerk on October 4, 2021
2. Plans for Definitive Non-Residential Subdivision of Land: 10 Maguire Road including cover sheet issued September 24, 2021; Existing Conditions prepared by Allen and Major Associates, Inc. signed and stamped by Norman I. Lipsitz, Professional Land Surveyor no. 28446 dated September 24, 2021; Site Preparation Plan prepared by Allen & Major Associates, Inc. signed and stamped by Carlton M. Quinn Civil RPE no. 49923 dated September 24, 2021; Definitive Subdivision Layout, Materials and Lotting Plan prepared by Allen and Major Associates, Inc. signed and stamped by Carlton M. Quinn Civil RPE no. 49923 dated September 24, 2021; Definitive Grading and Drainage Plan prepared by Allen & Major signed and stamped by Carlton M. Quinn Civil RPE no. 49923 dated September 24, 2021; Definitive Utilities Plan prepared by Allen & Major Associates, Inc. signed and stamped by Carlton M. Quinn Civil RPE no. 49923 dated September 24, 2021; Subdivision Roadway Profile prepared by Allen and Major Associates, Inc. signed and stamped by Carlton M. Quinn RPE no. 49923 dated September 24, 2021; Details Sheet C-501 and C-502 prepared by Allen & Major signed and stamped by Carlton M. Quinn Civil RPE no. 49923 dated September 24, 2021; Abbreviations and Notes Sheet C-001 and C-002 prepared by Allen & Major signed and stamped by Carlton M. Quinn Civil RPE no. 49923 dated September 24, 2021.
3. Staff Review Memos dated November 22, 2021 and November 30, 2021

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