

NO. HHD-CV-20-6132034-S	:	SUPERIOR COURT
	:	
STEPHEN MEADE, ET AL.	:	
	:	JUDICIAL DISTRICT
V.	:	OF HARTFORD
	:	AT HARTFORD
ENFIELD PLANNING AND ZONING	:	
COMMISSION, ET AL.	:	MAY 4, 2021

**MOTION FOR APPROVAL OF STIPULATED JUDGMENT
PURSUANT TO GENERAL STATUTES § 8-8(n)**

Pursuant to Connecticut General Statutes § 8-8(n) and Practice Book § 14-7B, plaintiffs Stephen Meade, et al. (“plaintiffs”); co-defendant Enfield Planning and Zoning Commission (“Commission”); and co-defendant/applicant WE 113 North Maple Street, LLC (“WE 113”) hereby move for the entry of judgment in accordance with the stipulation set forth below. The terms of the judgment, and the process by which the settlement has been completed and approved, are explained below in §§ I. and III. K.

I. BACKGROUND

WE 113 owns 71+/- acres adjacent to Moody Road and North Maple Street in Enfield. The land is zoned for industrial use, with warehouses and distribution centers being as-of-right uses requiring site plan approval. The plaintiffs are owners of single-family homes that abut or are proximate to WE 113’s land.

In 2020, WE 113 applied to the Commission for site plan approval for a 501,000 square foot distribution/warehouse facility. The identified tenant for about half of the building was, and remains, Agri-Mark, a regional dairy products company. The tenant for the remaining space was, and remains, unknown and is referred to as “Tenant B.” WE 113’s application consisted of site plans and accompanying reports and exhibits as described in § II. below.

The application came before the Commission at a regular meeting on June 25, 2020, and then a public hearing on July 9, 2020. After closing the hearing, the Commission voted to approve the site plan application, with 35 conditions, eleven of which are site-specific, with others being applicable to all approvals.

Plaintiffs Meade, et al. appealed the approval to this Court. A trial was scheduled for April 27, 2021, but on that date the parties reported to the Court (the Hon. Mark Taylor, J.) a settlement in principle, subject to drafting and signing a proposed Stipulated Judgment and approval of its terms by the Commission in compliance with Practice Book § 14-7B. The parties jointly approved the contents of this motion on May 3, 2021, noting that the Commission's approval is subject to compliance with Practice Book § 14-7B, and that the entry of judgment is subject to approval by this Court as stated in General Statutes § 8-8(n).

II. PLANS AND DOCUMENTS CONSTITUTING THE COMMISSION'S JULY 2020 SITE PLAN APPROVAL

The Commission's July 2020 approval of WE 113's site plan application is set forth in the following documents listed in the Certified List of Papers as filed in this action October 8, 2020:

<u>Item No.</u>	<u>Date</u>	<u>Item Description</u>
4	May 2020	Locus Maps (4 pages). Vicinity Plan. Proposed AGRI- MARK Distribution Facility, 113 North Maple Street, Enfield CT Prepared for: WE 113 North Maple Street, LLC c/o Winstanley Enterprises, LLC. 150 Baker Ave. EXT, Concord, MA 01742
5	June 2020	Plan Set Prepared by HSI Hayner/Swanson, Inc. (23 pgs) <i>REFERENCE PLANS: Map 82, Lots 1,2,3,4 Proposed Agri-Mark Distribution Facility, 113 North Maple St., Enfield CT, prepared for record owner WE 113 North Maple ST, LLC, clo Winstanley Enterprises, LLC 150 Baker Ave. Ext, Concord MA 01742; 978-287-5000, www.winent.com, prepared by HSI Civil Engineers/Land Surveyors, 3 Congress St., Nashua NH 03062, 603-883-2057; 131 Middlesex Turnpike, Burlington MA 01803, 781-203 1501; dated June 1, 2020 (22 Sheets)</i>

<u>Item No.</u>	<u>Date</u>	<u>Item Description</u>
		<i>Map 82, Lots 1, 2, 3, 4 113 North Main Street Warehouse, Enfield, CT, prepared for Winstanley Enterprises, 150 Baker Avenue Ext., Concord, MA 01742; 978-287-5000, www.winent.com, prepared by HSI Civil Engineers/Land Surveyors, 3 Congress St., Nashua, NH 03062; 603- 8832057; also prepared by NV5 200 Brickstone Square, Andover MA 01810; 978-296-6200; dated June 9, 2020. (9 sheets)</i>
6	6/1/2020	Stormwater Management Report 6/1/2020 (219 pages): Proposed Agri-Mark Distribution Facility, 113 North Maple Street, Enfield Connecticut. Prepared for: WE 113 North Maple Street, LLC c/o Winstanley Enterprises, LLC, 150 Baker Ave Ext. Concord, Massachusetts 01742. Prepared by: Hayner/Swanson, Inc., 3 Congress Street Nashua, NH 03062 (603-883-2057)
7	6/2020	Traffic Impact Study (126 pages): 113 North Maple Street, Enfield, Connecticut. Prepared For: Winstanley Construction Management, LLC, 300 George Street, Suite G01, New Haven, Connecticut 06511 Prepared by: Fuss & O'Neill, 146 Hartford Road, Manchester, CT 06040.
14	6//9/2020	Architectural Drawings, including Floor Plans and Elevations / AgriMark Planning & Zoning Package (10 pages) Prepared For: WE 113 North Maple Street, LLC, c/o Winstanley Enterprises, LLC; 150 Baker Ave Ext. Concord, Massachusetts 01742 (978) 287-5000; www.winent.com Prepared by: HSI Hayner/Swanson, Inc., Civil Engineers/Land Surveyors; 3 Congress Street, Nashua, NH 03062, 131 Middlesex Turnpike, Burlington, MA 01803. Design by: CT Design Inc 350 Summer St, Second Floor Boston MA, 02210 (617) 848-9511; www.ci-designinc.com
18	6/17/2020	Wetlands Permit/ Notice of Decision Letter from Savannah-Nicole Villalba, Assistant Town Planner to J. Petropulos IW#607 (certified mail): Application for a permit to conduct a regulated activity in the 100-foot Upland Review Area to construct a proposed distribution facility and associated improvements on the property known as 113 North Maple Street; Map 082/Lot 1, 2, 3, and 4; Industrial Land Zone I-1; WE 113 NORTH MAPLE STREET LLC, owner and applicant. (5 pages)
38	7/1/2020	Updated Photometric Plan (1 page). Proposed Agri-Mark

<u>Item No.</u>	<u>Date</u>	<u>Item Description</u>
		Distribution Center. Designer: JAS. 113 North Maple Street, Enfield CT. Scale: 1" = 125ft
54	7/9/2020	Notice of Decision Letter from J. Pacacha, Assistant Town Planner, to J. Petropoulos re SRP# 1826 -- 113 North Maple Street - Site Plan Review application for a proposed 501,500 square foot industrial; warehouse building with associated parking and drainage; WE 113 North Maple Street, LLC, owner/applicant; Map 82/Lots 1-4; Industrial-1 Zone. (1 page)
55	7/13/2020	Notice of Decision Letter - Signed (6 pages) To: Mr. Petropoulos: WE 113 North Maple Street, LLC 150 Baker Avenue Extension Concord, MA 01742 From: Jennifer Pacacha, MRP, AICP Assistant Town Planner Including details 45a through 45g

III. STIPULATED JUDGMENT

The July 2020 action of the Commission, as set forth in its Notice of Decision Letter set forth above as Items 54 and 55, is affirmed, subject to the following additions, modifications, and clarifications:

A. North Maple Street Southern Access Drive and Elimination of Expansion Space

The southern access drive from North Maple Street will be relocated to the north, toward the Tenant B space, by 125 feet. This will increase the distance from the closest property line to the driveway from 183 feet to 308 feet. Additionally, the revised site plan will be revised to eliminate potential 100,000 SF future building expansion as illustrated in Exhibit A, which elimination will be binding on any successors or assigns of WE 113.

B. Road Modifications/Directional Signage to Direct Trucks to Use the Moody Access

Along the relocated southerly access road from North Maple Avenue, directional signage depicting “I-91,” accompanied by a left arrow, will be installed in the exit lane at this location. In addition, directional signage depicting “I-91 Moody Road,” accompanied by a straight arrow, will be installed in the approaching lane before the Tenant B docks, to direct Tenant B trucks to this exit. Agri-Mark trucks will be use Moody Road exclusively. A directional sign identical to that which will be placed at the North Maple southerly access point will be placed at the Moody Road exit. Exhibit B depicts the type and locations of these signs. The 20 MPH posted speed limit included in the site plan approval by the Commission has been reduced to 10 MPH, and this speed limit will be strictly enforced.

C. Noise Analysis Demonstrating Compliance with State Regulations and Enfield Noise Ordinance

Plaintiffs’ acknowledge receipt and review in March 2021 of an independent analysis of both mobile and stationary noise sources, conducted by the firm of Cavanaugh Tocci. That report concludes that facility operations are expected to meet and comply with State of Connecticut and Town of Enfield noise standards. To further reduce noise below these standards and increase the margin of compliance, WE 113 will (1) install a 450 foot long sound/acoustic barrier wall, eight feet in height, constructed of wood or a similar wood composite material, parallel to North Maple Street, and parallel to the Tenant B parking area, as shown on Exhibit C, attached; (2) post a 10 mph speed limit as described above in § III.B and illustrated on Exhibit B; and (3) will require of Agri-Mark that all backup alarms on trucks it operates and controls will be broadband model (Brigade) devices that employ a swoosh sound instead of beeping noise and WE 113 will use its best efforts to encourage its Tenant B to utilize the same equipment.

D. Minimum Height of Berm; Maintenance Plan for Landscaped Berm

The berm adjacent to the southern boundary will be at least 10 (ten) feet high, and landscaped at minimum as shown on Exhibit C. The proposed landscaping complies with the “D” Buffer regulation and provides for approximately 50 additional trees and shrubs. Existing trees and vegetation located on the WE 113 property at the northeast corner, adjoining Lots 65-67 and 87, will not be disturbed except as necessary to construct the drainage swale illustrated on Exhibit C. 113 North Maple site will have a dedicated Winstanley Property Manager, who will have direct authority over the selection and management of landscape contractors. Exhibit D is a berm maintenance plan, the provisions of which will be incorporated into any landscape contracts issued by Winstanley Property Management. Debris and dilapidated netting and fencing left from farming operations will be removed as part of construction and landscaping.

E. Photometrics Analysis Demonstrating No Off-Site Light Trespass

The plaintiffs acknowledge receipt and review of a photometric analysis. The site lighting layout and fixture selection demonstrated zero light trespass. As part of the conditions of approval, pole heights were reduced by 2.5 feet (32.5’ to 30.0’) in all areas of the site except two in the southwest corner where fixtures were reduced to 25.0,’ without any compromise in the illumination, to maintain safety. The selected fixture represents state-of-the art LED technology to allow for lower illumination levels without compromising safety.

The selected fixtures will also be International Dark-sky Association (IDA) compliant. Exhibit E includes the photometric analysis and an enlargement of the area along the abutting residences to demonstrate zero light trespass at the property lines. The LED fixture specification is embedded in the photometric analysis. See Exhibit E.

F. Tenant B Will Not Involve Heavy Industry

WE 113, as of the date of this Stipulated Judgment, has yet to obtain a signed lease for the remaining 240,000 SF of space to be assigned to Tenant B. As stated in a submittal to the plaintiffs dated 5 February 2021, Exhibit F, WE 113 and its successors and assigns agree that selection of a distribution company for the “Tenant B” space will be similar in overall quality to Agri-Mark and will not conduct heavy manufacturing, generate noise in their operations in excess of state or town noise regulations, generate hazardous chemicals, or emit noxious odors.

G. Address Drainage/Ponding in Adjacent

At the southern boundary of WE 113’s property, storm drainage from North Maple Street currently is directed through a culvert and onto an area between the rear yards of residences along Winter Way and the 113 N. Maple Street property. No defined drainage swale currently exists in this area. WE 113’s plan, approved by the Commission, includes a grassed swale designed to account for this stormwater from North Maple Street and in addition, to collect storm flow from the south side of the proposed landscaped berm as well as potentially any overland flow from adjacent properties, depending on storm conditions. This swale will be located on WE 113’s property adjacent to the rear yards of properties along the northern side of Winter Way. This swale will connect to a stormwater management area also designed as part of this project. Through stormwater modeling, this swale was sized to accommodate the stormflow conveyed by the swale in accordance with Town of Enfield specifications. The design was supported by a detailed stormwater management study and model that accompanied the PZC application. This swale will be located on WE 113’s property adjacent to the rear yards of properties along the northern side of Winter Way. The creation of this swale addresses storm flow from North Maple Street that was found to be directing stormwater through a culvert without discharging into a defined swale.

As part of this Stipulation, the drainage swale in association with the landscaped berm will be shifted to the north as shown on Exhibit C to provide more distance between the swale and adjacent properties, and is intended to alleviate the existing condition and, to the extent possible, standing or ponded stormwater at the southern boundary of the project.

H. Provide Snow Management Plan Including Application of De-icing Materials

Snow storage areas at 113 North Maple were identified as part of the site plan application approved by the Town of Enfield. These locations are shown in Exhibit G, which also includes the Snow Management and De-icing Plan. Winstanley will prohibit the use or application of glycol-containing products, and directs the contractor to procure and apply calcium chloride and/or sand. In addition, at Winstanley's discretion and approval, the use of non-toxic materials will be considered if deemed suitable.

I. Provide final set of plans showing all changes

The exhibits to this Motion illustrates all site plan revisions. WE 113 will incorporate all July 2020 conditions of approval and the provisions of this Stipulation into final site plan. WE 113 will provide to the plaintiffs the proposed final site plan, drainage plan, landscaping plan (including initial height of plantings), and lighting plan, as revised in accordance with this Stipulation, no less than ten (10) days before submission to the Commission as required by Condition 26 of the July 2020 Notice of Decision Letter. Such referral shall be for review and comment, and so long as these final plans comply with the terms and illustrations of this Motion for Stipulated Judgment, neither WE 113 nor the Commission shall be required to make any further revisions.

J. Compensation for Attorneys' Fees

Within fifteen (15) days of the entry of judgment in accordance with this stipulation, WE 113 shall pay to Attorney Slater, as trustee for the plaintiffs, plaintiffs' attorneys' fees, through

the date of judgment, not to exceed the amount of thirty-five thousand (35,000) dollars, provided proof of billing is provided.

K. Compliance with Practice Book § 14-7B(j)

The proposed terms of this Stipulated Judgment were identified on the agenda of a meeting of the Commission on May 6, 2021, and approved by majority vote, with reasons stated for approval, as shown on Exhibit H, attached.

PLAINTIFFS,
STEPHEN MEADE, ET AL.

By /s/ Kenneth R. Slater, Jr.
Kenneth R. Slater, Jr., Esq.
slater@halloransage.com
Halloran & Sage LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06103
Juris No. 026105

DEFENDANT,
ENFIELD PLANNING AND ZONING
COMMISSION

By /s/ Mark J. Cerrato
Mark J. Cerrato, Esq.
townattorney@enfield.org
Office of the Town Attorney
Town of Enfield
820 Enfield Street
Enfield, CT 06082
Juris No. 105034

DEFENDANT,
WE 113 NORTH MAPLE STREET, LLC

By /s/ Timothy S. Hollister

Timothy Hollister
thollister@hinckleyallen.com
Hinckley Allen & Snyder LLP
20 Church Street
Hartford, Connecticut 06103
Juris No. 428858
PHONE: (860) 331-2823
FAX: (860) 278-3802
Attorney for WE 113 North Maple Street, LLC

CERTIFICATION OF SERVICE

The undersigned hereby certifies that on May __, 2021 a copy of the foregoing was filed electronically through the Court's Electronic Filing System and served by electronic means via email transmission on the following counsel of record:

Kenneth R. Slater, Jr., Esq.
slater@halloransage.com
Halloran & Sage LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06103

Mark J. Cerrato, Esq.
townattorney@enfield.org
Office of the Town Attorney
Town of Enfield
820 Enfield Street
Enfield, CT 06082

/s/ Timothy S. Hollister

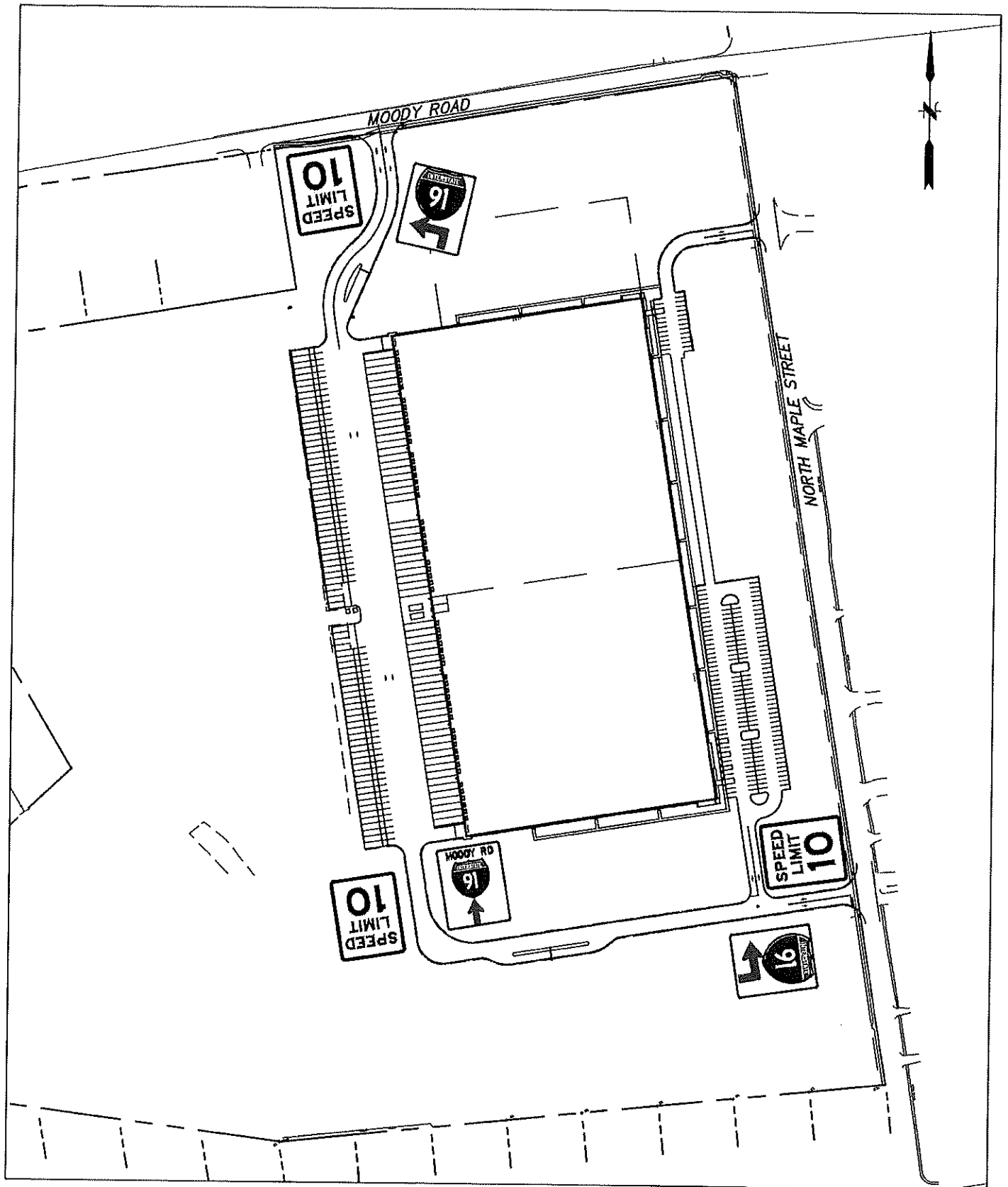
Timothy S. Hollister
Commissioner of the Superior Court

Exhibit A

Proposed N. Maple/South Access Drive Relocation

Exhibit B

Proposed Directional Signage



FUSS & O'NEILL

108 MYRTLE STREET, SUITE 502
QUINCY, MA 02171
617.282.4675
www.fando.com

113 NORTH MAPLE: PROPOSED DIRECTIONAL SIGNAGE

PROJ. NO. 20170208.A20

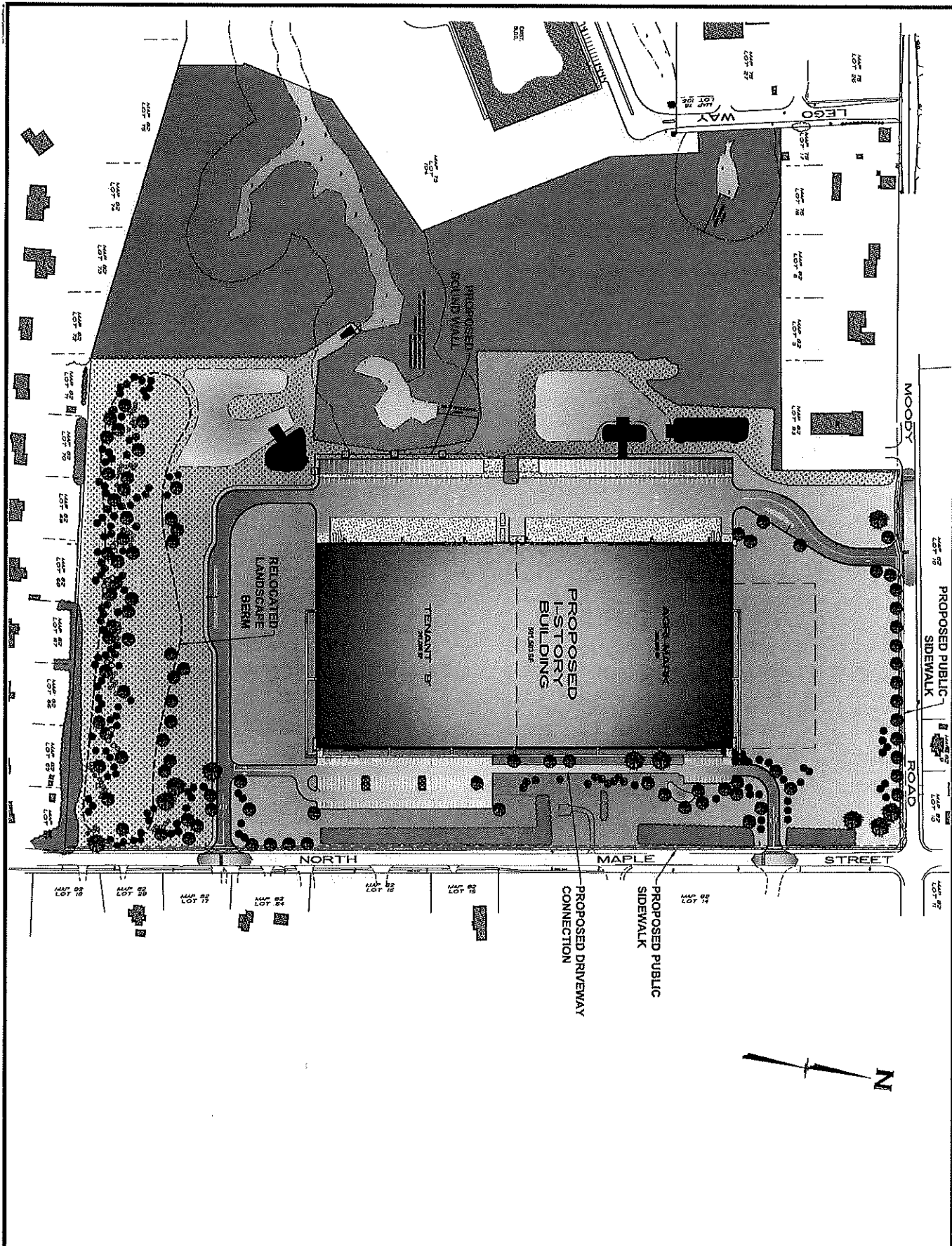
WINSTANLEY ENTERPRISES

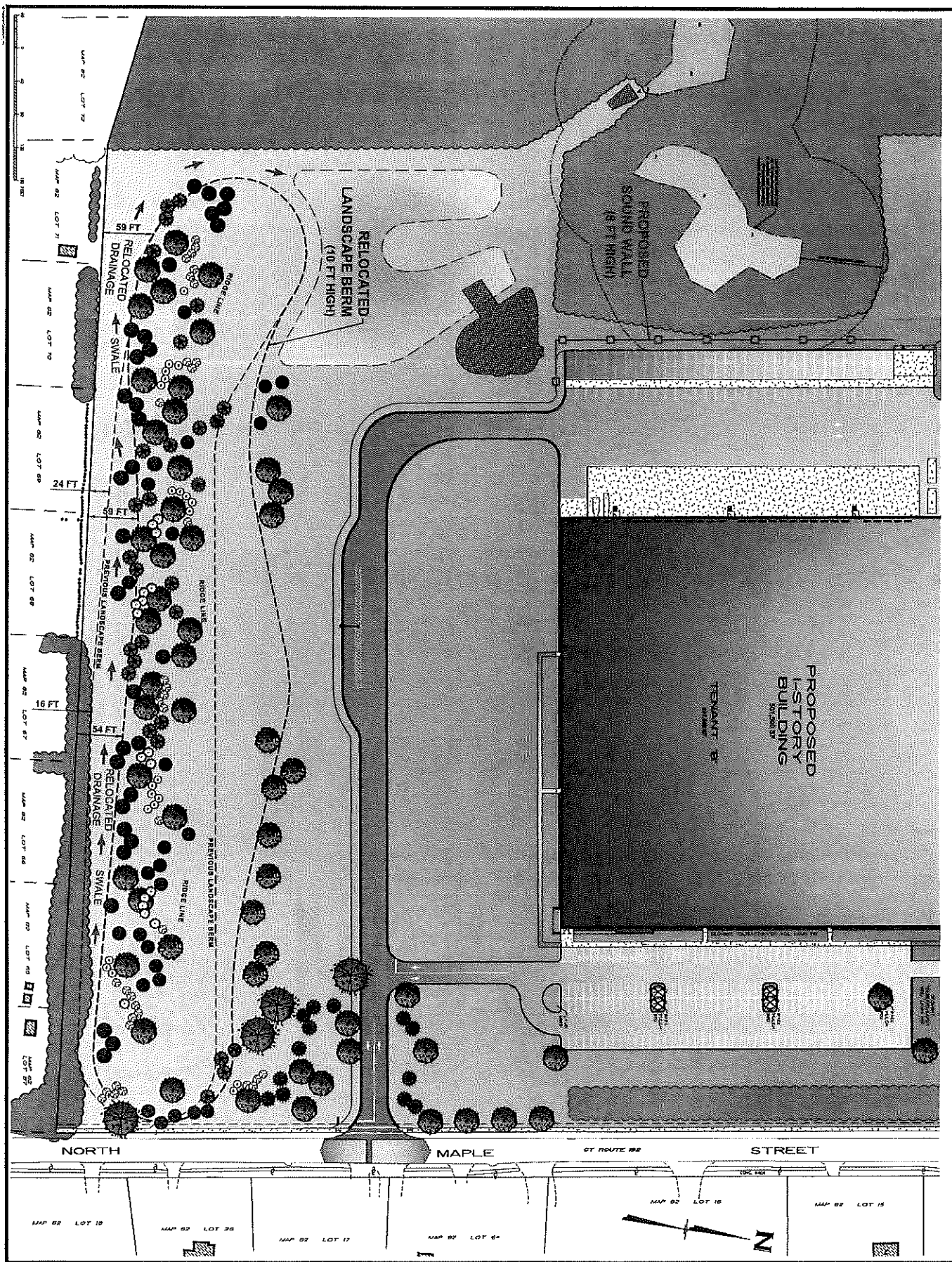
FEBRUARY 2021

Exhibit C

Illustration of Site Plan Modifications:

- Acoustic sound wall
- Parking lot connection
- Sidewalks





PROPOSED SITE MODIFICATIONS 113 NORTH MAPLE STREET ENFIELD, CONNECTICUT

HHSI Haysman & Associates, Inc.
 1100 Main Street, Suite 200
 Enfield, CT 06033
 Phone: 860-281-1100
 Fax: 860-281-1101
 Email: hhs@hhsinc.com
 Website: www.hhsinc.com

Scale: 1" = 40'
 Date: APRIL 2003
 Project No: 5476
 Sheet: 1 of 1

Exhibit D

Landscape/Berm Maintenance Plan

113 North Maple Street -Enfield, CT

Berm Maintenance and Landscaping Maintenance Plain

- The berm will be allowed to naturalize by brush-hogging the seeded areas twice per year during the growing season. Any dead grass will be removed and the area will be reseeded every two years.
- Trees and shrubs should be trimmed at least once a year to maintain correct shape and encourage proper growth and create the desired visual screen.
- Condition of trees and shrubs on and in the vicinity of the berm will be monitored for heat stress. In the case of severe drought or if vegetation is showing signs of heat stress then temporary irrigation and/or water bags will be utilized to provide additional water. If temporary irrigation measures are not feasible or unsuccessful, manual watering with a water truck will be used on a scheduled basis to ensure viability.
- All lawn/grass areas should be mowed as necessary and checked weekly during high growth periods of the season and every other week if conditions remain hot and/or dry.
- Pre-emergent herbicides and weed control applications will be used judiciously on maintained lawn areas only, not the berm. Weather conditions will be monitored closely if application is warranted as to avoid rain or wet conditions.
- Mulched beds or tree rings will have their edges-maintained and refreshed, topped off to a recommended depth of 3-4 inches top off the old layer to keep it at its optimum level.
- Vegetation s will be inspected once a month for any insect and or disease and treated as needed.
- Contractor will inform the Property Manager of dead or struggling plants and will replace as directed.

Exhibit E

Photometric Analysis

**113 N. Maple Photometric Plan Enlargement to South
Demonstrating Zero Light Trespass at Property Boundaries (April 2021)**

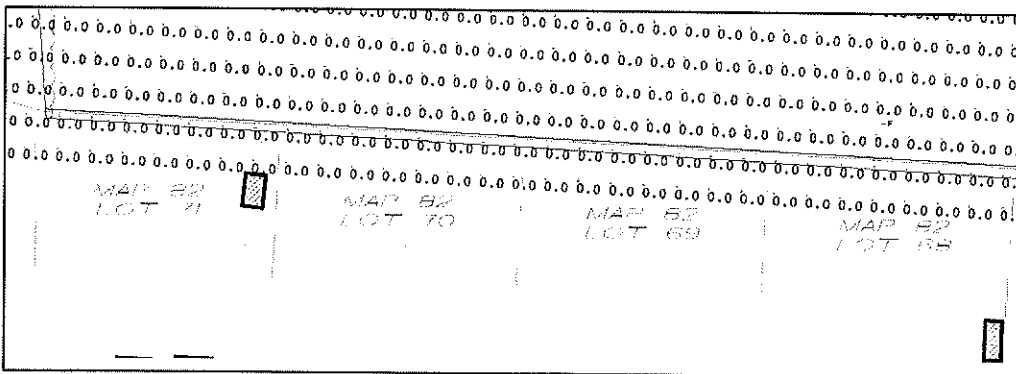
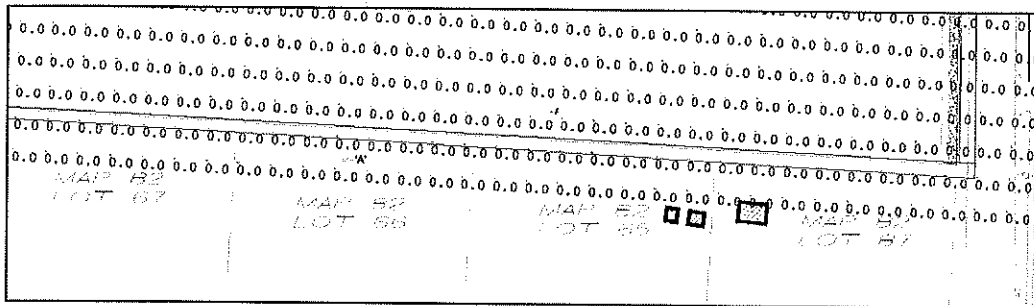


Exhibit F

Commitment Letter



WINSTANLEY ENTERPRISES, LLC
Commercial Development and Asset Management

February 5, 2021

Mr. Kenneth R. Slater, Jr.
Halloran & Sage LLP
One Goodwin Square
Hartford, CT 06103

RE: 113 N. Maple Street
Enfield, CT

Dear Attorney Slater-

This letter shall serve as official notice that Winstanley Enterprises, LLC ("WE LLC") intends to lease the balance of the 240,000 SF (Tenant B) suite to a first-class distribution company that will be compatible with the overall quality of the project and is similar to Agri-Mark. Winstanley commits to not pursue companies that are performing heavy manufacturing, generate excessive noise in their operations, generate hazardous chemicals, or emit noxious odors.

If you have any further questions on the future Tenant B space, do not hesitate to contact me.

Sincerely,

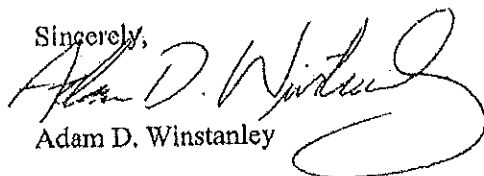
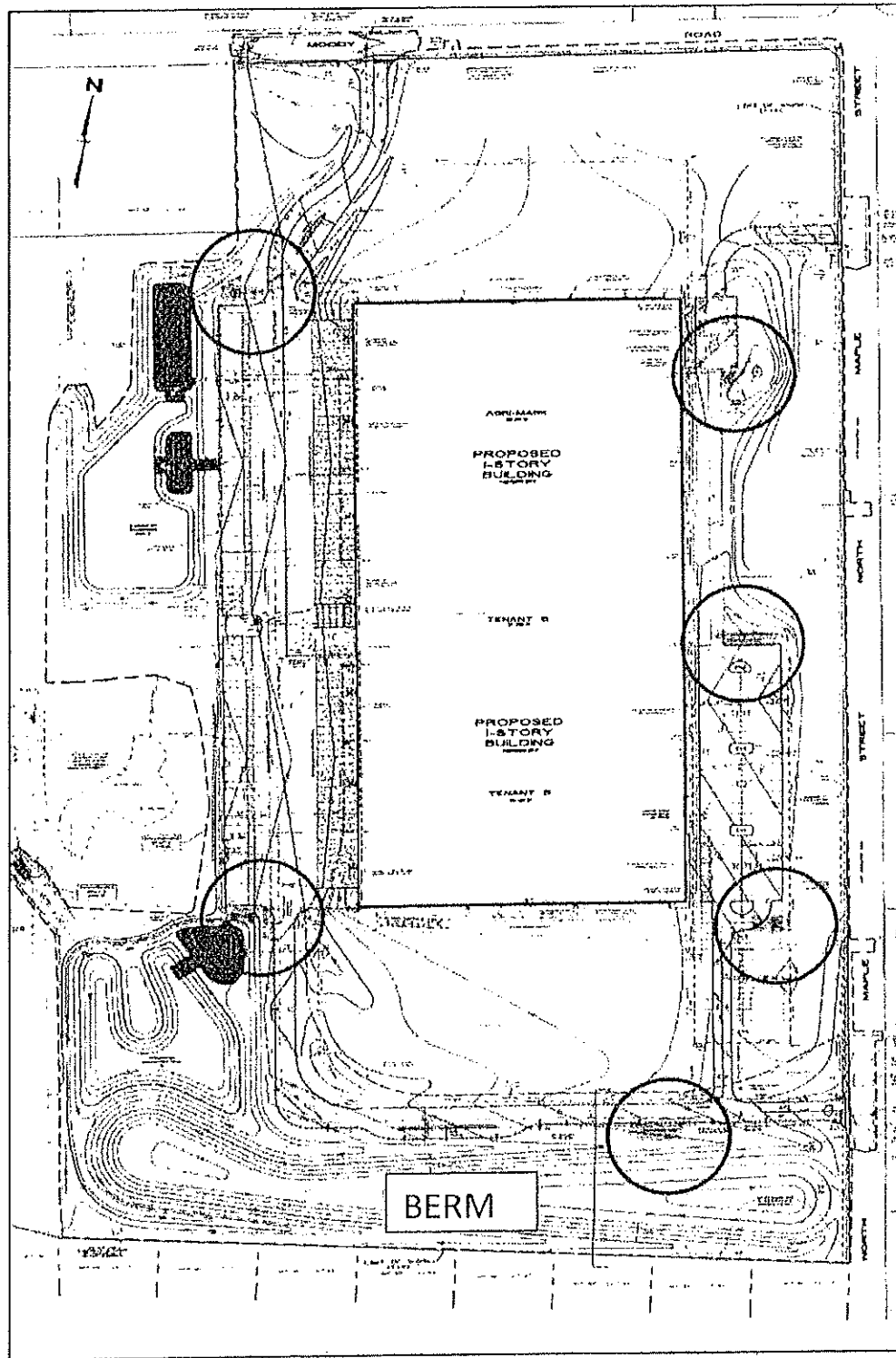

Adam D. Winstanley

Exhibit G

Snow Management/ De-icing Plan

113 N. Maple Street Snow Storage Areas as Depicted on Site Plan Approved by the Town of Enfield



113 North Maple Street -Enfield, CT Snow Storage and De-icing Plan

- Prior to first storm, establish plowing schedule and review proposed materials for treatment of ice/snow conditions
- Conduct site visit to confirm snow storage areas consistent with approved site plan and install stakes as appropriate
- Only calcium chloride, sand and non-toxic additives pre-approved by Winstanley will be applied
- Use of glycol-containing de-icing products is prohibited
- Use of Sodium chloride (aka rock salt) and/or sodium chloride blends are prohibited
- If applicable, procure de-icing materials as approved and directed by Winstanley Property Management
- Materials are to be applied to impervious surfaces only; landscaping and grassed areas are to be avoided
- Plow logs to record date/time and work performed will be maintained by the contractor and reviewed by Winstanley Property Management
- Snow storage areas will be monitored; when size or height becomes an issue snow will be removed from the site as directed by Winstanley Property Management
- Dependent on the forecast and if extended cold weather or snow is anticipated, contractor will pretreat all roadways and sidewalks prior to a storm, as needed
- Sand may be applied by hand, sidewalk spreader or truck spreader, to provide additional traction
- All sand applied over the course of the winter season will be collected and removed from the site based on seasonal conditions but no later than May 15th of each year

Exhibit H

Commission Agenda For May 6, 2021

ENFIELD PLANNING AND ZONING COMMISSION
SPECIAL MEETING/Executive session
THURSDAY, MAY 6, 2021 – 7:00PM
VIRTUAL MEETING

Call to Order & Pledge of Allegiance

Chairman Nelson called the meeting to order at 7:00 PM.

Roll Call

Present were Commissioners Frank Alaimo, Ken Nelson, Virginia Higley, Linda DeGray, Rich Szewczak, and Alternate Commissioner Vinnie Grillo. Absent was Commissioner Mary Scutt, and John Petronella.

Also present were Laurie Whitten, Director of Development Services, Jennifer Pacacha, Assistant Town Planner, along with Town Attorney James Tallberg, and Assistant Town Attorney Mark Cerrato.

Motion: Commissioner Alaimo made a motion, seconded by Commissioner Szewczak, to go into executive session. Re: Discussion/Resolution to settle Stephen Meade, et al. v. Enfield Planning and Zoning Commission, et al., per the attached Motion for Approval of Stipulated Judgment Pursuant to General Statute §8-8(n). The motion passed with a 6-0-0 vote at 7:02 pm

Votes: 6-0-0

At 7:23 The Commission came out of executive session.

Chairman Nelson announced that while in executive session no motions were made, nor decisions taken. Present in executive session were Present were Commissioners Frank Alaimo, Ken Nelson, Virginia Higley, Linda DeGray, and Rich Szewczak, Alternate Commissioner Vinnie Grillo. Also present were Laurie Whitten, Director of Development Services, Jennifer Pacacha, Assistant Town Planner, along with Town Attorney James Tallberg, and Assistant Town Attorney Mark Cerrato.

Commissioner Szewczak took roll call to confirm that all 6 PZC members were still in the meeting.

Some discussion ensued regarding the terms of the stipulated judgement, with Adam Winstanley and Attorney Ken Slater joining the conversation.

Commissioner Szewczak made a motion, seconded by Commissioner DeGray ,
RESOLVED, that the Enfield Planning & Zoning Commission does hereby approve the Stipulated Judgment for the zoning appeal Stephen Meade, et al. v. Enfield Planning and Zoning Commission, et al., Docket No. HHD-CV-20-6132034-S; and BE IT FURTHER RESOLVED, the Town Attorney, James N. Tallberg, or his designee, is authorized to execute the attached Stipulated Judgment documents for the above referenced appeal.

Prepared by: Office to the Town Attorney Date Prepared: May 3, 2021. Motion was approved unanimously.

Votes: 6-0-0

Adjournment

Motion: Commissioner DeGray made a motion, seconded by Commissioner Szewczak adjourn at 7:33PM. The motion passed unanimously.

Votes: 6-0-0

Respectfully Submitted,

Richard Szewczak, Secretary