

## Select Board Meeting

Tuesday, July 11, 2023

Executive Session 6:30 PM

Regular Session 7:00 PM

School Committee Room, School Administration Building  
30 Whittier Court, Andover, MA 01810

ANDOVER TOWN CLERK  
RCUD 2023 JUL 7 PM2:58

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### I. Call to Order – 6:30 P.M.

### II. Executive Session

- A. Board to vote to go into Executive Session pursuant to Purpose 3 for confidential communication with Counsel to discuss strategy with respect to litigation filed by William Fahey, and pursuant to Purpose 6 to discuss the purchase, exchange, lease, or value of real property, and vote to approve and not release the Executive Session meeting minutes of June 12, 2023; and for the Chair to declare that an open session may have a detrimental effect on the litigation and negotiation position of the Town; and to return to open session.

### III. Opening Ceremonies

- A. Moment of Silence/Pledge of Allegiance

### IV. Communications/Announcements/Liaison Reports

### V. Citizens Petitions and Presentations

### VI. Regular Business

- A. Local Initiative Project Application – 2<sup>nd</sup> Reading

Andover Community Trust to present a Local Initiative Project application for the development of an affordable home at 13 Mary Lou Lane. Board to consider voting to support the application.

- B. American Rescue Plan Act (ARPA) Funding Framework

Board to receive an update on ARPA funds and consider voting a revised funding framework.

- C. Year End Transfers

Board to consider voting to approve year-end transfers.

- D. Phillips Academy Andover Voluntary Contribution Agreement

Board to consider voting to approve an agreement with Phillips Academy Andover for voluntary contributions to the Town of Andover.

## VII. Consent Agenda

### A. Appointments by the Town Manager

Board to vote that the following appointments by the Town Manager be approved.

Department	Name	Position	Rate/Term	Date of Hire
Andover Fire Rescue	Jeffrey Hanson <i>(Kevin Bosse)</i>	Firefighter	\$64,308.16/yr	7/10/2023
Memorial Hall Library	Dianna Rodriguez <i>(Lori Ann Burke)</i>	Library Assistant	\$27.40/hr	7/17/2023
Town Clerk	Heather Nichols	Customer Service Assistant	\$27.40/hr	7/12/2023
Andover Green Advisory Board	Melanie Cutler	Member	Term Expires 6/30/2026	7/1/2023
Andover Green Advisory Board	Aseem Juneja	Member	Term Expires 6/30/2026	7/1/2023
Audit Committee	Steven Caron	Member	Term Expires 6/30/2026	7/1/2023
Ballardvale Historic District Commission	Diane Derby	Member	Term Expires 6/30/2026	7/1/2023
Ballardvale Historic District Commission	John Maier	Member	Term Expires 6/30/2026	7/1/2023
Board of Assessors	David Billard	Member	Term Expires 10/31/2023	7/1/2023
Board of Assessors	Patrick Lawlor	Member	Term Expires 10/31/2023	7/1/2023
Board of Health	Pamela Linzer	Member	Term Expires 6/30/2026	7/1/2023
Commission on Disability	Kathleen Dolan	Member	Term Expires 6/30/2026	7/1/2023
Commission on Disability	Jemma Lambert	Member	Term Expires 6/30/2026	7/1/2023
Commission on Disability	Patricia Leelman	Member	Term Expires 6/30/2026	7/1/2023
Commission on Disability	Stephen Surette	Member	Term Expires 6/30/2026	7/1/2023
Conservation Commission	Donald Cooper	Member	Term Expires 6/30/2026	7/1/2023
Conservation Commission	Floyd Greenwood	Member	Term Expires 6/30/2026	7/1/2023
Cultural Council	Peter Fenzel	Member	Term Expires 6/30/2026	7/1/2023
Cultural Council	Amie Joof Senghore	Member	Term Expires 6/30/2026	7/1/2023
Design Review Board	Jonathan Fournier	Member	Term Expires 6/30/2026	7/1/2023

Housing Partnership Committee	Kevin Cuff	Member	Term Expires 6/30/2026	7/1/2023
Housing Trust Fund Board of Trustees	Susan Shepard	Member	Term Expires 6/30/2026	7/1/2023
MBTA Communities Working Group	William Walsh	Member	Term Expires 6/30/2025	6/12/2023
Open Space Task Force	Rebecca Backman	Member	Term Expires 6/30/2026	7/1/2023
Open Space Task Force	Jane Gifun	Member	Term Expires 6/30/2024	7/1/2023
Open Space Task Force	Floyd Greenwood	Member	Term Expires 6/30/2026	7/1/2023
Open Space Task Force	James Leahy	Member	Term Expires 6/30/2025	7/1/2023
Open Space Task Force	Michael Lindstrom	Member	Term Expires 6/30/2026	7/1/2023
Open Space Task Force	Kenneth Russo	Member	Term Expires 6/30/2026	7/1/2023
Open Space Task Force	Susan Stott	Member	Term Expires 6/30/2024	7/1/2023
Trustees of Memorial Hall Library	Karen Van Welden-Herman	Member	Term Expires 6/30/2026	7/1/2023
Trustees of Memorial Hall Library	Mark Yanowitz	Member	Term Expires 6/30/2026	7/1/2023
Trustees of Spring Grove Cemetery	Kevin Connors	Member	Term Expires 6/30/2026	7/1/2023

### VIII. Approval of Minutes

- A. Board to approve minutes from the following meetings:
1. March 29, 2023 – Joint Meeting of the Select Board and Finance Committee
  2. May 31, 2023 – Joint Meeting of the Select Board, Finance Committee and Andover High School Building Committee

### IX. Adjourn

*If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Kathryn Forina in the Town Manager's Office at 978-623-8215 or by email at [kathryn.forina@andoverma.us](mailto:kathryn.forina@andoverma.us)*

MEETINGS ARE TELEVISED ON  
COMCAST CHANNEL 22 AND VERIZON CHANNEL 45



Melissa Danisch, Chair  
Andover Select Board  
36 Bartlet Street  
Andover, MA 01810

Dear Ms. Danisch and members of the Andover Select Board,

This background letter is to facilitate the request of a memorandum of support for the LIP application for Andover Community Trust's development of one permanently affordable home at 13 Mary Lou Lane. The following discussion is provided to address concerns that were voiced during the June 12 Select Board meeting and in letters following the meeting including comments as to lot size, traffic and safety, drainage, and subsidized housing inventory (SHI) and needs. We are not responding to comments made that are easily answered or corrected from available materials.

#### **Lot Size**

The Andover Zoning Bylaw currently provides that a market rate home in an SRA district should be situated on a lot of 15000 sq. ft. or more. We are not building a market rate home but rather a permanently affordable home, and this lot area requirement is not applicable to permanently affordable homes. Both Mass. Chapter 40B and the Andover Zoning Bylaw (recodified 7.1) are in place for the "purpose of encouraging the development of affordable housing" thereby "increasing the supply of housing in the town that is available to low and moderate-income households." Under this statutory provision, all dimensional requirements of the lot, including area, frontage, and setbacks, may be modified to "accomplish the purpose and intent" of the law. Neither the 40B or Andover Zoning Bylaw impose any minimum lot requirement for an affordable home. Both of these laws allow for the building of a home at 13 Mary Lou Lane on a lot of any size as long as the home is an "affordable home" as defined. (Chapter 40B establishes a minimum house size of an affordable home as 1200 sq. ft., and the Andover Zoning Bylaw establishes a maximum house size of 2000 sq. ft.)

A Shawsheen Hylands resident writes that zoning is "in place to protect the cohesion ... of neighborhoods." We agree that zoning's intent is to keep residential areas residential and industrial areas away from where people live, and can support thriving business centers and multi-use areas. However, zoning does not, as the resident suggests, require or imply that all of the residential lots and homes in a neighborhood need to be the same. The Shawsheen Hylands neighborhood itself is a good example of this distinction, with the vast majority of homes (29 of 31) on Theodore Avenue, Arthur Road, and Marilyn Road are on lots smaller than the current requirement of 15000 sq. ft. for market rate homes. These lots are currently nonconforming lots in terms of lot size, frontage and setbacks (map attached). Shawsheen Hylands includes Mary Lou Lane, which was developed after 1955 when the zoning parameters were increased, imposing more restrictions on single family homes. As explained in the Andover Housing Trust Fund Board letter, this type of zoning is known as exclusionary zoning and has been shown to connect to racial segregation. (See also National Low Income

Housing Coalition, *Overcoming NIMBY Opposition to Affordable Housing*, “Regulations that unduly restrict flexibility in housing types ... allow existing patterns of segregation to continue.”)

Local zoning changes and land use decisions have historically resulted in racially and economically segregated communities (see Richard Rothstein’s *The Color of Law*). As described in *Sightline; Invisible Walls Shutting You Out?*, the United States has a long, unfortunate history in which zoning has been used to wall off neighborhoods “for only the biggest houses on big lots.” Those invisible walls can shut off opportunity and promise.

**Mass. Chapter 40B is a zoning law adopted in 1969 to encourage the building of more affordable homes in all residential neighborhoods in all towns and cities in Massachusetts. It was passed to directly counteract the changes in zoning that were putting more restrictions on building in the 1950s and 1960s, like we see in the change from the development of Arthur Road with its 8500 sq. ft. minimum lot area and 75 ft. frontage (F30/S15/R30) to Mary Lou Lane’s 15000 sq. ft. area and 125 ft. frontage (now 115 ft.). Later, and even greater, changes in increasing lot sizes in parts of Andover have led to more invisible walls and contributed to the inability of housing supply to respond to the demand.**

Andover has existed for over 380 years, while zoning has only been in place in Andover since 1936. In those 87 years residential lot parameters have changed more than 5 times. We have many residential neighborhoods that have developed over time and are composed of different lot sizes and setbacks as well as different sizes and shapes of homes. Neighborhoods that are a mix of homes of all shapes and sizes have been shown to be healthier neighborhoods for all.

Nearly all of the comment letters reflect some confusion and misunderstanding of the zoning and other laws that would apply to 13 Mary Lou Lane. Most commonly, the letters seek to apply the 15000 sq. ft. lot requirement for market rate housing to the proposed project, which, as noted above, is an affordable home, and therefore not subject to any lot size requirement. As a result, there is no possibility, as proposed by one of the commenters, that approving the dimensions of 13 Mary Lou Lane would somehow “set precedent” for lot standards for future affordable home projects.

One commenter opined “This proposed home would be undersized.” The 40B design guidelines set a minimum of 1200 sq. ft. for an affordable home with 3 bedrooms and 1 ½ baths. This home would be 1400-1450 sq. ft., 3 bedrooms and 1 ½ baths.

At least three of the comment letters objecting to ACT building on a “nonconforming lot” (less than 15000 sq. ft.) were submitted by homeowners who currently live in homes situated on what are now “nonconforming lots” in Shawsheen Hylands (less than 15000 sq. ft. and less than 115 ft. frontage). These homeowners and many other Andover homeowners live in market rate homes on nonconforming lots that could not be built today because of current zoning regulations for market rate homes.

Another commenter expressed the view that “I fear others will want to divide their property.” We note that subdivision of land parcels and conversion of homes have been part of housing development for centuries. Andover Zoning Bylaw outlines special regulations covering many different kinds of developments, residential, commercial and industrial. Each has specific procedures to be followed and administrators to ensure compliance. Numerous developments across Andover have specifically been created by individuals selling a parcel and developers subdividing those parcels.

We hope that Andover residents will use this opportunity to update and familiarize themselves with the legal requirements for affordable homes in Andover and the advantages those homes can provide to the standard and quality of life in Andover. In short, we hope Andover residents will come to view affordable homes on lots, such as the 13 Mary Lou Lane site created by Cleary Associates, to be desired rather than feared.

### **Traffic and Safety**

A number of commenters cited concerns about potential traffic and safety issues that they perceived would be created by building this home in the Shawsheen Hylands neighborhood. Following the June 12 Select Board meeting, we contacted the Andover Police Department and were advised that there have been no traffic issues with respect to Mary Lou Lane: no speeding complaints, no citations, no accidents, no requests for speed bumps. Officer Ota pointed out that Mary Lou Lane is not a cut-through for any traffic; in fact, it is a street off a street off a street off a main street, and traffic on the street is limited to the needs of the 15 residences. The street is included in the new 25 mph speed zones.

In their comment letters, neighbors describe the street as “quiet” and “walkable.” One resident’s placement of a basketball hoop in the street on Mary Lou Lane may provide the best evidence that traffic and street safety are not recurring concerns for parents. One author emphasizes the many neighborhood families that benefit from the neighborhood's amenities, although the same commenter concludes that the addition of one additional family in a single additional home in the neighborhood will, apparently, lead to the end of the neighborhood's civilization as it currently exists.

One resident writes “My biggest concern is safety. Building a home on this corner will significantly impact my line of sight to my children playing with other children in the neighborhood.” This resident’s possible inability to see her child playing over 350 feet away from her front door may be an inconvenience to her personally, but it does not constitute a neighborhood safety issue. One could, on the other hand, take into consideration how the addition of a home on this lot could introduce a new playmate or two, or improve the children's social interactions and with neighbors playing in their yard or driveway.

It is helpful to compare these traffic and safety concerns with the letter of support received from an Andover resident who lives on a much busier street than Mary Lou Lane and who lives across the street from a health club. The health club obviously poses significantly greater traffic and safety concerns for children than would another home. This commenter explains that she considers it her responsibility to contact the school transportation office to ensure a safe school bus pickup location for her own children, because safety starts with *having* a home. This commenter understands that building affordable homes is a community improvement that should not be negated by personal inconvenience.

### **Drainage**

We will be requesting the removal of 1 of the 3 trees situated on the public way. The property contains 4 trees that will be removed to accommodate the building foundation and the solar panel production. Some commenters expressed concerns that removal of these trees would materially adversely impact drainage in the area. We note that there are no applicable restrictions for property owners to trim or remove trees on their property for any reason, including planting a more appropriate species or in a more appropriate location, control of disease, or simple aesthetics. Based on statistics published by the U.S. Energy Information

Administration, carbon-dioxide emissions at 13 Mary Lou Lane would be reduced to a much greater extent by the long-term solar panels installed on the proposed home than via absorption by the trees to be removed.

One commenter referenced a pond that was bulldozed over in the area to make way for many houses. This presumably would have occurred around 1955, when Mary Lou Lane was developed. There is no pond visible at this location in available 1938 or 1965 maps on Historic Aerials. More importantly than this 68 year-old anecdotal information, under current conditions the report by the Weston & Sampson hydrologist who observed the test pit found no evidence of groundwater above the excavation of 10'2" (attached).

In response to concerns about the drainage, we also reviewed a memorandum that we received from Jack Petkus, Director of the Andover DPW, with respect to the 1700 sq. ft. home proposed for 13 Mary Lou Lane in 2010. As that memo states without qualification, "The additional [drainage] flow contribution by one small home is miniscule and will not materially contribute to any existing drainage issue."

### **Subsidized Housing Inventory and Needs**

One commenter suggested that the building of this home is "not necessary" because Andover's SHI percentage is over 10%. Presumably the commenter is referring to one of the goals of Mass. Chapter 40B, which is to make at least 10% of every community's housing affordable. We note that this minimum percentage is one of a number of factors that might be considered, in appropriate circumstances, as part of the ZBA's approval process, following state approval. Moreover, invocation of the SHI minimum percentage in the present context is significantly misleading, because the calculation is based on the number of "SHI units," which includes both affordable ownership units available currently as well as those lost over time plus both market and affordable rental units in permitted Chapter 40B projects. In fact, Andover currently has 979 affordable units (140 ownership units plus 839 rental units), which represents **7.2%** of the 13,541 total housing units per the 2020 census.

One commenter expressed the conclusion "there is no need" to build this home. The facts suggest otherwise. The lack of housing in Andover and elsewhere in Massachusetts is evident from high housing prices and low housing vacancy rates. In Andover as well as Massachusetts generally, more than 50% of renters pay more than 50% of their incomes towards rent. "Today home prices and rents remain elevated from pre-pandemic levels, leaving millions—including a disproportionate share of people of color—struggling with housing cost burdens, priced out of homeownership or without shelter at all." (Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 2023*).

The average housing price in Andover is currently over \$800,000, while the median household income for Andover is \$113,684 (2020 census). By building more homes and lowering housing costs, Andover can narrow this "affordability gap" between what acceptable standard housing costs and what households can afford using no more than 30% of their income. As just one example, last year ACT had an affordable 2 bedroom condo for resale, for which **there were 30 applicants—one-third of whom worked for the Town of Andover.**

The Shawsheen Hylands neighborhood has historically been considered relatively affordable, with smaller, less expensive homes than some other Andover neighborhoods. Residents opposing the 2010 proposed project at 13 Mary Lou Lane expressed the opinion that an affordable home was not needed in the area given the affordability of prices. (We have identified sales of homes on Mary Lou Lane for \$387,000 and \$485,000 in 2010 and \$382,000 and \$391,000 in 2012.) However, when the home that sold for \$387,000 in 2010

(\$539,756 in 2023 adjusted dollars) sells for \$826,000 in 2022, it is clear that the neighborhood's affordability has dropped markedly. The home at 13 Mary Lou Lane offers an opportunity to address these changed circumstances, as the homeowners would have gross annual income of no more than \$94,650 and assets totalling no more than \$75,000.

\* \* \* \*

We know from his family that it was always the intention of William Cleary to provide an affordable home in the community and in the Shawsheen Hylands neighborhood where he lived and raised his family. The Cleary family epitomizes the mission of ACT: helping others who are struggling to find suitable housing within their budget and welcoming them as Andover neighbors. We also thank the numerous Andover residents who submitted letters of support for this project. Those letters reflect a realization and appreciation of the housing crisis that we face in circumstances where, as one of the commenters stated, "many of our teachers, children, young families, essential workers and senior citizens are priced out of the community" and where the building of every new affordable home is essential. Contrary to the assertion by one of the opposing residents, it is not the case that "the only one on Mary Lou Lane in favor is the seller at 7 Mary Lou Lane." Multiple neighbors, from Mary Lou Lane as well as elsewhere in Shawsheen Hylands and throughout Andover, have reached out to us in support of the project, although it is an unfortunate aside to these letters that some authors expressed wariness in speaking out publicly due to a fear of retaliation.

We hope this letter will help provide you with additional information and clarification to address concerns raised by opponents of the new project. Please let us know if and when we can provide more information or be of other assistance. We ask that you allow this application to continue to the state with the goal of adding a new affordable home to Andover. We understand that the Selectboard may have reservations and can still agree that the project has merit and should continue onto the next step where the state evaluates the site, the finances, the developer, the construction team, etc. After the state receives an LIP application, a municipality representative is a party to the state evaluation and the municipality has an additional 30 days to send comments.

In closing, it is helpful to remember what is at stake. ACT is currently helping a veteran couple who are homeless and living in their car, but hoping to find housing in Andover. This is the kind of lower income family who could be eligible for the new Mary Lou Lane home. We think it is also worthwhile to note that letters of opposition to the project were submitted by Mary Lou Lane residents whose parents purchased their homes (where these adult children now live) for less than \$10000 in 1956, for \$14000 in 1965, and for \$46000 in 1976, based on their incomes from occupations such as teachers, accountants and assistants. These parents wanted safe, secure homes for their family and wanted better lives for their children. In the current market, however, these longtime Andover residents might have been precisely the kind of families who would not be able to find affordable homes here in Andover. Housing circumstances have changed markedly over the past in Andover and throughout the United States. Without current and future affordable housing initiatives, Andover stands to lose a lot of good people because there are no affordable places to live.

Sincerely yours,

*Denise Johnson*

Denise Johnson  
Executive Director

# MEMORANDUM

**TO:** Denise Johnson, ACT Executive Director

**FROM:** Blake Martin, Weston & Sampson

**DATE:** 6/12/23

**SUBJECT:** Test Pit Results / Subsurface Analysis

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On April 7, 2023, a subsurface investigation was initiated at 13 Mary Lou Lane, Andover, MA. The site is the proposed location of a single-family home with proposed connections to the sanitary sewer. The purpose of the test pit was to determine the depth to groundwater or the seasonal high-water table. This common practice for site characterization of hydrologic conditions includes the careful excavation of soils to reveal undisturbed soil strata on the side walls for the excavation. In addition visible evidence and /or measurements the depth to water, the depth to water entrance into the excavation (indicating a perched water table) or visible staining indicating historic high water levels in the subsurface. In addition these types of test pitting activities are extremely useful for determining if fill or non-native material has been previously placed on the site. Excavations of this nature quickly reveal saturation through sidewall weepage and or standing water collecting in the base of the excavation. Excavations are never left open for an extended period for safety reasons. This excavation was backfilled and compacted returning the site to level conditions at grade.

## Results

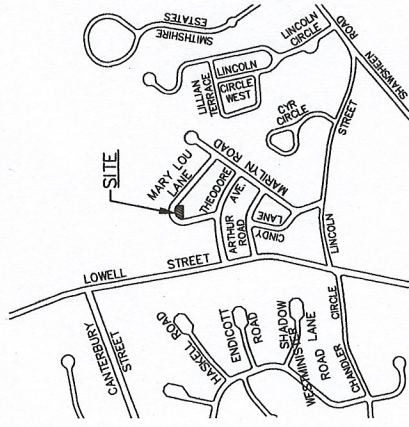
The test pit revealed the following features:

- 0-19" organic topsoil
- 19"-10'2" brown silty sand with trace of clay

Below the upper topsoil layer, the subsurface deposits were consistent to the depth of the excavation (10'2"). No layering or significant staining was evident indicating that groundwater and seasonal high-water table is below the depth of this excavation. No fill or replacement materials were evident within the excavation showing no previous subsurface disruption.

## Conclusion

The construction of a single-family home and corresponding foundation will be constructed well above the groundwater levels on this site. The foundation placement will be above the seasonal high water table and should have no effect on groundwater levels on this parcel.



LOCUS PLAN SCALE: 1"=800'

LEGEND:

- NOTE:
- 1.) ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE TOWN OF ANDOVER RULES AND REGULATIONS FOR SANITARY SEWER SYSTEMS.
  - 2.) ELECTRIC AND TELEPHONE LINES TO BE OVERHEAD.
  - 3.) SEWAGE DESIGN FLOW: 5 BEDROOMS X 110 GPD/BEDROOM = 550 GPD.
  - 4.) THE EXISTING WATER SERVICE SHALL BE DISCONNECTED AT THE MAIN AND A NEW 1 INCH WATER SERVICE SHALL BE INSTALLED FROM THE WATER MAIN.

OWNER/APPLICANT:  
 CLEARY ASSOCIATES, LLC  
 7 MARY LOU LANE  
 ANDOVER, MA 01810

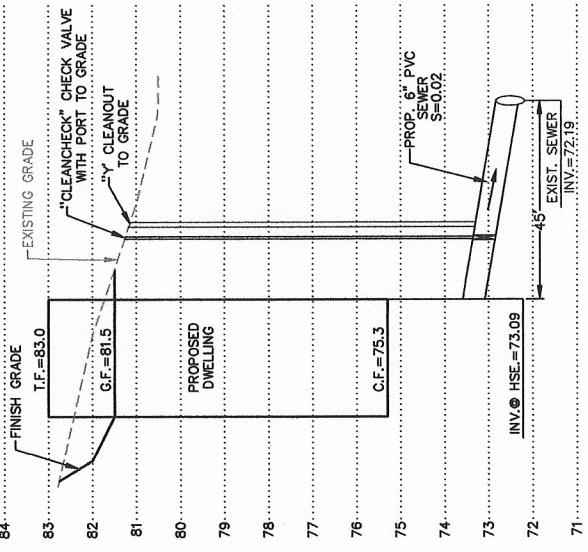
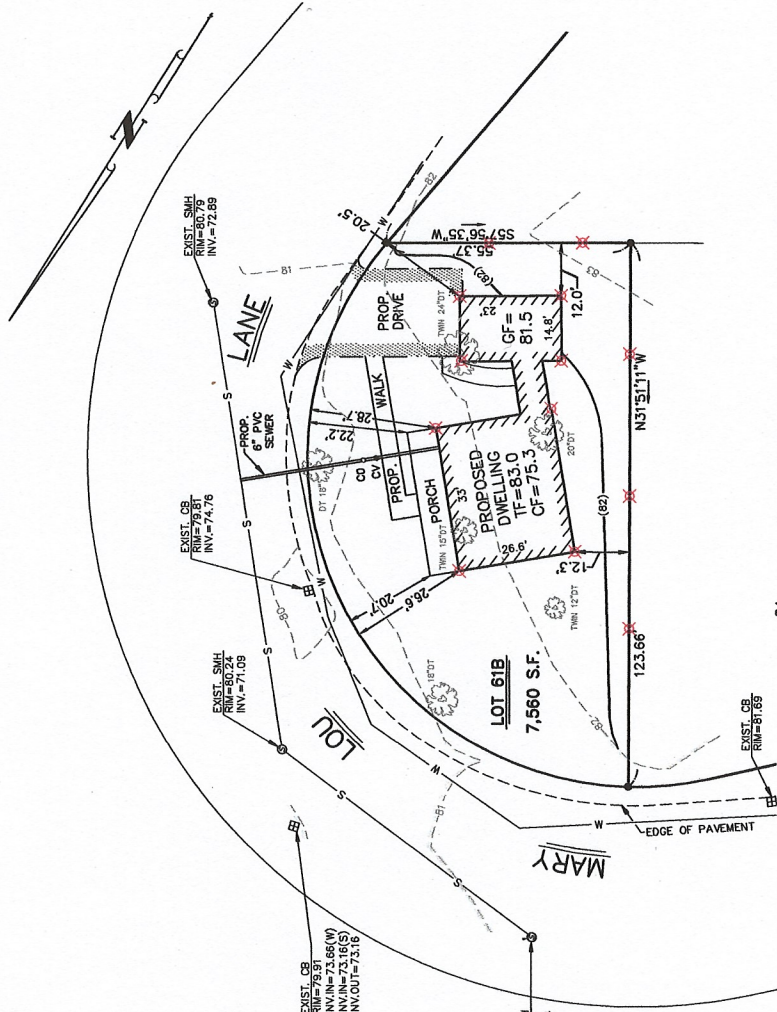
DEED REFERENCE:  
 BOOK PAGE  
 ASSESSORS REFERENCE:  
 TOWN MAP 71 LOT 49A

**PROPOSED SITE PLAN**  
**13 MARY LOU LANE**  
**ANDOVER, MASS**

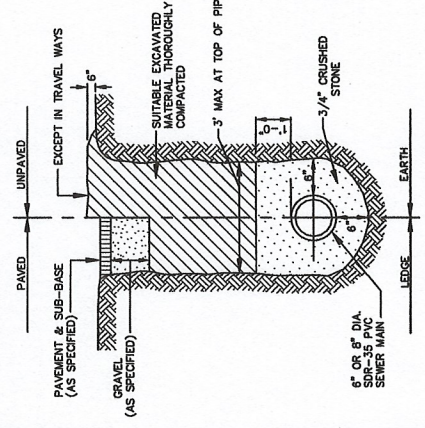
PREPARED FOR: ANDOVER COMMUNITY TRUST  
 DATE: FEBRUARY 9, 2023  
 SCALE: 1"=20'

**FOR**  
**andover consultants**  
**Inc.**

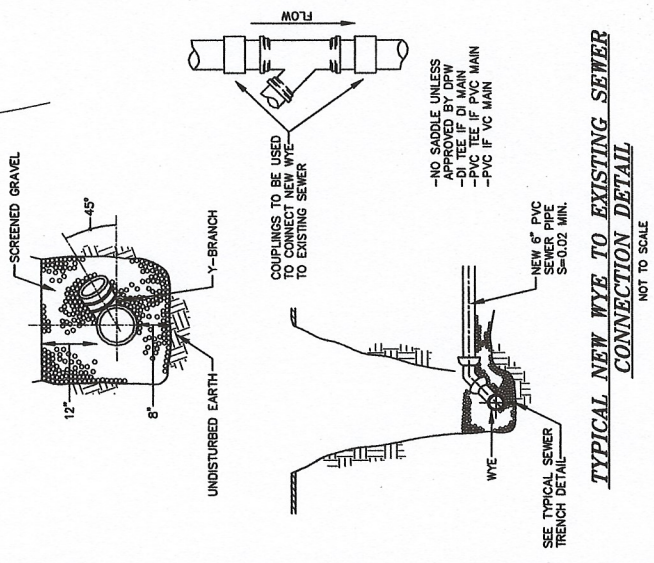
1 East River Place  
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 Reg. Prof. Engineer  
 0 20 40 60 80 Ft.



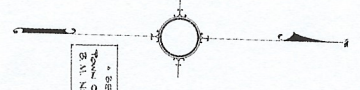
PROFILE - SCALE: HOR.: 1"=40', VERT: 1"=4'



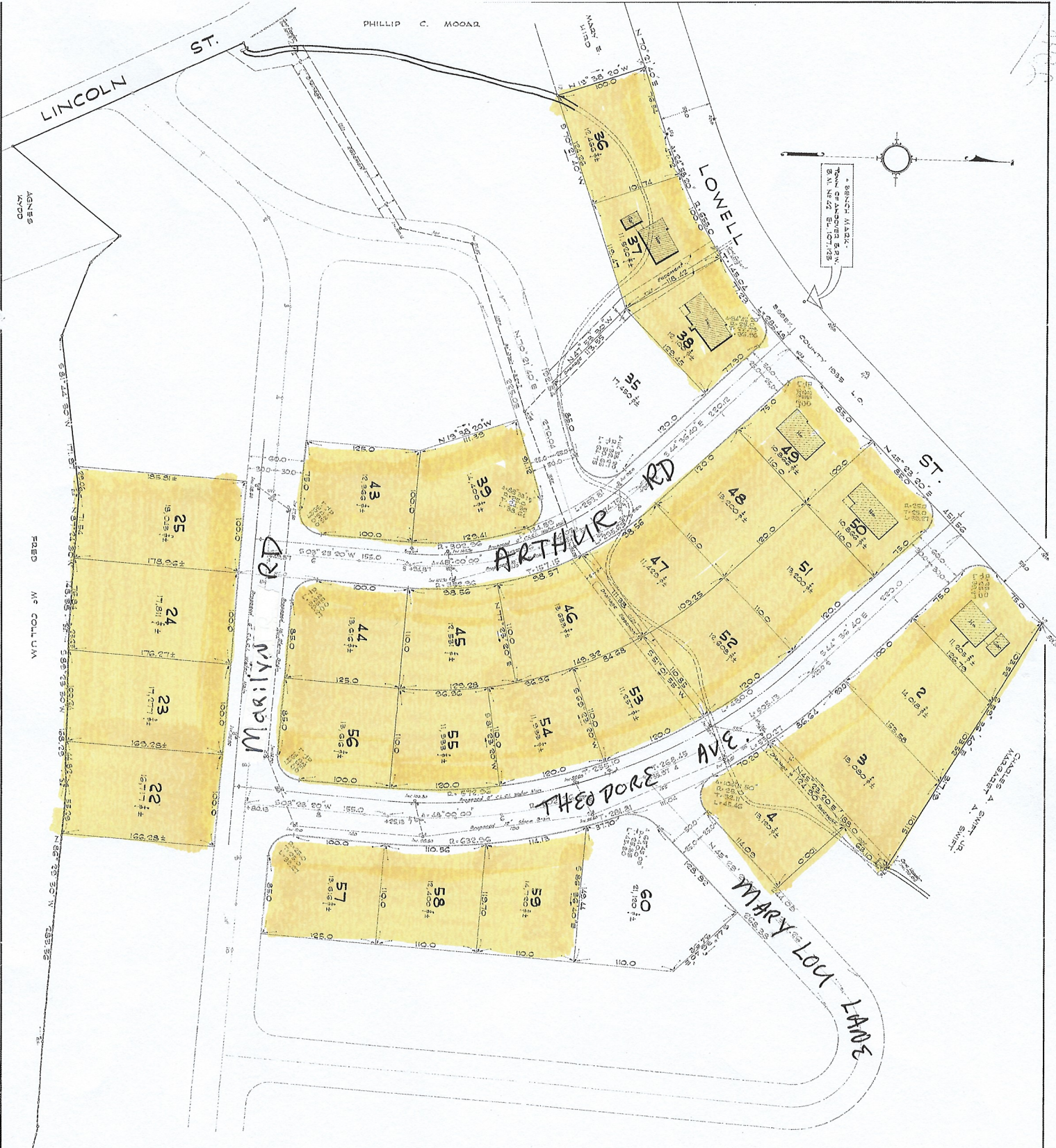
SEWER TRENCH TYPICAL SECTION NOT TO SCALE



TYPICAL NEW WYE TO EXISTING SEWER CONNECTION DETAIL NOT TO SCALE



RESUBDIVISION  
OF SHAWSHEEN HIGHLANDS  
BY PHILLIP C. MOOR



Shawshoen, Duxbury, Mass., 1948. At 10:00 A.M.  
 Public Hearing held at the office of the Board of Health  
 and Sanitation, Duxbury, Mass., on the 10th day of  
 March, 1948.

Witness: *St. Andrew's Church, Duxbury, Mass.*

**SHAWSHEEN HIGHLANDS  
ANDOVER, MASS.**

Owner: *Shawshoen, Duxbury, Mass.*

Engineer: *Phillip C. Moor, Duxbury, Mass.*

City: *Duxbury, Mass.*

Registration Date: *1948.*

Hearing Date: *1948.*

Plan Approved: *1948.*

# TOWN OF ANDOVER, MASSACHUSETTS

JACK PETKUS, P.E.  
DIRECTOR



TELEPHONE  
(978) 623-8350

FAX  
(978) 623-8359

DEPARTMENT OF PUBLIC WORKS  
WATER TREATMENT PLANT  
397 LOWELL STREET 01810-4416

AUG05'10 AM11:34

## MEMORANDUM

TO: Reginald S. Stapczynski, Town Manager  
FROM: Jack Petkus, Director, Department of Public Works  
SUBJ: 13 Mary Lou Lane  
DATE: August 3, 2010

There are 5 catch basins in the vicinity of the proposed house that all feed into a culvert that empties between house numbers 14 and 18 Mary Lou. Drainage flows from this area form the headwaters of a small stream and ponds on the Wood Estate and then empty into the Shawsheen River south of Balmoral Street.

An investigation of the drainage system revealed a problem that we believe has been causing some of the cited drainage issues. Uphill from the ACT site we located a tree root obstructed culvert at Theodore that cannot take high flows so the water flows overland down Mary Lou and overwhelms the basins at the bottom of the hill. We are planning on making repairs later this week or the following week. One other issue that we note is that the culvert outlet needs cleaning of debris that is inhibiting discharge to the stream. The catch basin grate openings have been narrowed by oil/tar residue from earlier paving operations. The proper time to replace the basin frames and grates would be when the road is repaved in a few years. We plan on monitoring the situation after we clear the upstream blockage to evaluate a possible earlier replacement of the drainage structures.

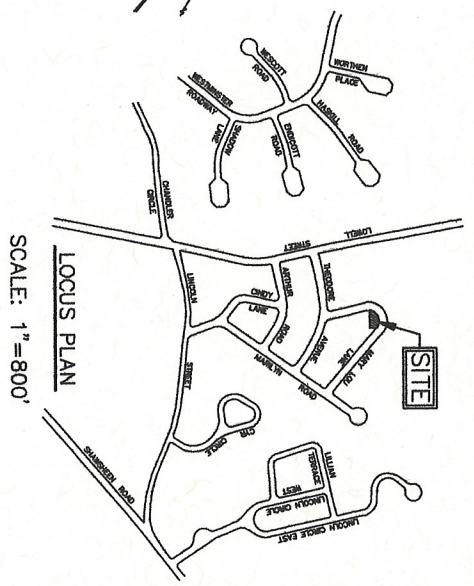
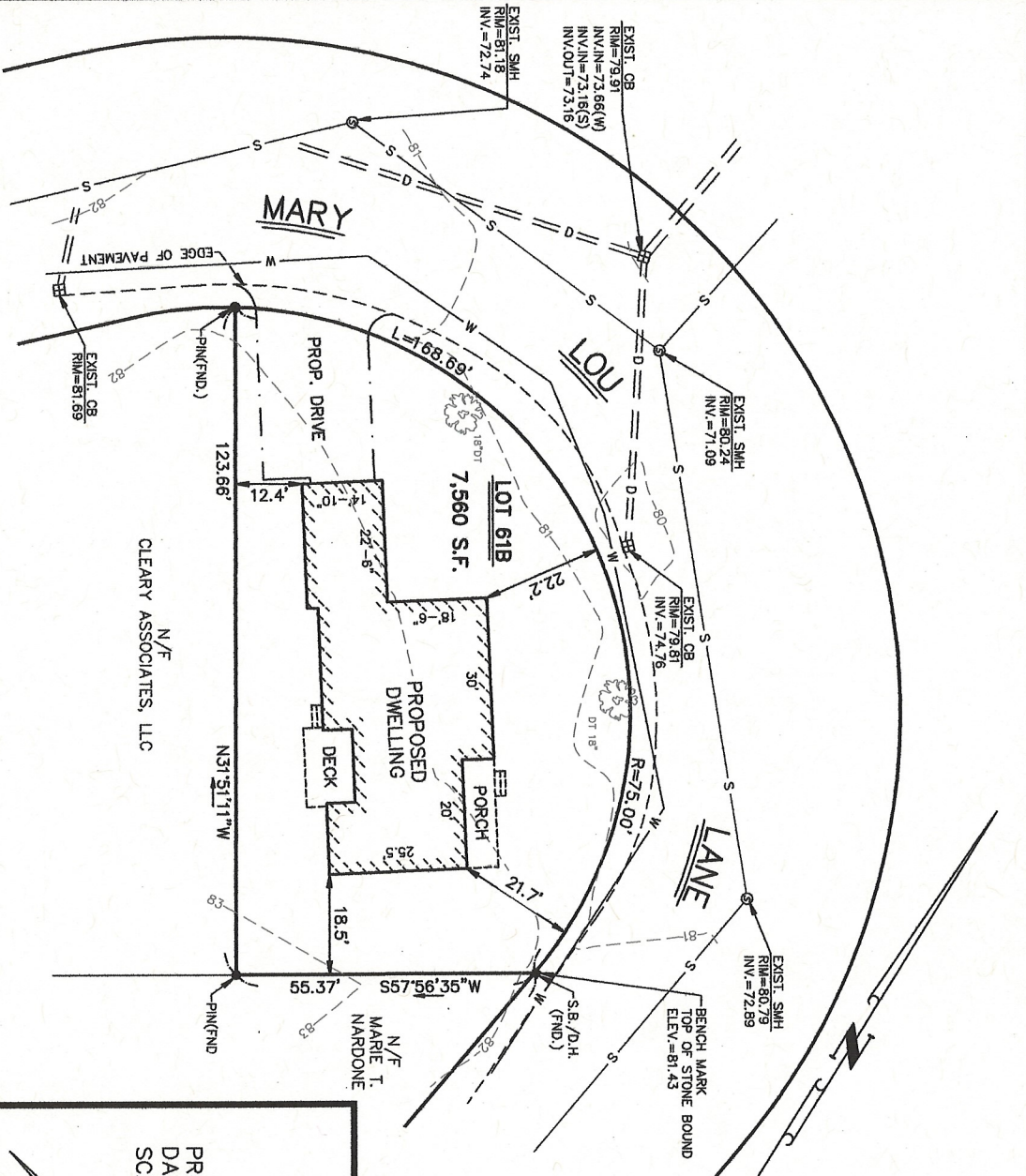
We see no reason to have ACT complete a hydrological or drainage analysis as the additional flow contribution by one small home is miniscule and will not materially contribute to any existing drainage issue. We note that there is no historical data in this area relating to drainage complaints so we see it as a relatively new problem.

cc: Brian Moore, Town Engineer  
Chris Cronin, Highway Superintendent



2010 Proposed Dwellings

110-04.dwg \ZBA.dwg



TOWN MAP NO. 71, TOWN LOT NO. 49

**SITE PLAN**


**13 MARY LOU LANE**

**ANDOVER, MASS.**

PREPARED FOR: ANDOVER COMMUNITY TRUST

DATE: MARCH 25, 2010

SCALE: 1"=20'

 **andover consultants inc.**

1 East River Place  
Methuen, Mass. 01844

William S. MacLeod  
Reg. Prof. Engineer



# TOWN OF ANDOVER

Town Offices  
36 Bartlet Street  
Andover, MA 01810  
(978) 623-8200  
[www.andoverma.gov](http://www.andoverma.gov)

April 14, 2010

Stephen Anderson, Chairman  
Zoning Board of Appeals  
Town Office Building  
36 Bartlet Street  
Andover, MA 01810

**RE: Andover Community Trust 9A Mary Lou Lane Project Recommendation**

Dear Chairman Anderson:

Based on the March 8, 2010 presentation by John Pearson, President of the Andover Community Trust (ACT), regarding its Local Initiative Program application to develop a permanently affordable single family home on 9A Mary Lou Lane, it is the recommendation of the Andover Housing Partnership Committee to support ACT's initiative.

While the proposed structure falls on the low end of the GLA range for neighboring homes and its lot is approximately 50 percent undersized, it still seems likely that the project will be well received by the immediate community, as the home's façade and finishes should be consistent with adjacent properties and its new construction is often welcome in most areas.

The AHPC does not believe there to be substantial reason as to why this project would not support the objectives set forth in the Housing Plan for the Town of Andover. Given the four similar and extremely successful projects that ACT has previously managed, provided its adherence to the same methodology and execution, there is no reason to suspect that 9A Mary Lou Lane would produce dissimilar results.

That said, in accordance with the intent illustrated through Andover Zoning Bylaw Section 7.8 for a Dimensional Special Permit, the Andover Housing Partnership Committee looks forward to the support from the Massachusetts Department of Housing and Community Development as well as the Andover Zoning Board of Appeals, toward the swift approval of ACT's 9A Mary Lou Lane project.

If you have any additional questions, please do not hesitate to contact the Andover Housing Partnership Committee through its Chairperson, Lelani Loder, at 978-430-1665.

Sincerely,

Lelani Loder, Chair  
The Andover Housing Partnership Committee

## LIP Process – Comprehensive Permits

1. Sponsor should contact EOHLC to discuss the project, prior to submitting an application.
2. Sponsor should be in contact with the municipality, since the municipality has to sign the application.
3. Sponsor submits the completed application and all attachments electronically to [Rieko.hayashi@mass.gov](mailto:Rieko.hayashi@mass.gov), along with a check for the fee. N.B.: The application must be signed by the Chief Executive/Elected Official of the municipality (i.e., Mayor, Chair of Select Board, or Town Manager).
4. When EOHLC receives the complete application, including all attachments, it sends one copy back to the municipality, allowing the municipality 30 days for additional comments. EOHLC will not send the 30-day letter until all required information has been received.
5. EOHLC will commission an appraisal, for which the sponsor pays. The appraisal has to be done and the appraiser paid in full prior to the issuance of a Project Eligibility Letter.
6. EOHLC will meet with the sponsor and his/her team, including the architect, and representative of the municipality at the site, to determine whether it meets the LIP 40B criteria. This site visit can take place during the 30-day comment period.
7. EOHLC sends a Project Eligibility Letter (PEL) to the sponsor.
8. The sponsor takes the PEL to the local Zoning Board of Appeal, and applies for the Comprehensive Permit. (The Comprehensive Permit is between the municipality and the sponsor, but EOHLC does ask to review it before it is finalized.)
9. Sponsor records the Comprehensive Permit with the Registry of Deeds and sends EOHLC a copy.
10. EOHLC sends sponsor a template for the Regulatory Agreement (RA), which is a document that will be signed by the sponsor, the municipality and EOHLC. There are several other documents that are required, e.g., Certificate of Good Standing from the Secretary of State's Office and a surety bond or Letter of Credit \$25,000 - \$100,000 (depending on the number of units), before the RA can be executed. The LIP staff will provide a complete list of requirements.
11. Affirmative Fair Housing Marketing Plan and Tenant Selection/Lottery Plan: Part of the initial submission, EOHLC reviews/approves this. EOHLC can begin the review prior to the PEL being issued.
12. The sponsor sends to EOHLC 3 original copies of the RA (with wet signatures), signed by the municipality and the sponsor. When EOHLC has signed, we send two of the three back to the sponsor for recording at the Registry. Once recorded, the sponsor sends back a copy of the first

page, with Book and Page legible. (The LIP staff will provide further instructions if electronic signatures are acceptable.)

13. The sponsor of a rental project must submit the Certificate of Substantial Completion to EOHLIC, prepared and signed by the architect as soon as it is available.
14. Within 6 months of substantial completion (rental) or when the last home has been sold, the sponsor must submit the cost certification for EOHLIC's review and approval. Once EOHLIC has reviewed the cost certification and resolved any issues, EOHLIC will send the material to the municipality, allowing 30 days for municipal comment. The surety bond or LOC will be released when the cost certification has been accepted by EOHLIC and reviewed by the municipality.
15. Rental projects are also subject to an annual monitoring fee, based upon the number of units. Projects are monitored once leased up and thereafter on a regular basis, depending on size of project and history of non-compliance. Municipalities monitor home ownership projects.

# Local Initiative Program

Rieko Hayashi and

Aly Sabatino

June 15, 2023

Edward M. Augustus Jr.,  
Secretary



Commonwealth of Massachusetts  
**EXECUTIVE OFFICE OF HOUSING &  
LIVABLE COMMUNITIES**

# What is LIP?



A program that encourages locally-driven efforts to create affordable housing.



It falls under Chap. 40B, and was created in response to opposition to 40B and the development of affordable housing projects.



LIP provides a mechanism to encourage locally supported affordable housing, where the municipality is engaged in the development of the project, prior to any application to EOHLIC.

# Two Types of LIP Projects



**“Friendly 40B”:  
Projects permitted  
with a Comprehensive  
Permit (LIP 40B)**

Municipality must  
support – application  
signed by Chief Elected  
Official; other support,  
e.g., CPA funds



**“Local Action Units”  
(LAU)**

Municipal action  
required

Municipality submits  
application

# Examples of LIP Projects



New construction

Building conversion

Substantial rehabilitation

Large and small rental projects

Homeownership – both single family and condo

First Time Homebuyer Buydown Programs

Non-profit sponsored projects



# LIP is Popular and Growing

Since its inception in the 1980's, approximately 40,000 units of housing have been approved, of which almost 8,000 are affordable.

In 2022, 1,955 units were approved under LIP.

Of those units, 1,227 were Local Action Units and 728 were LIP 40B units.

Projects are developed across the State.

# Why is LIP Appealing to Housing Partners?

Eligible units will count on the  
Subsidized Housing Inventory

Locally endorsed projects -  
community has a say in the early  
stages

Non-competitive process - is fairly  
simple, since no state subsidy is  
allocated

Comprehensive permit a good  
vehicle for consolidating waivers,  
etc.

# Project Requirements

- Market and affordable homeownership units must be indistinguishable from the exterior
- Affordable units must be distributed proportionately throughout the development
- All amenities must be made available to all residents
- Ten percent of total units in a family development must be 3 bedroom and be distributed proportionately throughout the project, both by location and income tier.



# LIP 40B Application Process



## Contact EOHLC before submitting



## Requirements - in application

Application signed by municipality; submitted by developer along with application fee  
Return to municipality for 30-day review  
Appraisal – commissioned by EOHLC  
Site visit with EOHLC, sponsor, and local officials



## Issuance of Project Eligibility Letter to obtain Comprehensive Permit

# LIP 40B Application Process (cont'd.)

**PEL to ZBA for comprehensive permit**

Municipality and developer

**Approval of Affirmative Marketing  
Plan and Tenant Selection Plan**

**Regulatory Agreement**

Municipality,  
developer, and  
EOHLC

Can take several  
months

Serves as the  
“Final Approval”

# Local Action Unit Application Process



## Key Requirements:



Application submitted by municipality



Evidence of Local Action



Affirmative Marketing Plan and Lottery



Regulatory Agreement





# Examples of Local Actions that are Eligible for LAU:

- Zoning-based approvals (e.g., special permit, or other discretionary zoning approval),
- “As of Right” approvals which is defined in state law as “development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver or other discretionary zoning approval,
- Conveyance of publicly owned land,
- Utilization of Community Preservation Act funds.

*The municipal action must be conditioned on the provision of affordable units.*

# Project Requirements

- Market and affordable homeownership units must be indistinguishable from the exterior
- Affordable units must be distributed proportionately throughout the development
- All amenities must be made available to all residents



# Fair Housing Framework

- **Obligation to affirmatively further fair housing**
  - maximum opportunities for persons protected under fair housing laws through marketing, application process, and selection policies and procedures

# Marketing Plan Contents

A description of marketing and outreach

Sample ads/publications, social media

Application materials

Informational materials

Eligibility requirements

Lottery and resident selection procedures

If there is a local preference include a clear description of the preference used

# The Subsidized Housing Inventory (SHI)

- **The SHI is a list of the number of subsidized units in each community and the percentage of all units**
- **Generally, units count if:**
  - Developed under an eligible state or federal subsidy program
  - Affordable to households at or below 80% of area median income
  - Have long term use restrictions
  - Are subject to an Affirmative Fair Housing Marketing and Resident Selection Plan



# What is Counted on the SHI?

- **Rental:** If at least 25% of the units are at 80% AMI or below, or at least 20% are at 50% AMI or below, and such units meet LIP criteria, then all units count. If there are fewer proposed units, only the affordable ones will count
- **Ownership** - only affordable units meeting LIP criteria count.

# Contact Information

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**Rieko Hayashi, LIP Director**

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**Phone: 617.573.1426**

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**[Rieko.Hayashi@Mass.Gov](mailto:Rieko.Hayashi@Mass.Gov)**

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**Aly Sabatino, LAU Coordinator**

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**Phone: 617.573.1328**

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**[Alyxandra.Sabatino@mass.gov](mailto:Alyxandra.Sabatino@mass.gov)**

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**Margaux LeClair, Counsel,**

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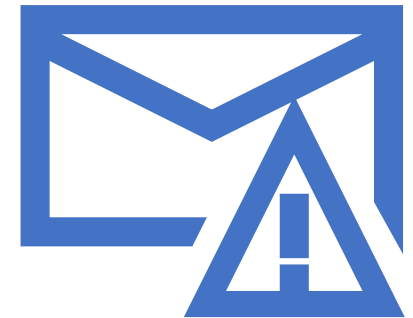
**Subsidized Housing Inventory**

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**Phone: 617.573-1526**

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**[Margaux.LeClair@Mass.Gov](mailto:Margaux.LeClair@Mass.Gov)**



# Resources

## LIP Website-

<https://www.mass.gov/service-details/local-initiative-program>

## SHI Website-

<https://www.mass.gov/service-details/subsidized-housing-inventory-shi>





## Joint Meeting of the Select Board and Finance Committee

Wednesday, March 29, 2023 7:00 PM

School Committee Room

30 Whittier Court, Andover, MA 01810

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### I. Call to Order – 7:00 P.M.

Select Board Chairperson Alex Vispoli called the Joint Meeting to order at 7:00 PM and initiated roll call. Present for the Select Board: Alex Vispoli-Y, Annie Gilbert-Y, Laura Gregory-Y, Chris Huntress-Y and Melissa Danisch-Y.

Finance Committee Chairperson Kevin O’Handley called the Finance Committee to order and initiated roll call. Present for the Finance Committee: Kevin O’Handley-Y, Yican Cao-Y, Aaron Buzay-Y, Paula Colby-Clements-Y, Bill Haskell-Y, Paul MacKay-Y, Andy McBrien-Y, Kim Perry-Y, Ken Russo-Y.

Others in Attendance: Town Manager, Andrew Flanagan and Chief Financial Officer Patrick Lawlor,

### II. Opening Ceremonies

#### A. Moment of Silence/Pledge of Allegiance

The meeting began with a Moment of Silence followed by the Pledge of Allegiance.

### III. Regular Business

#### Article P37 – Tax Increment Financing Agreement (TIF Agreement)

Town Manager opened the meeting by explaining that discussions about this TIF agreement began about a year ago when Alexandria Real Estate purchased the property located at 3000 Minuteman Road, the former Philips Healthcare campus. Peter Milano, Director of Strategy and Business Development for the State of MA. The State is a partner in all these agreements.

Al Vaz, Senior Vice President of Flagship Pioneering introduced Ivan Kousidis, Senior Vice President of Capital Projects and Engineering at Alexandria. Alexandria is the current property owner and the development planner that Flagship plans to sign leases with for this property.

Mr. Vaz gave an overview of Flagship Pioneering and what they do as a company. Flagship is a company that creates new bio platform companies that transform human health and sustainability with new medicines. They have been in Cambridge, MA for 20 years. Their mission is to create companies who develop new drugs. They currently employ 8000 employees. On site workforce training is a big component of this. They will be looking to partner with Universities and Training centers where they can have on site training centers right on site.

Town Manager, Andrew Flanagan presented the Select Board and the Finance Committee with overview of this TIF Agreement between the Town of Andover and Flagship Pioneering. A TIF Agreement is a tax exemption that can be applied to the incremental value that has been created by new investment. Within that incremental assessed value can be up to 100%. This 20-year agreement will incentivize investment in vacant properties, support long term growth of commercial tax base, generate immediate revenues for the Town, Leverage opportunities for private investment in public infrastructure, promote job growth, identify opportunities for local and regional economic benefits. This is a \$325M investment with a total TIF Award of \$20,082,243 (6% of the investment).

Finance Committee member, William Haskell asked of the 600 net new jobs, how many will be transfers. It will depend on which companies sign the lease and at what time. Some companies will transfer, and this may potentially bring new residents to Town. Finance Committee member, Andrew McBrien asked whether the 600 net new jobs is a conservative number. Yes. it is.

The 20-year agreement begins in 2025. 100% of taxes will be paid during construction period (2023-2023). The estimated Investment is \$325M (over 10 years). The estimated incremental value is \$42,198,364 (average over 10 years). The incremental property tax relief is 70% annually (Years 1-20). TIF Award is capped at \$20,082,243 and the agreement terminates when cap is reached.

Building fees are 100% collected (Estimated \$4M. Provisions of agreement do not apply to personal property. 100% of property taxes will be paid on at least \$78M in personal property investment over a 10-year period. 10 year estimated collections \$8.6M, 20 year estimated collections: \$13.6M.

Conditions of the Planning's Board Special Permit will require the following investment by the applicant: \$900,000 to be used for the necessary upgrades/replacement to the 8" cast iron water main(s) that serve the area. \$700,000 to be used for the necessary upgrades/replacement to a water pump at the Water Treatment Plant. Should water consumption exceed 396,000 gallons per day, the application shall be responsible for mitigating all impacts. Applicant will pay the costs to line +/- 1400' of existing 18' sewer line. Actual cost to be determined. Inflow & Infiltration Mitigation Fee of \$2,000,000 (less cost of lining the sewer line as listed above).

#### **Select Board Vote**

Upon motion duly made by Ms. Gilbert and seconded by Ms. Danisch it was unanimously voted to approve Article P37 as presented in the warrant. Alex Vispoli-Y, Annie Gilbert-Y, Laura Gregory-Y, Chris Huntress-Y and Melissa Danisch-Y Motion passed 5-0.

#### **Finance Committee Vote**

Upon motion duly made by Paula Colby-Clements and seconded by Andrew McBrien it was unanimously voted to approve Article P37 as presented in the warrant. Kevin O'Handley-Y, Yican Cao-Y, Aaron Buzay-Y, Paula Colby-Clements-Y, Bill Haskell-Y, Paul MacKay-Y, Andy McBrien-Y, Kim Perry-Y. Motion passed 8-0.

### **IV. Adjourn**

On a motion by Ms. Gregory seconded by Ms. Gilbert the Select Board adjourned their meeting. Vote: Unanimous (5-0.)

On a motion by Ms. Colby-Clements seconded by Mr. MacKay the Finance Committee adjourned their meeting. Vote: Unanimous (8-0.)

The Joint Meeting was adjourned at 7:49 p.m.

Documents: Annual Town Meeting Warrant, TIF Agreement Power point presentation

Respectfully Submitted,  
Amy Salvi



## Joint Meeting of the Select Board, Finance Committee and Andover High School Building Committee

Wednesday, May 31, 2023 7:00 PM  
Memorial Hall, Memorial Hall Library  
2 North Main Street, Andover, MA 01810

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### I. Call to Order – 7:00 P.M.

Select Board Chairperson Melissa Danisch called the Joint Meeting to order at 7:03 PM in Memorial Hall of Memorial Hall Library. Present for the Select Board: Melissa Danisch, Annie Gilbert, Laura Gregory, Chris Huntress and Alex Vispoli.

Andover High School Building Committee Chairperson Mark Johnson called the Andover High School Building Committee to order. Present for the Andover High School Building Committee: Mark Johnson, Caitlin Brown (arrived at 8:00 p.m.) Dr. Lauren Conoscenti, Town Manager Andrew Flanagan, Dr. Nancy Kimelman, Janet Nicosia, Dr. Magda Parvey, Michael Prout, Shannon Scully, and Taylor Webber.

Finance Committee Chairperson Kevin O’Handley called the Finance Committee to order. Present for the Finance Committee: Kevin O’Handley, Yican Cao, Paula Colby-Clements, Bill Haskell, Paul MacKay, Andy McBrien, Kim Perry and Ken Russo.

Others in Attendance: Chief Financial Officer Patrick Lawlor, Deputy Town Manager Mike Lindstrom, Assistant Town Manager / Town Clerk Austin Simko.

### II. Opening Ceremonies

#### A. Moment of Silence/Pledge of Allegiance

The meeting began with a Moment of Silence followed by the Pledge of Allegiance.

### III. Regular Business

#### A. Andover High School Building Project

State Senator Barry Finegold gave an update from the state Legislature. Senator Finegold filed an amendment to the FY2024 budget to exempt all school building projects from a community’s debt limit. He believes this amendment will pass and will be signed by the governor. He noted that he spoke with Sean Cronin, the Senior Deputy Commissioner of the Division of Local Services, who stated that his division has wanted to change the debt limit issue for some time. To help with the rising cost of construction, \$100M has been put into the budget for over-budget school building projects. From those additional funds, Andover could see a refund of \$7.2 million for West Elementary.

Mr. Finegold stated that he was a member of the Select Board when the decision was made to renovate the high school in the 1990s. In his opinion, a new high school should have been approved instead of the renovation. He doesn’t see the Massachusetts School Building Authority (MSBA) increasing the reimbursement rate which is now \$393/ft<sup>2</sup>. He would like the residents of the town to be able to vote on the high school project.

Paula Colby-Clements asked what the effective date of the amendment will be and what other discussions are happening at the state level. Mr. Finegold stated that the amendment would be effective when the budget is signed. Mr. Finegold stated that he thinks less school building projects will be

funded by the state in the future. Kevin O’Handley asked how the millionaire’s tax will be allotted, noting that those funds are earmarked for transportation and education. Mr. Finegold noted that the \$100M he referenced is coming from those revenues.

Kristin Wise of Inwood Lane asked how long the state has known that self-funded schools are not exempt from the debt limit. Mr. Finegold stated that he couldn’t definitively answer that question because it wasn’t an issue until now.

Mark Johnson, Chairperson of the Andover High School Building Committee introduced Joe DeSantis and Marco Zappala from PMA Consultants, the Owner’s Project Manager, and James Liebman from HMFH Architects, the architect for the Andover High School project.

Shannon Scully began the project update with a history of the building. It was noted that since 1963, when the building was first designed, standards for educational space have changed including general classroom size, special education space, and lab space. Based on today’s state standards, the capacity of AHS is 1,400 students. Ms. Scully reviewed the space studies that have taken place in 2014, 2016 and 2022. She noted that no solutions were found to address both the space problems and environmental problems for less than \$100M while also meeting a full educational plan.

Ms. Scully reviewed the goals for improving Andover High School that came out of the 2022 space study. These include:

- Enhance safety and security
- Eliminate overcrowding
- Accommodate enrollment growth
- Support educational program and delivery
- Improve physical environment
- Improve site use and campus circulation

Mr. Johnson noted that, although not an MSBA project, the Committee is following the MSBA process. He reviewed the work performed to date by the project team. Bill Haskell asked how far out the demographics are projected to. Mr. Johnson stated that the demographic numbers are projected for ten years. He noted that the state is pushing for an increase in housing opportunities statewide, and it is expected for this school to be in service for 50 years. The school will be built for 1,900 students.

Mr. Liebman of HMFH reviewed the 11 approaches that the Committee considered, including three addition/renovation options and 8 new building options. In December the Committee narrowed the choices down to five for further development, then in February, three options were selected to move on to cost estimation. Mr. Liebman reviewed the phasing details of the three options. The addition/renovation option had the longest duration of 82 months and the new campus with auditorium had the shortest duration of 60 months.

Mr. DeSantis of PMA Consultants reviewed the cost analysis process. He noted that the cost analysis was performed at a high level and was to be used only for decision making and comparison purposes. Two independent cost analyses were performed and then were reconciled. The reconciled estimates were within approx. 3% for addition/renovation and 1% for the new option.

Mr. DeSantis reviewed the project costs for each of the three options. He noted that escalation, phasing and logistics are related to project duration and the contingency amounts are associated with the risk of change orders. The addition/renovation option costs are driven up by these factors.

Mr. McBrien asked for more information on how the escalation was determined. Mr. DeSantis stated that each phase was escalated to the midpoint. A tapering escalation was used. For the remainder of

this year 7% was used, then 5% for 2024 and 4% for 2025. Mr. DeSantis reviewed what is included in both the construction costs and soft costs.

Andy McBrien asked if the demographic projections included the number of Andover students who attend a private school. He noted that those who would normally send their child to a private school may opt to send them to the brand-new high school. Dr. Magda Parvey stated that the demographer considered that scenario. For the current school year, 65-80 high school aged residents attend private schools.

Annie Gilbert noted many people have questioned if the town can wait until prices come down. She asked if it is correct that there will always be price escalations. Mr. Liebman stated that she was correct.

Ms. Scully reviewed financial considerations. She reiterated that the Legislature is considering a change to the debt limit issue. The town is working with the rating agencies to understand the implications of borrowing. Additional design money is needed as funding previously approved by Town Meeting will pay for three additional months of work. When the debt limit issue was discovered, the Committee withdrew their \$1.3 million Town Meeting warrant article for schematic design funds. Each month of construction delay increases the project cost by \$1.2M.

Janet Nicosia reviewed the cost of doing nothing. She noted that there would be continued overcrowding which could lead to educational impacts and impacts to parking and fields if modulars are necessary. The building will have to continue to be maintained and repaired which is an ineffective use of funds. There are also code upgrade threshold implications as more money is put into the existing building.

Mr. Johnson reviewed the next steps:

- Building Committee to consider merits of project “add-ons”
- Refinement of AHS summary of spaces
- Continue to solicit feedback, including ongoing monthly community forums
- Determine construction project delivery method (Design-Bid-Build vs. Construction Manager-at-Risk)
- Bring project to full community for consideration and approval of \$1.3 million additional Schematic Design funds at Town Meeting
- Develop Schematic Design documents for issuance of two independent construction cost estimates
- Establish Project Scope and Budget
- Bring Project to community for approval at Town Meeting and ballot vote

## B. Financial Considerations

Town Manager Andrew Flanagan reviewed the financial considerations of the Andover High School Building project including an update on the debt limit, potential impacts to bond rating and an overview of cost variables.

Mr. Flanagan stated that the debt limit for every city and town in the state is 5% of the community’s value. Andover’s current debt limit is \$510M with \$101M committed, leaving a balance of \$409M in debt capacity. The building options presented are all in excess of \$409M. The relationship between a community’s debt service and debt limit is not a factor considered by the rating agencies because it is not inclusive of total debt. Certain debt is considered outside the debt limit including MSBA supported school building projects and debt approved by legislation to be outside the debt limit.

Mr. Flanagan stated that the House of Representatives did not include an amendment to the FY2024 budget that would exempt non-MSBA supported school building projects from a city or town’s debt

limit. The Senate included this amendment in their budget so it will now go to Conference Committee. The Governor would then have to sign it if it is included in the final budget.

Mr. Flanagan reviewed the potential impacts that the high school building project could have on the Town's AAA bond rating. He noted that the Town's current debt profile is considered weak. A municipality's debt profile consists of its outstanding debt service plus the total of its unfunded liabilities. Andover's weak debt profile is based on a combination of approved spending, major capital projects and an historical lack of investment in unfunded liabilities. The Town's General Fund "non-exempt" Capital Improvement Program is seen as a positive and should not have an impact on the rating as long as the Town continues to adhere to an annual target for investment in capital projects. In a May 2023 letter Standard and Poor's noted that Andover's weak debt profile is mitigated through a low discount rate on its pension liability and its excess levy capacity. In a December 2022 letter Standard and Poor's stated that the issuance of material new money debt could put pressure on the town's bond rating.

Mr. Flanagan went through an exercise to look at debt metrics today compared to 15 other AAA rated communities with populations of 25,000 or more. The debt metrics were General Obligation Bond Outstanding Debt, Bonded Debt Per Capita, Per Capita EQV (equalized valuations), Unfunded Pension Liability and Unfunded OPEB Liability. He noted that there are a lot more communities that have greater value per capita that have greater debt per capita than Andover, but Andover has a much lower unfunded pension liability with \$165M on the debt service side (General Obligation Bond Outstanding Debt) from funding the pension liability. The funding of Andover's General Obligation Bond Outstanding Debt is \$291M.

Mr. Flanagan reviewed General Override Funding with the 15 comparable communities. He noted that many of these communities did a better job than Andover in managing their unfunded liabilities through Proposition 2 ½ general operating overrides. This allowed these communities to raise additional revenue by increasing their levy limit and manage their unfunded liabilities through cash appropriations over time, avoiding major accrued unfunded liabilities. He noted that Andover has never increased its levy limit more than the allowable 2 ½ annual increase.

Mr. Flanagan showed Andover's current debt metrics compared to similar AAA rated communities with a population greater than 25,000 as prepared by the Town's Financial Advisor, Hilltop Securities. It showed that Andover is 19 out of 23 for Outstanding Debt, 20 out of 23 for Bonded Debt Per Capita and 8 out of 20 for Principal to be Retired in 10 Years. These metrics contribute to Andover's weak debt profile. Mr. Flanagan then performed an exercise applying the debt metrics to a potential \$460M AHS building project. He noted that the actual impact to the debt profile is unknown because the rating agencies develop the debt profiles. In this exercise Andover would be ranked 23 out of 23 in all of the categories. The differential between Andover and 22<sup>nd</sup> ranked community would be as follows:

- Outstanding Debt: +\$282.2M (Brookline)
- Bonded Debt Per Capita: +2,767 (Brookline)
- Principal to be Retired in 10 Years: -16.1% (Arlington)

Mr. Flanagan stated that he has a high level of confidence that under this scenario Andover's rating would be downgraded. This is another aspect of the project that the community will have to weigh. The final rating is unknown. The rating could potentially drop two levels because the town already has a weak debt profile and S&P warned in their December 2022 letter that any new debt issuance could make the debt profile very weak.

Mr. Flanagan further reviewed the potential impacts of a downgraded bond rating. He showed the effects of an increased borrowing rate on debt service from \$5M to \$100M over the course of 30 years in increments from .25% to 1% to the borrowing cost. The potential downgrade would increase borrowing costs for an AHS building project and all other projects and/or purchases of land or equipment funded by the CIP. He noted that the CIP is generally \$5M, and a 0.50% increase in the

borrowing rate over a 10-year period would be an additional \$138,529. For a \$500M project, 0.50% is an additional \$40M for a 30-year term. The potential downgrade likely would not occur until the initial borrowing for a the AHS building project.

Mr. Flanagan gave an overview of the cost variables and asked for input on what should be modeled. He added that there are other non-cost variables including potential impacts to educational program and the actual project completion date. The cost variables are:

- Project Cost Escalation: 20 year average is approximately 5.5% annually.
- Impact to Bond Rating and Borrowing Costs: Potential increase borrowing costs resulting from a downgrade and everything not paid for in cash costing more. This would lead to less capital projects being funded.
- Economic Conditions and Borrowing Costs: Fluctuations in base borrowing costs resulting from economic factors. This can be modeled in both directions.
- MSBA Reimbursement: Potential future reimbursement from MSBA.
- Maintaining the current Andover High School: It is anticipated that significant capital investment will be necessary in order to keep AHS operating into the future. Come of this could be included in the CIP, but it may also require a debt exclusion.

Ms. Danisch opened the floor to any questions from Board and Committee members.

Mr. Haskell noted that the next step is for voters to approve \$1.3M for schematic design. He asked if there is the potential for everything to be fleshed out in the time between now and that Town Meeting. Mr. Flanagan stated that in that time frame everything could be worked out. Mr. Haskell questioned how one explains to Town Meeting the implications of a downgrade. Mr. Flanagan stated that the only way to explain it is to provide what the borrowing costs are at different rates.

Ken Russo asked what the probability is that the state will pass the amendment. He noted that if the amendment does not pass the Town by law cannot obtain funding. Mr. Flanagan stated that he is not familiar enough with the legislative process to answer that question. He noted that Mr. Finegold seems confident that it will pass. If it gets to the Governor for signature, he expects that she will sign it.

Mr. Russo asked what the next decision point is if does not make it into the budget. Mr. Johnson stated that there are other alternatives if the amendment does not pass, including legislation, but it may delay the project. The Committee would look to continue using the funds available in hopes that the legislation will pass and then will go to Town Meeting for additional funding.

Ms. Colby-Clements noted that the total cost of the project does not include borrowing. She asked if what has previously been presented on the cost to the average taxpayer anticipated a down grade. Mr. Flanagan stated that it did not. She requested that those numbers be updated to reflect a possible downgrade and she also asked to be provided numbers on how it will affect the borrowings that are made each year. She would also like modeled how this compares with the escalation of project delay.

Dr. Lauren Conoscenti asked for clarification that in any scenario the Town will run into the issue of possibly being downgraded because of the large amount of the borrowing. Mr. Flanagan stated it all depends on when the Town makes the borrowing and what the state of the Town's debt profile is. He noted that in the next seven years the town will retire over \$100M in debt. If the markets perform well in the future the retirement system may be over-funded and the unfunded OPEB liability will go down by tens of millions of dollars which will change the debt profile.

Mr. Michael Prout asked if there was anything stopping the Committee from moving forward with schematic design. Mr. Flanagan stated that there is nothing stopping the Committee from moving

forward with schematic design. He added if the schematic design funding is approved the Town may have a note in their next S&P letter stating that they are paying attention to the project.

Ms. Scully stated that borrowing will not take place for several years so there is time to figure this out. The Town should model if they over invested in retiring pension debt. She voted to get rid of the pension obligation debt so that the Town would be able to take on other construction projects. If the pension fund is overfunded the Town should reallocate those funds for other priorities. Mr. Flanagan stated that if the Town had not funded the pensions the debt profile would be worse than it is today.

Ms. Scully noted that the pension is funded at 95% and questioned what the funding percentage is of Lexington that is funding a large building project on their own. Mr. Flanagan stated that Lexington is about 76% funded. He added that the town is not choosing to overfund the pension, the pension is currently overfunded due to market performance. If the market continues to perform well, the Town could reduce the annual appropriation to the pension fund.

Ms. Colby-Clements asked if this design is set in stone as the layout even if the project is paused. Mr. Nicosia stated that the design is for 21<sup>st</sup> century learning and the work of the building committee would not be thrown away.

Bill Ham of Wildwood Road stated that very few people will understand what has been presented tonight. It needs to be simplified because all people will see is a 20% increase in their taxes if you build a new school.

Ms. Gilbert asked if work such as adding additional classroom or fixing the elevator could be done without triggering code compliance. She felt that the Town wouldn't get very far in a targeted investment without having to bring the entire building up to code. Ms. Nicosia stated that once you spend 33% of the assessed value of the building you have to bring the whole building up to code including fire code and architectural access code. The current value of Andover High School is \$17M. Replacement of mechanical systems kind for kind is not counted in the 33%. She is unsure if detached modulars would trigger code compliance for the whole building.

#### **IV. Adjourn**

On a motion by Mr. Vispoli seconded by Ms. Gilbert the Select Board adjourned their meeting. Vote: Unanimous (5-0.)

On a motion by Ms. Scully seconded by Dr. Conoscenti the Andover High School Building Committee adjourned their meeting. Vote: Unanimous (10-0.)

On a motion by Ms. Colby-Clements seconded by Mr. MacKay the Finance Committee adjourned their meeting. Vote: Unanimous (8-0.)

The Joint Meeting was adjourned at 9:25 p.m.

Documents: Andover High School Building Project Update to Select Board and Finance Committee Presentation  
Andover High School Building Project Financial Considerations Presentation

Respectfully Submitted,  
Kathryn Forina