

Memorandum

TO: Andover Planning Board

FROM: Christopher H. Milton, Esq.
Zachary A. Dovitz, Esq.

DATE: April 16, 2024

RE: P&G Andover Manufacturing Center Enhancement Project – Zoning Compliance

This memorandum is intended to accompany the Special Permit Application to the Andover Planning Board for a Major Non-Residential Project which Application relates to the P&G Andover Manufacturing Center Enhancement Project. The analysis is focused upon the compliance of the Enhancement Project with the existing Andover Zoning Bylaw, assuming that the Enhancement Project is ultimately granted the Special Permit and is constructed as proposed.

1. Bylaw, Map and Rules and Regulations

For the moment we have utilized the versions of the Andover Zoning By-Law and related Zoning Map, Rules Governing Special Permits and Application for Special Permit that are available online. The Zoning By-Law (the “Bylaw”) available online appears to be current through May 2, 2023 (when the entire Zoning By-Law was recodified) and the Zoning Map available online appears to be current through 2015. The Rules Governing Special Permits appear current through December 17, 2021. The Application for Special Permit appears current through March 2022.

2. Zoning District

Based upon the Zoning Map, it appears that the approximately 153.25-acre site owned by Gillette (the “Project Site”) is entirely located within the Industrial A District, and within the Medical Marijuana Overlay District.

3. Use Provisions

a. Principal Uses

The existing principal uses at the Project Site are comprised of manufacturing, warehouse, laboratory and office uses. The Enhancement project is adding additional manufacturing space, as well as a limited amount of laboratory and office space, as well as some accessory space (primarily an employee cafeteria and an employee fitness facility).

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Within the Industrial A District, the following principal uses are permitted as of right under Section 8.5.4 of the Bylaw:

- (i) Business, professional or administrative office
- (ii) Laboratory for research and development work, or establishment engaged in specialized manufacturing including fabrication and assembly, associated with ... precision instruments ... and uses accessory thereto, including training activities, provided that all activities shall be conducted within enclosed structures.
- (iii) Warehousing

In addition, there are a number of uses which are permitted only with a Special Permit from some Town Board (the Zoning Board of Appeals, the Planning Board or the Select Board) under Table 1 of the Bylaw. One such use is a Major Non-Residential Project, which under Section 9.4.8 and Appendix A, Table 1 requires a Special Permit from the Planning Board, whether or not one would otherwise be required. The definition of this term in Section 10.00 makes it clear that the Enhancement Project is such a project, meaning that such a Special Permit would be required, as it involves an increase of the gross floor area of an existing building by more than 2,000 square feet. The Enhancement Project involves the addition of approximately 201,684 gross square feet, and therefore a Special Permit for a Major Non-Residential Project is required. Assuming that the Special Permit being sought is issued, the Enhancement Project should be in compliance. The Project Narrative included in the Special Permit Application contains an explanation of the basis for Gillette’s application for such a Special Permit, and the reasons why such a Special Permit should be granted for the Enhancement Project.

b. Accessory Uses

There is nothing in the Zoning By-Law that specifically permits or prohibits the employee cafeteria and the employee fitness facility or other accessory use areas. The term “Accessory Use” is defined in Section 10.00 to be “a use that is subordinate to, clearly incidental to, customary in connection with, and located on the same lot as, the principal use.” We believe that the employee cafeteria, employee fitness facility and other accessory use areas would be viewed as coming within that definition.

4. Dimensional Requirements

According to Section 4.1.2 and Appendix A, Table 2 of the Zoning By-Law, there are only a few dimensional requirements that appear to apply to the Entitlement Project, as follows:

- (i) Minimum Front Yard – 50 Feet
- (ii) Minimum Side Yard – 40 Feet
- (iii) Minimum Rear Yard – 40 Feet
- (iv) Maximum Height – 60 Feet/4 Stories

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- (v) Maximum Coverage – 30% (Number of stories may be increased and lot coverage decreased correspondingly if site conditions warrant)

As is shown on the ALTA/NSPS Survey dated March 29, 2024, the existing Andover Manufacturing Center complies with the front, side and rear yard requirements. The same appears to be true for the Andover Manufacturing Center Enhancement Project, based upon measurements shown on the Plans prepared by Nitsch Engineering labeled “100% DD Pricing Set, Not for Construction (C-000 through E-107 dated April 16, 2024. It should be noted that parking, driveways, tanks, outdoor storage areas and certain other facilities are not permitted within the required yards under Section 4.1.4.3(a) in circumstances where residential uses exist or are zoned in proximity to the Project Site or the public or private way abutting the Project Site. The foregoing constraint would apply not only to parking areas, but to any parking structure as well. However, the only residentially-zoned areas nearby in Andover are (i) the Single Residence B (SRB) District, which is located about 1,750 feet from the Project Site, north of Lowell Junction Road and east of the main line of the RR tracks adjacent to the Project Site, and (ii) the Single Residence C (SRC) District, which also is located about 2,000 feet from the Project Site, north of Lowell Junction Road and north of the RR tracks that link the Lowell line to the main Haverhill line. The closest land in residential use appears to be (iii) an area in Tewksbury is located about 1,100 feet west of the Project Site, lying well west of the I-93 corridor, and (iv) a small subdivision that is partially within Andover and partially in Tewksbury, approximately 2,200 feet to the north of the portion of the Project Site which is developed with improvements other than driveways. Thus these residentially-zoned and residentially-used areas do not appear to be in proximity to the Enhancement Project. Nor are there any existing residences from which the Enhancement Project is visible. Therefore the constraint relating to existing residences and to residentially-zoned areas does not appear to apply.

Height does not appear to be an issue, either, since the Enhancement Project involves an addition which has only two stories, with a maximum height of 42 feet, well below the 60 feet/4 story limit under the Bylaw.

As to lot coverage, the Enhancement Project will involve a footprint of approximately 148,502 square feet for the Building Addition, with the total footprint of the Building being approximately 744,658 square feet. That figure represents about 11% of the 6,676,254 square foot Lot Area, the addition representing about 2% of such Lot Area. Thus coverage (defined in the By-Law as the footprint of the buildings on the lot) is not an issue, as the Project will not come close to the 30% lot coverage allowed.

5. Parking and Driveway Requirements

a. Parking Space Count

Under Section 5.1.4 and Appendix A, Table 3 of the Zoning By-Law, a variety of parking ratio requirements apply to the various uses within the complex. The general requirement for office or

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laboratory uses is one space per 300 square feet of GFA; the requirement for manufacturing is one space per 300 square feet of *net* floor area (NFA); and the requirement for warehousing is one space per 600 square feet of NFA. After the implantation of the Enhancement Project, the Center will contain 330,625 net square feet for warehouse use, 300,985 net square feet for manufacturing use, 103,977 gross square feet for office use, 10,555 gross square feet of laboratory use and 40,625 gross square feet of accessory use. These parking ratios and square footages translate into 1,936 parking spaces required. As the Enhancement Project will result in a reduction of the parking spaces from 1,001 existing spaces to 654 parking spaces, a Special Permit allowing a reduced number of parking spaces will be required. The Project Narrative included in the Special Permit Application contains an explanation of the basis for Gillette’s application for such a Special Permit, and the reasons why such a Special Permit should be granted for reducing the parking to such 654-space level on the basis that such 654 spaces will be adequate to meet the needs of the Project Site.

b. Parking Space/Aisle Layout

Under Section 5.1.8 of the By-Law, there is a “cap” of 240 spaces that applies to each parking area, and a further limitation that no uninterrupted parking row can be greater than 30 spaces. The dimensions of spaces are governed by Section 5.1.5 and Appendix A, Table 4 of the Zoning By-Law, and provide that dimensions for a standard-sized, 90-degree angled space would be 9’ x 18’, and dimensions for a handicapped-sized, 90-degree angled space would be 12’ x 18’. Aisle widths are 24’ for service to spaces of all sizes that are 90-degree angled.

The Enhancement Project ultimately will result in the complete renovation of certain parking areas that will contain a total of 333 new spaces in Lots B and C once the Project is implemented, representing about 51% of the 654 spaces that in total are to serve the Center at that point in time. The renovated spaces will meet the standards of the Bylaw in terms of width, depth and parking aisle widths. The Enhancement Project will not affect the remaining 321 spaces (representing about 49% of the space total). Gillette believes that, since it is only augmenting the overall square footage of the Center by about 34%, and since its existing parking predates the various layout requirements, it is effectively renovating a higher percentage of its parking spaces (51%) than would be required given the modest size of its building addition (34%).

c. Driveways

As to driveways, Gillette is proposing that after the Enhancement Project, it will utilize a driveway for employee vehicles from Burt Road that exists (having been built when the original building was constructed in the 1960s), but which has not be utilized for some time, as Gillette’s security plan for the Center has for many years directed all employee vehicles and trucks to the Center via Gillette Way, a private road/driveway that intersects Lowell Junction Road just to the west of the point where the main Haverhill Line MBTA tracks intersect Lowell Junction Road. All truck traffic will continue to use this Gillette Way access to/egress from the Center, but employee traffic will now be directed to use the northerly Burt Road access/egress (the southerly Burt Road access will remain gated much of the time once construction of the Enhancement

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Project is completed. These driveways are consistent with the limitation set forth in Section 5.1.5(4) against any facility having more than two driveways from any given street line.

The Bylaw further provides that the minimum width of a driveway used for 2-way traffic must be 24 feet, and that the maximum width shall not exceed 30 feet. The existing driveways which will be utilized generally meet these requirements, except where necessary to provide greater width to accommodate turning movements at driveway intersections.

Finally, the Bylaw provides that driveways shall be located to minimize conflict with traffic on the street, and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. Gillette believes that its existing driveways meet these requirements both in the case of Burt Road and Lowell Junction Road.

6. Loading Requirements

Under Section 5.1.5(a) an adequate number of off-street loading areas shall be provided. The Enhancement Project will not result in a change from the existing 28 loading areas that presently exist on the north (8) and south (20) sides of the Building. However, the Project will create 20 trailer drop spaces in Drop Lot A and 58 trailer drop spaces in Drop Lot B, for a total of 78 trailer drop spaces at the Center; this represents an increase in trailer drop spaces of 36 from the 42 that exist today. Gillette believes that these 78 drop spaces will make the existing 28 loading areas more than adequate, as there will be a significant increase in Gillette's ability to move trailers that are not being actively loaded or unloaded from loading areas to the trailer drop spaces.

Under Section 5.1.5(b), loading areas must be in side yards or rear yards. All of Gillette's existing loading areas are in the side yards, and the Drop Lots are located in side and rear yards.

Under Section 5.1.5(c), each loading area must be located separately from employee and customer parking, shall be designed to protect pedestrian safety and avoid traffic conflicts within, without and entering and leaving the lot where the loading area is located. All of Gillette's existing loading areas are located in such separate areas in the side yards, well away from employee and customer parking areas, thus avoiding pedestrian and traffic conflicts.

Under Section 5.1.5(d), no loading area may be utilized and counted as both a required parking space and a required loading area. Gillette has no such overlap in its required areas.

Under Section 5.1.5(e) of the Zoning By-Law, loading areas must be 30 feet long, 12 feet wide and 14 feet high, with 30 feet of maneuvering space. Gillette believes that its existing loading areas are in compliance with these requirements, and will remain so after implementation of the Enhancement Project.

7. Landscaping Requirements

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Under Section 5.3.2 of the Zoning By-Law, certain landscaping must be provided in Industrial Districts both in front yards and side yards abutting public ways, and in parking areas (see Section 5.1.8 of the Zoning By-Law), as well as where one is adjacent to limited access highways.

Gillette believes that it has adequate landscaping in its side yards and front yard, as the Center is well-screened from the adjacent Pfizer facilities to the north, and the Executive Place development to the South. In addition, there is a significant amount of tree growth on both the westerly side and easterly side of Burt Road, so the Center is fairly well-screened from view along Burt Road and from I-93.

In addition, Gillette has added a significant amount of landscaping to the 51% of the existing employee parking areas that are to be renovated, and believes that that renovated parking area will fully comply with the landscaping requirements applicable to parking areas upon the implementation of the Enhancement Project. The remaining 49% is believed to be grand-fathered due to the fact that it was constructed before the landscaping requirements were adopted by the Town.

8. Flood Requirements

Under Section 8.3 of the Zoning By-Law, areas that are shown as special flood hazard areas Zone A or AE on the Flood Insurance Rate Map are in the Flood Protection Overlay District, and there are a variety of restrictions on building elevations, interference with floodways, and the like. However, no portion of the property appears to be within special flood hazard areas Zone A or AE on the Flood Insurance Rate Map dated 7/3/2012.

9. Earth Movement and Removal

Gillette anticipates that the Enhancement Project will require movement of 55,000 cubic yards of earth, and that 1,500 cubic yards will be removed from the Center in the course of the Project. Under Section 6.6.4 of the Zoning Bylaw, such movement and removal in an Industrial District are allowed subject to the site plan approval by the Planning Board. Gillette further anticipates that such Site Plan Approval is subsumed within the grant of a Special Permit for a Major Non-Residential Project.