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R. Eric Slagle
Director of Development Services

Shaun Shanahan
Building Commissioner

MEMORANDUM

TO: Kevin Murphy, City Manager
Diane Tradd, DPD Director

FROM: R. Eric Slagle, Director of Development Services

RE: MOTION BY COUNCILOR MILINAZZO - REQ. CITY MGR. PROVIDE A COMPREHENSIVE LIST OF ALL REGULATORY AND ZONING APPROVALS NEEDED TO CONSTRUCT THE HIGH SCHOOL AT THE CAWLEY SITE, INCLUDING THOSE APPROVALS NEEDED FROM BOTH TEWKSBURY AND CHELMSFORD.

This memorandum addresses the request from Councilor Milinazzo for a list of the regulatory and zoning approvals needed to construct the high school at the Cawley site, including those needed from Tewksbury and Chelmsford. Although the process is still in the early stages, and final plans have not been drafted, the initial proposals for a potential high school at the Cawley site indicate the following areas of jurisdiction.

First, the wetlands on the north of the parcel would trigger a Notice of Intent (NOI) filing before the Lowell Conservation Commission for any work to be done within 100 feet of a resource area, as defined by the Wetlands Protection Act and our local Wetlands Ordinance. Our Conservation Commission allows for a delineation of wetlands to be done concurrently with the NOI for the construction. Additionally, FEMA mapping indicates the presence of floodplain near the wetlands resource area, which would need to be included in the NOI filing. Floodplain does not have a buffer zone, but does require 1:1 compensation for any grade changes, and potentially implicates the NFIP (National Flood Insurance Program). The NOI process would require an abutter notice and a public hearing, at which time the Commission would need a majority vote to approve an Order of Conditions for the project. Additionally, Section 5.2.3 of the Zoning Ordinance, requires that the Conservation Commission grant permission for and construction within the 50' no disturb zone surrounding a resource area, followed by a special permit from the Planning Board for such construction. Please note, however, that there is an appeal process to the MassDEP should an aggrieved party not be satisfied with the local Commission decision, and the MassDEP would have superseding jurisdiction over Wetlands Protection Act issues.

Second, the project will require Site Plan Review before the Lowell Planning Board. This review will encompass landscaping, parking layout, traffic, and circulation among other things. Site Plan Review would require an abutter notice and a public hearing, at which time the Board would need a majority vote to approve the plan. The special permit noted above (Sec. 5.2.3 of the Zoning Ordinance) would require a super majority vote. Appeals from Planning Board decisions are to either Superior Court or Land Court.

Third, the project will require multiple variances before the Zoning Board of Appeals. At minimum, based on the initial drawings, the project will require variances for max height, max stories, and parking, with a possible variance required for floor area ratio, depending on the final design. Variances would require an abutter notice and a public hearing, at which time the ZBA would need a super majority vote to approve the relief requested. Appeals from ZBA decisions are to either Superior Court or Land Court.

Fourth, with respect to the Tewksbury portion of the Cawley site, Tewksbury has jurisdiction over at least a portion of the proposed project. The northeastern portion of the site contains a potential wetlands resource area,

and is located within the Tewksbury town boundaries. Proposed plans for the site would have a parking area constructed just south of the wetlands area in Tewksbury, and that would grant the Tewksbury Conservation Commission jurisdiction over the project, and would trigger a Notice of Intent (NOI) filing for any work to be done within 100 feet of a resource area, as defined by the Wetlands Protection Act and the local Wetlands Ordinance. In Tewksbury, there appears to be additional jurisdiction extending to 200 ft. from a vernal pool, and there may be such resource areas at the Cawley site. The issues before the Con Comm would not only address the immediate impacts of construction on the adjacent resource areas, but could also touch on the overburdening of the Trull Brook watershed as a whole. Additionally, the parking lot located in Tewksbury would likely require some sort of relief from Tewksbury's special permit granting authority, likely a site plan review special permit. Also, depending on the layout of the parking lot area in Tewksbury, relief may be required from Tewksbury's parking requirements. Appeals from decisions of Tewksbury's land use boards would be the same as for their Lowell counterparts.

Finally, with respect to the field replication proposed for Manning Field (located in both Lowell and Chelmsford), relief would be required from both municipalities. Filing would be required before both Conservation Commissions for the new fields and for any associated parking facilities and walking paths. Additionally, the proposal would likely require Site Plan Review from the Lowell Planning Board for the parking facilities and the walking paths, and potentially would require relief from the Chelmsford special permit granting authority.

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