

**COMMITTEE ON SPECIAL PERMITS
MONDAY, NOVEMBER 28, 2022, at 6:13 p.m.
WOBURN CITY HALL
CITY COUNCIL CHAMBERS**

Voting members present: Chairman Richard Gately, Councilor Joanne Campbell, Councilor Charles Viola, Councilor Lou DiMambro, and Councilor Darlene Mercer-Bruen

Non-voting members present: President Michael Concannon, Councilor Jeffrey Dillon, Councilor Robert Ferullo. Absent: Councilor Joseph Demers

Also present: City Engineer John Corey

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Reading and approval of meeting minutes of November 21, 2022: Motion made by Councilor Campbell and seconded by Councilor DiMambro to approve the minutes of the previous meeting; in favor, 5-0.

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Resolve that the Committee on Special Permits meet with Lawless, Inc. relative to compliance with conditions of special permit: Representing Lawless, Inc., were Attorney Joseph Tarby, Rubin Rudman, 500 Unicorn Park, Woburn, MA; and Ralph Bavaro, Vice President, Lawless, Inc., 196 Lexington St., Woburn, MA. Attorney Tarby submitted an aerial photo of a portion of Lawless' property showing the area where car carriers drop off vehicles, marked with a yellow rectangle. He said there is also an area of the photo marked with a red rectangle red showing where two display cars are parked. He said he and Mr. Bavaro will explain the significance of the red and yellow markings in the photo. Motion made by Councilor Viola and seconded by Councilor Mercer-Bruen to accept the document and make it part of the permanent record; approved, 5-0. Attorney Tarby said Lawless has not exercised the rights under a special permit that was issued in 2022. He said Lawless wants to address concerns about car carriers described in a memorandum dated November 22, 2022, sent to Lawless by Building Commissioner Thomas Quinn. He referred to the aerial photo and said the area marked in yellow is where the car carriers pull into the lot and park to drop off cars. He said the area marked in red incorporates an island to the left of the drop off area there they have cars for sale parked. He said Lawless' plan is to remove the portion of the island on Lawless' property. He said the car carriers will pull into the lot, parking in the area marked in yellow in the aerial photo and unload the vehicles. Chairman Gately asked if anyone on the committee has any questions. Councilor Viola said it seems like the car carriers will still be off-loading onto the street. Attorney Tarby said there should be plenty of room for them to unload. Councilor Viola asked if the yellow box is to scale with the size of a car carrier. Mr. Bavaro said the car carrier is larger than the yellow box. He said Lawless is also proposing to convert land adjacent to the sidewalk and remove a portion of the curb to accommodate the car carriers. He said the fix should be pretty simple. Councilor Viola said it seems the cars are still being backed onto Lexington Street. Mr. Bavaro said Lawless has tried to accommodate the council's wishes. He said he wished he had received a telephone call rather than a letter from the Building Commissioner. Councilor Viola asked if

there will be enough room to unload cars that are unregistered and uninsured. Mr. Bavaro said new cars cannot be registered. Councilor Viola said he has witnessed on several occasions drivers almost rear-ending cars that are parked at Lawless. Mr. Bavaro said Lawless is willing to do what it takes to make this work. He said there should be enough space to unload car carriers. He said they can add cones to make people more alert. Councilor Campbell asked if the portion of the building to the left in the aerial photo is being expanded. Mr. Bavaro said the building will come no closer to the street. Councilor Campbell said one of the issues the council talked about during the deliberations for the special permit was whether there would be enough space to off-load car carriers. She said she is very concerned about this issue. She said she is questioning whether it might be better to require Lawless to off-load the car carriers in another location on the lot where the cars can back up without going onto the main road. Mr. Bavaro said Lawless has spent several thousand dollars on its renovation project. He thinks the plan they've come up with to off-load cars is a great solution. He said to rip everything apart again would be financially untenable. Councilor Campbell asked if Lawless is at least willing to make the situation safer. Mr. Bavaro said there is about 30 feet of space that is being renovated to make the area safer. Councilor DiMambro asked if there is any way the car carrier could travel farther onto the lot and turn around behind the building. Mr. Bavaro said car carriers have limited flexibility. He said there is enough room for a fire engine but not a car carrier. He said if there was a better location to off-load the car carriers, they would find it. Councilor DiMambro asked if the installation of a no parking sign is possible. Mr. Bavaro said he would rather hash tag it. Councilor Mercer-Bruen said one of the conditions of the special permit is the car carriers cannot be on the street. Attorney Tarby said Lawless has not exercised its rights under the special permit and thus condition #3 of the special permit is not yet in effect. Councilor Mercer-Bruen said the special permit was issued and regardless of whether or not the permitted entity obtains a building permit, the conditions are not inactive. She said the committee is meeting tonight because Councilor Viola got complaints. She said even if Lawless hasn't exercised the special permit, they still can't off-load cars into the street. Chairman Gately said Lawless is in violation of condition #3 of the special permit. He said Lawless has to try to make that right. He asked how long the car carriers are. Mr. Bavaro said none of the car carriers belong to Lawless. He said the car carriers are between 65-75 feet long. Chairman Gately asked what route the car carriers take to get to Lawless. Mr. Bavaro said the car carriers come down Cambridge Road and turn left at the Gulf station or Dunkin' Donuts. Chairman Gately asked if the car carriers then pull into the parking lot at Lawless. Mr. Bavaro answered affirmatively. He said the driveway in front is the widest driveway they have. Chairman Gately asked if the car carriers block the sidewalk. Mr. Bavaro said there is no sidewalk. He said there is an island that is about 5-6 inches off the ground. He said they are going to drop that grade to allow for parking and plowing. Chairman Gately asked if the signage is visible on the aerial photo. Mr. Bavaro said you can see the shadow of the sign on the edge of the yellow box on the aerial photo. Chairman Gately asked what is inside the red box on the aerial photo. Mr. Bavaro said that is a display area. Chairman Gately asked if the cars can be removed from the area with the red box. Mr. Bavaro said there is a light pole there. Chairman Gately said his solution would be to remove the light pole. Mr. Bavaro said the light pole is probably the only thing that prevents accidents on their property, as well as the bank next door and the 99 Restaurant next to the bank. Councilor Viola said if the proposed changes don't work, another solution may be to remove the curb from the island. Mr. Bavaro said he would hate to do something like that now. Councilor Viola said the committee referenced the letter from the Building Commissioner who wrote Lawless is in violation of

condition #3 of the special permit. Motion made by Councilor Mercer-Bruen and seconded by Councilor Campbell to receive and make part of the permanent record the memo from Building Commissioner Quinn; approved, 5-0. Mr. Bavaro said Lawless has put a lot of money into the property over the past 25 years. Councilor Viola said he is willing to see if Lawless' proposed solution works. If not, he said, the committee can invite Lawless back. Councilor Mercer-Bruen asked if there is another location to drop off the cars and drive them to the dealership. Mr. Bavaro said other car dealers in the city are using public ways to off-load cars from car carriers and the city is tolerating that. He said if there was another location to off-load cars from the carriers, he would already be doing that. Councilor Mercer-Bruen said that means the answer is no. Mr. Bavaro said he just wants to explain himself. He said Lawless has reached into its pockets. He said they are trying. He said they are doing the best they can. He said he hopes it's enough. He said Lawless has been part of the community for 34 years and they are a good corporate citizen. Councilor Mercer-Bruen said hopefully the new drop off method works out. Councilor Viola said the Cadillac dealership was generating similar complaints about dropping off vehicles on the public way and they have since changed their delivery location. He said they are now off-loading cars onto their own property. President Concannon said it is important to note Lawless is trying to be a good neighbor. He said this is a dangerous situation, however. He said the fact there are car carriers off-loading onto Lexington Street is a concern. He said he understands Lawless' point that the condition does not kick in until Lawless exercises its rights under the special permit, but the will of the council was that the condition would be in place once the special permit was approved. He said hopefully the changes Lawless is proposing will work. Mr. Bavaro said this isn't a big project. He said he thinks the problem will be fixed. Councilor Viola said he will take Mr. Bavaro at his word for now. He said if the committee needs to revisit this issue, it will. Councilor Mercer-Bruen said there is no action for the committee to take at this time. Motion made by Councilor Viola and seconded by Councilor DiMambro to table the matter; approved, 5-0.

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CCF New Boston Property Company LLC for Special Permits pursuant to Section 5.1(30b); Section 5.1(41a); Section 5.1(53), Section 8.3.1, and Site Plan Review pursuant to Section 12.2.4 to allow for a two (2) story building containing approximately 133,738 sf of net floor area with the following uses: Office (approximately 39,229 sf); Manufacturing (approximately 33,514 sf); and Lab Use (approximately 58,845 sf) with accessory high hazard use and the parking of ninety-two (92) vehicles on an adjacent lot located at 225 Merrimac Street, at 216 New Boston Street: Representing the applicant were Attorney Joseph Tarby, Rubin Rudman LLP, 500 Unicorn Park, Woburn, MA; Shaun Sullivan, CCF New Boston Property Company LLC, 185 Dartmouth St., Boston, MA; and Scott Thornton, Vanasse & Associates, 35 Business Center Drive, Suite 140, Andover, MA. Motion made by Councilor Viola and seconded by Councilor Mercer-Bruen to take collectively the next two matters on the posted agenda; approved, 5-0. Attorney Tarby said the matter is still before the Conservation Commission. Attorney Tarby said he has a proposed list of conditions and a separate document with an amendment to proposed condition #6, which he said will make the project contingent upon the issuance of an order of conditions from the ConCom. He said any material changes required as the result of the order of conditions shall be review by the council prior to the submission of a building permit application. Motion made by Councilor Viola and seconded by

Councilor Mercer-Bruen to receive and make part of the permanent record a document entitled “Proposed Conditions Special Permit Decision CCF New Boston Property LLC 225 Merrimac Street Woburn, MA 01801 November 15, 2022;” and a document that reads as follows: “6. The Project is contingent upon the issuance of an Order of Conditions by the Woburn Conservation Commission (and/or Superseding Order of Conditions issued by MassDEP) pursuant to the Massachusetts Wetlands Protection Act and implementing regulations (310 CMR 10.00 et seq.). Prior to submission of a building permit application, any material changes required in the Project as a result of the issuance of an Order of Conditions, shall be reviewed by the City Council pursuant to Condition One;” approved, 5-0. Attorney Tarby said the list of conditions was devised in response to discussions during the last two council meetings. He said the council asked Engineer Corey to attend this committee meeting. Councilor Mercer-Bruen said there are a lot of concerns about mitigation. She said there are a lot of moving parts, which is why the committee asked Engineer Corey to attend. Engineer Corey said there are a series of projects taking place in the former industrial area near the New Boston Street bridge. He said there are a series of intersections that accommodate about 32,000 trips per day in that area. He said there is a need for a new traffic signal at the intersection of New Boston Street and Presidential Way. He said cars are no longer going to be able to go just left or right. He said cars will be able to go in both directions. He said one suggestion is a roundabout at the intersection of Merrimac Street and New Boston Street, but it would be difficult to do because of the contaminated soils and the land-takings required. He said a traffic signal is more beneficial. He said the priority is the signal at the intersection of New Boston Street and Presidential Way. Councilor DiMambro said his primary concern is the safety of children and cars on Merrimac Street. He said he feels like there will be a lot of traffic that will be traveling south and west once the new apartments are built and the bridge is open. He said he feels a set of lights at the intersection of Merrimac and New Boston streets is important. Engineer Corey said he does not disagree with Councilor DiMambro. Councilor DiMambro asked where the money will come from to install the new signal. He said there is \$150,000 in mitigation money from three projects. He asked how much the signals will cost. Engineer Corey said the signal at Presidential Way will cost \$625,000. He said that was the estimate from 2-3 years ago. He said there is going to be a 5-year gap on the cost of materials. He said the light at New Boston and Merrimac streets will likely cost around \$500,000. He said the cost of materials may come down. He said no money from the general fund has been expended to install lights. He said he designs things. He said he does not figure out where the money comes from. He said that is a policy decision. Councilor Mercer-Bruen said Engineer Corey has made recommendations to the City Council when there have been requests for money. She said at some point, someone is going to have to coordinate mitigation money. She asked if there is a document that shows the mitigation accounts. Engineer Corey said he believes the auditor has three separate mitigation accounts. Councilor Mercer-Bruen asked if a lot of work is done under MassDOT’s Transportation Improvement Program (TIP). Engineer Corey said the TIP does not provide money for lights. He said he got a grant from MassDOT for three intersections, for equipment upgrades and revising the timing at six intersections through the Bottleneck program. Councilor Mercer-Bruen asked if that money can be used to close the funding gap for the second traffic light. Engineer Corey said it very well could be. He said there is a ton of money they can look for. Councilor Mercer-Bruen said the actual construction of the traffic light could take some time. She said the adjustments to the Montvale Avenue corridor took years and went through several iterations. She said she is trying to better understand the process. She said let’s pretend it’s time to build the light and asked where the money is going to

come from. Engineer Corey said there is a 5-year capital program that includes anything he can identify. He said he submits a wish list to the mayor and the mayor sends it to the City Council. Councilor DiMambro said Engineer Corey has a lot of understanding where money comes from. He said the city is apparently \$750,000 short, according to Engineer Corey's estimate. He asked where that money is going to come from. Engineer Corey said there are a number of transportation programs emerging. He said he sees opportunities moving forward. President Concannon said the City Council has contemplated a number of projects in North Woburn over the past few years. He said part of that contemplation was traffic. He said the city's mitigation ordinance allows the petitioner or the developer to be held responsible for fixing or mitigating the impact of the project. He said now the council is contemplating the last of the big projects in North Woburn and is tallying the money that has been set aside for the fix. He said it sounds like there is not enough money and the city will have to find funding from other sources. He said if the council has identified a problem and there is not enough money to fix it, should the council be asking for more mitigation money in the first place. He asked what portion of the fix taxpayers should pay for. Engineer Corey said the increase in traffic due to the three new properties is about 7.5 percent. Mr. Thornton said the increase is about 7 percent. President Concannon asked if the increase in traffic to the four new properties at 7 percent each is therefore 28 percent. Engineer Corey said the total increase is 7 percent. President Concannon said therefore one could conclude that the problem already exists at 93 percent. Engineer Corey said when he considers a mitigation figure, he has to look at it from the point of view that he will have to defend his rationale in a court of law. He said he tries to be fair. President Concannon said he has never said there were not existing problems, but he suspects the problems have been exacerbated by more than 7 percent. He said he is not sure the council is getting enough mitigation money to offset the bang for the taxpayers' buck. Mr. Thornton said in general the increase in traffic is between 5-7 percent for each project. He said the numbers work out to between \$10,000-\$20,000 for improvements that each developer would have to contribute. He said Engineer Corey indicated that amount would not be sufficient. He said that is why they ended up at \$150,000 per project. President Concannon said he thinks the other projects are adding more to the problem than perhaps they're giving them credit for. Engineer Corey said he started at a mitigation figure of \$100,000 and recommended \$150,000 for each project. He said under the 3 percent mitigation ratio, the mitigation amount would be \$3.5 million and would fund all the traffic lights the city needs. He said they can't do that anymore. Councilor Campbell said if the bridge is going to take 50 percent of the traffic away and the four projects will be bringing in a 7 percent increase in traffic, then there will be another approximately 25 percent increase in traffic. She asked who is going to mitigate that much traffic. Engineer Corey said the council came up with an overlay district with a rigorous density. He said there are no planning studies to support the impacts. He said he relies on the developer to submit a development impact statement. He said there is going to be more development up there for sure. Council Campbell said the problem seems to be \$150,000 won't put a dent in what is needed for the lights. She said if the developer is not willing to put in more money, the project should not be moving forward. She said if the city has to come up with \$750,000, there is a chance the traffic signals won't be done. Engineer Corey said there is a low probability the traffic signals won't be done. She said the traffic lights are very important on Presidential Way. She said the council really has to think about this. She said if there is a possibility the lights will not be in place, then the council really has to think about putting development on pause. She said \$150,000 for a project this size does not seem that large. President Concannon asked if the light at Presidential

Way is the number one priority. Engineer Corey said it is. President Concannon asked if that signal will be covered by the money the city already has. Engineer Corey said it will. President Concannon asked if this discussion is about the light at Merrimac Street that Councilor DiMambro is talking about. Engineer Corey answered affirmatively. Councilor Campbell asked how much the city is short if it wants to build new lights at both intersections. Engineer Corey said the deficit is \$750,000. Councilor Ferullo asked what the change would be to the traffic numbers if the bridge does not get built. Engineer Corey said the change would be minimal. Councilor DiMambro asked if the city can go after the state for money. He said it is unfair for the taxpayers to pick up that tab. He said it is unfair North Woburn is not getting anything. He said North Woburn has to bear the burden of these new projects and the opening of the bridge, and for there to be no new traffic signal is absurd. He asked if the state could give the city some money. Engineer Corey said the state is giving the city \$28 million to re-build the bridge. He said he asked for money for traffic signals and the state said there did not appear to be enough money, but that was three years ago and there are new revenue streams. Councilor Dillon asked if there is any other mitigation money in other accounts. Engineer Corey said he has pretty well mined all the mitigation accounts. He said he has tracked down all the money he can. Councilor Mercer-Bruen said the council should say the petitioner is going to put in the lights and that's it. She said the council can do that. She said the council needs to push back more. She said her colleagues have heard her say 'Let's not collect the money; let's collect the work.'" Councilor Dillon said the estimated 7 percent increase in traffic was collective, so there was a problem that existed before these new developments were proposed. He said the council is asking the developers to pay for a pre-existing problem. Engineer Corey said there is a fair share equation. He said he recommended \$150,000 in mitigation. Councilor Dillon said the council can't ask the petitioner to fix something that's been broken. Councilor Campbell said she believes Engineer Corey said the problem is not existing now but will arise when these projects go in. Engineer Corey said there is traffic congestion now. Councilor Campbell said the situation is not as bad now as it is going to be later. Engineer Corey said he does not envision the situation is going to be substantially worse than it is now. Chairman Gately said the situation is very complicated. He said the council knew these projects were coming before the bridge is finished. He said the amount of mitigation money has to increase. He said the price of everything is going up. He said the City Council has to get their heads together to get a mitigation package that's going to address road improvements. He said the council has to look at the future, and it's going to be really expensive. He said they have to think about raising contributions for petitioners. Councilor Campbell said the percentage needs to be increased. She asked Engineer Corey if he can see himself bringing up the mitigation component. Engineer Corey said he thinks he can document the cost of traffic improvements. He said he has to look what's fair in case he has to defend it. Councilor Campbell asked Engineer Corey to go back and make some suggestions. Engineer Corey said he can do that. Councilor Dillon said he is concerned about the residents of North Woburn. He said he will take seriously any concerns that have about safety before he votes. Councilor Mercer-Bruen said she has heard here tonight that the developer's fair share is \$28,000. She said the City Engineer said that figure is ridiculous. She said the developer came back with a figure of \$100,000 and Engineer Corey suggested \$150,000. She said that sounds like a negotiation with no basis about how the figure was devised. Engineer Corey said he does not believe \$28,000 was fair. He said he thought an amount between \$100,000-\$200,000 was fair. Councilor Mercer-Bruen said the development impact statement is supposed to give the council some detail. She said she will take very seriously Councilor DiMambro's concern about

the installation of the second traffic light. Attorney Tarby said he understands the council is requesting that Engineer Corey run the numbers again. Councilor Campbell said that is what she wants to see. Attorney Tarby said the petitioner wants to change proposed condition #6. He said this change is based on what he took away from the last meeting. He said if there are any changes from the Conservation Commission, the council can review and decide if the modifications are minor. Councilor Mercer-Bruen said she did not speak to Commissioner Quinn but texted him that the proposed amendment to the condition does not satisfy her concerns. She said the council votes on a plan, and if there are still issues with the Conservation Commission she is not going to put her name on it. She said the public deserves to see if the plan changes. She said she would prefer to see the City Council wait for the Conservation Commission to finish its work. She said the city's peer reviewer made some comments and at this point CCF has to sit down with the peer reviewer. She said she is done with minor modifications. She said when the council approves a plan, that should be the plan. She said she is not sure why the council can't wait for the Conservation Commission. She asked what the benefit of moving forward is without the Conservation Commission completing its work. Attorney Tarby said he just wants to be clear. Councilor Mercer-Bruen said Conservation Administrator Theresa Murphy told her CCF responded to the peer review and the peer reviewer still had concerns and they were going to go over a list of concerns. She said last she heard that meeting was supposed to happen and it hasn't happened yet. Mr. Sullivan said he has been trying to set up a meeting with the peer reviewer but scheduling has been difficult. He said they had a meeting set for the week before Thanksgiving but people have been in and out of the office. He said he understands there are issues and he wants to address the peer reviewer's concerns. He said CCF is willing to do the work. Councilor Mercer-Bruen said she does not hear anything that is insurmountable, but certainly the City Council should wait for recommendations from the Conservation Commission. Mr. Sullivan said there will probably not be anything before the new year. He said they are doing surveys. Councilor Viola agreed there is no need to rush ahead. He said he will not be in favor of supporting this tonight. Councilor DiMambro said he would also prefer for the applicant to iron out all the wrinkles. He said the two obstacles he sees are the traffic light and approval by the Conservation Commission. He said he spoke to Administrator Murphy and as of 11:36 a.m. this morning she would not sign off the order of conditions. He said he would like to see cost estimates for the lights at Merrimac Street. Councilor Campbell said the council is waiting for the Conservation Commission, and for Engineer Corey to go back to examine the mitigation. She said the committee is not quite ready to move forward. Chairman Gately said he did not expect the committee to make a recommendation tonight. He said this meeting was supposed to be about an exchange of ideas. He said he will not vote on this tonight. Motion made by Councilor Mercer-Bruen and seconded by Councilor DiMambro to leave the matter in committee; approved, 5-0.

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CCF New Boston Property Company LLC for Special Permits pursuant to Section 5.1(30b); Section 5.1(41a), and Site Plan Review pursuant to Section 12.2.4 to allow for a four (4) story building containing approximately 174,812 sf of net floor area with the following uses: office (approximately 67,056 sf) and Lab Use (approximately 100,584 sf), as well as the Petitioner is proposing to construct a parking garage to accommodate approximately 451 parking spaces, at 225 Merrimac Street: See preceding item.

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Motion made by Councilor Mercer-Bruen and seconded by Councilor Viola to adjourn; in favor, 5-0. Chairman Gately adjourned the meeting at 7:44 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees