

SECTION 12.1.4.2.D.
SPECIAL CONDITIONS
FOR
PLANNED DEVELOPMENT DISTRICT

SOUTH AVE.

Pursuant to Section 12.1.4.2.d. of Article XII of the Zoning By-Laws of the Town of Burlington, Massachusetts (hereinafter, the "PDD By-Law") these Special Conditions shall be applicable to the development of the property located off of Second Avenue, South Street and Middlesex Turnpike, Burlington, Massachusetts (hereinafter, the "Premises") in accordance with the Concept Plan (hereinafter, together with all other materials submitted pursuant to Section 12.1.4 of the PDD By-Law, the "Concept Plan") filed by Burlington Crossing, LLC (hereinafter, with any successor in interest to the Premises, individually and collectively, the "Developer").

I. Development of the Project

The Concept Plan provides for the development of the Premises pursuant to the PDD By-Law to permit the construction and use of a maximum of 110,000 square feet with 70,000 square feet of hotel use allocated to Parcel A as shown on the Concept Plan; 10,000 square feet of restaurant use on Parcel B; and 30,000 square feet allocated to Parcel C as shown on the Concept Plan. Moreover, not more than 30,000 square feet on Parcel C as identified on the Concept Plan may consist of retail space as further described in the PD Zoning Provisions submitted herewith as part of the Concept Plan.

The Project shall be a mixed use development consisting of restaurant, hotel and retail uses and accessory uses relating to each principal use. Uses shall be limited to those uses set forth in the Planned Development District Zoning Provisions submitted as part of the Concept Plan.

The Project shall be developed in substantial conformity with the Concept Plan as approved by the Town of Burlington at the January, 1997 Town Meeting. The Concept Plan shows in a general manner, among other things, the location of the buildings comprising the Premises, number of stories, approximate floor area and maximum height of each building and the approximate distance between buildings. Consistent with the intent of the PDD By-Law, it shall not be deemed a

substantial deviation from the Concept Plan if as a result of more definite engineering and other data there occurs a relocation of any building within the Premises or changes in design or layout of the parking, provided that there shall not occur any change in minimum setbacks, maximum building height, maximum total floor area of development or uses as provided in the Concept Plan without the approval by Town Meeting as provided in Section 12.1.8 of the Zoning By-Laws.

II. Site and Off-Site Improvements and Responsibilities

- (1) Off-Site Improvements and Responsibilities: The Developer shall undertake or cause to be undertaken and assist the Town in arranging for certain off-site improvements, subject to the provisions of this Paragraph II to mitigate any impacts of the Project. These off-site improvements are design and engineering, layout and construction of an additional lane on South Avenue from Second Avenue and along the length of South Avenue to the end of Lot A and a sidewalk of not less than five (5) feet in width (i.e. the length of the PDD along South Avenue) and paving the entire width of South Avenue along the PDD from Second Avenue to the end of Lot A. In addition, Developer agrees to grant to the Town an easement ten (10) feet in width for future construction of a sidewalk along Middlesex Turnpike bordering the entire length of Parcel A, B, and C (hereinafter, the preceding being referred to as, the "Off-Site Improvements").
- (2) Schedule: Prior to the issuance of the first certificate of occupancy with respect to the Project, the Developer shall have completed the Off-Site Improvements.

III. Traffic Analysis

The Developer has provided the Town, at the sole cost of the Developer, with a traffic analysis prepared by Vanasse, Hangen Brustlin, Inc., a copy of which has been delivered to the Planning Board as part of the Concept Plan.

IV. Effective Date of PDD Zoning

The granting and recording of any Special Permit within the time periods specified in Section 12.1.2 of the Zoning By-Laws shall constitute full compliance with Section 12.1.2 of the Zoning By-Laws notwithstanding that Special Permits for future aspects of the Project have not been applied for by the Developer. The issuance of any Special Permit under Section 12.1.5 of the Zoning By-Laws shall be deemed to constitute, and be conclusive of, the Developer's compliance with all provisions of the Zoning By-Laws at the time of the issuance thereof. Thereafter, the Premises shall be developed in accordance with the Concept Plan and the requirements of Section 12.1.5 of the PDD By-Law provided that any uses and structures then in existence on any of Parcels A, B or C may continue until the Developer commences the development of such parcel. In the event of any amendment to the PDD By-Law, the PD Premises shall continue to be governed by the Concept Plan approved by the January, 1997 Town Meeting and the applicable provisions of the PDD By-Law in effect on December 2, 1996, the date of the submission of the Concept Plan unless specifically waived by the Owner of the Premises.

V. Lot Lines

Lot lines shall be established by the Developer and may be altered from time to time at the discretion of the Developer in accordance with the procedures of Section 81P of Chapter 41 of the Massachusetts General Laws for so-called "Approval Not Required Plans" and the applicable provisions of Sections 81K-81GG of Chapter 41 of the Massachusetts General Laws for any subdivision of the PD Premises.

VI. Applicable Zoning By-Laws

Except as provided in the Planned Development District Zoning Provisions submitted by the Developer pursuant to Section

12.1.4(c)(2) of the Zoning By-Laws, the Development of the Project shall be governed by the Zoning By-Laws in effect on December 2, 1996.

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SECTION 12.1.4.2.C.
PLANNED DEVELOPMENT DISTRICT ZONING PROVISIONS

Except as specifically provided in the following Planned Development District Zoning Provisions (hereinafter, the "PDD Zoning Provisions"), the development of the Planned Development District (the "PDD District") which is bounded by Second Avenue, South Street and Middlesex Turnpike with frontage on each way (hereinafter, the "PD Premises") in accordance with the Concept Plan (of which these PD Zoning Provisions are a part) approved at the Burlington Town Meeting (hereinafter, these PD Zoning Provisions including all material submitted to and approved by the Town Meeting in connection with the rezoning of the PD Premises to a PD District are collectively referred to as, the "Concept Plan"), shall be governed by the Zoning By-Laws of the Town of Burlington, Massachusetts in effect on December 2, 1996 (hereinafter, the "Zoning By-Laws").

Article I - Use Regulations:

The Concept Plan provides for a mixed use development of the PD Premises to consist of approximately 110,000 square feet to be allocated between Parcel A, Parcel B and Parcel C as shown on the Concept Plan as follows: (i) Parcel A, 70,000 square feet; (ii) Parcel B, 10,000 square feet of restaurant use; and (iii) Parcel C, 30,000 square feet. Not more than 30,000 square feet on Parcel C, as identified on the Concept Plan, may consist of retail space. No retail use constituting a so-called "wholesale club" (a retail store charging an annual fee for membership privileges) shall be permitted to be developed or operated on Parcel C of the Premises governed by the Concept Plan.

Until such time as the owner/developer elects to commence development of each of Parcels A, B and C as provided on the Concept Plan, the structures and uses in existence as of the effective date of the PDD Rezoning on each Parcel may be continued and such existing uses are in addition to, and not in lieu of, the

uses permitted under these PDD Zoning Provisions and any existing structures located thereon may be renovated or reduced in size during such period subject to the approval of the Planning Board.

The permitted uses at the PD Premises by category (office, restaurant, hotel and retail and accessory uses relating to each) are set forth on the Use Table annexed hereto as Exhibit "A". Uses in a Wetland District shall be subject to the normal jurisdictional review of the Burlington Conservation Commission. All permitted uses at the PD Premises are subject to the issuance by other Town agencies or boards of all required licenses and approvals normally required for such use.

Article II - Density and Dimensional Requirements:

(a) The following dimensional requirements shall be applicable to the PD Premises:

- Minimum Front Yard 25.0 feet
- Minimum Rear Yard 15.0 feet
- Minimum Side Yard 15.0 feet
- Maximum Building and Structure Height
(Building Height as defined in Section
2.13 of the Zoning By-Laws)
 - (i) Hotel 55 feet; 3 stories
 - (ii) Restaurant 40 feet; 3 stories
 - (iii) Retail 40 feet; 3 stories

- Maximum Floor Area Ratio 40.0%¹
- Maximum Impervious Surface Ratio 60.0%²

(The foregoing shall be calculated in accordance with the provisions of the Zoning By-Laws.)

(b) The owner of the PD Premises shall have the right in its discretion to change the internal lot lines of the PD Premises in accordance with applicable provisions of the laws of the Commonwealth of Massachusetts.

Article III - Parking and Land Regulations:

The following minimum ratios shall be applicable to parking at the PD Premises:

- (a) 3.0 spaces per 1,000 square feet of gross floor area office space;
- (b) 4.5 spaces per 1,000 square feet of gross floor area of retail space; and
- (c) 1.0 space per keyed sleeping room.
- (d) 1.0 space per each 3 seats of restaurant use.

Typical parking space dimensions shall be as follows:

¹ For purposes of determining the Maximum Floor Area Ratio the entire PD Premises shall be considered and this ratio shall not be calculated on a parcel by parcel basis.

² For purposes of determining the Maximum Impervious Surface Ratio the entire PD Premises shall be considered and this ratio shall not be calculated on a parcel by parcel basis.

- (i) Typical parking space -- 9' x 18'
- ii) Compact parking space -- 8' x 15'
- (iii) Handicap Accessible Spaces -- 13' x 18', including 5' access aisle
- (iv) Van Accessible Spaces -- 16' x 18', including an 8' access aisle

The Planning Board, in its discretion, upon application of the owner or operator of the PD premises or any portion thereof, shall be permitted to alter the aforementioned ratios from time to time and such change shall not be deemed a material or substantial deviation from the Concept Plan as approved by Town Meeting.

Article IV - Administration and Procedures:

(a) Any Special Permit required under the Zoning By-Laws with respect to the PD Premises shall be evidenced by the Planning Board or Special Permit Granting Authority of the Town in accordance with the then applicable special permit procedures of the Planning Board or special permit granting authority. The granting of any Special Permit under Section 12.1.5 of Article XII of the Zoning By-Laws shall be deemed to constitute compliance with the provisions of Article XII of the Zoning By-Laws.

(b) The Site Development and Use Plan required under Section 12.1.5 of the Zoning By-Law shall supersede and take precedence over any requirements as to site plan review and approval under the Zoning By-Laws.

(c) Any substantial changes or amendments of the Concept Plan shall be effectuated in accordance with the provisions of Section 12.1.8 of the Zoning By-Laws.

Article V - Signage:

Except as provided below, for purposes of signage, the PD Premises shall be governed by and subject to the signage requirements and limitations applicable to a General Industrial (IG) zoning district under the Zoning Laws of the Town of Burlington as the same may be amended from time to time or if signage shall cease to be governed and regulated by the Zoning By-Laws then to the applicable regulations governing signage for uses of similar character as permitted at the PD Premises as determined by the zoning enforcement officer of the Town.

Free standing and monument signage shall be permitted at the locations as shown on the Concept Plan to a maximum signage area of 100 square feet per sign.

Article VI - Miscellaneous:

In recognition of the intent and purpose of Article XII of the Zoning By-Laws which is to permit considerable flexibility in the development of individual tracts of land, in the event of: (I) any conflict between the provisions of these PD Zoning Provisions and the Zoning By-Laws or any other by-law or regulation of the Town; or (ii) ambiguity under the PD Zoning Provisions, such conflict or

ambiguity shall be resolved or construed in a manner consistent with and to permit satisfaction of the full development intent described in the Concept Plan.

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EXHIBIT "A"
USE TABLE

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.1	Institutional and Recreational Uses		
1.1.1	Recreational facilities such as health and racquet clubs.	YES	A, B
1.1.2	Non-profit private clubs.	YES	A, B
1.1.3	Private museums, private art galleries (excluding sales).	YES	B
1.1.4	Places and buildings for public assembly such as facilities for business, cultural and educational gatherings, seminars and presentations	YES	A, B, C

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.2	Restaurant/Hotel		
1.2.1	Hotels/Motels with or without public dining facilities and with or without cooking facilities in individual rooms.	YES	A
1.2.2	Restaurants	YES	B, C
1.3	Retail/Customer Service Uses		
1.3.1	Banks and other financial services establishments.	YES	C
1.3.2	Unmanned Automated Teller Facilities.	YES	A, B, C
1.3.3	Acceptance from the public of electronic products and components including, without limitation, computers and telecommunication equipment for servicing.	YES	B, C

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.3.4	Retail Stores, provided in no instance shall there be more than three (3) separate retail establishments on Parcel C as shown on the Concept Plan.	YES	C
1.4	Wetlands District		
1.4.1	Creation of a pond or pool or other changes in water courses for swimming, fishing or other recreational uses, agricultural uses, scenic features, drainage improvements.	SP	A, B, C
1.4.2	Structures for essential services, which structures shall include roads, ways, sidewalks and drainage.	SP	A, B, C
1.4.3	Dredging expressly for mosquito or flood control by an authorized public agency.	SP	A, B, C
1.4.4	Periodic maintenance of existing water courses and maintenance for essential services.	SP	A, B, C

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.4.5	Temporary, not to exceed three months, storage of materials (excluding fill materials and hazardous and toxic materials) or equipment.	SP	A, B, C
1.4.6	Outdoor noncommercial recreation not specifically permitted by right in 4.7.10, below, including public parks, nonpaved playfields, tennis, paddle tennis and similar activities.	SP	A, B, C
1.4.7	Discharges from manmade structures into the wetlands.	SP	A, B, C
1.4.8	Structures for radio or television transmission by participants in emergency broadcast system.	SP	A, B, C
1.4.9	Conservation of soil, water plants, and wildlife including wildlife management shelters.	YES	A, B, C
1.4.10	Outdoor noncommercial recreation limited to nature study areas, walkways, boating, ice skating or fishing where otherwise legally permitted.	YES	A, B, C

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.4.11	Maintenance or repair of existing structures, roadways and utilities.	YES	A, B, C
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1.5	Accessory Uses		
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1.5.1	Restaurants, cafeterias, delicatessens, lunch counters, soda, dairy or ice cream establishments.	YES	A, B, C
1.5.2	Towers and antennas for generation or transmission of telecommunications signals other than radio and television transmitting sites.	SP	A, B, C
1.5.3	Antennas, other than satellite dish antennas, for the purpose of private reception of telecommunication signals, which antennas do not exceed 12 feet in height above the ground or 12 feet above the roof of a building on which they are mounted.	YES	A, B, C
1.5.4	Towers, windmills and similar structures that exceed 12 feet in height measured from the ground.	SP	A, B, C

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.5.5	Satellite disk antennas that are 8 feet or less across at their greatest width <u>and</u> which do not exceed 12 feet in height above the ground or above the roof of a building.	YES	A, B, C
1.5.6	Satellite disk antennas that are greater than 8 feet across at their greatest width <u>and</u> which do not exceed 12 feet in height above the ground or above the roof of a building on which they are mounted.	YES	A, B, C
1.5.7	During construction of improvements at the premises off-street outdoor storage of supplies and materials and overnight parking of freight carrying or materials handling vehicles and equipment.	YES	A, B, C
1.5.8	Parking garages and/or parking structures for more than three (3) vehicles, including both enclosed and open garages and structures, above and below ground only as provided in the Concept Plan.	YES	A, B, C
1.5.9	The use of roads in the PD Premises for any purposes that roads and ways in the Town of Burlington are used except as provided in 1.5.10, below.	YES	A, B, C

Section	Use Designation	Permitted at PD District (Yes - Permitted as Matter of Right SP - Special Permit Required)	Permitted on Parcel A, B or C
1.5.10	The use of roads in the PD Premises to access nonresidential property adjoining the PD Premises.	P	A, B, C
1.5.11	Off-street outdoor overnight parking of freight carrying or material handling vehicles and equipment or buses.	SP	A, B, C
1.5.12	Storage and disposal of oils and fuels/petroleum products including storage for on-site heating purposes.	SP	A, B, C
1.5.13	Accessory uses in wetlands limited to fences, flagpoles, non-commercial signs and docks.	YES	A, B, C

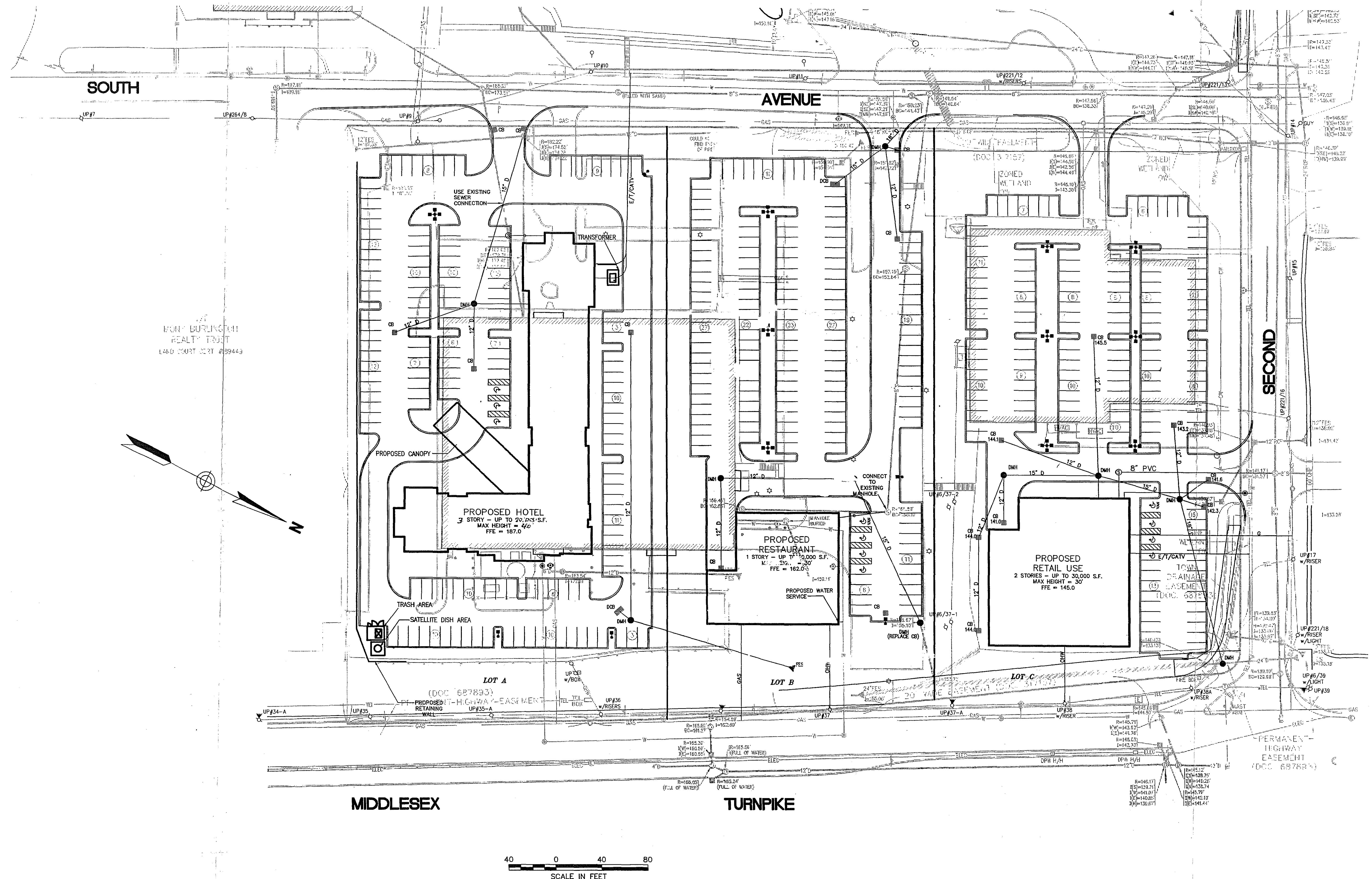
Water Resource District

Subject to the provisions of Section 8.3.0 of the Zoning By-Laws, the foregoing uses shall be permitted as a matter of right or with a Special Permit in a Water Resource District as set forth in the above Table of Uses.

Aquifer District

Subject to the provisions of Section 8.3.0 of the Zoning By-Laws, the foregoing uses shall be permitted as a matter of right or with a Special Permit in an Aquifer District as set forth in the above Table of Uses.

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No.	Revision	Date	Appvd.
Designed by	Drawn by	W.R.K	checked by
CAD checked by		Approved by	<i>[Signature]</i>

Burlington Crossing

Burlington, Massachusetts

PD District Rezoning

Drawing Title

Layout,

A circular registration stamp for a Professional Engineer from the Commonwealth of Massachusetts. The outer ring contains the text 'MASSACHUSETTS', 'PROFESSIONAL', 'ENGINEER', and 'REGISTERED'. The inner circle contains 'THE COMMONWEALTH OF MASSACHUSETTS', 'FRANCIS D.', 'DIPIETRO', 'CIVIL', 'No 31557', and 'PROFESSIONAL ENGINEER'. Below the stamp is a handwritten signature of 'Francis D. DiPietro'.

Drawing Number
C-4

Sheet **4** of **9**

Project Number
04938