

FOXBOROUGH PLANNING BOARD
AMENDED AND RESTATED SPECIAL PERMIT AND SITE PLAN
APPLICATION¹
[30-32 WALL STREET, FOXBOROUGH, MA]

The undersigned hereby applies for Special Permits, waivers or other relief under

- (a) Sections 9.7.6 and 9.7.7 (setbacks in FCOD); and
- (b) Sections 9.7.8 through 9.7.10 (parking in FCOD)

Under the Foxborough Zoning Bylaw (the “Bylaw”).

1. **Applicants:** **TNC DEVELOPMENT LLC** Phone # 774-836-0387

James Tranghese, Sole Manager
Address: 58 Willow Street, Norwood, Massachusetts 02062
Email: james@tncne.com

And

TRUE NORTH CONSTRUCTION INC., Phone # 774-836-0387
James Tranghese, President
Address: 58 Willow Street, Norwood, Massachusetts 02062
Email: james@tncne.com

Signature of Applicant: _____

Counsel to Applicant: Michael Khoury, Esq
Madoff & Khoury LLP
Pine Brook Office Park
124 Washington Street, Suite 202
Foxborough, Massachusetts 02035
Phone: 508-543-0040
Fax: 508-543-0020
Email: khoury@mandkllp.com

2. **Owner of Property:** **TNC DEVELOPMENT LLC** Phone # 774-836-0387

James Tranghese, Sole Manager
Address: 58 Willow Street, Norwood, Massachusetts 02062

Signature of Owner: _____

3. **Location by street address of parcel(s) or structure: 30-32 Wall Street, Foxborough, MA 02035**

¹ This Amended and Restated Application discusses the amended Application filed by the Applicants with respect to the subject property filed with the Town of Foxborough as of September 19, 2023.

Assessors Map & Parcel # 079-031-000
Zoning District: General Business (GB) and Foxborough Center Overlay District (FCOD)

Is the parcel in the WRPOD? **NO**
(Water Resource Protection Overlay District)

4. **Dimensional Information of the Parcel:**

Frontage: 162 feet **Lot area :** 7,300 square feet

Existing Lot Coverage: 0.75 **Proposed Lot Coverage:** 0.80

Existing Building Footprint: 1,920 sq feet **Proposed Building Footprint:** 3,240 sq feet

Proposed Building Height: Less than 35 feet (2 stories)

5. **Present Use of Structure or Parcel:** Mixed Use – One residential unit (2 bedrooms) and one retail unit

Proposed Use of Structure or Parcel: Mixed Use – Three residential units (2 bedrooms each) and one retail/commercial unit on first floor

6. Explain how the request fulfills the Special Permit criteria (See attached Narrative).

SEE ATTACHED NARRATIVE

7. Explain the special conditions or characteristics (if any) which apply to this request

SEE ATTACHED NARRATIVE

Town Collector's Release

The owner of the property for which the Special Permit is being requested is in good standing with respect to any taxes, fees, assessments, betterments or other municipal charges.

Treasurer's Office Representative

Date

Town Clerk Receipt

This application has been received and recorded with the Town Clerk.

Town Clerk's Office

Date

4. **Present use of Property: Mixed Use** – One residential and one commercial unit
5. **Proposed use of Property: Mixed Use** – 3 residential units (reduced from a proposed four residential units) and one commercial unit
6. **Square Footage of the Existing Building:** 1,920 square feet
7. **Proposed square footage of building(s): 3,240 square feet**
(reduced from the originally proposed 3,600 square foot footprint)
8. **If a Special Permit, Special Use Permit, Variance or Site Plan relative to the subject property has been previously acted upon, please state the type & date and attach a copy:**

NONE

It is recommended that the applicant review Section 10.5 & 9.5 of the Foxborough Zoning Bylaws and meet with the Planning staff before completing this application.

The Applicant, its engineer and counsel have met with the Town Planner, Building Commissioner and other staff of the Building and Planning Departments to review prior iterations of the proposed development design, including that design presented to this Board on October 26, 2023.

Further the Applicant, its engineer and counsel reviewed a revised and reduced concept plan with representatives of the Planning Department, the Building Department, the Department of Public Utilities and the Police and Fire Departments at a meeting held at Town Hall on March 6, 2024.

The revised concept plan and the revised design proposed under this Amended Application has been revised to address such Town officials' input, concerns and requests.

**NARRATIVE DESCRIPTION TO RESTATED AND AMENDED APPLICATION FOR
SITE PLAN APPROVAL AND FOR SPECIAL PERMITS**
30-32 Wall Street, Foxborough, Massachusetts

1. General Description

The property subject to this application (the "**Property**") is an approximate 7,304 square foot lot on the corner of Wall and Cocasset Streets, improved by an existing building constructed on or about 1930 comprising a single-story first floor commercial unit which is been used historically for retail and office space as well as a second-floor residential unit, with an attached garage (the "**Existing Building**").

The Existing Building is old and in need of repair and presents an unattractive appearance. The Property is in the General Business ("**GB**") district as designed under the current zoning bylaw (the "**Bylaw**") of the Town of Foxborough (the "**Town**") and is within the Foxborough Center Overlay District ("**FCOD**") as designated in the Bylaw.

By this Amended and Restated Application for Site Plan Approval and for Special Permit, TNC Development LLC and its affiliate True North Construction, Inc. (the "**Applicants**") are seeking to remodel and expand the Existing Building into a five-unit development consisting of:

- (a) Two new two-floor residential units of two bedrooms each, to be built to the North and the South of the existing building (a portion of the existing building to the South, comprising an old garage, will be demolished. These new units (again, built as two-story units) will have a gross floor area of 2,000 square feet (the Unit to the South) and a gross floor area of 1,800 square feet for the Unit to the North.¹
- (b) A remodeled and improved single story residential unit to remain on the second floor of the Existing Building comprised of the same approximate 1,000 square feet of interior space;
- (c) A remodeled commercial unit on the first floor of the Existing Building comprised of the same approximate 1,000 square feet square feet of interior space, to be remodeled and improved; and

The project provides an approximate _1,500 square feet of landscape areas and

¹ The design in the plan set presented with this Amended and Restated Application has reduced the number of the new residential units from three to two new units while maintaining the existing residential unit. The previous design included a total of four residential units having an approximate gross floor area of 7,200 square feet. The new design includes a approximate total of 4,800 square feet of residential gross floor area. By providing a smaller footprint that is setback further from property lines, the project addresses comments received from the abutters during a previous public hearing.

dedicated location of five off-street parking spaces serving the residential use of the property (two of which spaces are located in garages on the ground level of the two new residential units) with three spaces accessing via Wall Street, and two parking spaces accessing Cocasset Street.

The site design also includes ample paved area that will be utilized for vehicle turning movement as indicated on the plans. The paved area can be used for additional guest vehicle if needed, however, the site design has limited the off-street parking count to 5 parking spaces; taking the Town's guidance, that vehicles should not back out onto oncoming traffic where possible. A Vehicle Turning Movement Plan (Plan No. C-300) included in the Site Plan set accompanying this Amended and Restated Application (the "**Revised Plan Set**") prepared by HD Design of Avon, Massachusetts (the "**Engineer**").

Additionally, the revised site design removes the existing site access on the radial turn between Cocasset and Wall Street that currently presents a safety concern with vehicular access in the proximity of the rail tracks.

As shown on Plan No. C-200 of the Revised Plan Set (Site Layout and Utilities Plan), the Applicants propose to provide for trash storage and removal (avoiding the need for a dumpster on the Property), which will be located on the South side of the new residential unit located to the South of the Existing Building, all beyond the ten-foot measure ((the required side setback in the FCOD). The project will provide, as shown on Plan No. C-200, sufficient snow storage to the South and North sides of the Property and to the rear of the Existing Building (the West side of the Property).

The existing dilapidated garage, together with a portion of the landscape and hard cover are proposed to be removed to make room for the two new residential units, new landscaping and parking spaces, as shown in the Site Demolition Plan (Sheet C-001) of the Plan Set.

2. Site Design

As the Board may see, the shape of the Property lot and the existing prior non-conforming development located thereon has presented significant challenges to a sorely needed redevelopment that could be done in a way that would avoid a prohibitive financial loss. In developing their conceptual design, the Applicants and their design team sought to avoid exacerbating the measure of non-conformities that the existing development presents under the current applicable zoning requirements. The Applicant and his professionals considered such factors as the topography of the land, the shape of the parcel, the location of the Property at the corner of Wall and Cocasset Streets, the proximity of the rail track and other potential constraints affecting a proposed development.

The Applicants, their engineer and counsel met with Town Planner, Building Commissioner and other town officials to review two different concept plans in advance of the initial Application filed in September 2023 and met with officials again on March 6

of this year to review the design for the development and redesigned the site plan to take into account their concerns and suggestions to the maximum extent while keeping the project financially feasible for the Applicants.

The Applicants want to retain the commercial unit on the first floor of the Existing Building, to be located in the middle of the surrounding residential units and expand the use of the Property in a reasonable, modest manner that will fit within the layout, design and configuration of the surrounding commercial and residential properties located in proximity to the Town center.

The Applicants submit that the design, use and configuration of the proposed development as reflected on the Revised Plan Set will fit nicely in the neighborhood, provide stylish, appealing yet modest additional residential housing that will patronize and exploit the neighboring businesses, cultural and other offerings within the Town center and to maximize the value and the real estate tax base, all within the goals and mandate of the FCOD philosophy.

The proposed design removes a non-conforming/failed septic system and connects to the Town sewer. The removal of the existing septic system improves the site conditions and protects the environment by eliminating the untreated effluent discharge to groundwater.

The redevelopment project enhances the site conditions by installing a stormwater management system that exceed the requirements set by the 2008 Mass Stormwater Regulations for redevelopment where there is no stormwater management system currently exists onsite. The site design provides subsurface infiltration chambers system that collect the clean roof water runoff, and provide groundwater recharge. The stormwater management system exceeds the groundwater recharge requirements for a redevelopment project.

3. **Architectural Design.**

In developing the architectural style of the proposed development, the Applicants and its engineer and architect examined the styles of homes and commercial building in the neighborhood and the Town center more generally. The design presented in the Revised Plan Set and the architectural renderings offer an attractive, two-story development, having a pitched roofs and angles that make the design appealing and distinctive, while fitting well within the character of the neighborhood.

Access to the commercial unit, with the existing residential unit above, will extend out beyond the access to the neighboring residential units, presenting an attractive and subtle staggering of the facades of the units as indicated on the attached Architectural

rendering. The development will have numerous double-hung windows on each side as well as large display windows for the commercial unit providing light and air for units and adding to the appeal of the development's facades for the benefit of the neighbors.

4. Development Serves the Goals and Purposes of the FCOD

As noted in Section 9.7.1 of the Bylaw addressing the FCOD, the Town center is the "heart of the town," intended to serve as a "walkable, mixed-use area that fulfills many of the community's governmental, spiritual, service, residential and social needs."

Section 9.7.1 states further that the "***purpose of the overlay is to: (1) promote development of a mix of nonresidential and residential uses; (2) encourage a mix of uses appropriate to the needs of the community and scale of surrounding neighborhoods; (3) promote an active and pedestrian environment and innovative approaches to parking; (4) provide housing, employment, and/or shopping in close proximity to residents, municipal facilities and other services***" all while maintaining a "***consistently high level of design quality throughout the District***" and preserving the "***historic character of the Center and promoting compatible development.***"

The Applicants submit that the development proposal described in the Application and as depicted in the Revised Plan Set serve those purposes and preserve such goals - they will expand and improve the residential aspect of the property, which due to its original construction in 1930, is well overdue for renovation and will maintain a commercial space for retail and commercial purposes to serve such residents and their residential neighbors and the Center community more generally.

The proposed revised design proposes residential parking complying with the requirements of the FCOD Regulations, while providing a more safely configured parking area to allow for turn-arounds on the Property, eliminating the site access that the current configuration presents in front of the rail tracks.

Only the commercial unit at the redeveloped Property would rely upon on-street parking, only during working hours, at which time residential parking demand is not high and ample street parking is available. The Applicants reviewed available parking and other aspects of the design in their meetings with representatives of the Town's engineering and building departments

Further, the exterior facings of the proposed development, looking out on Wall Street and Cocasset Street are attractive and modern, presenting appealing and varied angles and staggered entrances and facades, but these designs also fit well within the design, style and character of the neighborhood and meet the standards proposed in the Town's Master plan. Further, the angled roof design presents a varied and Victorian style softened look that fits well within the surroundings on Wall Street and Cocasset Street.

5. Relief Requested

The Applicants seek those waivers, special permits and other relief under the Bylaw noted below. The Applicants submits that, under the authority granted it under the Bylaw, the Planning Board has the authority to grant the relief requested below to approve the development within the GB District and the FCOD.

As noted at Section 9.7.3 of the FCOD, the Bylaw makes clear that the requirements of the FCOD should be read in conjunction with rules and requirements of the underlying zoning district, and in cases of conflict between the requirements of the FCOD and the underlying zoning district (in this case, the GB District), the requirements of the FCOD shall govern.

(a) Special Permit Needed as to Expansion of Prior Nonconforming Setbacks.

As explained below, the proposed development fits within most all of the dimensional requirements established for the Property under the Bylaw for the GB District and the FCOD. However, the existing development at the Property does not fully comply currently with the setback requirements established under the GB District or the FCOD and the proposed development

As shown in the Zoning Table provided in the Site Layout and Utilities Plan (Sheet C-200) of the Revised Plan Set, the proposed re-design of the Property meets the requirements for:

- (a) minimum lot frontage;
- (b) maximum building height;
- (c) maximum lot overage; and
- (d) minimum side yard setback

established for the both the GB District and the FCOD. However, the below table shows the deviation with regard to front and rear yard setbacks both with the current Existing Building and with the proposed development:

<u>Dimensional Requirement</u>	<u>GB District Requirement</u>	<u>FCOD Requirement</u>	<u>Existing Measure</u>	<u>Proposed Measure</u>
Min Front Yard Setback	15 feet	10 feet	2.5 feet	0 feet
Min Rear Yard Setback (change)	20 feet	10 feet	9.3 feet	9.3 feet (no change)

By this Amended and Restated Application, the Applicants request authority under Section 9.7.6 of the Bylaw (establishing the FCOD minimum setback measures which supersede those of the underlying GB District) to extend the measure of non-conformity as shown above to allow the revised development to proceed.

Under Section Footnote 1 of Section 9.7.6 of the Bylaw, the Planning Board has the authority and discretion to grant special permits allowing deviation from the dimensional requirements set forth in the chart at Section 9.7.6. The Footnote states:

“The Planning Board by grant of Special Permit may vary any of the above dimensional requirements” [as stated in the preceding chart for properties within the FCOD]²

In this case, the shape and dimensions of the Property preclude compliance with the setback requirements under Section 9.7.6 of the Bylaw, establishing minimum 10-foot front, side and rear setbacks for properties within the FCOD. The proposed development would reduce those measures as follows:

- (a) the front setback from the existing 2.5 feet to 0 feet; and
- (b) the maintenance (no increase to the non-conformity) of the existing, non-conforming rear setback of 9.3 feet in the proposed re-design of the Property (the rear setback dimension generally required in the FCOD is 10 feet).

The grant of these Special Permits or other waivers as the Board sees fit regarding the front and rear setbacks prescribed under the Town Zoning Bylaw will not materially and adversely impact the Property or the neighboring lots, and will not present any traffic, sightline, open space or other issues. The proposed reduction of the front setback from the existing 2.5 feet and the maintenance of as 9.3-foot rear setback (10 feet required) are both *de minimus*; the land to the rear of the Property buffered by a large commercial parking lot which will not be harmed by the rear yard setback reduction.

Considering the safety and aesthetic need for the renovation of the Existing Building, connection to the public sewer system, lack of stormwater management system and the far more attractive exterior design, facades and roof lines, the renovation and improvements proposed will make the Property far more appealing and safer, and such design under the proposed footprint will fit well within the design and aesthetics of the neighborhood, adding the overall value and appeal of the neighborhood. No substantive harm will be done by granting the relief requested.

² Note: Discussions with the Planning Department revealed that the footnote 1 to Section 9.7.6 had been inadvertently and erroneously deleted from the latest version of the Bylaw as made available on the Town’s municipal website. We understand that efforts are underway to return Footnote 1 to the published version of Section 9.7.6 of the Bylaw.

The setback reductions requested are essential. The economics of the Property, again built in 1930, do not justify the renovation that the Property badly needs without the slight expansion of the footprint of the Property proposed.

For these reasons, the Applicants request that this Board grant special permits, waivers or other relief required, under Section 9.7.6 and footnote 1 thereunder of the Bylaw and that such relief is appropriate and warranted with respect to the Property for the benefit of the Applicants, neighbors of the Property and serves the overall goals and intent of the FCOD as adopted by the Town..

(b) Special Permit for Reduction in Parking for Commercial Unit.

Finally, the Applicants requests relief under the applicable parking requirements generally imposed under Section 9.7.8 of the Bylaw.

Section 9.7.8 of the Bylaw requires generally within the FCOD minimum parking requirements of:

- (a) One parking space for each one-bedroom residential unit
- (b) 1.5 parking spaces for other residential unit plus
- (c) One parking space for each 300 square feet of gross floor space of a commercial unit located on the first floor of a development.

The development proposes two 2-bedroom new residential units, the retention of the 2-bedroom residential unit in the Existing Building and the retention of one existing commercial unit measuring approximately 1,000 square feet.

Section 9.7.8 would generally call for a minimum of four and one-half (4.5) parking spaces for the residential units and four (4) spaces for the commercial unit. The proposal before the Board in this Amended and Restated Application proposes a total of 5 parking spaces, all designated for residential use.

However, under Section 9.7.10 (1), the Planning Board is permitted to reduce by waiver the parking required at a mixed-use development in the FCOD by up to 50% upon a showing that the uses do not compete at peak demand. Under Section 9.7.10(2), the Planning Board is permitted to reduce by waiver the parking required at a mixed-use development in the FCOD by up to 30% if the uses compete at peak demand.

Thus, the Applicants are proposing to provide five spaces for residential parking at the property and ask the Board, under the powers granted to it under Section 9.7.10 of the Bylaw for a waiver of the total number of parking spaces to five and authorize the maintenance of the commercial unit without any off-street designated parking.

The commercial unit at the Property has existed for decades at its current 1,150 square feet of floor space. The Applicants are not proposing to expand that space and

submit that the parking needs of the residents of the three residential units in the proposed development should not compete with the demands for parking of customers and staff at the small commercial space- demand for commercial parking at the Property will arise mostly during the workday when residents are themselves at work. The propriety of granting the waiver requested is further justified by the fact that commercial parking needs during work hours have been in the past more than satisfied by the ample parking available on Wall and Cocasset Streets.

To allow for the improvement, renovation and beautification of the Property as presented herein, the Applicants requests that this Board grant a waiver, special permit or other relief needed under Bylaw Section 9.7.10 to allow the proposed development within the FCOD with five off-street parking spaces.

Exhibits to the Applications.

- Exhibit A** - Deed to the Property to TNC Development LLC.
- Exhibit B** - Revised Site Plan Set and Revised Architectural Renderings for the development.
- Exhibit C** - Photographs of available on-street parking on Wall Street and Cocasset Street

EXHIBIT "A"

Deed of Property into TNC Development LLC

**QUITCLAIM DEED
30-32 WALL STREET, FOXBORO, MA 02035**

MICHAEL E. PACELLA, Trustee of VIP REALTY TRUST under declaration of Trust dated November 11, 2013, and recorded with the Norfolk Registry of Deeds in Book 31893, Page 573, of Foxboro, Norfolk County, Massachusetts for consideration paid, and in full consideration of \$540,000.00 grants to TNC DEVELOPMENT LLC, a Massachusetts limited liability company with an address of 58 Willow Street, Norwood, MA 02062,

With quitclaim covenants

The land known as and numbered 30-32 Wall Street, with the buildings and improvements thereon, situated at the junction of Cocasset Street and Wall Street in Foxboro, Norfolk County, Massachusetts, bounded and described as follows:

Beginning at the westerly corner of the herein granted premises at the corner of land formerly of Leverett S. Inman; thence running about N. 20 1/2° E. by land formerly of Inman, 116.00 feet, more or less, to Cocasset Street; thence about S. 69° E. by said Cocasset Street 33.00 feet to a stone bound; thence about southeasterly by a line parallel to the location of the N.Y. N.H. & H.R.R. Co., a distance of about 66.00 feet to said Wall Street; thence by said Wall Street about S. 33 1/2° W. 43.85 feet to a bound; thence still by said Wall Street, by a curve, 24.00 feet to land formerly of one Jenkins, now or formerly of one Law; thence about N. 69° W. 69.00 feet by said land of Law to the first mentioned corner, and the point of beginning.

The foregoing described premises are shown on a plan entitled "Plan of Land Foxboro, Mass." made by The Service Company dated August 1944, recorded with the Norfolk County Registry of Deeds in Book 2500, Page 346.

The herein named grantor certifies under the pains and penalties of perjury that there are no persons with homestead rights in or to the premises conveyed herein.

Being the same premises conveyed to the herein named grantor by deed recorded with Norfolk County Registry of Deeds in Book 31941, Page 392, dated December 3, 2013.

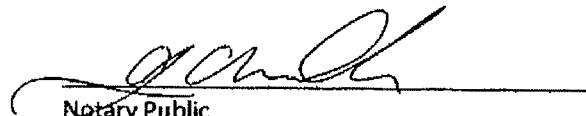
TITLE NOT EXAMINED BY THE PREPARER OF THIS INSTRUMENT.

EXECUTED as a sealed instrument this 2nd day of Aug, 2022.

, Trustee
MICHAEL E. PACELLA, TRUSTEE

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK, SS

On this 2nd day of August, 2022, before me, the undersigned notary public, personally appeared Michael E. Pacella, as Trustee of the VIP Realty Trust proved to me through satisfactory evidence of identification, which were Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee as aforesaid.


Notary Public
My Commission Expires: May 15, 2026

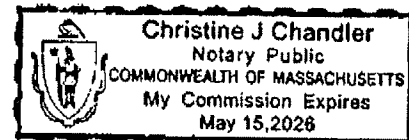
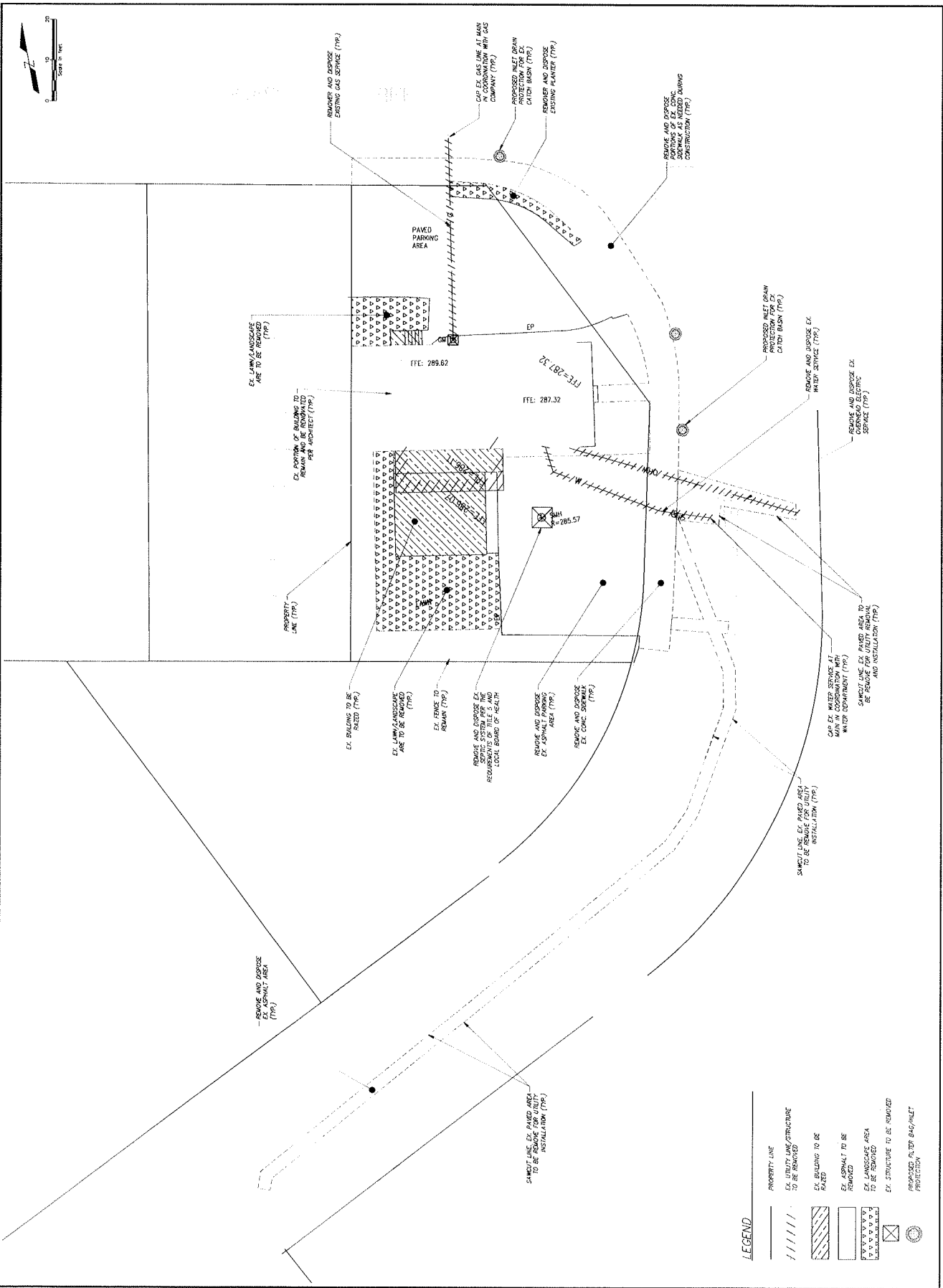


EXHIBIT "B"
Revised Site Plan Set and Architectural Drawings



LEGEND

---	PROPERTY LINE
	EX UTILITY LINE/STRUCTURE TO BE REMOVED
	EX BUILDING TO BE REMOVED
	EX ASPHALT TO BE REMOVED
	EX LANDSCAPE AREA TO BE REMOVED
	EX STRUCTURE TO BE REMOVED
	PROPOSED EX TIE-BACK/INLET PROTECTION



LEGEND
 --- SHORT DISTANCE TRAVEL

VEHICLE TURNING MOVEMENT PLAN

SITE PLANS
BUILDING EXPANSION
MIXED-USE BUILDING
 30-32 WALL STREET, FOXBOROUGH, MA

TNC DEVELOPMENT LLC
 58 WILLOW STREET
 NORWOOD, MA 02062

NO.	REVISION	DATE	BY	CHKD.



HD Design
 40 W. Elm Street
 Foxborough, MA 01935
 Tel: 508-548-1111
 Fax: 508-548-1112
 Email: hdesign@hdesign.com

C-300

EXHIBIT "C"

Photographs of Available Workday Parking on Wall and Cocasset Streets













