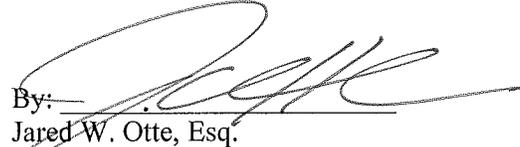


DEVELOPMENT IMPACT STATEMENT PROJECT NARATIVE  
FOR  
95 EAMES STREET, FRAMINGHAM, MASSACHUSETTS

Applicants: Barry and Jeanette Keene

<p><u>Surveyor:</u> Sullivan Surveying Company, LLC 209 West Central Street Natick, MA 01760 Phone: 508.655.0082 Fax: 508.655.0083</p>	<p><u>Counsel:</u> Bowditch &amp; Dewey, LLP 175 Crossing Boulevard, Suite 500 Framingham, MA 01702</p> <p>James D. Hanrahan, Esq. 508.416.2404 508.929.3016 - fax <a href="mailto:jhanrahan@bowditch.com">jhanrahan@bowditch.com</a></p> <p>Jared W. Otte, Esq. 508.416.2422 508.929.3110 - fax <a href="mailto:jotte@bowditch.com">jotte@bowditch.com</a></p>
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By:   
Jared W. Otte, Esq.  
James D. Hanrahan, Esq.  
Bowditch & Dewey, LLP  
175 Crossing Boulevard  
Framingham, MA 01702

This application ("Application") is submitted to the Framingham Planning Board (the "Board") by Barry and Jeanette Keene (the "Keenes" or the "Applicant"), in connection with the Applicant's proposed redevelopment of commercial property known as 95 Eames Street, Framingham (the "Property" or "Project Site"), as shown on the plan entitled "Existing Conditions Plan of Land in Framingham, Mass." prepared by Sullivan Surveying Company, LLC dated September 29, 2014 (the "Existing Conditions Plan").

The Property currently consists of a one-story concrete building comprising approximately 9,800 square feet, served by seven (7) marked parking spaces located partially within the street layout of Col. James M. Halpin Drive. The Applicant has entered into an Agreement of Purchase and Sale dated March 28, 2014 with the current owner of the Property, the Robert J. Kins Family Limited Partnership of 317 Winter Street, Framingham Massachusetts. The Applicant's proposed project, more completely described in Section 1.b. below, proposes to redevelop the Property as an auto body shop to serve the applicant's existing business currently located in Natick, Massachusetts.

As detailed in Section 1.b. below, prior to filing this Application, the Applicant received a denial of its application for a building permit from the Framingham Building Inspector stating that the Project required a special permit from the Board pursuant to Sections III.G.2.a, III.F.1.a and III.C.3.d(1) Framingham Zoning By-Law ("Framingham By-Law"). Furthermore, the Project requires a special permit for reduction in parking pursuant to Section IV.B.1.c of the Framingham By-Law and Site Plan Review by the Board pursuant to Section IV.I.2.d of the Framingham By-Law because the Project includes the change in use of the existing 9,800 square foot building. While the Applicant believes that all necessary parking design relief has been granted for the Property in the past, as detailed further below, the Applicant requests dimensional relief to off-street parking design standards to the extent the Board determines that such relief is necessary to approve this Application. Accordingly, this Application is before the Town of Framingham ("Framingham") Planning Board for: (i) a special permit for use pursuant to Sections III.G.2.a, III.F.1.a and III.C.3.d(1) Framingham Zoning By-Law ("Framingham By-Law"); (ii) a special permit for reduction in the required number of parking spaces pursuant to Section IV.B.1.c of the Framingham By-Law; (iii) dimensional relief to off-street parking design

standards pursuant to Section IV.B.3.g of the Framingham By-Law; and (iv) Site Plan Review pursuant to Section IV.I.2.d of the Framingham Bylaw.

1. PROJECT SUMMARY

a. Existing Conditions and Site History

According to the Existing Conditions Plan, the Property currently consists of one parcel and contains approximately 27,368 square feet of land located on the east corner of Col. James M. Halpin Drive and Eames Street. The Property is surrounded on the north, west, and south by manufacturing uses as part of a manufacturing district in Framingham. To its northeast, the Property abuts Eames Street and to its southeast, the Property abuts Col. James M. Halpin Drive. According to the Existing Conditions Plan and the Framingham Assessor's records for the Property, the Property consists of one building with a total of approximately 9,800 square feet of gross floor area. The Property has access to Col. James M. Halpin Drive pursuant to an access over an easement located on the abutting property to the south, as shown on the Existing Conditions Plan. According to the Framingham By-Law, Framingham Zoning Map, and the Existing Conditions Plan, the Property is located in an "M" General Manufacturing Zoning District (the "M District").

The building on the Property was constructed in 1973 and was used for various industrial purposes, including a dry cleaning facility, until 2010 when the building was vacated. The Property has the benefit of a Decision dated December 4, 1990 from the Framingham Zoning Board of Appeals which granted a number of setback and parking variances (including variances from the parking lot side-yard and front yard setback requirements and stall depth) which authorized the separation of the Property from the abutting property to the southwest owned by Robert J. Kinz Family Limited Partnership. A copy of the December 4, 1990 Decision from the Framingham Zoning Board of Appeals is attached hereto as Exhibit A.

b. Proposed Project

The Applicant's Project is to change the use of the Property, which is currently vacant, to an auto body shop. The Applicant currently operates an auto body shop at 10 Cochituate Street in Natick and is seeking to relocate its business to Framingham. On May 28, 2014, the Applicant

submitted a building permit application to the Framingham Building Inspector. The Building Inspector denied this application and stated that a special permit was required for the change of use pursuant to Sections III.G.2.a, III.F.1.a and III.C.3.d(1) of the Framingham By-Law. A copy of the submitted building permit application and denial is attached hereto as Exhibit B.

As shown on the "Proposed Site Plan of Land in Framingham, Mass." prepared by Sullivan Surveying Company, LLC dated September 29, 2014 (the "Proposed Site Plan"), the Applicant is proposing to remove seven (7) existing parking spaces that currently encroach onto Framingham property in the street layout of Col. James M. Halpin Drive and provide for landscaped area on the Framingham property where the parking spaces are currently located. The Applicant also proposes to provide twenty-two (22) parking spaces on the Property and increase the landscaped area on the site as shown on the Proposed Site Plan. While the Framingham By-Law would require twenty-seven (27) spaces for the proposed use, the Applicant has designed the Proposed Site Plan such that the property maximizes the available space on the Property for parking and meets all parking demand for the proposed use.

While the Applicant has proposed to increase the landscaped area on the Property, the Activity and Use Limitation ("AUL") imposed on the Property by MassDEP, and recorded in the Middlesex South District Registry of Deeds in Book 64266, Page 525, limits the modifications to the existing impervious surface of the Property that can be undertaken by the Applicant. A copy of the AUL is attached hereto as Exhibit C.

The Proposed Site Plan presents a proposal by the Applicant to provide for additional parking and additional landscaped area within the restrictions of the AUL while allowing access to the garage doors located on the southeast side of the building for the proposed use. This proposal by the Applicant will allow for a modest redevelopment of the Property which will remove encroachments onto Framingham property and allow for a use of the Property which is consistent with the surrounding neighborhood.

## 2. TRAFFIC, ENVIRONMENTAL, FISCAL, COMMUNITY AND PARKING IMPACT ASSESSMENT WAIVER REQUESTS

At the July 10, 2014 Board meeting, the Applicant and attorneys James D. Hanrahan and Jared. W. Otte of Bowditch & Dewey, LLP appeared before the Board to discuss the possibility of waiving the Environmental, Fiscal, Community and Parking Impact Assessments for the Project.

Because of the modest redevelopment of the Property proposed by the Applicant and the fact that the proposed use of the Property is consistent with uses in the surrounding area, the members of the Board present at the July 10, 2014 meeting, as well as Amanda Loomis, Planning Board Administrator were receptive to this request and encouraged the Applicant to submit this Application requesting waivers from these submittal requirements. Accordingly, the Applicant has submitted this application without the aforementioned Impact Assessments and requests waivers to these requirements. Notwithstanding these waiver requests, the Applicant submits that its proposal to redevelop and use the Property will not have any negative impacts on the surrounding neighborhood and is an appropriate use for the Property which will benefit the community as a whole.

**EXHIBIT A**

December 4, 1990 Decision from the Framingham Zoning Board of Appeals

TOWN OF FRAMINGHAM  
ZONING BOARD OF APPEALS  
PETITION OF ROBERT J. KINZ

DATE OF DECISION: DECEMBER 4, 1990

On October 17, 1990 the Applicant filed an Application for Hearing with the Clerk of the Zoning Board of Appeals. Said Application was thereafter filed with the Town Clerk on October 31, 1990. The Applicant sought variances as noted below with regard to the proposed division of an existing single lot containing two buildings into two separate lots with one building on each.

The two proposed lots would have areas of 101,494 square feet ± (Lot 1) and 27,368 square feet ± (Lot 2). The buildings on both lots exceed the maximum permitted interim floor-area-ratio limitation. A portion of the parking area of Lot 1 shall have no side-yard setback along the common line with Lot 2, and a portion of the Lot 1 parking area has less than the required front lot line setback. The parking area of Lot 2 shall have no side-yard setback along the common lot line with Lot 1, no front lot line setback and no setback from the existing building. In addition, certain stalls within the parking area of Lot 2 are not in conformance with the minimum required stall depth.

The relief requested was with reference to an existing single lot containing two buildings presently numbered 95 Eames Street and 119 Herbert Street, said premises being shown on Assessors' Plan Sheet 116, Block 234, Lot 34B and Assessors' Plan Sheet 116, Block 233 or 234; Lot A. The Applicant sought variances from the following sections of the Zoning By-Law, IV.B.2.(b), IV.B.2.(c), IV.B.3.(a), IV.B.4., IV.G.2. and IV.G.7.(d).

After notice duly published in THE TAB on October 30 and November 6, 1990, and mailed to those persons deemed affected by the Application, and to the Framingham Planning Board, the Application was heard by the Zoning Board of Appeals on November 20, 1990, at 8:15 P.M. in the Memorial Building. Two Precinct Sixteen Town Meeting members were present at the hearing.

at 3042

3 9 8 5 7 1 0 0

The Applicant, Robert J. Kinz, owner of the subject premises, appeared at the hearing together with Edward J. Mahan, his attorney and Joseph Sullivan, Registered Land Surveyor and President of MacCarthy and Sullivan Engineering, Inc.

Attorney Mahan submitted to the Board as Exhibit 1, a copy of Assessors' Sheet 116 with markings thereon outlining the dimensions of the existing single lot and indicating the locus of the proposed lot line creating two separate parcels. He next submitted Exhibit 2, copy of a plan entitled "PLAN OF LAND, FRAMINGHAM, MASS., APPLICANT: ROBERT J. KINZ, OCTOBER 9, 1990 MacCARTHY & SULLIVAN ENGINEERING, INC.". Both of these plans were marked as exhibits and both are incorporated into this Decision by reference.

Attorney Mahan related the history of the subject parcel to the Board. He directed the Board's attention to Herbert Street Extension as shown on both Assessors' Sheet 116 and the MacCarthy & Sullivan plan. He informed the Board that, at the time of construction of the newer of the two buildings (that on Lot 1), both Herbert Street Extension and the adjacent strip of land bordering Beaver Brook were part of the single lot on which the two buildings were situated. He noted that, if the Applicant had retained title to Herbert Street Extension, the division of the single lot into two parcels could be easily implemented within all existing zoning and dimensional requirements, without the need to request a single variance.

Attorney Mahan discussed the request made by the Framingham Planning Department to the Applicant soliciting the donation of the Herbert Street Extension land to the Town. He noted that the Town wanted to acquire the land for two vital purposes. The first was to provide adequate access to the former Gurney Heater industrial parcel. Prior to the construction of Herbert Street Extension the only access to that property was by way of narrow

residential streets. The second purpose was to provide access for the Town to construct an improved sewer line to alleviate severe overflow problems which had long afflicted the Bates Road area of the Town.

The Town had obtained an Urban Development Action Grant to fund the construction of the roadway. No funds were available, however, to pay for the property required for the roadbed. In view of the needs of the Town, the Applicant agreed to donate the required land, receiving in return an abandoned section of Hearth Street containing approximately one-quarter of the area of Herbert Street Extension. The Applicant made this agreement with the Town with no awareness of the impact it would have on his future ability to divide his single parcel into separate parcels with one building on each. The negative impact of the Applicants grant to the Town became known to him only when a potential buyer indicated an interest in purchasing one of the two buildings. At that point the Applicant retained the services of MacCarthy and Sullivan to survey the property and divide it into two lots. Only then did he become aware of the extent to which his conveyance to the Town had adversely affected his ability to deal with his remaining land.

Attorney Mahan pointed out that the hardship which existed in this case, based on the present configuration of the Applicant's lot, arose directly as a result of the Applicant's generous cooperation with the Town, under circumstances where the Applicant recognized and contributed to the needs of the Town while unwittingly sacrificing his own interests.

Joseph Sullivan discussed with the Board various details of the plan he had prepared, which was before the Board as Exhibit 2. He discussed each specific variance requested by the Applicant and indicated in each instance the precise location of the area on the plan to which each variance had reference. He discussed the relatively slight extent to which the building on the proposed Lot exceeded the maximum permitted interim floor-area-ratio limitation. He noted that the Town, in the course of constructing Herbert Street Extension, had created a parking area which was partly on the Applicant's property and within the public way. He pointed out the manner in which his proposed plan would eliminate this inappropriate layout. Mr. Sullivan noted that, with the exception of the restriping of three parking

spaces at the foregoing location, no change whatsoever would take place on the subject premises when and if it were divided into two separate parcels as shown on Exhibit 2.

Charles Muto of 35 Neville Road questioned whether the gate at the "Gurney" end of Herbert Street Extension was open and whether one could drive through the opening. Board Chairman Calorier noted that the former Gurney property was now owned by Conrail, and that he had personally driven through the open gate, through the Conrail property and exited on Arlington Street.

Charles Davis of 1 Aaron Street, a Precinct 16 Town Meeting Member, stated that when he first learned of the proposal he was opposed to it. On the basis of a later meeting with the Applicant, a guided tour of the premises and the additional information introduced at the hearing, he asked to be recorded in favor of the Applicant's requests.

No one appeared in opposition to the granting of the variances.

Having considered all of the evidence and arguments presented at the hearing, and being totally familiar with the present layout of the subject premises, it is the unanimous opinion of this Board that these requests for variances as set forth in the Application be granted. The Board finds that, owing to circumstances attributable to the legitimate needs of the Town and the Applicant's valuable assistance in this regard, the present shape and configuration of the subject premises are factors which especially affect the Applicant's property and do not generally affect the zoning district in which the subject premises are located. Under these circumstances a literal enforcement of the Zoning By-Law would involve a substantial hardship, financial or otherwise, to the Applicant. The Board further finds that desirable relief may be granted in this instance without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law. In this regard the Board notes that, with the exception of the restriping of three parking spaces, no physical change whatsoever will take place with regard to the subject premises as a result of the granting of these variances. For all of the foregoing reasons the Board finds that the

granting of these variances will in no way and to no extent whatsoever be detrimental to the public good, nor will it substantially derogate from the intent or purpose of the Zoning By-Law.

The vote in favor of granting the variances as requested in the Application is as follows:

WILLIAM F. CELORIER, JR.	YES
JOHN B. FLYNN	YES
GERALD KEARNEY	YES

ZONING BOARD OF APPEALS

BY: *William F. Celorier, Jr.*  
WILLIAM F. CELORIER, JR.

1971 30  
TOWN CLERK  
FRAMINGHAM

*Attest: Michael J. Ward  
Town Clerk  
Dec. 5, 1990*

JAN 30 1991

A TRUE COPY ATTEST

*Michael J. Ward*  
TOWN CLERK  
FRAMINGHAM



TOWN CLERK'S OFFICE

FRAMINGHAM, MASSACHUSETTS

Telephone (508) 620-4862

MICHAEL J. WARD  
Town Clerk

January 30, 1991

To Whom It May Concern:

This is to certify that this decision,

Robert J. Kinz, 95 Eames St. & 119 Herbert St, Framingham, Mass.

17726-174

was filed in the Office of the Town Clerk on December 5, 1990

and that twenty days have since elapsed and no appeal has been filed.

  
Michael J. Ward - Town Clerk

MSD 02/01/91 10:10:19 143 12 00

68  
SEE ME IN RECORD BOOK 20988 PAGE 160

**EXHIBIT B**

May 28, 2014 Building Permit Application



# Town of Framingham, Building Department

150 Concord Street, Room 203  
Framingham, MA 01702  
p. 508-532-5500 f. 508-532-5501

*Submitted  
5/25/12*



## Building Permit Application for any Building other than a One- or Two-Family Dwelling

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Building Official: \_\_\_\_\_ Date: \_\_\_\_\_

95 Eames Street Douglas Kinz  
No. and Street Name of tenant/ owner

### EXISTING PROPOSED WORK

Edition of MA State Code used \_\_\_\_\_ If New Construction check here  or check all that apply in the two rows below

Existing Building  Repair  Alteration  Addition  Demolition  (Please fill out and submit Appendix I.)  
Change of Use  Change of Occupancy  Other  Specify: \_\_\_\_\_

Are building plans and/ or construction documents being supplied as part of this permit application? Yes  No   
Is an Independent Structural Engineering Peer Review required? Yes  No

Brief Description of Proposed Work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### EXISTING BUILDING INVESTIGATION AND EVALUATION

Check here if an Existing Building Investigation and Evaluation is enclosed (See 780 CMR 34)

Existing Use Group(s): building empty was done technologies manufacturing plant Proposed Use Group(s): Auto Body Repair

	Existing	Proposed
No. of Floors/ Stories (include basement levels) & Area Per Floor (sq. ft.)	<u>1</u>	
Total Area (sq. ft.) and Total Height (ft.)	<u>9800 SF</u>	<u>110'</u>

A: Assembly A-1  A-2  Nightclub  A-3  A-4  A-5  B: Business  E: Educational   
 F: Factory F-1  F-2  H: High Hazard H-1  H-2  H-3  H-4  H-5   
 I: Institutional I-1  I-2  I-3  I-4  M: Mercantile  R: Residential R-1  R-2  R-3  R-4   
 S: Storage S-1  S-2  U: Utility  Special Use  and please describe below:

Special Use: \_\_\_\_\_

IA  IB  IIA  IIB  IIIA  IIIB  IV  VA  VB

Water Supply: Public <input checked="" type="checkbox"/> Private <input type="checkbox"/>	Flood Zone Information: Check if outside Flood Zone <input checked="" type="checkbox"/> or identify Zone: _____	Sewage Disposal: Indicate municipal <input checked="" type="checkbox"/> or on site system <input type="checkbox"/>	Trench Permit: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Debris Removal: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
---	---	--	--	---

Railroad right-of-way: Not Applicable <input checked="" type="checkbox"/> or Consent to Build enclosed <input type="checkbox"/>	Hazards to Air Navigation: Is Structure within airport approach area? Yes <input type="checkbox"/> or No <input checked="" type="checkbox"/>	MA Historic Commission Review Process: Is their review completed? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
---	--	--

- FFD
- BOH
- ZBA
- FPC
- CON. Comm
- PLAN BD
- DPW-ENG.

Name and Address of Property Owner

**Douglas Kinz** 317 Winter St Framingham  
 Name (Print) No. and Street City/Town Zip  
 Title **mngnr** Telephone No. (business) **508-361-4930** Telephone No. (cell) **508-361-4930** e-mail address **kinzdoug240@gmail.com**

If applicable, the property owner hereby authorizes

Name Street Address City/Town State Zip  
 to act on the property owner's behalf, in all matters relative to work authorized by this building permit application.

Name (Registrant) Telephone No. e-mail address Registration Number  
 Street Address City/Town State Zip Discipline Expiration Date

Company Name

Name of Person Responsible for Construction License No. and Type if Applicable

Street Address City/Town State Zip

Telephone No. (business) Telephone No. (cell) e-mail address

BUILDING PERMIT FEE WILL BE AMENDED (IF NECESSARY) TO INCLUDE ACTUAL CONSTRUCTION COSTS BEFORE A PERMANENT OCCUPANCY WILL BE ISSUED. SEE FORM A1AG702703.

Item	Estimated Costs: (Labor and Materials)	Official Use Only (\$100.00 Minimum)	
		(a) Building Permit Fee Multipliers \$15.00/ \$1000.	(b) Estimated Total Cost (6)
1. Building	\$	Building Permit Fee (a) x (b)	
2. Electrical	\$		
3. Plumbing	\$	Check Number	
4. Mechanical (HVAC)	\$		
5. Fire Protection	\$		
6. Total Cost = (1+2+3+4+5)	\$		

I hereby certify that I am the owner's agent / contractor for the property listed above and that all the information above, and plans and specifications submitted are correct and that all work pursuant thereto shall comply with all applicable provisions of the Commonwealth of Massachusetts Statutes, Building Code, and Town of Framingham Zoning By-Laws. The following is subscribed to and executed by me under the Pains and Penalties of Perjury.

Please print and sign name Title Telephone No. Date

Street Address City/Town State Zip

DENIAL FOR ZONING BOARD OF APPEALS:

PER SECTION:

III. G. 2.9 (m)

III. F. 1.9 (m-1)

~~III. G. 2.9 (m)~~

DATE

III. C. 3. d. (1) B-4

over 8000 SF.

Need special permit from Planning Bd.

4/10/14

Michael A. Tuomo

BUILDING COMMISSIONER



## Framingham Planning Board Uniform Special Permit Application Package

### INSTRUCTIONS

Please submit **entire** application form and return to the Planning Board including the following:

- Application Checklist
- One (1) original signed application packet
- Eighteen (18) copies of the application
- Ten ~~(10)~~ full size copies of the site plan
- ~~Eight (8)~~ <sup>18</sup> half sized copies of the site plan
- Eighteen (18) copies of all reports/impact assessments and supporting documents
- All application material must be submitted to the Planning Board Office in PDF form on a CD or DVD
- Full payment of application fee. *See attached fee schedule*

**PLEASE NOTE:**

*Additional Consultant Review fees may be required as applicable and determined by the Planning Board. Applicants will be billed separately by the newspaper for the required public hearing legal notices.*

**Please note:**

*per the Planning Board Rules and Regulations*

**Article 10.3** Applicants must submit new or revised materials, documents or plans no later than 5:00 pm on the Thursday preceding the scheduled meeting in order for the materials to receive consideration at that meeting. Documents requiring staff or department review and response will need to be submitted two (2) weeks prior to the scheduled hearing's submittal deadline.

**\*\*\* Supplemental/Revised submissions are required to submit Eighteen (18) copies as noted above**

**Article 10.4** The Planning Board Director shall not schedule for consideration by the Board an application which is not deemed complete.

***A complete version of the Planning Board Rules and Regulations can be found on our webpage***

Upon receipt of an application submittal, Planning Board Staff will review and if deemed **complete**, the application will be date and time stamped by the Planning Board Office. The review procedure will be conducted pursuant to MGL 40A, Framingham Zoning By-Law and Planning Board Rules and Regulations. Planning Board Staff will process complete application submittal in the following manner

- Distribute application submittal to the Planning Board, Town Clerk and Town Departments
- Schedule a Public Hearing
- Set the dates for legal notices to be published in the newspaper
- Post the Public Hearing notice
- Distribute the Public Hearing notice to interested parties/abutters
- Schedule a departmental review meeting prior to the Public Hearing
- Set the deadline for receipt of written departmental review comments

## Special Permit Review Application Checklist

Please complete and submit with application packet.

Please insure that your application and plans include all the items below . If you answered **NO** you are required to submit a waiver request or written explanation at time of filing.

*(\*\*Please note: Failure to complete all items may result in your application being deemed incomplete and may cause a delay in processing your application. Please call the office with questions or concerns)*

**Yes No**

- Original complete application form (s)
- Required application fee
- Certified list of abutters  
*\*\*Please file original form with Assessors Department and allow 10 business days for processing, they will forward list directly to the Planning Board office)*
- The Treasures' Certification Request Form
- Verification of informational meeting with residents
- Verification of Community Notice sign posting five days prior to an application submittal
- Original Building Commissioner's Determination Form
- Required number of submittal copies

**\*\*\*Plan Content Requirements**

- A site plan at a scale of one inch equals twenty feet (1"=20'), or such other scale as may be approved by the Planning Board which should include the following plan content requirements
- Topography of the property, including contours at a 2 foot interval based on the most recent National Geodetic Vertical Datum (NGVD) *Does not apply. we are applying for a change in use - special permit*
- Location of all buildings and lot lines on the lot, including ownership of lots, and street lines, including intersections within 300 ft
- Dimensions of proposed buildings and structures, including gross floor area, floor area ratio, total lot coverage of building, and breakdown of indoor and outdoor floor area as to proposed use. Area dimensions to include Lot Coverage of Building, Paved Surface Coverage, and Landscaped Open Space and Other Open Space, with percentages of these items to be provided and to total 100 percent of the lot area *Does not apply. we are applying for a special permit for a change in use*
- Maximum seating capacity, number of employees, or sleeping units if applicable *Does not apply. we are applying for special permit for a change in use*
- Locations and dimensions, including total ground coverage, of all driveways, maneuvering spaces and aisles, parking stalls and loading facilities, and proposed circulation of traffic - *Does not apply. we are applying for a special permit for a change in use*
- Location of pedestrian areas, walkways, flow patterns and access points, and provisions for handicapped parking and access, and bicycle accommodations *Does not apply. we are applying for a special permit for a change in use*
- Location, size, and type of materials for surface paving, curbing, and wheel stops *Does not apply. we are applying for a special permit for a change in use*
- Location, dimension, type and quantity of materials for open space, planting, and buffers where applicable *Does not apply. we are applying for a special permit for a change in use*
- Provisions for storm water drainage affecting the site and adjacent parcels, and snow storage areas. Drainage computations and limits of floodways shall be shown where applicable *Does not apply. we are applying for a special permit for a change in use*

- A photometric plan showing both the intensity of illumination expressed in foot candles at ground level within to the property boundaries and the location, orientation, height, wattage, type, style and color of outdoor luminaire(s) for all existing and proposed lighting *Does not apply we are applying for a special permit*
- Identification of parcel by sheet, block, and lot number of Assessors Maps *For a change in use.*
- Planning Board Signature Block at approximately the same location on each page of the submitted plans
- Zoning Table to be located on both the front page of the submitted plans and on the Parking Plan/Site Plan page *Does not apply. See variance attached*
- Water service, sewer, waste disposal, and other public utilities on and adjacent to the site *does not apply. we are applying for a special permit*
- An Area designated for the storage of waste and refuse *Does not apply we are applying for a special permit*
- Sign submittal showing sign locations and construction details which shall include the following information as may be applicable: a scaled drawing of each proposed sign showing all dimensions, colors, lettering, graphics, materials and type of illumination; scaled drawing showing all dimensions of facades proposed to contain signage and indicating the location and dimensions of the proposed sign and any existing signs; photographs of existing buildings and signs; and sidewalks, curb cuts and any landscaped or other areas in which a freestanding sign is to be placed clearly showing the location of the sign *for a change in use*
- A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree *Does not apply. we are applying for a special permit*
- An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 100 feet from the project boundaries *\*\*See Administrative Landscape Guidelines Article 18 Does not apply. we are applying for a special permit for a change in use*
- A locus plan at a scale of one inch equals 100 feet (1"=100'), or such other distance as may be approved by the Planning Board, showing the entire project and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries, or such other distance as may be approved or required by the Planning Board *Does not apply. Applying for a special permit for a change in use.*
- Building elevation plans at a scale of one-quarter inch equals one foot (1/4"=1'-0") or one-half inch equals one foot (1/2"=1'-0") or such other scale as may be approved by the Planning Board, showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades *Does not apply applying for a special permit for a change in use*
- A parking plan, at the same scale as the site plan *see variance attached*
- Traffic Impact Assessment *Does not apply. Applying for special permit for change in use*
- Environmental Impact Assessment *Does not apply. Applying for special permit for change in use*
- Fiscal Impact Assessment *Does not apply. Applying for special permit for change in use*
- Community Impact Assessment *Does not apply. Applying for special permit for change in use*
- Parking Impact Assessment *Does not apply. Applying for special permit for change in use*

**Certification:**

The Planning Board is entitled to rely on this representation as being the full and complete statement of the applicant(s)/owner. Therefore, the undersigned certifies that the information provided on the plan, this application, including appendices, and the information contained in any required impact statements is a true and accurate representation of facts pertinent to the subject parcel of land and proposed development/project.

Signature of Applicant/Owner _____	<i>Jeanette Keene</i>	Date: _____
Signature of Applicant (Non-Owner) _____	<i>Barry Lane</i>	Date: <u>5/28/14</u>

## SCHEDULE OF FEES

The following schedule of fees applies to the types of applications to the Planning Board set forth below.

- a. **Approval Not Required** (ANR) plans - \$200.00.
- b. **Preliminary Plans** - \$1000.00.
- c. **Definitive Plans** - \$1,500.00, plus \$300.00 for each acre; or \$750.00, plus \$300.00 for each acre, when a preliminary plan has been filed within the last seven months and the preliminary plan fee associated with such filing, as set forth above, was received by the board.
- d. **Amend or Modify an Approved Definitive Plan** (81W) or a previously submitted definitive plan - \$200.00 plus \$100.00 for each building lot affected. In addition, a fee of \$50.00 shall be required for the consideration of a modification of a road and a fee of \$50.00 shall be required for the modification of a drainage structure. The total fee required shall be the addition of all fees outlined above.
- e. **Modify a Scenic Way** - \$250.00.
- f. **Site Plan Review** - review of site plans shall require the following application fees:
  1. Major site plan - \$2,000.00 plus \$0.06 per square foot of gross floor area.
  2. Minor site plan (iv.i.2.a)- \$1,000.00 plus \$0.03 per square foot of gross floor area
  3. Site plan modification - \$1,000.00 plus \$0.03 per square foot of **new** gross floor area.
- g. **Special Permits** shall require the following application fees, which are in addition to any applicable fees set forth above:
  1. Except for a Special Permit for Planned Unit Development, the Special Permit fee is \$500.00 for a single Special Permit Application or for a first Special Permit Application and \$200.00 for each concurrent Special Permit Application, whether concurrent with a first Special Permit or concurrent with a Site Plan Review application.
  2. Modification or Extension of Special Permit - \$200.00
  3. Special Permit for Planned Unit Development - \$5,000.00 + \$15.00/unit at preliminary plan submittal plus \$35.00/unit at definitive plan submittal.
- h. **Repetitive Petition** - \$200.00.
- i. **Public Way Access Permit** - \$200.00
- j. **Modify Zoning District** - \$500.00
- k. **Sign Waiver** - \$250.00



**Framingham Planning Board**  
Uniform Special Permit Application

Date of Application: 5/28/14

**Special Permits Requested:**

Identify Applicable Site Plan Review pursuant to the Framingham Zoning By-Law:

- Use Section III. III. G.2.9(m) III.F.1.9(m-1)  Open Space Residential Dev. Section IV.M.
- Active Adult Housing Section IV.P. III.c.3.d.(1)B-4  Bonus Density Provisions Section IV.K.9.
- Planned Unit Development Section IV.J.  Modification/Extension Request
- Proximity To Principal Use Section IV.B.2.a.  Other (please indicate) \_\_\_\_\_.
- Reduction In The Required Number Of Parking Spaces Section IV.B.1.c.
- Dimensional Relief To Off-Street Parking Design Standards Section IV.B.3.g.
- Increase Floor Area Ratio (FAR) Sections III.C.1.f, III.C.2.f, IV.K.5.b.
- Land Disturbance Section IV.H.2.

**General Contact Information:**

*Note: all correspondence will be forwarded to the project contact only*

Owner's name: Douglas Kinz phone: 508-361-4930  
 Owner's address: 317 Winter St. Framingham fax: \_\_\_\_\_  
(number and street, town or city, state, zip code)  
 Applicant's name: Jeanette + Barry Keene phone: 508 655 1131  
(if other than owner)  
 Applicant's address: 109 Nason Hill Rd, Sherborn, ma fax: 508 647 1615  
(number and street, town or city, state, zip code)  
 Project contact's name: \_\_\_\_\_ phone: \_\_\_\_\_  
(if other than owner or applicant)  
 Project contact's address: \_\_\_\_\_ fax: \_\_\_\_\_  
(number and street, town or city, state, zip code)  
 Project contact's e-mail: barrysautobodynet@verizon.net

**General Property Information:**

Address of lot or parcel: 95 EAMES ST precinct#: \_\_\_\_\_  
 Framingham assessor's plan: sheet# 116, block# 234, lot(s)# 34B  
 sheet# \_\_\_\_\_, block# \_\_\_\_\_, lot(s)# \_\_\_\_\_  
 The record title stands in the name of: Robert J. Kinz Family Limited Partnership  
 Parcel size (square feet/acres): 27,368 S.F.  
 Gross floor area of building(s) on the site (see Section I.E.1. Of the Zoning By-Laws): 9800 S.F.  
 Floor area ratio (gross floor area of building(s) ÷ size of parcel): .35  
 Current zoning of property: M  
 Current use of property: M  
 Proposed use of property (if different): Auto Body Repair

**Project Description:**

Brief description of project (attach additional pages as necessary): NOT APPLICABLE  
CHANGE OF USE APP.

**Parking Information:**

Minimum number of parking spaces required (see Section IV.B.1.a. of the Zoning By-law): SEE VARIANCE ATTACHED  
Number of existing parking spaces: SEE VARIANCE ATTACHED  
Number of additional parking spaces proposed: SEE VARIANCE ATTACHED  
Method of calculating required number of off-street parking spaces to be provided: SEE VARIANCE ATTACHED  
*(Include no. of employees, occupants, dwelling units, seating capacity, gross floor area, etc., as applicable)*

**Fiscal Information:**

Current assessed value of site: 1,481,200 \* 95 EAMES ST. AND 119 HERBERT STREET ARE ONE PROPERTY WITH ONE TAX ASSESSMENT. THEY WILL NOT BECOME SEPARATE PROPERTIES UNTIL WE (BARRY + JEANETTE KEENE) BUY THE PROPERTY (95 EAMES ST. LOT 2) THE CLOSING AT WHICH TIME  
Estimated value of project-related improvements: NOT APPLICABLE  
Current total local tax revenue from site: 0  
Estimated post-development local tax revenue: NOT APPLICABLE  
Estimated number of project related jobs created: construction NOT APP. permanent/part time 1

A SEPARATE DEED WILL BE RECORDED FOR 95 EAMES ST. ATTORNEY PETER BARBERI HAS CLEARED THIS WITH THE BUILDING DEPT

**Requested Waivers from Submission Requirements:**

Please submit written explanation with supporting documentation (if applicable) for all Waivers requested with this application.

**Other Applicable Local, State and Federal Permits and Approvals:**

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	The Building Commissioner has reviewed this application/plans? <i>(Original written determination must be provided, form attached)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The lot is on a Scenic Road? <i>(see Article VI, Section 10 of the Town of Framingham' General By-Laws)</i> <i>(If yes, The applicant must indicate if any repair, maintenance, reconstruction, paving work or other activities result in the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof. A Modification to a Scenic Road application may need to be filed.)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The project impacts Public Shade Tree as protected by MGL c. 87, Sect. 3.?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The project involves alteration or demolition of buildings which are at least 50 years old? <i>(If yes, the applicant must obtain a determination of historical or architectural significance from the Framingham Historical Commission in conformance with Article V. Section 17A. of the Town of Framingham' General By-Laws.)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The lot is situated in an historic district? <i>(see Article V. Section 5. of the Town of Framingham's General By-Laws)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposal has an impact on interests and values protected by the Framingham Wetland Protection By-Law? <i>(see Article V. Section 18. of the Town of Framingham's General By-Laws.)</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project is located in a designated federal Floodplain Hazard Zone?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The project has received or will require a special permit(s) from the Zoning Board of Appeals? <i>(Please attach a copy)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project has received or will require a variance(s) from the Zoning Board of Appeals? <i>(Please attach a copy)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project will require a Street Opening Permit from the Board of Selectmen?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project will require a Massachusetts Highway Department Permit?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project will require a Public Way Access Permit? <i>(see Article VI., Section 8. of the Town of Framingham's General By-Laws.)</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project is subject to the Highway Overlay District Regulations IV.K.?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project is subject to the Mixed Use Regulations IV.N.?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project is subject to the Affordable Housing By-Law, IV.O.?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project is subject to the Automatic Carwash/Self-service Carwash, IV.J.?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project has received/apply for Wireless Communication Approval?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project is requires a National Pollutant Discharge Elimination System (NPDES permit)?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The Project is a designated Brownfield Site and/or subject of a 21E Survey?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	This Property was subject to a prior Permit(s) and/or Approval(s) issued by the Planning Board? <i>(Please indicate permits and approvals)</i> _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	This Application is subject to the Central Business Design Standards? <i>(Article 17 of the Planning Board Administrative Rules and Regulations)</i>

**Certification:**

The Planning Board is entitled to rely on this representation as being the full and complete statement of the applicant(s)/owner. Therefore, the undersigned certifies that the information provided on the plan, this application, including appendices, and the information contained in any required impact statements is a true and accurate representation of facts pertinent to the subject parcel of land and proposed development/project.

Signature of Applicant/Owner Jeanette Keene Perry Date: 5/28/14  
 Signature of Applicant (Non-Owner) \_\_\_\_\_ Date: \_\_\_\_\_

**To be completed by Town Treasurer:**

◆**Note:** In accordance with Article IX of the By-Laws of the Town of Framingham, the Planning Board may withhold permits and approvals in the event that an applicant has neglected to pay local taxes, fees, assessments or other municipal charges. In order to satisfy the objective of this By-Law, Town Treasurer's Signature must be obtained below to verify that no such outstanding charges have accrued relative to this application. This application will not be accepted without the following confirmation:

The signature below confirms that the applicant/owner has paid all local taxes, fees, assessments or other municipal charges and has no outstanding obligations due the Town Of Framingham.

\_\_\_\_\_

Town Treasurer

\_\_\_\_\_

Date of Signature

**To be completed by the Framingham Planning Board:**

Date completed application received: \_\_\_\_\_

Date application distributed to other boards/departments: \_\_\_\_\_

Filing fee of: \_\_\_\_\_ Paid: \_\_\_\_\_

Scheduled hearing date: \_\_\_\_\_

Advertisement date(s): \_\_\_\_\_ publication \_\_\_\_\_

Affidavit of notice submitted on: \_\_\_\_\_ date abutter's notice mailed \_\_\_\_\_

Decision: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of decision: \_\_\_\_\_



**TOWN OF FRAMINGHAM**  
**Inspectional Services Division**

**Department of Building Inspection**  
 Memorial Building, Room 203  
 150 Concord Street  
 Framingham, Massachusetts 01702-8368

Michael F. Foley, C.B.O.  
 Building Commissioner

Telephone: 508-532-5500  
 Fax: 508-532-5501

Email: [Building.Dept@FraminghamMa.gov](mailto:Building.Dept@FraminghamMa.gov)

**Building Department**  
**Section IV.I.4.a Recognition Form**

To: John Grande  
 From: Mike Foley  
 Re:  
 Date:

-----  
 In accordance with Section IV.I.4.a of the Framingham Zoning By-Law, prior to the filing an application with the Planning Board, the applicant, as defined in Section I.E.1 herein, shall seek the Building Commissioner's review and advice to confirm which pertinent sections of the Zoning By-Law apply. The Building Commissioner's signature must be obtained below to confirm that this review has been completed. This application will not be accepted without the following confirmation:

The signature below confirms that the applicant/owner has provided information and I have advised the applicant of the necessary permits required. \_\_\_\_\_

\_\_\_\_\_  
 Building Commissioner

\_\_\_\_\_  
 Date of Signature

**TREASURER'S CERTIFICATION REQUEST INFORMATION FORM**

**Town of Framingham**

**Treasurer/Collector**

Please Provide Our Office With The Following Information:

Date: 5/28/14

Address Of Property Which Is The Subject Of This Application:

95 EAMES STREET, FRAMINGHAM

Property Owner's Name: (As Appears On Assessor's Records)

ROBERT J. KINZ FAMILY LIMITED PARTNERSHIP

Property Owner's Address: (As Appears On Assessor's Records)

317 Winter Street, Framingham

Applicant's Name: (If Same As Owner Write: Same)

Barry Keene + Jeanette Keene

Applicant's Address: (If Same As Owner Write: Same)

109 Nason Hill Rd, Sherborn, MA 01770

Business(S) In Framingham Owned By Property Owner and/or Applicant:

none owned by applicant in Framingham

Property Owner Or Applicant Name and Telephone:

Name: Barry + Jeanette Keene

Phone Number: 508-254-3113

**Exhibit C**

Activity and Use Limitation  
recorded in the Middlesex South District Registry of Deeds in Book 64266, Page 525

112



2014 00144860

Bk: 64268 Pg: 525 Doc: NOT  
Page: 1 of 12 09/23/2014 11:10 AM

**Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.**

NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000



Disposal Site Name: 95 Eames Street, Framingham, MA  
DEP Release Tracking No.: 3-30249

This Notice of Activity and Use Limitation ("Notice") is made as of this 17<sup>th</sup> day of September, 2014, by the Robert J. Kinz Family Limited Partnership, 119 Herbert Street, Framingham, MA 01701, together with his/her/its/their successors and assigns (collectively "Owner").

WITNESSETH:

WHEREAS, the Robert J. Kinz Family Limited Partnership, is the owner in fee simple of that certain parcel of land located in Framingham, Middlesex County, Massachusetts with the buildings and improvements thereon, pursuant to a deed recorded with the Middlesex South Registry of Deeds in Book 35845, Page 591;

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Middlesex South Registry of Deeds in Book 20988, Page 160;

*c/o Mr Robert Kinz.  
Robert Kinz  
317 Winter St.  
Framingham, MA 01701*

WHEREAS, the Property comprises part of a disposal site as the result of a release of oil and/or hazardous material. Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as Exhibit C and made a part hereof:

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Property pursuant to 310 CMR 40.0000:

- (i) Retail, commercial, or industrial uses and activities, provided that these uses and activities do not alter or damage the Active Exposure Pathway Mitigation Measure (AEPMM);
- (ii) Emergency utility repair work;
- (iii) Excavation associated with short term (six months or less) utility or construction work, provided that this work is conducted in accordance with a Soil Management Plan (SMP) and a Health and Safety Plan (HASP) that includes ambient air monitoring. If any excavation is conducted beneath the building, the floor must be replaced within one month following the completion of the project. The excavation and floor replacement must be conducted under a Release Abatement Measure (RAM) Plan that is prepared and implemented prior to the initiation of such activities and in accordance with the MCP;
- (iv) If the work beneath the building involves the installation or repair of utilities, any pipe penetrations into the building must be properly sealed and indoor air sampling must be conducted to confirm the effectiveness of the seal;
- (v) Such other activities or uses which, in the Opinion of a Licensed Site Professional, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and
- (vi) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with maintaining No Significant Risk Conditions.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Property:

- (i) Use of the Site as a residence, school, nursery, or daycare;
- (ii) Any activities that damage the AEPMM;
- (iii) Any activities that alter or remove the AEPMM, which may modify or otherwise limit the effectiveness of the AEPMM, without having a Licensed Site Professional (LSP) perform an evaluation of whether such alterations will maintain a condition of No Significant Risk;
- (iv) Expansion of the building footprint without first having an LSP perform an evaluation as to whether the AEPMM will maintain a condition of No Significant Risk;
- (v) Construction of a new building without first eliminating the vapor source or installing an AEPMM or passive venting system and subsequent indoor air sampling and LSP evaluation to confirm that a condition of No Significant Risk is maintained; and
- (vi) Any non emergency excavation without ambient air monitoring performed as part of a HASP or without implementation of an SMP.

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Property to maintain a Permanent Solution and a condition of No Significant Risk:

- (i) The AEPMM comprised of four active sub slab depressurization systems (SSDs) located inside the building and along the south, west and east walls shall be operated according to the operating regimen specified in the Permanent Solution Statement submitted to the Department of Environmental Protection to ensure a level of No Significant Risk is maintained for the Receptors of concern under normal operating conditions;
- (ii) The AEPMM shall employ remote monitoring technology that alerts the property owner and operator and the Department of Environmental Protection immediately upon loss of power, mechanical failure or other significant disruption of the effectiveness of the system;
- (iii) In the event of any suspension or failure of the AEPMM, immediate steps shall be taken to return the AEPMM to full operating condition;
- (iv) If such suspension or failure of the system lasts 30 consecutive days, written notice shall be provided to both the Department of Environmental Protection and any non-transient building occupant who may have experienced exposure to oil and/or hazardous material as the result of the system failure or suspension on the 30<sup>th</sup> day from the start of the suspension or failure period; this notice shall document the reason for the suspension or failure of the system, any efforts taken

to resume operation of such measures, and the expected timeframe for resuming operation of such Measure; and

- (v) Any future expansion of the building footprint must consider whether additional SSDSs are necessary to prevent the migration of CVOCs into the building. Follow up indoor air sampling must be conducted to evaluate the effectiveness of these engineering controls in eliminating this exposure pathway.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080 *et seq.*, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR 40.1080 *et seq.*, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080 *et seq.*, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements, or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS the execution hereof under seal this 17<sup>th</sup> day of September, 2014.

Douglas A. J. Kinz  
Douglas A. J. Kinz  
Robert J. Kinz Family Limited Partnership

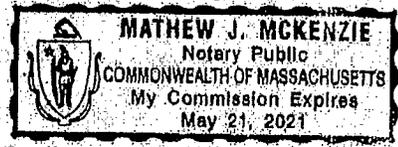
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

September, 2014

On this 17 day of September, 2014, before me, the undersigned notary public, personally appeared Douglas A. J. Kinz, proved to me through satisfactory evidence of identification, which were MA. Drivers Lic., to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as General Partner of the Robert J. Kinz Family Limited Partnership.

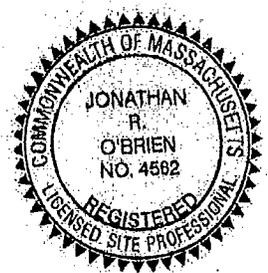
Mathew J. McKenzie  
Notary Public:  
My commission expires: 5/21/2021



The undersigned Licensed Site Professional hereby certifies that in his Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: 9/22/2014

Jonathan R. O'Brien  
Jonathan R. O'Brien, LSP No. 4562



COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

September, 2014

On this 22<sup>nd</sup> day of September, 2014, before me, the undersigned notary public, personally appeared Jonathan R. O'Brien, proved to me through satisfactory evidence of identification, which was his driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

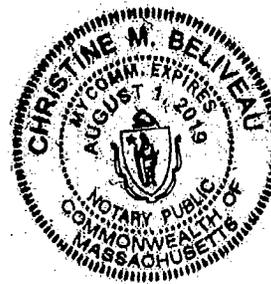
*Christine M. Beliveau*

Notary Public: Christine Beliveau

My commission expires: 08/01/19

Upon recording, return to:

Robert J. Kinz Family Limited Partnership  
c/o Mr. Robert J. Kinz  
317 Winter Street  
Framingham, MA 01702



**EXHIBIT A**

**Description of the Property  
95 Eames Street  
Framingham, MA**

The land with the buildings thereon in Framingham, Middlesex County, Massachusetts, being shown as Lot 2 on Plan entitled "Plan of Land in Framingham, Mass. Owned By: Robert J. Kinz, October 15, 1990, Survey By: MacCarthy & Sullivan Engineering, Inc.", recorded with Middlesex South District Registry of Deeds as Plan No. 68 of 1991, in Book 20988, Page 160, being more particularly bounded and described as follows:

SOUTHWESTERLY by Col. James M. Halpin Drive as shown on said Plan, 127.72 feet;

NORTHWESTERLY by Lot 1 as shown on said Plan, 75.78 feet and 91.45 feet;

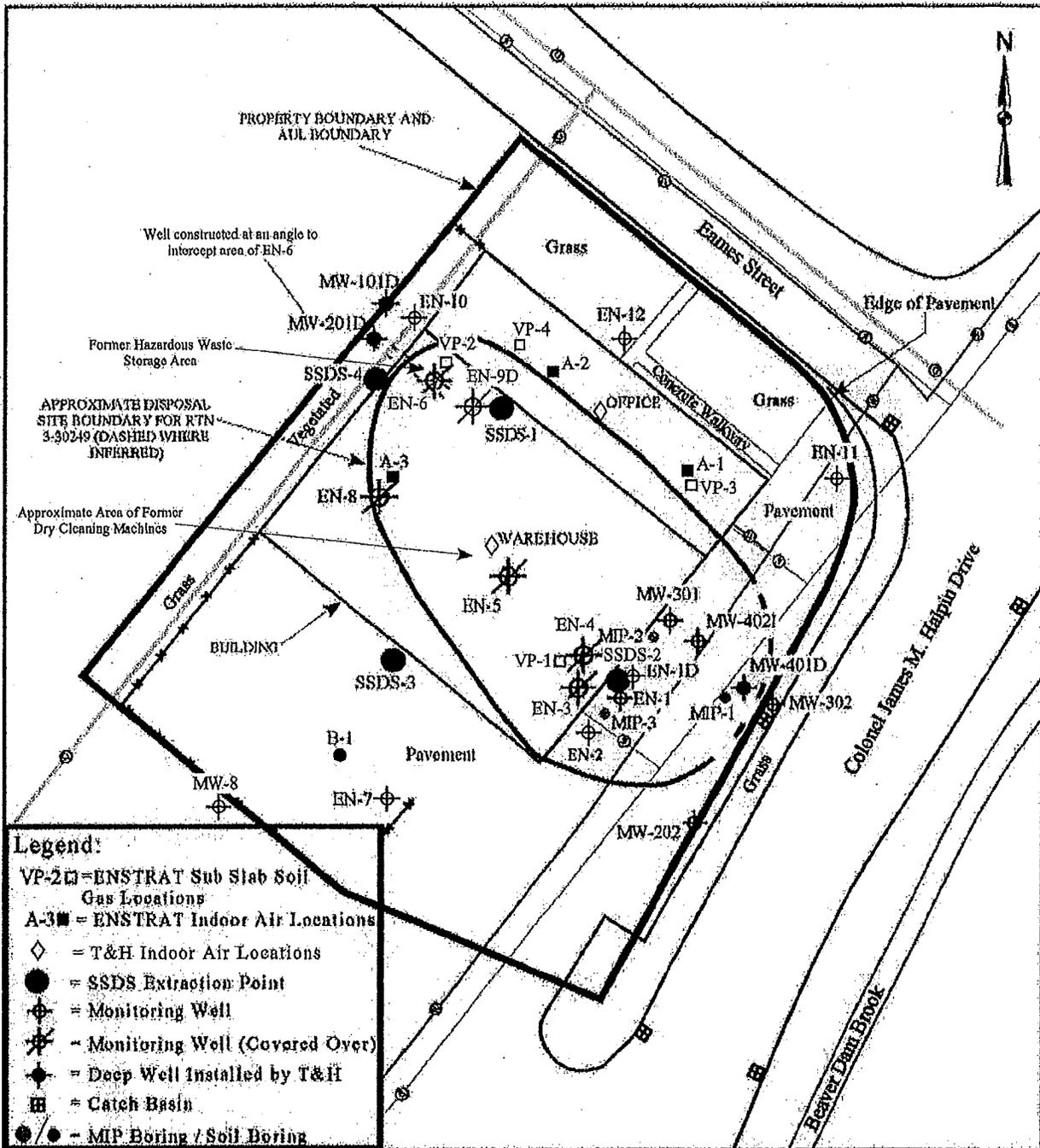
NORTHEASTERLY by land now or formerly of Heimer Niit, as shown on said Plan, 188.13 feet;

SOUTHEASTERLY by Eames Street, as shown on said Plan, 98.05 feet;

SOUTHWESTERLY on a curving line forming the junction of said Eames Street and said Col. James M. Halpin Drive, as shown on said Plan, 69.04 feet.

Containing 27,368 square feet, according to said Plan.

The premises are conveyed subject to an Existing 15' Wide Sewer Easement as shown on said Plan.



**TATA & HOWARD**

Date:

Scale:

SEPTEMBER 2014



**EXHIBIT B**

**95 EAMES STREET  
FRAMINGHAM, MASSACHUSETTS**

**EXHIBIT C**  
**Narrative Description of the Basis for the AUL**  
RTN 3-30249  
95 Eames Street  
Framingham, MA 02150

Tata & Howard, Inc. (T&H) has prepared this Exhibit to provide a description of the basis for the restrictions outlined in the Notice of Activity and Use Limitation (AUL) for the property located at 95 Eames Street in Framingham, Massachusetts (the "Site"), and the oil or hazardous material release event(s) or Site history that resulted in the contaminated media subject to the AUL. This Exhibit has been prepared in accordance with the requirements of Chapter 21E and the Massachusetts Contingency Plan (MCP), specifically:

- 310 CMR 40.1012 Application of Activity and Use Limitations;
- 310 CMR 40.1070 Implementation of Activity and Use Limitations; and
- 310 CMR 40.1074 Notice of Activity and Use Limitations.

Sections 40.1074(2)(e) to (g) of the MCP specify the information that must be addressed in Exhibit C. Each of these items is addressed as follows:

Why the Notice of AUL is Appropriate to Maintain a Permanent Solution

The results of the Method 3 Risk Characterization indicate that a condition of No Significant Risk (NSR) exists for current activities and uses at the Site, including the potential emergency utility repair worker scenario. However, significant risk could exist associated with indoor air for a residential scenario or a scenario where children are present for long periods of time (e.g., school, nursery, or daycare). In addition, the Risk Characterization is based on the effectiveness of the existing Active Exposure Pathway Mitigation Measure (AEPMM) to mitigate the intrusion of release related vapors into the building. Without the AEPMM, significant risk would exist for commercial or industrial uses of the Site. Therefore, this AUL is appropriate to maintain a condition of NSR for current and future foreseeable activities and uses because the AUL prohibits use of the Site as a residence, school, nursery, or daycare and establishes obligations and conditions to ensure that the AEPMM continues to be effective at mitigating the vapor intrusion pathway.

The AUL is appropriate to achieve and maintain a condition of NSR because the activities and uses consistent with the AUL will maintain a condition of NSR under current and reasonably foreseeable use of the Site. The AUL provides a mechanism to eliminate future potential exposures, which may result in significant risk in the absence of an AUL. The AUL establishes mechanisms for review and, if necessary, amendment of the Notice of AUL. The AUL is protective of human health because only those activities and uses at the Site for which a condition of NSR has been demonstrated are allowed. Therefore, only after LSP review can a proposed change in activities or use be

implemented at the Site. The designated AUL area comprises the Site as indicated on the sketch plan included as Exhibit B of the Notice.

Summary of the Oil or Hazardous Material Release(s) or Site History that Resulted in the Contaminated Media Subject to the Notice AUL

The current building was constructed on undeveloped land in 1973 and was used for various industrial purposes until 2010 when the building was vacated. The Site operated as a commercial dry cleaner from 1989 until around 1995 and the former dry cleaning operations appear to have resulted in releases of dry cleaning fluid that contaminated soil and groundwater. The dates of the releases are unknown, but likely occurred sometime prior to 1995 when the dry cleaners left, and the volume of dry cleaning fluid released to the environment is also unknown because there are no documented spills on record in the Town or State files. T&H is of the opinion that the releases could be from dry cleaning fluid being spilled onto the concrete floor inside the building during the process of adding the fluid to the dry cleaning machines or transferring the spent fluid to drums for temporary storage inside the building prior to being transported offsite. Dry cleaning fluid is known to penetrate concrete so T&H is of the opinion that this is how the material was released to the environment. The sewerage system could also be a pathway as these pipes often leak and create a pathway to the subsurface. Prior to there being environmental concerns, cleaning fluid was often disposed in sinks that could then leak out through the sewer pipes.

Response actions by a prior consulting firm to achieve a permanent solution included installing a Liquid Boot<sup>®</sup> PLUS vapor barrier system on the entire concrete floor of the building and installing two passive venting sumps inside the building. The vapor barrier system consists of a membrane placed on top of the original concrete floor, covered by a liquid asphaltic layer that is then covered with another membrane. The system was then covered with two to four inches of concrete to provide a new wear surface. However, the analytical results of indoor air samples collected after the installation of the Liquid Boot<sup>®</sup> PLUS vapor barrier system indicate that these response actions were inadequate to mitigate the vapor intrusion. Therefore, T&H converted the passive venting sumps to an active sub slab depressurization system (SSDS) and installed three additional SSDSs along the south, east, and west exterior sides of the building.

Description of the Contaminated Media Subject to the Notice of AUL

The data collected to date indicate that soil outside the footprint of the building has not been significantly affected by the releases. However, soil located directly beneath portions of the building floor to depths of around three feet contain chlorinated volatile organic compounds (CVOCs) at concentrations above the Massachusetts Department of Environmental Protection's (MassDEP's) Method 1 Standards.<sup>1</sup> Specifically, tetrachloroethylene (a.k.a., perchloroethylene or PCE), trichloroethylene (TCE), and cis-1,2-dichloroethylene (cDCE) are present at concentrations above the Method 1 S-1

<sup>1</sup> As previously indicated, a Method 3 Risk Characterization was conducted at this Site. The Method 1 Standards are mentioned here for reference only.

Standards. The areas with the highest concentrations of CVOCs are near the former Hazardous Waste Storage Area, located in the northern corner of the warehouse portion of the building, and the former dry cleaning machines located near Well EN-5. Please refer to Exhibit B for the approximate locations of the former Hazardous Waste Storage Area and EN-5.<sup>2</sup>

PCE, TCE, cDCE, and vinyl chloride are also present in groundwater below and near the building at concentrations above the Method 1 GW-2 Standards. The GW-2 Standards are designed to be protective of indoor air and initial indoor air data collected from the building indicate that CVOC vapors from the contaminated soil and groundwater were significantly affecting the indoor air quality. The analytical results of indoor air samples collected after the SSDSs were activated indicate that concentrations of CVOCs are well below MassDEP's Commercial/Industrial Threshold Values. Therefore, these data indicate that the SSDSs are effective at mitigating the vapor intrusion pathway and creating a condition of NSR relative to indoor air.

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<sup>2</sup> EN-5 is no longer accessible because the Liquid Boot system has covered this well and all other wells that were drilled through the slab.

EXHIBIT D

*The Commonwealth of Massachusetts*  
*Secretary of the Commonwealth*  
*State House, Boston, Massachusetts 02133*



William Francis Galvin  
Secretary of the  
Commonwealth

September 11, 2014

To Whom it May Concern:

I hereby certify that according to the records in this office, a Certificate of Formation of Limited Partnership was filed in this office by

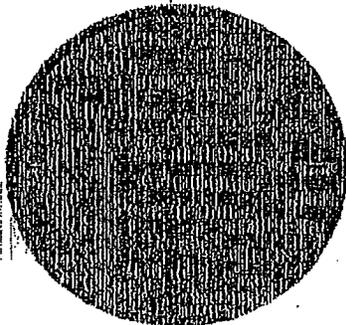
**ROBERT J. KINZ FAMILY LIMITED PARTNERSHIP**

in accordance with the provisions of Massachusetts General Laws, Chapter 109, on November 17, 1994.

I further certify that said Limited Partnership has filed all annual reports due and paid all fees with respect to such reports; that said Limited Partnership has not filed a Certificate of Cancellation; that said Limited Partnership has not been administratively dissolved; and that, so far as appears of record, said Limited Partnership has legal existence and is in good standing with this office.

I also certify that the names of the General Partners as listed in the most recent filings are as follows:

SUSAN KINZ MAGGION  
DOUGLAS A.J. KINZ  
STEVEN P KINZ  
119 Herbert St.  
Framingham, MA 01701 USA



In testimony of which,  
I have hereunto affixed the  
Great Seal of the Commonwealth  
on the date first above written.

*William Francis Galvin*  
Secretary of the Commonwealth

SEP 23 2014

COMMONWEALTH OF MASSACHUSETTS,  
MIDDLESEX S.S.  
SOUTH DIST. REGISTRY OF DEEDS  
CAMBRIDGE, MA

I HEREBY CERTIFY THE FOREGOING

IS A TRUE COPY OF A PAPER

RECORDED IN BOOK 64266

PAGE 525 - 536



REGISTRAR