



**TOWN OF MAYNARD**  
**Office of Municipal Services**  
MUNICIPAL BUILDING  
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Maynard, MA 01754

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***Maynard Zoning Board of Appeals***  
***Notice of Decision***

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To: Michelle Sokolowski, Town Clerk  
195 Main Street  
Maynard, MA 017

August 24, 2017

Re: Water Supply Protection District Special Permit approval for the project entitled "Maynard Crossing", Owned by Maynard Crossings JV, LLC - Capital Group Properties, 259 Turnpike Road, Southborough, MA 01772, drawn by Bohler Engineering, 352 Turnpike Rd Suite 201, Southborough, MA 01772.

Dear Ms. Sokolowski:

Please accept this Notice of Decision for the Maynard Crossing (AKA "129 Parker Street"). This is for approval of a Water Supply Protection District Special Permit to allow development within the Zone II Water Supply Protection District and is ready for recording by the Maynard Town Clerk's Office.

**I. General**

On April 13, 2017, Maynard Crossings JV, LLC - Capital Group Properties (hereinafter referred to as "the Applicant") submitted to the Maynard Zoning Board of Appeals (hereinafter referred to as "ZBA") an application for a Water Supply Protection District Special Permit under Sections 9.2 and 10.4 of the Zoning By-laws ("ZBL"), to allow development within in the Zone II Water Supply Protection District. The proposed development is the "Maynard Crossing" mixed-use project located at 129 Parker Street.

The 58-acre former Digital Equipment Corporation complex at 129 Parker Street is being developed by Capital Group Properties as "Maynard Crossing." The site is directly abutting residential properties at Field Street and Dettling Road (on the north and south sides respectively). To the east is Parker Street (Highway 27) and to the west are wetlands.

The project includes:

- a 68,000 square foot supermarket
- a congregate care retirement community (143 units)
- residential uses (180 units with 22 dedicated affordable)
- health club
- medical offices

- retail uses and restaurants

### Regulatory Framework

The subject property is zoned “Neighborhood Overlay Zoning District” (NBOD). The underlying zoning district is “Industrial”. In addition to the Town Zoning By-laws, the development is also subject to:

- a. The Memorandum of Agreement between the Town and the applicant (signed by Board of Selectmen on September 6, 2016). Includes schedule of payments, improvements and other details associated with the Concept Plan.
- b. The Concept Plan and Signage Plan approved by Town Meeting on Oct 5, 2016.

### II. Plans and Documents Submitted:

The following documents and supporting materials were submitted to and reviewed by the ZBA either with the associated application, or during the Public Hearing process, and form the basis of this Decision.

- Materials denoted with a \* were provided by the applicant.
- Materials denoted with a # were prepared on behalf of the Town.

Relevant document date information is also noted within Table 1. Certified Abutters Lists with Assessors Maps were also received.

Table 1		
Document	Prepared by	Date
Application for Special Permit approval to allow development within in the Zone II Water Supply Protection District.	Capital Group Properties	April 13, 2017
Concept Plan *	CI Design, Inc.	June 28, 2016
Fiscal Impact Projection #	RKG Associates	September 9, 2016
Site Development Plans *%	Bohler Engineering	1. February 15, 2017 Original. 2. Date of Final Revision August 10, 2017
Engineering Analysis*	Onsite Engineering	July 19, 2016
Stormwater Drainage Report*	Bohler Engineering	1. February 15, 2017 Original. 2. Date of Final Revision June 28, 2017
Traffic Impact and Analysis Study*	Green International Affiliates, Inc.	January 2017
Water and Sewer* Capacity Analysis	Onsite Engineering	March 27, 2017
Water and Sewer *	Stantec	April 11, 2017

Table 1		
Document	Prepared by	Date
Capacity Analysis		
Operations and Management Plan (O&M Plan)	Capital Group Properties	Latest Revision July 24, 2017
Grading Plan*	Bohler Engineering	1. March 21, 2017 Original. 2. Date of Final Revision June 15, 2017
Planning Board Report (Approval recommended with condition that Special Permit be effective only upon approval of Site Plan and Special Permits currently under Planning Board review).	Planning Board	May 12, 2017
Board of Health Report issued. No opposition. Only comment that ZBA note applicant comply with all local and state regulations as they pertain to this project (Board of Health has issued applicant comment letter on March 25, 2016 with their comments).	Board of Health	May 19, 2017
Conservation Commission Report Issued. No opposition or comments for ZBA. Conservation Commission approved this project June 27, 2017.	Conservation Commission	June 6, 2017

The ZBA reviewed these materials during the application, public hearing and deliberation processes.

### III. Applications

This process and resulting Decision were based on the Applicant's Special Permit request to the ZBA for development of a mixed-use project within in the Zone II Water Supply Protection District. A Special Permit is required for development within in the Zone II Water Supply Protection District per Section 9.2 of the ZBL.

## IV. Review Criteria

### a. Report and Recommendations

Section 9.2.7 and 9.2.8 of the ZBL provide that the Special Permit Granting Authority (ZBA) shall give written notice of a Special Permit application within the Water Supply Protection District to the Planning Board, the Board of Health, and to the Conservation Commission and request a report and recommendation from each. If the Planning Board, the Board of Health, or the Conservation Commission, within 14 days of the Special Permit Granting Authority's request for comments, opposes the granting of the Special Permit or recommends conditions or limitations on the permit, the Special Permit Granting Authority must either follow such recommendations or state in writing as part of its findings the reasons for not allowing such recommendations. A email was sent to each of the above-referenced entities on April 4, 2017 requesting recommendations/comments. The following responses were provided by the respective entities:

- Planning Board – Report issued (May 12, 2017). Approval recommended with condition that Special Permit be effective only upon approval of Site Plan and Special Permits currently under Planning Board review.
- Board of Health – Report issued (May 19, 2017). No opposition. Only comment that ZBA note applicant comply with all local and state regulations as they pertain to this project (Board of Health has issued applicant comment letter on March 25, 2016 with their comments).
- Conservation Commission – Report Issued (June 6, 2017). No opposition or comments for ZBA. Conservation Commission approved this project June 27, 2017.

### b. Special Permit Approval

There are two sections of the ZBL that apply to this Special Permit request. The focus of the findings for this request is Section 9.2.7, containing criteria required for approval of development within the Water Supply Protection District. A finding is also required under Section 10.4.2 that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood. Such finding is based on consideration of applicable criteria under Section 10.4.2.

1. Section 9.2.7 of the ZBL provides the criteria that must be met in order to issue a Special Permit development within Zone 2 of the Water Supply Protection District. The Board must make affirmative findings that the proposed use:
  - Is in harmony with the purposes and intent of this Section 9.2 and will promote the purposes of the Water Supply Protection District;
  - Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;

- Will not, during construction or thereafter, have an adverse environmental impact on any water body, groundwater supply, or water course in the District; and
  - Will not adversely affect the quality or quantity of any existing or potential water supply.
2. Section 10.4.2 of the ZBL provides that a Special Permit shall be granted only upon written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In reaching such determination, the Board considers any applicable criteria among the following:
- Social, economic, or community needs which are served by the proposal.
  - Traffic flow and safety, including parking and loading.
  - Adequacy of utilities and other public services.
  - Neighborhood character and social structures.
  - Impacts on the natural environment.
  - Potential fiscal impact, including impact on town services, tax base, and employment.

#### **V. Public Hearings(s) and Vote(s) of the Zoning Board of Appeals**

The ZBA opened Public Hearings for a Special Permit development within Zone 2 of the Water Supply Protection District on May 22, 2017 and closed on August 7, 2017. Notice for the public hearing was published in the Beacon Villager Newspaper (May 4 and May 11, 2017) and sent to abutters of the property and other interested parties by certified mail according to the Assessors' Certified Abutters List.

#### **VI. Special Permit – Findings of the Zoning Board of Appeals:**

After conducting the public hearings, and after its own analysis and deliberation relative to the proposed project and the supporting documents and plans described above and herein, including the recommendations of other Town Boards, the ZBA hereby makes the following written determinations for the Special Permit requested. The following findings comply with the requirements for the issuance of Special Permits as described in Sections Section 9.2.7 and 10.4.2 of the ZBL. The Board finds pursuant to Section 9.2.7 that the proposed use:

- a. Is in harmony with the purposes and intent of this Section 9.2 and will promote the purposes of the Water Supply Protection District.

*The intent of section 9.2 is to protect the public health safety and welfare of by preventing contamination of and preserving the quality of groundwater and surface*

*water supplies that provide current and potable water supplies for the town of Maynard. The proposed project is in harmony with these purposes: specifically through improvements in site drainage that maximize protection for the town drinking water supply. This project provides state-of-the-art stormwater treatment that meets regulatory standards and ensures run off is adequately treated before leaving the site.*

- b. Is appropriate to the natural topography, soils, and other characteristics of the site to be developed.

*This is a previously developed site and is appropriate to the characteristics of the site: the property has an underlying zoning designation of "Industrial". Additionally, the site drainage system improves stormwater discharge to the surrounding area.*

- c. Will not, during construction or thereafter, have an adverse environmental impact on any water body, groundwater supply, or water course in the District.

*ZBA finds this project will not have an adverse environmental impact during construction or thereafter. Construction monitoring will be under the supervision of the conservation commission and town engineer and a Condition of Approval addressing this is part of this Decision. Adequate safeguards will be in place to ensure there is no adverse impact. The Maynard Conservation Commission has reviewed this project -specifically for the potential environmental impact- and issued an approval. The ZBA has heard evidence during its three public hearings and has concluded there will be no adverse environmental impact.*

- d. Will not adversely affect the quality or quantity of any existing or potential water supply.

*The proposed project impact on the water supply was primarily due to stormwater runoff. The ZBA has found that the proposed measured both as contained within the Applicant's O&M Plan including reductions of deicing chemicals, minimal fertilization and the inclusion of regular water supply testing provides adequate safeguards to ensure the intent of the ZBL is met.*

The Board further finds pursuant to Section 10.4.2 that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood. In reaching this conclusion, the Board has considered the following:

- a. Social, economic, or community needs which are served by the proposal:  
*The proposed project was approved overwhelmingly by Town Meeting demonstrating community support – many of the proposed uses were recommended in the Town's 129 Parker Ad-Hoc Committee recommendation (2014) including a continuing care retirement community, a supermarket and residential uses.*

b. Traffic flow and safety, including parking and loading:

*The Town Engineer has determined the project, with proposed mitigation measures, adequately addresses both external traffic flow and internal circulation, parking and loading.*

c. Adequacy of utilities and other public services:

*The location is currently served by all utilities. The Police Chief and the Fire Chief stated they have capacity to handle expected volume of service request.*

d. Neighborhood character and social structures:

*This is a mixed-use project on a previously developed site with an underlying zoning designation of "Industrial". The proposed site and landscape plans provided significant buffering and screening that has been shaped by resident and Planning Board input.*

e. Impacts on natural environment:

*This project is not expected to have an adverse environmental impact during construction or thereafter. Construction monitoring will be under the supervision of the Conservation Commission and Town Engineer and a Condition of Approval addressing this is part of this Decision. Adequate safeguards will be in place to ensure there is no adverse impact. The Maynard Conservation Commission has reviewed this project - specifically for the potential environmental impact- and issued an approval. The ZBA has heard evidence during its three public hearings and has concluded there will be no adverse environmental impact.*

f. Potential fiscal impact including impact on town services, tax base and employment:

*The Town's Fiscal Impact analysis concluded the proposed project is a net positive revenue source.*

**Zoning Board of Appeals Vote – Special Permit**

A. To **GRANT/DENY** a Special Permit to allow development within the Zone 2 Water Supply Protection District for Maynard Crossings (AKA 129 Parker Street) as described within this Decision.

Paul Scheiner	Yes
Marilyn Messenger	Yes
Jamal De Vita	Yes
Jerry Culbert	Yes
John Courville	Yes

## **IX. Conditions of Approval**

***The Zoning Board of Appeals at its August 7, 2017 meeting, voted to approve the above-referenced Special Permits subject to the following conditions:***

1. This Special Permit is conditioned upon all approvals by the Planning Board.
2. In the event a new well is drilled within the Water Supply Protection District, the ZBA reserves the right to impose further conditions to ensure consistency with Section 9.2 of the Zoning By-law's.
3. All activities not otherwise provided for in this Decision shall be in conformance with Operation Manual prepared by Capital Group Properties with a most recent revision date of July 24, 2017 or in subsequent versions. The Operations Manual includes, but is not limited to, de-icing standards, water monitor well testing, delivery hours and hours of operation.
4. The applicant shall conduct quarterly testing of "sentry wells" location as determined by the Town. Results of each test shall be forwarded to the ZBA via Maynard Department of Public Works (DPW). This condition shall be incorporated into the Operation Manual prepared by Capital Group Properties.
5. Deicing materials shall be consistent with DPW standards. Methods of application shall be consistent with the Operations Manual.
6. The minimum amount of salt or other deicing materials shall be applied on the site to ensure public safety. The ZBA reserves the right to reconsider allowable deicing materials based upon improvements or development of, alternative materials that may pose a reduced risk of environmental contamination.
7. The construction observed shall include, but not necessarily be limited to, the construction of all site work, grading, drainage and storm water management measures, dust control measures, erosion control measures, minimization of adverse impacts to the residential abutters, and general adherence to the approved Site Plan. Job site safety is specifically excluded from the scope of these construction observations. Inspections by the Town, include but may not be limited to:
  - a. Site Clearing and sedimentation control (silt fence, entrance, silt sacks)



- b. Drainage, water, sewer and other utility construction (first day to confirm correct installation procedures and then periodic inspections to monitor installation)
  - c. Grading (random visits to assure correct drainage patterns)
  - d. Sub-base material for roadway, parking lots and sidewalk areas (periodic visits) (compaction tests, proctor number and gradation tests required for Town-owned roadway and sidewalks)
  - e. Detention Basin/Infiltration System construction (bottom area and periodic visits)
  - f. Paving operations (first day to confirm correct methods then periodic inspections to monitor construction)
  - g. Pavement Markings, if applicable (periodic visits)
  - h. Sidewalks/Wheelchair Ramps, if applicable (periodic visits)
  - i. Soil Stabilization, if applicable (periodic visits)
  - j. Lighting and landscaping (periodic visits)
  - k. Construction of Structural walls or other Structural items if applicable (as needed)
  - l. Utility testing (if required)
8. Dust on or adjacent to the construction site or as a result of the construction at the site, shall be controlled so as to not impact neighboring land owners. Dust control shall be to the satisfaction of the ZBA or its designees including DPW, Building Commissioner and the Town Planner.
9. In addition, the ZBA adopts and imposes the conditions and requirements imposed by the Planning Board and the Conservation Commission regarding decisions pertaining to the project.

**X. Zoning Board of Appeals Endorsement**

The Zoning Board of Appeals Approval is hereby approved with the Findings and Conditions contained herein.

Signing for the Zoning Board of Appeals:

  
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**Paul Scheiner, Chairman**

August 7, 2017  
**Date**