



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2010-56

Date: November 4, 2010

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 152 Albion St

Applicant Name: Alan Peterson

Applicant Address: 7 Fairfield St, Medford MA 02155

Property Owner Name: Lawrence Fidalgo Revocable Trust

Property Owner Address: 36 Foxcroft Rd, Winchester MA 01890

Agent Name: Alan Peterson

Alderman: O'Donovan

Legal Notice: Applicant, Alan Peterson, and Owner, Lawrence Fidalgo Revocable Trust, seek a special permit (SZO §4.4.1, §5.1) to allow the expansion of an existing nonconforming commercial structure in order to construct a two family dwelling and a special permit to allow for use of a tandem parking space and reduced maneuvering aisles to meet parking requirements (SZO §9.13).

Zoning District/Ward: RB / Ward 5

Zoning Approval Sought: Special Permit §4.4.1, 9.13

Date of Application: September 28, 2010

Dates of Public Meeting • Hearing: Planning Board 11/4/10 • Zoning Board of Appeals 11/17/10

I. PROJECT DESCRIPTION

1. Subject Property: The subject property contains a one-story concrete block building on a 3692 sf lot. The use of the building has been a floor refinishing business. The building covers 71% of the lot and the remaining area is concrete. There is no curb along the street in front of the property. The lot is the same size and shape as other typical lots on this street, but it is the only commercial use on a street that is otherwise occupied by single-, two- and three-family houses.



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152 Albion St

2. Proposal: The proposal is to construct a two-family dwelling in a front-to-back townhouse-like configuration. The building will be 2 ½ stories, or 40 feet tall at the roof ridge and 3690 nsf. Some of the existing structure will be retained, allowing the project to qualify as a modification of an existing non-conforming structure. The garage that currently sits in the back corner of the property will be removed.

Each unit will have a living room, dining room, kitchen, three bedrooms, and three bathrooms. The front unit will have a roof deck that is inset in the roof of the back unit. There will be a garage for two cars that will be dedicated to the front unit and driveway space for two cars parked in tandem that will be dedicated to the rear unit. The curb could be closed up except for the 13-foot opening for the driveway.

The applicant's original scheme included two garage doors along the street and a driveway to the left for two cars parked in tandem. This plan would require a much larger curbcut, and the front of the lot would be dominated by a driveway that would cover much of the 15 foot front setback. While the applicant worked to reduce the impacts of the driveway and the garage doors, the Planning Staff did not, and continues to be unable to, support this plan. Such a plan is contrary to many of the criteria for a Special Permit with Site Plan Review under the SZO. This original plan would create an automobile-focused lot design, would encourage illegal front-yard parking that would impact the sidewalk, would create a style of structure that is inconsistent with the character of the neighborhood, and would continue to impact the availability of on-street parking with such a large curb cut.

Instead of proceeding with this plan, the applicant has updated the plan with a side garage, and then refined that plan through two meetings with the Design Review Committee to reach the plan submitted to the Board. This plan allows for the front and rear yards to both be landscaped. There will be a front door on the front façade, a two-story porch in the front yard and a deck in the back yard.

3. Nature of Application: A 2-family dwelling is a by-right use in the RB district and the land area is sufficient to satisfy the lot area per dwelling unit requirement. The structure is currently nonconforming with several dimensional requirements, including minimum lot size, ground coverage, landscaped area, rear and side yard setbacks and street frontage.

Many of the nonconformities would become conforming. The ground coverage would become conforming from 71% coverage to 45% coverage; the maximum allowed is 50%. The landscaped area would be 32% of the site, above the required 25%. The floor area ratio would be at the limit of 1.0. The rear yard setback would become conforming with a 17 foot setback. The left side yard setback would become conforming at 8 feet.

The right side yard setback would remain nonconforming at 3 feet, the street frontage would remain at 41 feet and the lot size would remain at 3692 sf. While the lot size, side-yard and frontage match those of most residential lots on this street, these nonconformities require the applicant to obtain a special permit under §4.4.1 of the SZO.

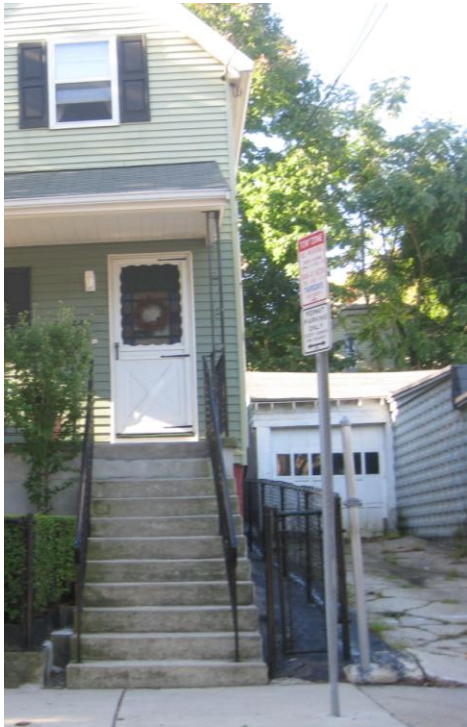
The 4 proposed parking spaces would satisfy the parking requirement; however, the applicant is seeking a special permit to use a tandem parking space to meet requirements. The tandem spaces would belong to one unit. Also, the applicant is seeking approval to decrease the maneuvering aisles of the driveway (SZO §9.13) from 20 feet to 13 feet, which is required in order to meet the parking requirement without having a front-facing garage.

4. Surrounding Neighborhood: The surrounding area is residential with one-, two-, and three-family dwellings. The houses are typically 2 ½ stories with front porches. Some have a single driveway, typically similar in size to that of the proposed dwelling.

5. Impacts of Proposal: The change in use will be an improvement to the site. A two-family dwelling is a more compatible use in the residential neighborhood than the floor refinishing business. Closing the continuous curb cut along Albion Street will restore the sidewalk and create a pedestrian friendly façade. The project provides adequate rear yard space for the back unit that will also open up space and improve the quality of life for adjoining neighbors. While the front unit is taller than some of the other homes on the street, this is necessitated by the need to meet the parking requirement on the site.

Transitioning this site from a floor refinishing business to a residential use will complete the streetscape on this street, open up on-street parking, reduce the traffic impact, reduce truck traffic, reduce noise and congestion, make a significant reduction in exhaust fumes by removing idling trucks from the neighborhood, open up landscaping areas and reduce impervious surfaces.

Staff is aware that one adjacent neighbor is concerned about cars pulling out of the garage next to his house, and has stated a preference for the original front-garage design. There are two windows on the neighbor's house on the side that would abut the garage; due to the size and location of the windows, headlight spill over into the abutter will be typical of any residential driveway. Some vehicle exhaust may be emitted from the garage, but it is likely to be far less of an impact than the use that is on the lot currently, and there is likely to be more exhaust impact from the cars for the rear unit parked in the surface spaces that are shown on both plans. Staff investigated an alternative that would flip the entire structure, putting the driveway on the other side of the lot, but this would create a far less desirable situation as it would require the new structure to be three feet away from the abutter's house.



Left: proximity to neighboring home



Right: existing site

6. Green Building Practices: The plan is to include extra insulation, energy efficient mechanicals and appliances, insulating doors and windows, pavers in the driveway and composite material siding.

7. Comments:

Fire Prevention: Has been contacted but has not yet provided comments.

Traffic & Parking: Has been contacted but has not yet provided comments.

Ward Alderman: Has been contacted and has responded as follows: "I will be opposing this project on the parking issues and due to the way the plan situates the garages. The abutters were happier with the plan of the garages facing the street."

Design Review Committee: The DRC thoroughly reviewed the project at two meetings (10/14 and 10/28). The DRC thought that it was the right move to relocate the garage doors to the side of the house. They had suggestions regarding the side rear cantilever, raising the porch, reconfiguring the recessed front door entry, the vertical siding and the pavement markings. The applicant responded to these concerns from the first meeting and returned with an updated plan on October 28. At that meeting, the DRC discussed the issues with the garage doors, and then further refined the design. Details of the meeting can be found in the minutes from both 10/14/10 and 10/28/10.

Abutter Comments: To date, staff has been aware of a concern expressed by a neighboring abutter who spoke to staff and attended the DRC meeting. He has indicated that he would prefer the front-facing garages to minimize the impact of the two vehicles pulling in and out of the side garage adjacent to his

house. Staff is aware of this concern, and has worked to address it, but remains concerned that the abutter's preferred alternative would have too many negative impacts on the neighborhood. At the DRC meeting, the applicant indicated that he would be willing to build either design, but has been working with the side-garage design per the direction of the Planning Staff.

II. FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & 4.4.1 & 9.13):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Staff finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a special permit under §4.4 of the SZO, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The majority of the nonconformities of the site would be eliminated including ground coverage, landscaped area, rear yard setback, left side yard setback. The only dimensions that would remain nonconforming are left side yard setback, street frontage and lot size. The use of the property would change from a nonconforming business to a conforming residential property.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

The proposal would provide the four required parking spaces onsite. The traffic to the site would be typical of any two-family house on the street. Tandem parking spaces are a typical parking situation for residential properties in the City. The spaces would be used for one of the dwellings so that the cars could easily be rotated. The thirteen foot wide driveway was tested by the developer and provides enough space to maneuver into the garage. Placing the garages on the side of the house with only one curb cut for the driveway would reduce the unsafe conflict of motor vehicle and pedestrian traffic, add on-street parking, and keep the building in context with the character of the neighborhood, while continuing to provide a proposal that reduces overall traffic, vehicle impacts, vehicle idling and the many other negative impacts of a commercial/industrial use within a residential neighborhood.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to conserving the value of land and buildings and encouraging the most appropriate use of land throughout the City. As a two-family house, the proposal is consistent with the purpose of the district, which is, “[t]o establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1. The proposal is consistent with the purpose of the section. The driveway will provide adequate parking for the two dwelling units and reduce vehicular conflict with pedestrians. The reduced maneuvering area and the situation with vehicles backing onto the street is typical of the narrow lots on this and other Somerville streets, and allows the project to adequately meet parking needs without creating other significant negative impacts.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.”

The proposal as designed would be compatible with the built surrounding area. The 2 ½ story dwelling with a porch and a single driveway is similar in massing and site layout to the houses in the neighborhood. Also, the change in use would eliminate the nonconforming business use and establish a compatible two-family dwelling.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

The change in use will decrease the adverse environmental impact at the site. The noise at the site will be reduced from a business to a two-family dwelling.

6. Vehicular and pedestrian circulation: The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.

The proposed 13-foot driveway will close much of the continuous curb cut that currently exists. This will improve the safety conditions for pedestrians walking along the sidewalk. The driveway will also provide sufficient parking for the two-family house. The project will remove a use that generated truck traffic and replace it with a typical residential use.

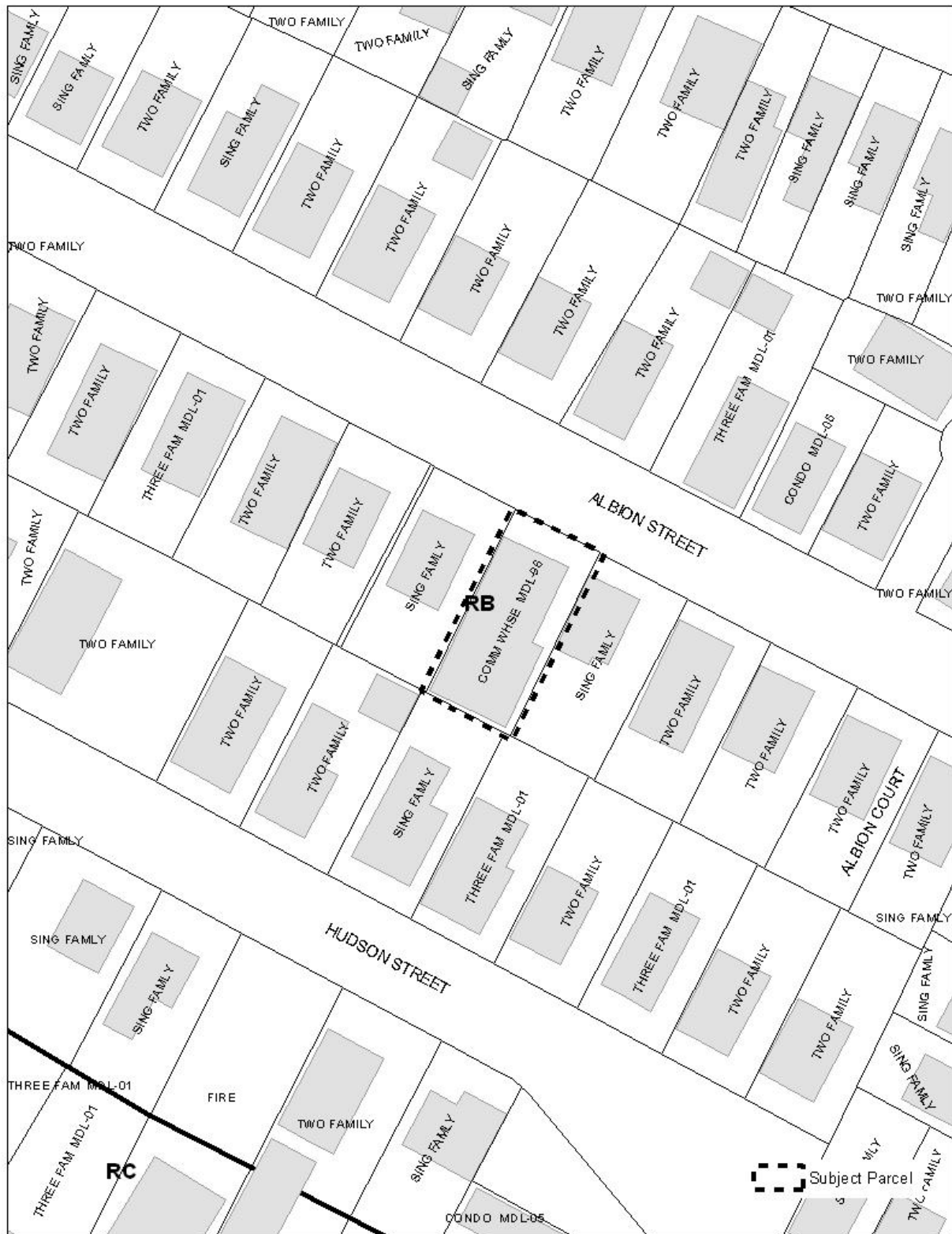
III. RECOMMENDATION**Special Permit under §5.1 & 4.4.1 & 9.13**

Based on the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the expansion of an existing nonconforming commercial structure in order to construct a by-right two family dwelling. Also, to use a tandem parking space to meet parking requirements and provide a 13’ maneuvering aisles. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(Sept 28, 2010)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>11/1/2010</td><td>Modified plans submitted to OSPCD (elevations, floor plans, site plan)</td></tr></table>				Date (Stamp Date)	Submission	(Sept 28, 2010)	Initial application submitted to the City Clerk’s Office	11/1/2010	Modified plans submitted to OSPCD (elevations, floor plans, site plan)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
2	The applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD							

3	<p>Because of the history of the site and the intended use, the Applicant shall, prior to issuance of any foundation permit and/or any building permit for the project, provide to the Planning Department and the Inspectional Services Division:</p> <p>a) a copy of any Response Action Outcome (RAO) Statement, or other appropriate document signed by a Licensed Site Professional (LSP) and filed with DEP, verifying that a level of no significant risk for the proposed residential use has been achieved at the site; or</p> <p>b) if remediation has not reached the RAO stage, a statement signed by an LSP describing (i) the management of oil and hazardous materials/waste at the site, including release abatement measures intended to achieve a level of no significant risk for residential use at the site, treatment and storage on site, transportation off-site, and disposal at authorized facilities, (ii) a plan for protecting the health and safety of workers at the site, and (iii) a plan for monitoring air quality in the immediate neighborhood.</p>	Foundation Permit	Plng/ISD	
4	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
5	Notification must be made, within the time period required under applicable regulations, to the Massachusetts Department of Environmental Protection (DEP) if there is any release of oil, hazardous materials, or regulated hazardous substances at the site. The City's OSE office, Fire Department and the Board of Health shall also be notified.	During Construction	OSE/FP/BOH	
6	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
7	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	

8	The Applicant shall install granite curbing along the street except for in the location of the driveway, and shall provide for a sidewalk in the curbed area that meets the requirements of the Engineering Department.	CO	Plng. / DPW	
9	The applicant shall replace the fence on the property line adjacent to the driveway with a fence and/or barrier system that is proposed by the applicant, agreed upon by the abutter and approved by Planning Staff.	CO	Plng.	
10	The applicant shall provide material and color samples for the windows, siding and porches and the garage door to Planning Staff for review and approval.	CO	Plng.	
11	The applicant shall continue to work with staff on design details surrounding the window bay including but not limited to corner boards and window sizing, with final review and approval by Planning Staff.	BP	Plng.	
12	The driveway shall be constructed of pervious pavement, unless it is deemed by the Engineering Department that further pervious area on this lot will have negative impacts on immediate abutters. The driveway pavement shall include a change in material, texture or color to designate a four-foot walkway from the sidewalk to the entry door for the rear unit.	CO	Plng.	
13	The applicant shall provide Planning Staff with a landscape plan for review and approval.	CO	Plng.	
14	Landscaping should be installed and maintained in compliance with the American Nurserymen's Association Standards.	Perpetual	Plng. / ISD	
15	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Perpetual	ISD	
16	The Applicant shall furnish the buyer of the front unit with documentation stating that the garage door on this unit must remain closed except when vehicles are pulling into or out of the garage. This shall become a part of the registered record for the property, being identified in the deed, condo documents or another separately filed document that shall first be reviewed and approved by Planning Staff.	CO	Plng.	
17	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	



152 Albion Street