

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 2008-00552

DAVID BERNSTEIN, KATHLEEN BERNSTEIN,)
JEFFREY PORTER, JILL PORTER, SUSAN)
REED, WILLIAM PETRI, ARLENE PETRI,)
TIMOTHY MARSTERS, L. HOWARD HARTLEY,)
MARCIA ANNE HARTLEY, RICHARD MIKELS,)
DEBORAH MIKELS, and MICHAEL BATE,)

Plaintiffs,)

v.)

WAYLAND PLANNING BOARD,)
WILLIAM STEINBERG, ALBERT I. MONTAGUE,)
JR., DANIEL MESNICK, KEVIN MURPHY,)
and LYNNE DUNBRACK, as members of the)
Wayland Planning Board, ANETTE LEWIS,)
as an associate member of the Wayland)
Planning Board, TOWN OF WAYLAND,)
WAYLAND BOARD OF SELECTMEN, AND)
WAYLAND BOARD OF ROAD COMMISSIONERS,)
and TWENTY WAYLAND, LLC,)

Defendants.)

AFFIDAVIT OF KEVIN R. DANDRADE, P.E., P.T.O.E.

I, Kevin R. Dandrade, upon my oath, depose and state as follows:

1. My name is Kevin R. Dandrade. My office address is TEC, 65 Glenn Street, Lawrence, Massachusetts 01843. TEC, Inc. is also known as The Engineering Corp. TEC, Inc. is engaged in the business of providing professional engineering and planning

services for public and private entities, ranging from transportation planning, traffic impact and access studies, roadway and traffic control design, municipal peer reviews, site planning and design, utility design, structural engineering, and construction inspections. I am a Principal and Senior Project Manager of TEC. I have 19 years of experience in traffic impact evaluations, municipal peer reviews, traffic corridor studies, traffic signal design, site design and utility engineering for numerous projects within New England. My expertise includes site layout, traffic impact and access studies, parking studies and layout, signal equipment layout and specifications, intricate coordinated traffic analyses, cost and quantity estimates, contract document preparation, traffic signal construction inspection, and field fine-tuning. I received a Bachelors of Science degree in Civil Engineering from the University of New Hampshire. I am a registered Professional Engineer in Massachusetts, New Hampshire, and Maine, and am a certified Professional Traffic Operations Engineer through the Transportation Professional Certification Board, Inc. I have been qualified by the court and testified in the matter of Demoulas Super Markets, Inc. v. Town of Raynham Planning Board and Walmart Real Estate Business Trust, Bristol Superior Court, Civil Docket #BRCV2005-00567. A copy of my resume is attached to this affidavit as Exhibit 1.

2. In July, 2005, the Town of Wayland Highway Department hired TEC to perform a review of zoning-level traffic information related to the proposed Wayland Town Center Project (the "Project") as part of a Mixed Use Overlay District (MUOD) zoning overlay. In subsequent years, the Town's Planning Department, on behalf of the Planning Board (the "Board") engaged the services of TEC to perform peer review traffic engineering services relative to Twenty Wayland, LLC's application for a master special permit, special permits and site plan approvals for a mixed-use development at 400-440 Boston Post Road, Wayland, Massachusetts consisting of 372,500 square feet of commercial, residential and municipal building space and related infrastructure known as the Wayland Town Center Project. I was the engineer assigned by TEC to perform such services relative to the Project. The peer review traffic engineering services performed by TEC relative to the Project included a review of the off-site traffic impacts of the Project on public ways in the Town of Wayland including Glezen Lane. TEC reviewed the trip generation potential from the site, the potential for variations in trip distribution onto the adjacent municipal street system, intersection capacity, and mitigation measures and other traffic control changes.

3. Soon after David Bernstein and 12 other people residing

on Glezen Lane appealed the Board's decision to issue special permits and site plan approvals for the Project in February, 2008, the Board further engaged the services of TEC to review the appellant's proposed traffic control measures relative to the anticipated Project related traffic impacts on Glezen Lane. I was the engineer assigned by TEC to perform such Services relative to the appeal. Additionally, TEC was asked to collect certain baseline traffic data along Glezen Lane and participate in discussions with town staff, the appellants, and the appellant's traffic engineer, TEPP, LLC. Some of the Glezen Lane traffic control measures TEC recommended were included in settlement agreement relative to the appeal, including limited time-of-day turn restrictions at the intersection of Route 27 / Glezen Lane (to divert potential cut-through motorists) and several speed tables (to calm or slow traffic).

4. I know the terms of the settlement of the appeal related to traffic. When the traffic thresholds which, once reached, require that certain traffic control measures be taken on Glezen Lane were established, no buildings on the Project site were constructed or occupied. Although there was a documented potential for cut-through traffic along Glezen Lane in my opinions expressed during the permitting process, the actual impacts of the Project could not be better understood until the development was active and new patrons and residents

frequented the Project. Town staff and Mr. David Bernstein obtained and summarized the traffic data on Glezen Lane that lead to the documented exceedances of the traffic-related thresholds.

5. At present, certificates of occupancy have been issued for approximately 85% of the permitted retail and office building space in the Project and 88% of the permitted residential units in the Project (37 of 42 units). The Project was originally permitted with 88 residential units, but was officially downsized by the proponent to only 42 units. In my opinion, this level of completion of the Project is sufficient to provide much more reliable information about the vehicular traffic generated by the Project and its impact on Glezen Lane.

6. In my opinion, in order to perform a study of the Project-related traffic impact on Glezen Lane, a 60-day study period was necessary. Additionally, to provide the most accurate data associated with the Project's purported cut-through trips, it is my opinion that it was necessary that all existing motor vehicle turn restrictions at the intersection of Old Sudbury Road (Route 27) and Glezen Lane must be removed during the 60-day study period in order to perform an accurate study. In my opinion, this time period was sufficient to allow motorists to redistribute back to Glezen Lane as they seek the

most efficient travel patterns. The right turn restriction from Route 27 northbound onto Glezen Lane and the left turn restriction from Glezen Lane westbound onto Route 27 southbound needed to be removed during this period to more accurately assess the actual potential for trips between Glezen Lane and the Project.

7. Following a vote of the Town of Wayland Board of Selectmen to do so, on September 11, 2015, the Town of Wayland Department of Public Works removed all signs imposing turn restrictions on vehicles entering or exiting Glezen Lane on that same day. As of the date of this affidavit, those signs have not been replaced.

8. Following an approximate two-month period for traffic to redistribute back to previously allowed travel trends, TEC organized and implemented an intensive data collection effort between November 4 and 8, 2015 to collect, document, and summarize the traffic volumes under current unconstrained operating conditions. My memorandum explaining, in detail, the the traffic data collection methodology used, together with TEC's findings and recommendations is attached to this affidavit as Exhibit 2. Based on the data collected and analyzed as set forth in Exhibit 2, it is my opinion that there are no identifiable, measurable traffic-related impacts on Glezen Lane related to the Project. There are some minor

increases in certain traffic movements, but the data show that they are related to other regional developments in Sudbury or other areas to the northwest and are not related to the Project.

9. The Plaintiffs whose property is closest to the Project site are Howard and Marcia Anne Hartley who resides at 22 Glezen Lane. The travel distance between their property and the nearest point of the Project site where it abuts Old Sudbury Road (Route 27) is approximately 3,700 feet, or 0.7 miles. I measured this distance with measuring tools and address mapping provided by Google (www.google.com) in Exhibit 2.

10. TEC provided prior guidance to the town staff during the appeal period and subsequent discussions that the implementation of the proposed geometric change to the intersection of Route 27/ Glezen Lane (see Item G.4. on page 8 and Exhibit 4 of the Judgment on Count II of the Plaintiff's Amended Complaint) would result in a need for fire trucks to utilize all travel lanes on Route 27 and Glezen Lane to negotiate a turn from Route 27 northbound to Glezen Lane eastbound. In my opinion, this geometric change will result in increased response time and potentially unsafe operating Conditions for sweeping turns into oncoming traffic by the emergency vehicles.

Subscribed under the penalties of perjury this 28th
day of January, 2016.



Kevin R. Dandrade



Kevin R. Dandrade, PE, PTOE

Principal / Senior Project Manager

Mr. Dandrade has been responsible for the design and management of numerous transformative traffic engineering, site engineering, and transportation master-planning projects. The following is a sample of Mr. Dandrade's relevant project history:

Planning Board Reviews

Experienced in municipal reviews for Planning Boards and Department of Public Works projects on a variety of developments, including residential, commercial/retail, and industrial facilities. The following are some examples of projects involving review for traffic engineering elements:

- Reviewed impacts associated with various proposals for a 372,000 SF mixed use redevelopment project, "Wayland Town Center" in Wayland, MA
- Reviewed traffic impacts from a two multi-unit 40B residential housing developments on Route 27 and Oxbow Road in Wayland, MA
- Reviewed traffic impacts from a mixed-use retail and commercial building proposed on Route 114 in North Andover, MA
- Reviewed the site access and transportation impacts of a 400-unit residential condominium project in North Reading, MA
- Reviewed traffic impact studies and off-site improvements for a proposed gas station / convenience store on Route 108 and a 90-lot subdivision in Newfields, NH
- Reviewed impacts of Super Stop & Shop on US Route 3 in Bedford, NH for site circulation, parking, and access
- Reviewed 50,000 SF of retail space and an age-restricted residential development in Hooksett, NH
- Reviewed an age-restricted residential development in Epping, NH

Mr. Dandrade was also a member of the Town of Auburn, NH Planning Board for over five years and understands the needs and goals of municipal planning.

Wayland High School Pedestrian Signal Design Coordination, Wayland, MA

Project Manager for this Town project to improve pedestrian safety at the high school driveway crosswalk by introducing a traffic signal and signage to emphasize the pedestrian crossing zone. This effort required traffic signal design along with enhanced crosswalk demarcation in accordance with the Manual on Uniform Traffic Control (MUTCD). The work involved intersection analysis, traffic signal design, roadway layout design, construction cost estimates, and construction management.

Hamilton Canal District Off-Site Traffic Review & Design, City of Lowell

Project Manager of the City's traffic peer review services for Hamilton Canal District developer's traffic study and plans, involving a review of pedestrian access and bridge design. Documents were reviewed and recommendations made prior to entering the MEPA review process. Later, while working for the City and other consultants, TEC performed services to design intersection improvements by upgrading traffic signal equipment as well as reconfiguring lane use along Broadway. This created greater capacity for vehicles accessing the intersection while minimizing the impact to the existing curb lines. The work included intersection analysis, traffic signal design, roadway layout design, and construction cost estimates.

Profile

Mr. Dandrade has over 19 years experience in corridor studies, traffic impact evaluations, parking studies, municipal peer reviews, traffic management plans, roadway and infrastructure design, traffic signal design and inspection, multi-modal design, site access and parking design, and utility engineering for numerous projects within New England.

Education

B.S.C.E, University of New Hampshire (1996)

Registration

Professional Civil Engineer:
Massachusetts, New Hampshire, Maine

Certifications:

Professional Traffic Operations Engineer (PTOE) from ITE/TPCB
NHDOT Local Public Agency (LPA)

International Municipal Signals Association (IMSA):

- Work Zone Safety
- Traffic Signal Technician Level II
- Traffic Signal Inspector

Employment History

CLD Consulting Engineers, Inc.
(2002-2004)

CityNet Telecommunications
(2001-2002)

Vanasse Hangen Brustlin, Inc.
(1996-2001)

Affiliations

ITE, National

ITE, NH – Past President

ITE, NE Section – President 2010

NAIOP

ICSC

ACEC-MA

NAIOP, ICSC

Keolis Roadway Worker Protection

Certification

AMTRAK Contractor Safety & Awareness Training



Route 27 & 30 Intersection Design – Wayland, MA

Principal-in-Charge for the engineering services for the final design of the intersection of Route 27 (Main Street) and Route 30 (Commonwealth Road) and approximately 0.5 miles of roadway reconstruction on the combined approaches. The project will consist of realigning the intersection both horizontally and vertically. To improve traffic operations the project will include the installation of a new traffic signal. The roads will be widened to accommodate additional turn lanes, bike lanes and sidewalks to incorporate a multi-modal complete streets design.

Safe Routes to School, MassDOT

Principal-in-Charge for the planning, design, and programming of infrastructure improvements aimed to provide safer walking and biking routes near schools in various communities throughout Massachusetts. This project involves coordinating efforts between MassDOT, MassRIDES, and municipalities, assisting MassDOT in refining a set of usable evaluation criteria that will facilitate the comparison of applications received by communities, conducting a preliminary evaluation of the pedestrian and bicycle environment and access patterns within one mile of the schools chosen for initial review, and performing final design under the MassDOT's Highway Division review.

Downtown Lowell Two-Way Conversion, Lowell, MA

Principal-in-Charge for this important downtown revitalization project that converted Merrimack Street and Market Street from one-way to two-way operation to improve access to downtown businesses and reduce unnecessary circulation. Building upon TEC's successful two-way implementation on Essex Street in Lawrence, this project includes a similar cost-effective design that retains the existing curb lines wherever possible and retrofits the existing traffic signals to accommodate the new traffic movements. Kevin provided the key project scoping at the onset of the project, provided traffic operations insight throughout the design development, and participated in the community outreach presentations. This project was successfully completed in October 2014.

Engineering Review Services Community Development Department, Methuen,

Project/Review Manager for engineering review of residential (conventional and age-restricted), commercial office, mixed-use, and retail proposals submitted to the City of Methuen for compliance with the Subdivision Control Law and Zoning Bylaws; local Board of Health Bylaws; and compliance with local Conservation Commission By-Laws and general engineering standards.

South Avenue / Second Avenue / Middlesex Turnpike, Burlington, MA

Principle-in-Charge responsible for the design of vehicular and pedestrian safety improvements along South Avenue, Second Avenue and the Middlesex Turnpike in Burlington, MA. The project was accelerated to meet strict deadlines to become eligible for funding as part of the MassWorks grant funding program. Improvements included reconstruction of approximately 5,000' of roadway, new sidewalks, drainage modifications, utility adjustments and modifications to two (2) traffic signals.



Exhibit 2

