

Dianne Boisvert

From: Novak <nn@airkiosk.com>
Sent: Wednesday, November 15, 2023 3:02 PM
To: *City Council*; Dianne Boisvert
Subject: Remarks regarding proposed zoning changes for the former Global Gas station property
Attachments: Global current.pdf

Dear City Councillors and Planning Board Members:

I write to express my concerns about the proposed zoning changes and Development Agreement for the redevelopment of the former Mobil Gas Station property at State Street and High Street.

My wife and I have lived next door at 93 High Street since 1991, and these changes if not carefully considered could seriously impact our property.

In addition to the zoning code considerations, my concerns are about engineering elements of the proposed development, which are not addressed in the Development Agreement. I am an airport engineer by education and during my career have been involved in airport design studies, so I think I am qualified to also talk about the engineering aspects of urban development projects.

The Development Agreement signed yesterday relies on general design language and a conceptual site plan, with no elevations, leaving some important areas unaddressed.

In particular, the following need to be specifically addressed to protect the homes around this lot from unintended consequences.

1. Filling of the lot above the existing grade.

- The difference between the lowest point and highest point of this lot is 17 feet, and the property line length between our home and this lot is 168.67 feet. The current gas station building is 66 feet above sea level.
- The conceptual site plan shows the corner of the 3-unit building at 62.5 feet and the building apron at 68.5 feet, which means corner will require infill to raise the grade by 6 feet. This corner is located 23.4 feet from State Street and 36.4 feet from High Street.

The Development Agreement does not address the parameters for filling and grading the lot, which is a major element of this project.

Most other cities in Mass have concrete language for this important engineering activity, for example Amherst zoning defines this under paragraph **SECTION 5.10 FILLING OF LAND (See Sections 3.121 & 3.122)**, and among other says:

Any filling of land accessory to the development of property, which raises the existing grade of any portion of a property 5,000 square feet or more in area by an average of two (2) feet or more, or any such filling which raises the existing grade of any portion of a property 2,000 square feet or more in an area by an average of five (5) feet or more shall require a Special Permit from the Special Permit Granting Authority authorized to act under the applicable section of the bylaw. Where no other permit

is required under this bylaw for the proposed or existing principal use(s) of the property, such filling shall require a Special Permit from the Zoning Board of Appeals. In all cases, such filling shall be subject to the following conditions...

The listed conditions include: " 3) result in a detriment to the normal use of the adjacent property."

2. Building height.

- This is mentioned in the Development Agreement, but the language does not take into account grade changes on the property.

Other cities in Massachusetts do take into account building heights relative to increases in grade. For example, Saugus, MA zoning:

E. Height

3. Notwithstanding anything to the contrary in the Saugus Zoning By-Law, any increases in grade exceeding two feet as compared to existing grade shall be included in the calculation of maximum building height in the BHSZ.

This is particularly important giving that the first floor grade may be elevated to 69.5, which will be 9.5 feet above the High Street elevation and 7 feet above the building corner closest to the intersection. This means that the building height at that point will be 42 feet.

One needs to remember that our 35' height limit is to the mid-point of the roof, not the peak, and utilities placed on the roof are not included in building height calculations.

3. Retaining walls.

- The conceptual site plan shows a large length of different retaining walls close to the perimeters of the property.
- Some sections contain terraced retaining walls, retaining walls placed in parallel with each other.

The retaining walls are not mentioned in the Development Agreement and, outside of Site Plan Review, our zoning seems to have no regulations to define their location or the process for their approval.

Other cities in Massachusetts have concrete language about retaining walls, some going on for a few pages, including requirements for engineering plan review and approval.

Here for example, Westford, MA:

Fence 6+ Feet Tall / Retaining Wall 4+ Feet Tall

1. Determine which Zoning District your property lies in to determine what the required set back distance from property lines will be (if you do not know this information, the Permitting Office at Town Hall can assist you with this matter)
In Residence A Districts setbacks are 50 feet from the front lot line, 15 feet from the side lot line and 30 feet from the rear property
In Residence B Districts setbacks are 25 feet from the front lot line, 15 feet from the side lot line and 30 feet from the rear property
Remember that corner lots are considered to have 2 front yards and 2 side yards

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We are very thankful to architect Scott Brown for meeting with us and discussing our concerns in the past few weeks. Yesterday, when the Development Agreement was being finalized, we and other abutters met with Scott on

site. He penciled in changes to the conceptual site plan addressing our most important concerns. However, these modifications are not included in the Development Agreement signed.

[I also rendered a 3D model of the development as included in the development agreement, hereby attached.]

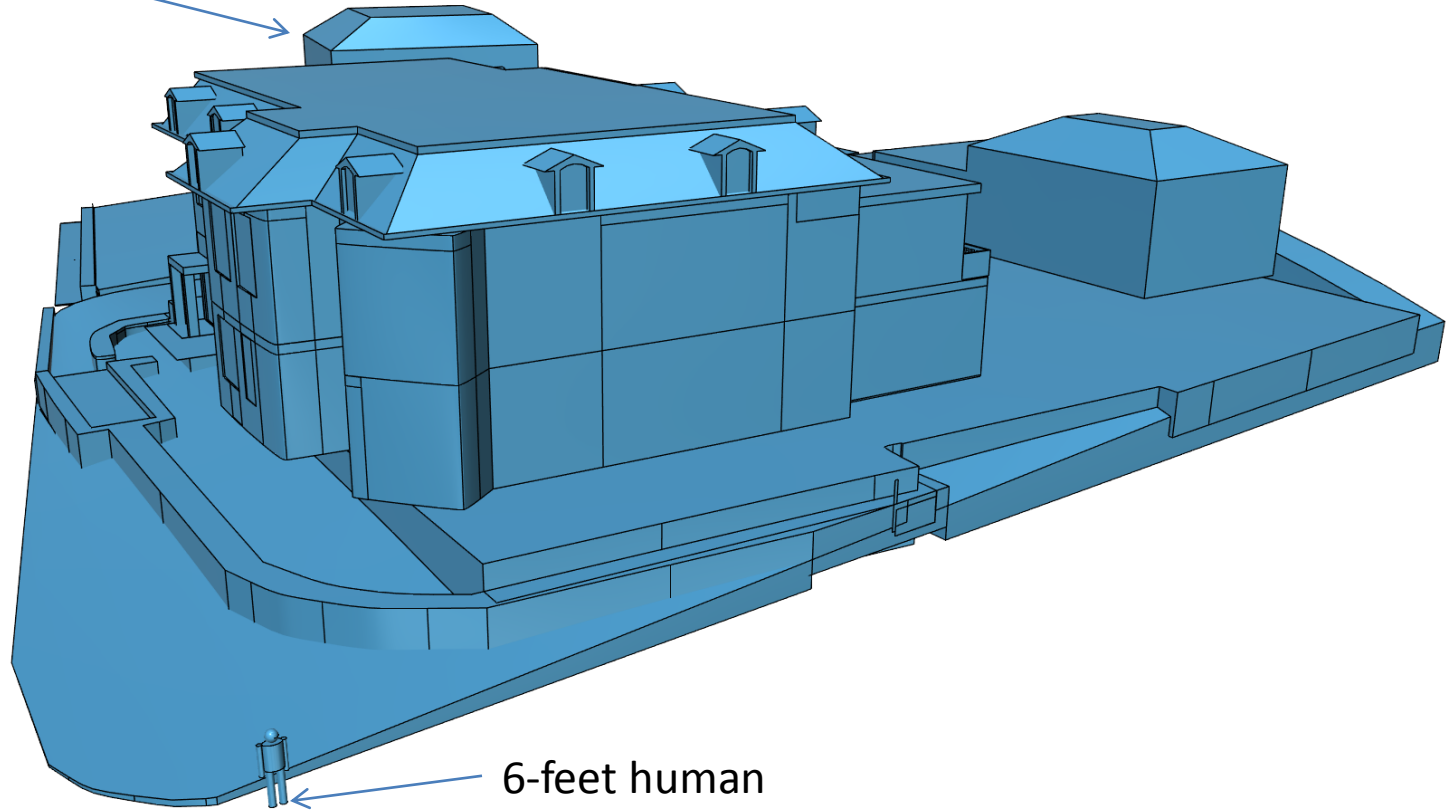
Thank you for your consideration of my remarks. I hope that the zoning changes will not be approved until these concerns are addressed.

Your sincerely,

Novak Niketic
93 High street
Newburyport

Global dev version 3+1 bird-eye view

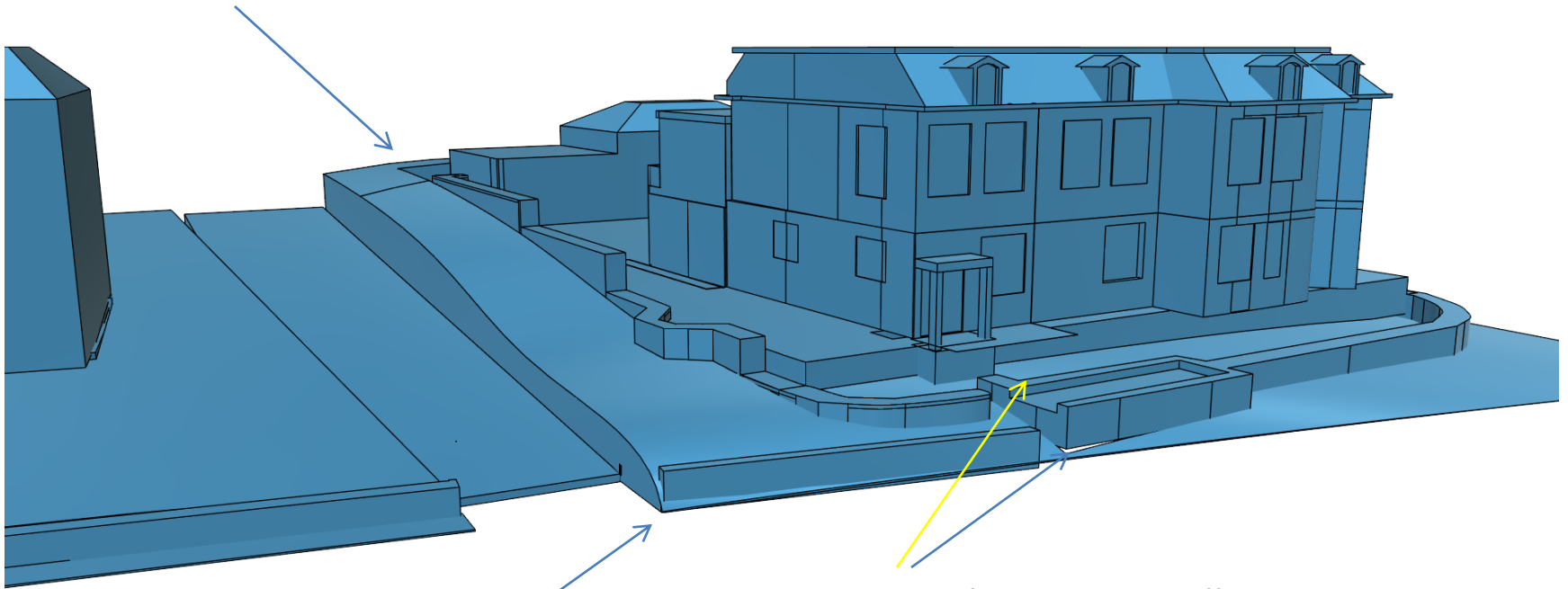
93 High



6-foot human

Global dev 93 High property line retaining walls

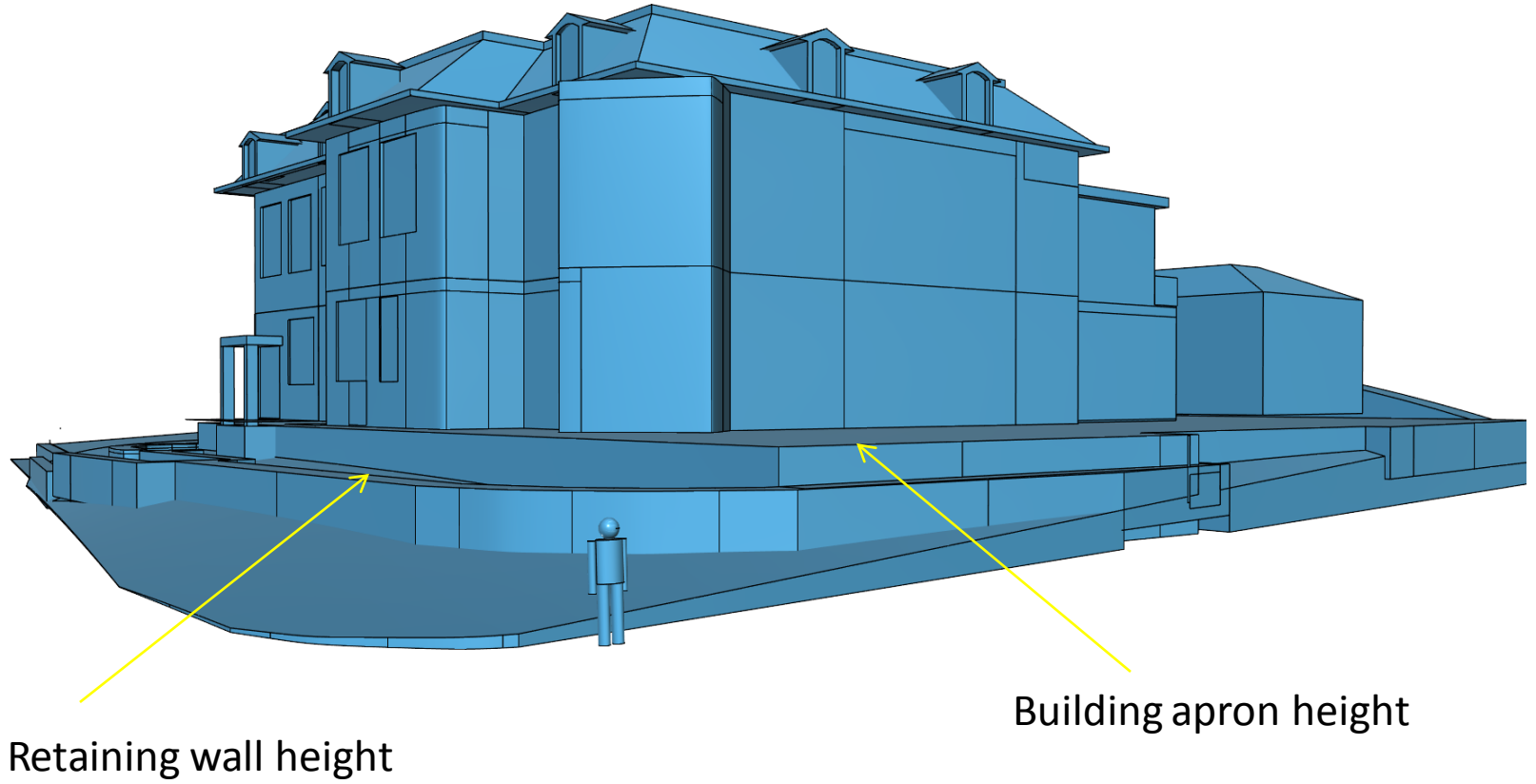
Cascading retaining walls between the properties



Terraced retaining walls

Retaining walls stretching to the driveway

Global dev human-eye view



Global dev main building backside

93 High

