



Nahant Town Hall
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February 3, 2021

Dear Mr. Martin:

I write on behalf of the Town of Nahant and the Nahant Board of Selectmen regarding Northeastern University's proposed project at East Point. The Board understands from counsel that at a hearing held on January 26, 2021, Essex County Superior Court Judge Jeffrey Karp indicated that a jury trial may well be needed to resolve the issues in the case, that in light of Covid such a trial may not be held for quite a while, and that the parties may wish to consider mediation facilitated by the Essex County Superior Court. Before hearing arguments on the summary judgment motions, Judge Karp took the time to understand the issues and to clarify and reconcile the problems created by unnecessary procedural complications. Judge Karp correctly recognized that these two cases, the one initiated in the Land Court by Northeastern and the one in Superior Court brought by Nahant Preservation Trust and twenty-seven citizens, to which the Town joined, should be litigated on the same track, decided by a single judge and tried before the same jury, start to finish. To that end, it is our understanding that Judge Karp has written to the Chief Justice of the Trial Court to have the consolidated cases specially assigned to him and for him to be specially appointed as a Land Court judge. The parties will now have the benefit of one Superior Court judge paying attention. When Judge Karp turned to the summary judgment motions, he encouraged Northeastern to delay consideration of their motions and Northeastern agreed. The judge also informed the parties that it will be quite some time before a jury of 12 would be able to hear the case. The judge also indicated that NPT and the Town have brought claims and issues in addition to the public dedication claims that should be heard by a jury. At the conclusion, Judge Karp encouraged the parties to consider the mediation services offered by Essex County Superior Court.

In light of these events, the Town's consideration of eminent domain action at the upcoming Town Meeting and Northeastern's January 25, 2021 public statement, we request that Northeastern join us in accepting Judge Karp's offer to arrange a mediation session. We believe that now is an opportune time to sit down together at a table, remotely if necessary, and work towards a creative solution that is amenable for all interested parties and in lieu of lengthy, costly litigation. We are willing to use the Essex County mediation service recommended by Judge Karp or other mediation services such as that offered by the Real Estate Bar Association of Massachusetts. We are also willing to have direct discussions without mediators, though we believe that use of a neutral, skilled facilitator may help achieve a win-win solution to this situation. We also believe that such a resolution can be achieved. We have seen renderings and discussions in documents produced by Northeastern in the litigation that show Northeastern considered construction of the Coastal Sustainability Institute at various other East Point locations, or elsewhere, that would not destroy the irreplaceable historical and natural resources on top of, into and to the east of the Murphy Battery. While Northeastern has publicly expressed some of its reasoning in not continuing to explore any of those alternatives, we want to reiterate and emphasize that further consideration and exploration of those alternatives would be viewed favorably by the Town. In fact, the Town is willing to discuss the reasons why Northeastern has not pursued those locations and believe that in the spirit of this letter many of those issues, including building height, parking requirements, and geothermal heating and cooling systems, can be addressed to move the project forward with the support of the Town.

Please consider our request to mediate with us this contentious project. Please also consider withdrawing or requesting the Nahant Conservation Commission hold in abeyance Northeastern's Notices of Intent in order to

allow for mediation to take place. It would be in the interest of all parties for the mediation to commence sooner rather than later, given the pendency of the litigation and the upcoming annual Town Meeting. Accordingly, we would appreciate a response to this letter by February 15, 2021.

Sincerely,

Nahant Board of Selectmen

Mark G. Carter

John G. O'Neil

Christina