

ROSENBERG, FREEDMAN & LEE LLP
ATTORNEYS AT LAW

246 Walnut Street, Suite 201
Newton, Massachusetts 02460-1639

617-964-7000
Fax: 617-964-4025
Sender's e-mail: llee@rfl-law.com

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NEWTON, MA. 02459

Jason Allen Rosenberg, Senior Counsel
Donald N. Freedman
Laurance S.L. Lee
Paula J. Morgan
Susan H. Levin
Ellen M. McVay
Hope C. Vassos
Andrea Hickey*
Peter C. Beebe
Ashley Y. Aubuchon
Audrey O'Shaughnessy**

Of Counsel:
Karen M. Buckley*
Elizabeth Baum, P.C.
*admitted in MA and NY
**admitted in MA and NH

May 12, 2022

City Council
City of Newton
1000 Commonwealth Avenue
Newton, Massachusetts 02459
c/o Jennifer Bresloun, Clerk

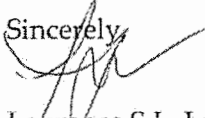
Re: Extension of Special Permit No. 257-19 – 956 Walnut Street

Dear Members of the City Council:

On behalf of 956 Walnut Street LLC, as owner of 956 Walnut Street, Newton, Massachusetts, and as the Petitioner for Special Permit No. 257-19, please accept this letter as a formal request for a two-year extension to exercise said Special Permit under Section 7.3.2 of the Newton Zoning Ordinances. The Special Permit was granted on December 16, 2019 but was appealed by an abutter pursuant to M.G.L. Ch. 40A, Sec. 17, which appeal was dismissed with prejudice on July 23, 2021. Pursuant to M.G.L. ch. 40A, Sec. 9, the time for the substantial use of the Special Permit tolled during the pendency of the said appeal. Since the dismissal of the appeal, the Petitioner has worked continuously with the preparation of required construction plans and documents to apply for the building permits necessary to start the project. The Petitioner, therefore, respectfully requests said extension to allow time for the issuance of such building permits.

We respectfully request the extension be granted without requiring a public hearing pursuant to Section 7.3.2.E. of the Newton Zoning Ordinances. However, if the City Council or the Land Use Committee vote to require a public hearing, then please place this matter on the docket of the City Council and the first available Land Use Committee public hearing. For your convenience, I have enclosed a copy of the Special Permit as recorded with the Middlesex South Registry of Deeds.

Please call should you have any questions. As always, thank you, for your help in this matter.

Sincerely,

Laurance S.L. Lee

Enclosure
cc: 956 Walnut Street LLC

#257-19
956 Walnut Street

CITY OF NEWTON

IN CITY COUNCIL

December 16, 2019

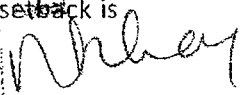
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2019 DEC 19 PM 1:00
CITY OF NEWTON

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Newton Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Newton Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow seven attached single-family dwellings in three buildings in an MR1 zoning district (§3.4.1), reduce the side setback requirement (§3.2.4), reduce the frontage requirement (§3.2.4), exceed maximum lot coverage (§3.2.4), allow a driveway in the side setback (§3.2.4, §6.2.3.B.2), and allow a retaining wall higher than four feet within a setback (§5.4.2.B), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

956 Walnut Street, Newton, MA
Deed Reference: Book 64330, Page 6

- The site in a Multi-Residence 1 (MR1) district with 35.5 of frontage is an appropriate location for the proposed seven attached single-family dwellings as designed in three, two and one-half-story structures with a retaining wall higher than four feet in a setback as it is located in a walkable area with a mix of uses near a village center with a variety of residential and commercial building types and uses and the petitioner has agreed to subject an adjoining property known as 1058 Beacon Street to a restrictive covenant that shall preserve healthy mature trees on a portion of that property. (§7.3.3.C.1)
- The proposed seven attached single-family dwellings as designed in three-structures with a retaining wall higher than four feet in a setback will not adversely affect the neighborhood as the development would be located in a walkable area with a mix of uses near a village center with a variety of residential and commercial building types and uses and the attached dwellings are well screened from abutting residences. (§7.3.3.C.2)
- The proposed seven attached single-family dwellings as designed in three structures with a retaining wall higher than four feet in a setback will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved as indicated by a traffic study submitted by the petitioner. (§7.3.3.C.4)
- Literal compliance with the provisions of §6.2.3.B.2 of the Newton Zoning Ordinance that do not allow the location of a driveway within 10 feet of a side lot line setback is

A True Copy

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impractical due to the frontage and shape of the lot or that such exceptions would be in the public interest, or in the interest of safety or protection of environmental features.

- Literal compliance with the provisions of §3.2.4 of the Newton Zoning Ordinance that require a minimum of 80 feet of frontage and 25 feet of side setbacks is impractical due to the unique location, frontage, and shape of the lot as affected by the direct abutting Sudbury Aqueduct.

PETITION NUMBER: #257-19 and 257-19(2)

PETITIONER: 956 Walnut Street LLC

LOCATION: 956 Walnut Street, Newton, Massachusetts, Ward 6, on land known as Section 62, Block 4, Lot 5, containing approximately 32,274 sq. ft. of land

OWNER: 956 Walnut Street LLC

ADDRESS OF OWNER: c/o Laurance Lee, Esq.
Rosenberg, Freedman & Lee LLP
246 Walnut Street
Newton, MA 02460

TO BE USED FOR: Seven single-family attached dwellings in three structures

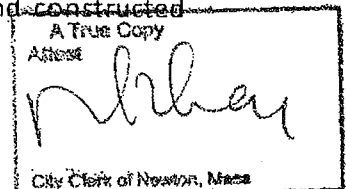
EXPLANATORY NOTES: Special permit as per Newton Zoning Ordinances Chapter 30, §7.3.3 to :

- allow attached single-family dwellings in an MR1 zoning district (§3.4.1)
- reduce the side setbacks requirement (§3.2.4)
- reduce the frontage requirement (§3.2.4)
- exceed maximum lot coverage (§3.2.4)
- allow a driveway in the side setback (§3.2.4, §6.2.3.B.2)
- allow a retaining wall higher than four feet within a setback (§5.4.2.B)

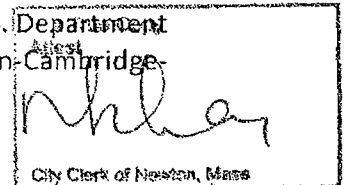
ZONING: Multi-Residence 1 district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:



- a. Site plans, prepared by Everett M. Brooks Co., signed and stamped by Michael S. Kosmo, Registered Professional Engineer and Bruce Bradford, Professional Land Surveyor, consisting of the following sheets:
- i. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Existing Conditions (Sheet 1 of 5), dated June 27, 2019 revised through November 19, 2019;
 - ii. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Layout (Sheet 2 of 5), dated June 27, 2019, revised through November 19, 2019;
 - iii. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Utilities and Grading (Sheet 3 of 5), dated June 27, 2019 revised through November 19, 2019;
 - iv. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Construction Plan (Sheet 4 of 5), dated June 27, 2019, revised through November 19, 2019;
 - v. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners" (details) (Sheet 5 of 5), dated June 27, 2019, revised through November 19, 2019.
- b. Architectural plans entitled "Residences at Four Corners, 956 Walnut St, Newton- MA 02459," prepared MGD+LLC Design and Consultants, signed and stamped by Derek E. Rubinoff, Registered Architect, consisting of the following sheets:
- i. Cover Page (SP-A0.0), dated June 18, 2019, revised through November 18, 2019;
 - ii. Zoning Analysis & Unit Types (SP-A0.2), dated June 18, 2019, revised through November 18, 2019;
 - iii. Site Plan (SP-A1.01), dated June 18, 2019, revised through November 18, 2019;
 - iv. Basement Fl Plan and Section (SP-A1.2), dated June 18, 2019, revised through November 18, 2019;
 - v. Elevations Plan (SP-A1.3), dated June 18, 2019, revised through November 18, 2019;
 - vi. Landscape Plan (SP-A1.4), dated June 18, 2019, revised through November 18, 2019;
 - vii. Interior Habitable Area Comparison (SP-A3.0) dated October 22, 2019.
2. The petitioner shall comply with the Tree Preservation Ordinance.
3. All exterior lighting fixtures shall be residential in scale and not cause light pollution, and shall be subject to review and approval by the Director of Planning and Development before any Building Permit may be issued pursuant to this Special Permit/Site Plan Approval.
4. One (1) of the residential units shall be an ownership unit made available to households earning at or below 70% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge



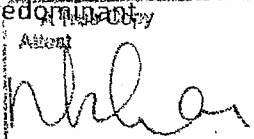
Quincy, MA-NH HMFA ("Inclusionary Unit"). As proposed in the preliminary Inclusionary Housing Plan, last revised 3/12/19, the unit shall be made available to households earning at or below 80% AMI and shall be priced to be affordable to a household having an income of not more than 70% of AMI. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery the Inclusionary Units shall be designated as a Local Preference Units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).

The Inclusionary Unit shall comply with the provisions of the City's Inclusionary Zoning Ordinance (§5.11).

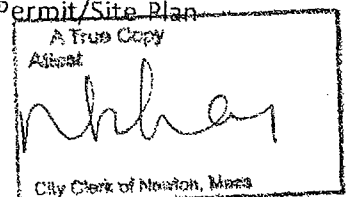
5. The type of Inclusionary Unit shall be a four bedroom, three-and-a-half-bathroom unit.
6. To the extent permitted by applicable regulations of DHCD, the Inclusionary Unit shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
7. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the unit will be affirmatively marketed and sold through a lottery.

No dwelling unit shall be constructed to contain, and/or marketed and/or sold as containing, more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1(b).


8. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Middlesex South Registry of Deeds.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
 - e. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development. Drought tolerant and indigenous plants shall be the predominant species installed in the landscape.

Attest

 City Clerk of Newton, Mass

- f. Provided a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex South Registry of Deeds . A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
 - h. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11 of the Zoning Ordinance.
 - i. Submitted for review and approval as to form to the City's Law Department, the Restrictive Covenant, as agreed to between petitioner and direct abutters, which provides for and requires the protection and preservation of the healthy mature trees located within a portion of the adjacent property at 1058 Beacon Street, Newton, Massachusetts.
9. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
- a. staging site for construction equipment,
 - b. construction materials,
 - c. parking of construction workers' vehicles,
 - d. phasing of the project with anticipated completion dates and milestones,
 - e. safety precautions,
 - f. emergency contact personnel of contractor
 - g. anticipated dewatering during construction,
 - h. site safety & stability,
 - i. impacts to abutting properties, and
 - j. a construction noise plan.
 - k. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
10. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:



- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
 - e. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Unit has been completed to the Director of Planning and Development for review and approval.
 - f. Entered into, and recorded at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants for the Inclusionary Unit with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Unit in perpetuity.
 - g. The Inclusionary Unit shall be constructed and available for occupancy coincident with market rate units such that no more than three (3) market rate units may receive occupancy permits until the Inclusionary Unit has received its occupancy permit.
 - h. Submitted to the Department of Inspectional Services and the Department of Planning and Development a copy of the Restrictive Covenant described in Condition 8(i) above, as recorded with the Middlesex South Registry of Deeds, protecting healthy mature trees located within a portion of the adjacent property located at 1058 Beacon Street, Newton, Massachusetts.
11. Notwithstanding the provisions of Condition #10 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
 12. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.
 13. To the greatest extent possible, Petitioner shall install pervious pavers in the portion of the proposed surface driveway intended for Fire Truck temporary parking provided that such pavers are reviewed and approved by the Planning and Development Department and the Fire Department. If, however, the Fire Department does not approve of the use of pervious


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pavers then Petitioner may use asphalt or such other material(s) acceptable to the Fire Department.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Councilor Ciccone)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on December 18, 2019. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) NADIA H KHAN, Acting City Clerk
Acting Clerk of the City Council

I, Nadia H Khan, as the Acting Clerk of the City Council and keeper of its records and as the Acting City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that within twenty days since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on December 18, 2019 in the Office of the City Clerk, an APPEAL to said decision pursuant to M.G.L. Chapter 40, Section 17 was filed in the Superior Court as Civil Action No. 2081CV00060. No other appeals were filed. Pursuant to Mass. R. Civ. P. 41(a)(1)(ii), the above-referenced APPEAL of the plaintiffs was dismissed with prejudice on July 23, 2021.

ATTEST:



(SGD) NADIA H KHAN, Acting City Clerk
Acting Clerk of the Council

