



City of Newton, Massachusetts  
Office of the Mayor

RUTHANNE FULLER  
MAYOR

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November 3, 2022

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RECEIVED  
2022 NOV -3 PM 4:39  
CITY CLERK  
NEWTON, MA, 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting the approval to spend \$33,333 in transportation mitigation funds from the 15 Riverdale Ave development for NewMo operations consistent with the transportation demand management plan set out in Special Permit #01-20 and the approved Request for Determination of Insubstantial Change dated 2/2/22.

While the approved language calls for payments for NewMo in three equal installments totaling \$100,000, the first on 2/1/22, the second on 8/1/23 and the third on 2/1/24, this approval is only for the Fiscal Year 2023 payment of \$33,333. The City plans to request a second installment in early Fiscal Year 2024 and the third installment a year later.

As stated in the "Request for Determination of Insubstantial Change,"

The applicant has been in touch with the Watertown TMA, and learned that there is presently no funding to extend the Pleasant Street shuttle into Newton via California Street. Accordingly the Applicant proposes the following language to replace condition 56d:

"Providing the City with a contribution of \$100,000. The funds are to be used for such transportation purposes as the City deems appropriate, including without limitation, NewMo. These funds shall be paid in three equal installations: the first on February 1, 2022, the second on August 1, 2023, and the third on February 1, 2024."

A memo from Director of Planning & Development Barney Heath is attached.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor



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Office of the Mayor

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Ruthanne Fuller  
Mayor

Middlesex South Registry of Deeds  
Electronically Recorded Document

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Recording Information

|  |                     |
|--|---------------------|
| Document Number                        | : 20345             |
| Document Type                          | : AFF               |
| Recorded Date                          | : February 07, 2022 |
| Recorded Time                          | : 12:11:12 PM       |
| Recorded Book and Page                 | : 79650 / 567       |
| Number of Pages(including cover sheet) | : 7                 |
| Receipt Number                         | : 2780445           |
| Recording Fee                          | : \$105.00          |

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

Affidavit Under G.L.C. 183, § 5B

Property Address: 15 Riverdale Avenue, Newton, MA  
Title Reference: Middlesex South District Registry of Deeds Book 59021, Page 1

I, Stephen J. Buchbinder, of Schlesinger and Buchbinder, LLP, 1200 Walnut Street, Newton, Middlesex County, Massachusetts, having personal knowledge of the facts herein stated, under oath depose and say as follows:

The correspondence and related exhibits from Brooke K. Lipsitt, Chairman of the Zoning Board of Appeals for the City of Newton, attached hereto as Exhibit A, relate to a modification of Comprehensive Permit Decision #01-20 recorded with said Deeds in Book 75327, Page 424 by approving certain insubstantial changes to the same, and is required to be recorded with the Middlesex South District Registry of Deeds.

Signed under the pains and penalties of perjury this 3<sup>rd</sup> day of February, 2022.

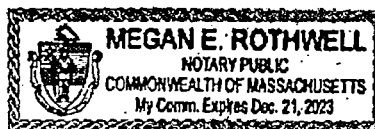
*Stephen J. Buchbinder*  
Stephen J. Buchbinder, Esquire

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 3<sup>rd</sup> day of February, 2022, before me, the undersigned notary public, personally appeared Stephen J. Buchbinder, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

*[Signature]*  
Notary Public  
My commission expires:



15 Riverdale Avenue, Newton, MA · Book 75420, Page 312



Ruthanne Fuller  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

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**ZONING BOARD OF APPEALS**  
Heather Zaring, Interim Board Clerk

February 2, 2022

**By Email Only**

Schlesinger and Buchbinder, LLP  
1200 Walnut Street  
Newton, Massachusetts 02461

Re: Comprehensive Permit 01-20; 15 Riverdale Avenue, Newton-Request for Determination of  
Insubstantial Change

Dear Mr. Buchbinder:

Pursuant to 750 CMR 56.05 (11), this letter serves as written notice with respect to the above-referenced Comprehensive Permit that the Newton Zoning Board of Appeals ("ZBA") has determined, based on the factors set forth in 750 CMR 56.07(4), that the changes to the approved project set forth in the January 14, 2022 letter received by the ZBA from Stephen Buchbinder on behalf of CPC Land Acquisition Company (the "Request Letter") constitute an insubstantial change. As a result, Comprehensive Permit #01-20 shall be deemed modified to incorporate the changes set forth in the Request Letter and the approved project shall be constructed in accordance with changes as set forth in the Request Letter and as shown on the following updated architectural plans: A-200 Overall Elevations, Prepared by ICON Architecture and dated December 6, 2021 (the "Revised Plans"). The Revised Plans shall replace plan sheet A-201 to A-206 listed in Schedule A of the Comprehensive Permit #01-20. The Request Letter is attached hereto as Exhibit A and the Revised Plans is attached hereto as Exhibit B.

Very truly yours,

*Brooke K. Lipsitt*

Brooke K. Lipsitt, Chair

**SCHLESINGER AND BUCHBINDER, LLP**  
ATTORNEYS AT LAW

**EXHIBIT A**

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
A MIRIAM JAFFE  
SHERMAN H. STARR, JR.  
JUDITH L. MELIDEO-PREBLE  
BARBARA D. DALLIS  
JULIE B. ROSS  
KATHRYN K. WINTERS  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER  
ADAM M. SCHECTER

1200 Walnut Street  
Newton, Massachusetts 02461-7257  
Telephone (617) 965-3500

www.sab-law.com  
Email: sjbuchbinder@sab-law.com

January 13, 2022

**BY FEDEX**

Ms. Brooke K. Lipsitt, Chairman  
Zoning Board of Appeals  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: The Residences on the Charles

Dear Chairman Lipsitt,

On June 17, 2020 the Zoning Board of Appeals (the "ZBA") issued a Comprehensive Permit Decision (#01-20) ("the Decision") to CPC Land Acquisition Company ("the Applicant") granting approval for the construction of a mixed-use development known as the Residences on the Charles containing three new buildings with 204 residential units and ancillary tenant and community space. On October 6, 2021, the ZBA approved certain Insubstantial Changes to approved architectural plan A-102 resulting in a decrease of two parking stalls and updates to the parking layout and to the tenant and community space.

**Plan Changes**

The Applicant now seeks to make certain additional modifications to the Decision, and for those modifications to be determined to be insubstantial changes to the Decision in accordance with the factors set forth in 760 CMR 56.05(11) and 756.07(4).

In accordance with said request, the Applicant presents updated architectural elevations prepared by ICON Architecture (sheet A-200P, "Comparison of Overall Elevations" dated December 6, 2021), a copy of which is hereto attached as Exhibit A. We are seeking a determination from the ZBA that these changes are insubstantial.

The minor changes, which are the result of the progression of the schematic design documents into construction documents, are summarized on the attached narrative (Exhibit B) and are the result of changes to materials which were specified on the previously approved plans. Rooftop mechanicals have also been added to the proposed building elevations. Sheet A-200, "Overall Elevations" dated December 6, 2021, a copy of which is attached hereto as Exhibit C, will replace Sheet A-201 (the approved elevation). I note that the approved plan set includes perspectives listed as A-202 to A-206 on Schedule A of the Decision. Replacements for these perspectives are not available because the software used for the construction plans does not offer perspective views. Therefore, the Applicant requests that Sheet A-200 replace Sheets A-201 to A-206.

The Applicant also requests a modification of Condition 56d of the Decision, which mandates that the Applicant shall implement a Transportation Demand Management Plan to include the following:

"Providing funding to the Watertown TMA for the creation or maintenance of a shuttle service along Pleasant Street and/or California Street."

**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Brooke K. Lipsitt, Chairman  
January 13, 2022

Page 2

The Applicant has been in touch with the Watertown TMA, and has learned that there is presently no funding to extend the Pleasant Street shuttle into Newton via California Street. Accordingly, the Applicant proposes the following language to replace Condition 56d:

“Providing the City with a contribution of \$100,000. The funds are to be used for such transportation purposes as the City deems appropriate, including without limitation, NewMo. These funds shall be paid in three equal installments: the first on February 1, 2022, the second on August 1, 2023, and the third on February 1, 2024.”

The Applicant has discussed this proposed modification with Planning Director Barney Heath and his team, along with Transportation Director Nicole Freedman and her team, and we believe that the proposed transportation provision satisfies the City.

**Insubstantial Change**

The 40B regulations at 760 CMR 56.07(4) (b)-(d) provide commentary and examples to assist a Zoning Board as to what constitutes a substantial or insubstantial change to a comprehensive permit.

As set forth in 56.07(4)(c), the following matters generally constitute a substantial change:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

As set forth in 56.07(4)(d), the following matters generally will not constitute substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.

The Applicant hereby requests that the Board act on this request within twenty (20) days as is required pursuant to 760 CMR 56.05(11)(a). If it is determined that the above-described revisions to the Decision are insubstantial changes, or if notice is not provided to the Applicant to the contrary within twenty (20) days, the Comprehensive Permit shall be deemed modified as requested. The above process does not require a public hearing. A public hearing would only be required if you determine that the requested changes are substantial changes, and if so, and pursuant to the referenced regulations, a public hearing would need to be held within thirty (30) days.

Thank you for your consideration of these requests.

Sincerely,

*Stephen J. Buchbinder*

Stephen J. Buchbinder

**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Brooke K. Lipsitt, Chairman  
January 13, 2022

Page 3

Enclosures

cc: (By FedEx, w/enclosures)  
Mr. Treff LaFleche  
Mr. Michael J. Quinn  
Mr. Michael Rossi  
Mr. Stuart Snyder  
Ms. Elizabeth Sweet

(By Email, w/enclosures)  
Mr. Jack Englert

(By Hand and By Email, w/enclosures)  
Ms. Heather Zaring  
Jonah Temple, Esquire, Assistant City Solicitor  
Ms. Jennifer Caira, Deputy Director of Planning and Development  
Mr. Neil Cronin, Chief Planner, Planning and Development Department