



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

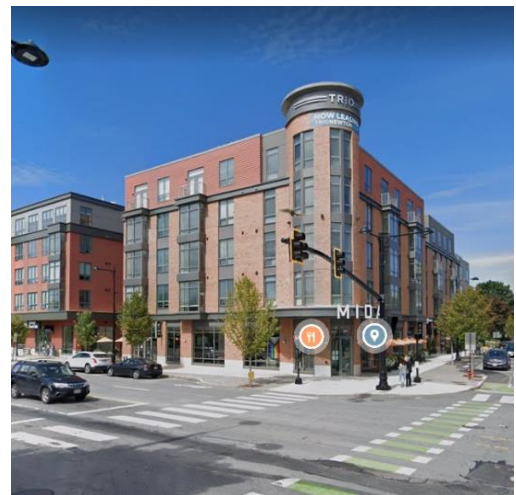
DATE: September 15, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Alyssa Sandoval, Deputy Chief Planner for Current Planning

SUBJECT: **Petition #287-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #96-17 by increasing the parking waiver from 97 stalls to 172 stalls and to amend Condition #3 of Special Permit #179-19 at 839-853 Washington Street

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



839-853 Washington Street

Project Description

Background

The subject property consists of approximately 123,956 square feet (2.85 acres) of land in the Mixed Use 4 (the “MU-4”) zone in Newtonville on Washington Street. In 2017, the City Council approved a rezoning of a portion of the site to the MU-4 zone (Council Order #95-17) and a special permit to construct a new mixed-use development, which consists of three interconnected buildings with 140 dwelling units and approximately 47,000 square feet of commercial space, known as Trio (Council Order #96-17). The original order was amended by Council Order #216-18 to permit a revised design for a 140-unit version of the project.

Special Permit

The petitioner seeks to amend special permit for the Trio development, #96-17, to allow non-accessory parking in the underutilized parking garage, and to amend special permit #179-19 to modify the definition of “formula business” as it relates to Condition #3 to allow for greater flexibility in leasing commercial space to local chains.

The original special permit for Trio, #96-17, prohibited the petitioner from leasing commercial space within the development to commercial banks and placed restrictions on the ability to lease parking as part of the parking waiver.

In 2019, the petitioner sought to lease to a bank use and was granted a new special permit to allow for the bank use while also placing restrictions on the leasing to chains (also known as formula businesses) by dedicating 10,000 sf of space on the ground floor to non-formula retail, restaurant, and personal services uses (Council Order #179-19).

Another change sought by the petitioner is for an increase of the parking waiver. The original parking waiver for #96-17 allowed a parking waiver for 97 required parking stalls. The petitioner now seeks to amend the special permit to increase the waiver to up to 172 stalls, rendering these stalls unavailable to the petition which allows for the leasing of up to 75 parking stalls. In addition, the petitioner requests non-accessory parking and assigned parking by special permit that is required in order to lease these stalls. A [parking and traffic monitoring study](#) completed in March 2023 finds that Trio’s residential parking in the garage is under-utilized while the petitioner notes that the surface lot is often at capacity.

Because the original order is very detailed with subsequent amendments coupled with the nature of the proposed amendment, Planning recommends these amendments, if approved, be handled as a standalone amendment to the existing Special Permit Council Order.

Analysis

Planning is unconcerned with the proposed change to adjust the definition of formula businesses to allow up to 24 businesses with a Massachusetts location at the Trio Development within the 10,000-square-foot allocation set aside for ground floor uses. The definition of formula business

may be too restrictive and does not allow for the variety of local and state chain businesses that might have a larger presence regionally but do not necessarily represent the standard national chain store or restaurant. Commercial property owners need flexibility in order to fill vacancies, and after consulting with the Economic Development Director and Long-Range Planning staff, Planning has no issues with the revised definition to provide this flexibility.

Additionally, the parking waiver and allowance for assigned and leased parking in the Trio parking garage does not concern the Planning Department. The recent parking study provided indicate that the current garage parking has additional capacity that is not used which is consistent with other studies done in the area that show private parking along Washington Street to be underutilized. Planning notes that the leasing of garage parking will not impact customers of the ground floor retail businesses, who will continue to have access to both on-street parking and the surface parking lot.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Special Permit #179-19	
	Amend Special Permits #96-17 and 216-18	
§4.4.1	Request to allow non-accessory parking	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive an additional 75 parking stalls for a total waiver of 172 stalls	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A**.

II. Criteria for Consideration per §7.3.3 and/or §5.1.13:

- The specific site is an appropriate location for the amendments to Council Order #96-17 and Council Order #179-19. (§7.3.3.C.1.)
- The site, due to the amendments to Council Order #96-17 and Council Order #179-19, as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians because of the amendments to Council Orders #96-17 and Council Order #179-19. (§7.3.3.C.3.)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)

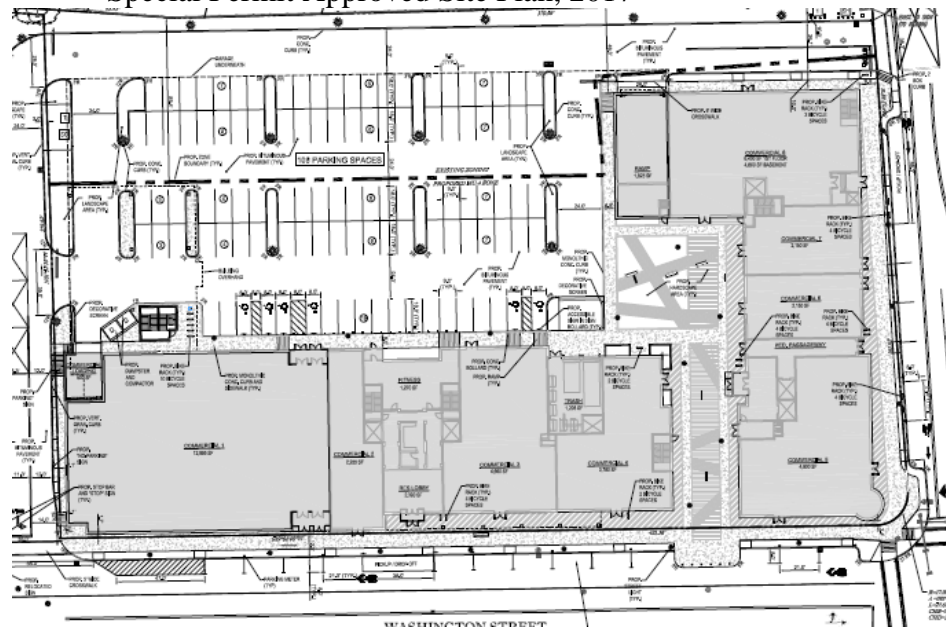
- Literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions to the parking requirements is in the public interest of safety, or protection of environmental features. (§5.1.13)

III. Project Proposal and Site Characteristics

A. Site

The site consists of a 123,628-square foot lot in the Mixed Use 4 zoning district and is improved with a five-story, 214,690-square foot, mixed use building with 140 residential condo units and 309 parking stalls divided between a surface lot and garage. The site is accessed by one driveway entrance from Washington Street and one driveway entrance from Walnut Street. The garage is located at the northwest of the connected building and the surface parking is located in the rear of the property. There are no changes proposed to the site plan but the special permit site plan is provided for contextual purposes.

Special Permit Approved Site Plan, 2017



IV. Project Description and Analysis

A. Land Use

The current use of the site is mixed use commercial and residential. If approved, the use would not change.

B. Site Design

This petition affects neither the site nor the building design.

C. Use Condition

The original Council Order #96-17 prohibited the petitioner from leasing space to commercial banks. A subsequent amendment (Council Order 179-19) allowed a bank use in Tenant Space 108 totaling 3,760 square feet. While the amendment allowed for the bank use, it also placed restrictions on the leasing to chains (also known as formula businesses) by dedicating 10,000 sf of space on the ground floor to non-formula retail, restaurant, and personal services uses (Council Order 179-19). The current definition of formula businesses under Council Order 179-19 is an establishment with nine or more businesses worldwide. One of the goals was to restrict a certain percentage to non-formula businesses as a way to support independent, neighborhood serving businesses and the village atmosphere of Newtonville.

The proposed amendment seeks to revise the definition of formula business to raise the number of businesses to 24 or more per establishment within Massachusetts.

The region has a number of small, local, "chains" that have successfully thrived and grown that were originally started by locally based entrepreneurs. To gain a sense of magnitude of the types of businesses that might represent both national and regional chains, Planning conducted a small sample of businesses in Massachusetts as provided below.

Business Survey, as of August 2023

Business Name	Business Type	Number in Massachusetts
Clover Food Lab	Restaurant	15
Tatte Café	Restaurant	24
Comella's	Restaurant	11
Blackbird Donuts	Bakery	7
Landry's Bicycles	Retail	8
Lazzoni Furniture	Retail	9
Taco Bell	Restaurant (fast food)	76
99 Restaurant	Restaurant	58
McDonald's	Restaurant (fast food)	249

While understanding the goal to retain Newtonville vibrancy, Planning is supportive of the change to allow regional chains to open up opportunities and reduce vacancies in commercial spaces and believes this change will still support this overall goal. It is notable that Clover (currently at the ground level of Trio) would now not be allowed to establish a new location at Trio under the current special permit since it has expanded to have 15 restaurants in the Boston metro area since it was first established at Trio.

Therefore, Planning is unconcerned with the proposed change to adjust the definition of formula businesses to those establishments having up to 24 businesses with a Massachusetts location at the Trio Development within the 10,000-square-foot allocation set aside for ground floor uses.

D. Parking

Trio's Parking Garage has a total of 210 parking spaces. On average, 136 spaces in the parking garage are currently leased. Of those spaces, 25 are leased to tenants of affordable units, 111 are leased to tenants of market rate units; and 10 are leased to tenants of the retail spaces. Therefore, there are about 64 garage spaces that currently are not leased. The cost of parking is unbundled from the cost of the rent and is a separate fee charged, which also may help to reduce parking demand since tenants pay an additional charge for parking.

Planning supports increasing the parking waiver by 75 spaces for a total waiver of 172 parking stalls because the parking study shows that the garage parking is currently under-utilized on a regular basis. Allowing the property owner to lease additional spaces will open up opportunities for Trio and residents in the area, as well as to

existing retail tenants to utilize these spaces.

The TDM resident survey provided as an appendix to the [parking and traffic monitoring study](#) (sample of 30 residents) indicates that Trio residents are using a variety of alternative transportation options nearby, including Green Line/T station, BlueBikes, NewMo, Rideshare, and MBTA Bus, which may be helping to decrease the need for high levels of car ownership and associated parking. Additionally, 13 percent of those residents surveyed do not own a vehicle.

Planning believes the recent parking study and TDM resident survey support increasing the parking waiver to up to 172 spaces as the location of the development supports a high usage of alternative transportation modes.

V. INTERDEPARTMENTAL REVIEW

- A. Transportation: The Transportation Coordinator has reviewed this request during early consultation (Design Review Team meeting) with the petitioner and did not have concerns with the parking waiver and assignment of leased parking.

VI. PETITIONER'S RESPONSIBILITIES

This petition is considered complete.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Proposed Amendment - Council Order #287-23
Attachment C: Council Order #96-17
Attachment D: Council Order #179-19



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 13, 2023

To: Anthony Ciccariello, Acting Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney
Washington Place Owner LLC
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to increase parking waiver from 97 to 172 stalls amending Special Permit #96-17 and to amend Condition #3 of Special Permit #179-19

Applicant: Washington Place Owner LLC	
Site: 839-853 Washington Street	SBL: 21029 0010MAIN
Zoning: MU4	Lot Area: 123,628 square feet
Current use: Mixed use with commercial, residential and parking	Proposed use: No change

BACKGROUND:

The subject site known as "Trio" is comprised of 123,628 square feet in the Mixed Use 4 zoning district and is improved with a five-story mixed use building with 140 residential units and 309 parking stalls divided between a surface lot and garage. Trio was originally permitted by Special Permit #96-17. A revised design for 140 residential units was amended by Special Permit #216-18 and the most recent amendment, Special Permit # 179-19 modified the prohibition on commercial banks to allow a bank in the tenant mix.

The petitioner now seeks to amend the special permit to allow non-accessory parking in the under-utilized parking garage, and to modify the definition of "formula business" as it relates to Condition #3 to allow greater flexibility in leasing commercial space to local chains.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 6/13/2023
- Narrative, submitted 6/13/2023
- Site Plan, prepared by J.G. Swerling, engineer, dated 8/31/2018, revised 1/15/2019, 4/30/2019, 4/7/2020, 6/2/2020, 7/20/2020
- Basement Floor Plan, prepared by PCA, architect, dated 8/31/2018, revised 10/12/2018, 5/23/2019
- Special Permit #216-18

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner seeks to amend the definition of “formula business” found in Condition #3 of Special Permit #179-19. The petitioner seeks greater flexibility in leasing to local chains by seeking the requested changes to the language as shown below:

In the event that the Petitioner leases commercial space to a commercial bank as allowed by this amendment, the Petitioner is required to reserve (i.e., whether leased or vacant and available for lease) at least 10,000 rentable square feet within the ground floor only, for lease to non-formula retail, restaurant, or personal service use tenants, which requirement shall be in place prior to, and remain in effect after, the issuance of a certificate of occupancy for a commercial bank. For the purposes of this condition, formula retail, restaurant, or personal service use is defined as “Any establishment, which along with ~~nine~~ twenty four or more other businesses ~~regardless of ownership or location worldwide~~, located within the Commonwealth of Massachusetts does or is required as a franchise, by contractual agreement, or by other agreement to maintain two of the following features:

1. A standardized menu;
 2. A standardized façade;
 3. A standardized décor and/or color scheme;
 4. A standardized uniform;
 5. A standardized sign or signage; or
 6. A standardized trademark or service mark.”
2. The site has 210 garage parking stalls and 99 surface parking stalls. The surface parking lot is frequently close to or at capacity. However, a parking utilization study commissioned by the petitioner has determined that on average, only 136 of the garage stalls are rented to residential tenants on a month-to-month basis. An additional 10 of the garage stalls are leased to commercial tenants. As such, 64 parking stalls are regularly not leased and thus, vacant every month. The petitioner is seeking a special permit per section 4.4.1 to allow non-accessory parking to allow for up to 75 parking stalls to be leased to outside parties.
 3. Special Permit #96-17 granted a waiver of up to 97 parking stalls. The petitioner seeks to amend the special permit to increase the waiver to up to 172 stalls, allowing for the leasing of up to 75 parking stalls.

4. Per section 5.1.3.E, parking stalls may not be assigned to specific tenants or users, unless by special permit. The petitioner seeks to allow for stalls to be assigned, requiring relief per section 5.1.13.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Special Permit #179-19	
	Amend Special Permits #96-17 and 216-18	
§4.4.1	Request to allow non-accessory parking	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive an additional 75 parking stalls for a total waiver of 172 stalls	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the 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 Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #96-17 to increase the parking waiver, and to amend Council Order #179-19 to modify a condition preventing the petitioner from leasing space to formula businesses, as recommended by the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the amendment to Council Order #96-17, as amended by #179-19, given the site is located within a Village Center containing a variety of uses. The parking waiver of up to 172 parking stalls is appropriate because of the location of the development encourages the use of nearby alternative transportation by residents therefore reducing the need for car ownership. (§7.3.3.C.1)
2. The amendment to Council Order #96-17 and the Amendment to Council Order #179-19 will not adversely affect the surrounding neighborhood. Allowing assigned parking and a waiver of up to 172 spaces will not adversely affect the surrounding neighborhood because the parking garage is currently under-utilized and leasing the parking will provide more opportunities for tenants and residents nearby. (§7.3.3.C.2)
3. The amendment to Council Order #96-17 will not create a nuisance or serious hazard to vehicles or pedestrians. The garage parking is currently under-utilized and allowing a waiver of up to 172 parking stalls will not create any changes to the road layout and access (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. Literal compliance with parking requirements is impracticable because the proposed parking is appropriate for the development with a dense mix of commercial and residential uses and well-served by public transit. (§5.1.13)
6. The dedication of 10,000 square feet within the ground floor of the development to non-formula retail, restaurant, or personal service uses helps to create a more vibrant,

diversified mix of businesses. Allowing regionally based chain businesses within the ground floor will provide more flexibility to lease these spaces and create a dynamic mix of businesses, helping to provide for an active streetscape. The Council finds that dedicating space to such uses will support the village atmosphere of Newtonville.

DRAFT

PETITION NUMBER: #287-23

PETITIONER: Stephen Buchbinder

LOCATION: 845-853 Washington Street known as Section 21, Block 29, Lot 10

OWNER: 839-853 Washington St Master Deed

ADDRESS OF OWNER: 839-853 Washington Street, Newtonville, MA 02460

TO BE USED FOR: Amendment to Special Permit #96-17 concerning parking and ground-floor commercial leasing

RELIEF GRANTED: Special permit per §7.3.3 to amend Council Order #96-17 to waive 172 required parking stalls (§5.1.4, §5.1.13), to amend Council Order #179-19 to revise the definition of non-formula businesses (§7.3.3), to allow assigned parking (§5.1.3.E, §5.1.13), and to allow non-accessory parking (§4.4.1)

ZONING: Mixed Use 4 district

Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #96-17 by increasing the parking waiver by 75 stalls up to 172 stalls, and amends Council Order 179-19 regarding Condition 3 defining non-formula businesses. All other conditions of Council Order #96-17 and Council Order #179-19 remain in full force and effect.

1. The parking waiver will increase from 97 stalls to 172 stalls to permit the petitioner to rent up to 75 stalls to members of the broader Newton community. The petitioner may provide non accessory parking as well as to assign parking pursuant to Section 5.1.3.E.
2. The petitioner shall reserve 10,000 rentable square feet within the ground floor only, to non-formula retail, restaurant, or personal service tenants. This requirement shall be met prior to and remain in effect after, the issuance of a certificate of occupancy for a commercial bank. For the purposes of this condition, formula retail and restaurant uses are defined as "Any establishment, which along with twenty-four or more other businesses located within the

Commonwealth of Massachusetts, does or is required as a franchise, by contractual agreement, or by other agreement to maintain two of the following features:

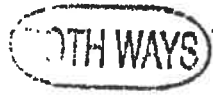
- A standardized menu;
 - A standardized façade;
 - A standardized décor and/or color scheme;
 - A standardized uniform;
 - A standardized sign or signage; or
 - A standardized trademark or service mark.”
3. Prior to issuance of any Building Permits for the Project, the Petitioner shall record a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex County and file a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

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CITY OF NEWTON ✓



#96-17

IN CITY COUNCIL

June 19, 2017

2017 JUN 21 PM 4: 14

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the 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 Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL for a mixed use development consisting of three interconnected buildings with total gross floor area up to 236,000 square feet which shall incorporate no more than 160 residential units (approximately 180,000 square feet), not exceeding 47,165 square feet of retail sales, service establishment, restaurant, health club, and/or medical office space, no less than 2,000 square feet of office/community space, all in accordance with the recommendation of the Land Use Committee (the "LUC") and the reasons given by the Committee therefore, through its Chairman, Councilor Marc C. Laredo.

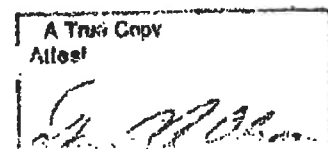
Procedural Background

The proposed development (the "Project") for Washington Place (the "Site") was submitted by Mark Newtonville, LLC (the "Petitioner") and reflects efforts to diversify Newton's housing stock, provide affordable housing choices, encourage pedestrian-oriented development with a mix of residential and business uses, and enhance the quality of life in Newtonville and Newton's village commercial centers, all in accordance with Newton's *Comprehensive Plan*.

The Petitioner filed a request to re-zone the Site from BU1/BU2/Public Use to MU4 and simultaneously filed special permit/site plan application for the Project with the City Clerk on May 9, 2016, i.e., Docket ## 179-16 and 180-16. Notice of the public hearing was published on May 24, 2016 and May 31, 2016 in *The Boston Globe*, on June 1, 2016 in the *Newton Tab*, and re-noticed and re-published on November 18, 2016, November 25, 2016, December 28, 2016, and January 4, 2017 in *The Boston Globe* and on November 23, 2016 and December 28, 2016 in the *Newton Tab*, and mailed to all parties in interest in compliance with the Newton Zoning Ordinance and M.G.L. c. 40A §11. The Land Use Committee ("LUC") of the City Council opened the public hearing on June 7, 2016 and continued the public hearing on July 12, 2016, September 13, 2016, October 6, 2016, November 1, 2016, November 29, 2016, December 15, 2016, January 12, 2017, January 31, 2017, February 7, 2017, and February 28, 2017. The LUC also held a special meeting on March 20, 2017, at which meeting public testimony was not taken, to allow the City Council to identify concerns regarding the Petition prior to the close of the public hearing.

Ref: 71163-565

Registered



Over the course of the public hearings on Docket # 179-16 presentations were made by the Petitioner and its Project team including its attorney, Stephen J. Buchbinder of Schlesinger and Buchbinder, LLP; Damien Chaviano of Mark Development, LLC; its architects, David Chilinski and Steven Allen of Prellwitz Chilinski Associates, Inc.; its landscape architect, Shauna Gillies-Smith of Ground, Inc.; its fiscal consultant, John Connery of Connery Associates; its transportation consultant, Randy Hart of Vanasse Hangen Brustlin, Inc. ("VHB"); its sustainability consultant, Lauren Baumann, of New Ecology; and its lighting consultant, Carrie Hawley of HLB Lighting. Presentations were also made by City staff including Alexandra Ananth, Chief Planner of Current Planning for the Planning and Development Department, and the City's transportation consultant and peer reviewer, Michael Santos of Howard Stein Hudson.

The LUC received extensive oral and written testimony from the public and written reports from the City's professional consultants and various City boards, commissions, and departments, including the Planning and Development Department, the Department of Public Works, the Planning and Development Board, the Urban Design Commission, and the Newtonville Area Council. During the review process, supplemental materials and testimony have been submitted in response to requests by the Council and the public. All testimony, written reports, and supplemental materials prepared by the Petitioner and its consultants, and the City and its staff, consultants, boards, and commissions, as well as public testimony and supplemental materials submitted by the public, are included in the record of the Council's proceedings, and provide factual and technical background for the Findings and Conditions set forth within the body of this order.

Because of a protest filed pursuant to G.L. c. 40A §5 challenging Petitioner's request to re-zone the Site, the Petitioner requested leave to withdraw without prejudice the special permit/site plan petition Docket #179-16 and the rezoning petition Docket #180(2). The LUC closed the public hearings on both petitions on March 28, 2017, and recommended approval of the request to withdraw without prejudice, which request was granted by the City Council on April 3, 2017.

On April 4, 2017, the Petitioner refiled the special permit/site plan approval for the Project, as well as a request to re-zone a portion of the Site totaling 92,907 sq. ft. from BU1/BU2/Public Use to MU4, *i.e.*, Docket ## 95-17 and 96-17, with the City Clerk. The northerly portion of the Site that is currently BU2 would not be rezoned. Given that the Project as refiled is identical to the Project proposed at the time the request to withdraw without prejudice was granted with the exception of the re-zoning request, the LUC is incorporating by reference all oral and written testimony and reports received by the LUC from the Petitioner and its consultants, the City staff and consultants, and from the public in connection with Docket ## 179-16 and 180-(1)&(2). No new special permits are required for the Project as refiled although the special permit waivers for FAR and lot area per dwelling unit are slightly changed.

Notice of the public hearing was published on April 18, 2017 and April 25, 2017 in *The Boston Globe* and on April 26, 2017 in the *Newton Tab*, and mailed to all parties in interest in compliance with the Newton Zoning Ordinance and M.G.L. c. 40A §11. The LUC opened the

public hearing on May 2, 2017 and continued the public hearing on May 30, 2017.

Following a final presentation by the Petitioner and City staff, as well as public testimony, the public hearing was closed on May 30, 2017 and on that date the LUC voted to recommend approval of the Project to the Council as follows:


Finding that all applicable provisions of the Zoning Ordinance have been complied with and taking into consideration the testimony and evidence provided by all interested parties, the Council GRANTS approval of this Special Permit/Site Plan Approval based on the following findings, as recommended by the LUC of the Council:

With regard to how the Project furthers the purposes of the MU4 District and meets the requirements of §7.3.3.C.1.-5., for those uses or dimensional waivers requiring special permits:

1. The Council finds pursuant to the requirements of §4.2.1.C.1.-5. that the Project is consistent with the purposes of the MU4 district and the Newton *Comprehensive Plan*, including the Mixed Use Centers Element adopted in November 2011, in that:
 - a. The Project will allow the development of buildings and uses appropriate to the Newtonville village commercial center and aligned with the vision of the City's *Comprehensive Plan* by providing a compact, pedestrian-oriented development with residences, shops, public gathering spaces, and mixed use development opportunities in a commercial village center. (§4.2.1.C.1 and §4.2.1.C.2)
 - b. The massing of the Project along two blocks on the north side of the Massachusetts Turnpike and at the corner of Washington and Walnut Streets as well as matching the Project's streetscape improvements to those streetscape improvements being made along Walnut Street south of the Turnpike will help visually connect Newtonville's commercial village center which is bifurcated by the Turnpike. (§4.2.1.C.2)
 - c. The Project will allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and a variety of businesses that serve the needs of the community. (§4.2.1.C.3)
 - d. The Project will expand the diversity of housing options available in the City. (§4.2.1.C.4)
 - e. The Project will promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community. (§4.2.1.C.5)
2. The Council finds that all residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units and are visitable by those in a wheelchair. In addition, per MAAB guidelines, 5% of the units will conform to "Group 2A" unit requirements and will be designed for immediate use and occupancy

by anyone in a wheelchair, and with the ability to adapt additional components of the units upon need, at the Petitioner's sole cost and expense. This will add to the diversity of Newton's housing stock, thereby increasing housing choices and opportunities in the City.

3. The Council finds that the residential units fill a need for smaller, accessible, residential units as identified by multiple sources including the City's Housing Needs Analysis and Strategic Recommendations Report dated June 2016, the Metropolitan Area Planning Council's Population and Housing Demand Projections for Metro Boston, and the two Demographic Trends and Projections Reports prepared by The Dukakis Center for the City of Newton.
4. The Council finds that the Petitioner has taken steps to alleviate the increasing costs of housing in Newton by providing two income tiers of affordability as follows:
 - a. The first tier of affordability per Newton's Inclusionary Zoning Ordinance will set aside 15% of the total residential units as Inclusionary Units affordable to households earning up to 80% of Area Median Income ("AMI") as designated by the US Department of Housing and Urban Development (HUD), adjusted for family size (the "Inclusionary Units") in perpetuity. 50% of the Inclusionary Units will be set aside for households earning at or below 50% of AMI and 50% of the Inclusionary Units will be set aside for households earning at or below 80% of AMI. This results in a blended rate of no more than 65% of AMI.
 - b. The second tier of affordability provides an additional 10% of the total residential units affordable to households earning between 80% and 120% AMI (the "Middle Income Units") in perpetuity. The Inclusionary Units and the Middle Income Units will sometimes be referred to hereinafter as the "Deed Restricted Units."
5. The Council finds that by including both tiers of affordability there will be potential for upward mobility within the Project, as residents may be afforded the option to transition from one tier to the next, where they would have otherwise been required to relocate or pay market rate rents if their income exceeded the cap on the Inclusionary Units.
6. The Council finds that to the extent allowed by the Massachusetts Department of Housing and Community Development (DHCD), the Petitioner will seek permission to set aside 70% of the Deed Restricted Units as Local Preference Units.
7. The Council finds that the specific Site is an appropriate location for the Project as the site plan maximizes the benefits of its Newtonville commercial village center location by expanding needed housing choices, diversifying commercial options in the village, connecting the Site to the village through intersection and streetscape improvements, and maximizing the number of parking stalls available on-site to the greatest extent consistent with appropriate site planning. (§7.3.3.C.1)

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8. The Council finds that the use as developed and operated will not adversely affect the neighborhood as the Project will enhance the long term economic stability of the commercial village center, the vitality and walkability of the village, and will create an approximately 9,000 square foot accessible public gathering space. (§7.3.3.C.2)
9. The Council finds that through improvements to the intersection of Walnut and Washington Streets for vehicles and pedestrians as well as the consolidation of driveways accessing the Site, there will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
10. Access to the site over streets is appropriate for the types and numbers of vehicles involved. The Petitioner conducted studies which conclude that the traffic generated by this Project is accommodated by improvements that the Petitioner will make at its sole cost and expense at the intersection of Washington and Walnut Streets. The City contracted with Howard Stein Hudson ("HSH") to perform a peer review of the Petitioner's Traffic Impact and Access Study. In general, both the Petitioner's study and the City's peer review conclude that the Project will have minimal impacts on surrounding roadways with the improvements at the intersection of Washington and Walnut Streets required by this Special Permit/Site Plan Approval. (§7.3.3.C.4)
11. The Council finds that the site planning, building design, construction, maintenance, and long-term operation of the Project will contribute significantly to the efficient use and conservation of natural resources and energy. The Project is located in a commercial village center close to multiple transit options and with the benefits of a walkable commercial village center. The building shall achieve LEED Gold Certification. (§7.3.3.C.5 and §7.4.5.B.8)

With regard to the special permit to allow retail sales establishments over 5,000 square feet, restaurants with more than 50 seats, personal service establishments over 5,000 square feet, standalone ATMs, health club(s) at or above the ground floor, animal service uses, and/or street-level medical office uses pursuant to §4.4.1.:

12. The Council finds that the Site is an appropriate location for retail sales establishments over 5,000 square feet, restaurants with more than 50 seats, personal service establishments over 5,000 square feet, standalone ATMs, health club(s) at or above the ground floor, animal service uses, and/or street-level medical office uses, as the proposed uses are appropriate for the commercial center of the village and will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed uses fill a demonstrated need for the uses within the vicinity, and that the proposed uses are not inconsistent with the purposes of the MU4 district or the City's *Comprehensive Plan*.

With regard to the special permit to allow a building in excess of 20,000 square feet of gross floor area, pursuant to §4.2.2.B.1.:

13. The Council finds that the size of the interconnected buildings is not inconsistent with the MU4 district or the Mixed Use Centers Element of the *Comprehensive Plan*. The proposed site plan and buildings improve the pedestrian environment, create beneficial

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open space, and the proposed mix of uses will enhance the commercial and civic vitality of the Newtonville commercial village center.

With regard to the special permit to allow a building height of 60 feet and 5 stories, and to waive the setback requirement for buildings taller than 40 feet pursuant to §4.2.5.A.2 and §4.2.5.A.4.c.:

14. The height and number of stories is allowable by special permit in the MU4 district and the Council finds that the building height of up to 60 feet and 5 stories is compatible in visual scale to its Newtonville commercial village center surroundings, is appropriate given the width of the street, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of the MU4 district.
15. The waiver of the setback requirement for the portions of the buildings taller than 40 feet is appropriate as the varied 4-5 story height and predominant massing on Washington Street is appropriate at this corner location and scales downward as the building approaches its residential abutters.

With regard to the special permit to allow floor area ratio ("FAR") of not more than 2.5 pursuant to §4.2.3.:

16. The FAR is less than the maximum permitted by special permit in the MU-4 district (2.5). The Council finds that the FAR of not more than 2.5 is appropriate for the site and not inconsistent with the MU-4 district or the City's *Comprehensive Plan*.

With regard to the special permit to waive the lot area per dwelling unit requirement, pursuant to §4.2.5.A.3.:

17. The Council finds that a lot area per dwelling unit of approximately 581 square feet creates a beneficial living environment for the residents, does not adversely affect the traffic on Washington Street or Walnut Street, and better achieves the purposes of the MU-4 district than strict compliance with these standards.

With regard to the special permit to waive the front setback requirement, pursuant to §4.2.5.A.4.:

18. The Council finds that the waivers from the front setback requirement better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of this district.

With regard to the special permit to waive entrance requirements, pursuant to §4.2.5.A.6.:

19. The Council finds that a waiver of the requirement for an entrance every 50 feet on the building frontage facing Walnut Street, Washington Street, and Washington Terrace better enables appropriate use of the Site, supports pedestrian vitality, and better achieves the purposes of the MU-4 district than strict compliance with these standards.

With regard to special permits for the number of parking stalls and various requirements for the design of parking facilities in both the MU4 and BU2 districts, pursuant to §5.1.4.A.; §5.1.4.C.; §5.1.8.A.; §5.1.8.B.1.2.; §5.1.9. B.; §5.1.10.; §5.1.12.; and §5.1.13.:

20. The Council finds that exceptions to the parking requirements, including a waiver for not more than 97 required parking stalls, to locate parking within a setback, and within five feet of a residential structure, to waive the dimensional requirements for some parking stalls, to waive the screening requirements for parking lots, to waive the interior landscaping requirements, and to waive the off-street loading requirements, are in the public interest or in the interest of safety, or protection of environmental features for the following reasons:

- a) The Project will provide 243 parking stalls in the underground garage and 109 parking stalls above ground. Six handicap stalls will be provided in the outdoor parking lot and 7 additional handicap stalls will be provided in the underground garage. The Petitioner is proposing 1.25 parking stalls per residential unit and a 1/3 reduction of the commercial parking requirement in addition to a waiver not to exceed 97 stalls. The approximately 900 square foot average size of the units will likely attract tenants who have only one automobile per unit and use public transit, making a parking waiver appropriate at this site. Covered bicycle parking will also be provided in the below-grade garage to encourage bike use. The Petitioner intends to have car-sharing services provided on-site and has submitted a Transportation Demand Management Subsidy Program and Transportation Demand Management Plan hereto attached as Schedules C and D, respectively.
- b) The parking for the market rate residential units and Middle Income Units will be charged separately and in addition to the rent so as to encourage reduced car ownership and parking demand while encouraging increased transit usage.
- c) The commercial and residential uses are complementary and will allow for shared usage of the garage at different times.
- d) The consolidation of the six existing curb cuts at the Site on Washington Street and Walnut Street into one access/egress at Washington Terrace and one access/egress on Walnut Street improves access management and public safety by reducing the number of entrances and exits into the Site, and conforms to engineering best practices by moving the entrances and exits as far as practicable from the Washington Street and Walnut Street intersection.
- e) The location of parking within property boundary setbacks and within five feet of a residential structure makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
- f) The allowance for reduced length of parking stalls (from 19 feet to 18 feet) will not create a nuisance or hazard to vehicles.
- g) The Petitioner will dedicate at least two stalls to car sharing service provider(s) and have at least 30 at-grade bike parking stalls and covered bike storage for at least 160 bicycles in the garage below.
- h) The waiver for some parking lot interior landscape screening helps maximize the

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number of parking stalls that will be available to the public, and a sufficient number of trees will be added to the Site so as to improve the streetscape, perimeter screening for the abutting residential uses, and public plaza area.

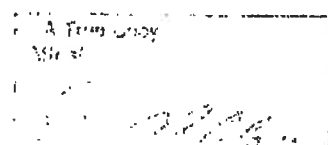
- i) The provisions for on-street and off-street loading facilities are sufficient to service the buildings and related uses on the site.
- j) The waiver to allow for reduced parking lot lighting is in the public interest and in the interest of abutting residential properties.
- k) The waiver for curbing, wheel stops, guard rails and bollards is appropriate given the proposed layout of the parking lot.

With regard to the special permit to waive the number, size, location, and height of signs pursuant to § 5.2.13

- 21. The Council finds that the nature of the use of the premises, the architecture of the buildings, and the Project's location at the intersection of Washington Street and Walnut Street, justifies exceptions to the limitations imposed by §5.2 on the number, size, location, and height of signs. The Petitioner will submit a Comprehensive Sign Package for all signage to the Urban Design Commission for review.

With regard to the site plan approval criteria under §7.4.5.B.1.-7.:

- 22. The Council finds that the Project has been designed to ensure the safety of vehicular and pedestrian movement within the Site and in relation to adjacent streets, properties, and improvements, including regulation of the number, design and location of access driveways and the location and design of handicap parking. The two access driveways include stop signs, open viewing, low planters, and wide sidewalks, and have been located as far away from the intersection as is practical. (§7.4.5.B.1)
- 23. The Council finds that the methods for disposal of sewage, refuse and other wastes , and that the methods of regulating surface water drainage are adequate for the following reasons:
 - a) The City Engineering Division has reviewed submitted plans and raised no concerns with respect to this Project. The Engineering Division will review all plans submitted for building permits for compliance with City of Newton Engineering Division design standards prior to the issuance of any building permits.
 - b) The Petitioner will be making a \$782,880 contribution to the City of Newton for municipal sewer Inflow and Infiltration improvements representing an 8:1 ratio, as more particularly set forth in General Condition 7. (§7.4.5.B.2)
- 24. The Council finds that provisions for on-street and off-street loading facilities are sufficient to service the buildings and related uses on the site. (§7.4.5.B.3)
- 25. The Council finds that screening of parking areas and structures on the site from adjoining premises is sufficient based on the landscape plans referenced in General Condition #1. (§7.4.5.B.4)



- 26. The Council finds that the Project avoids unnecessary topographical changes. (§7.4.5.B.5)
- 27. The Council finds that all utility service lines on site will be undergrounded. (§7.4.5.B.6)
- 28. The Council finds that the proposed site design and massing is appropriate in the context of the Newtonville commercial village center location and will serve to improve connections to the south side of Newtonville with an active pedestrian streetscape designed to invite the public into the site and with pedestrian improvement designed to be consistent with the Walnut Street streetscape south of the Massachusetts Turnpike. The Petitioner has incorporated a number of building treatments and design elements that enhance the appearance of the structure, including articulating the façade to proportion building elements to a human scale and setting the fifth story back from the street in certain locations. (§7.4.5.B.6)
- 29. The Council finds that the Petitioner worked with the community to design a Project that mitigates the removal of the existing buildings on site. (§7.4.5.B.7)
- 30. The Council finds the Project will provide public benefits to the residents of Newton as the Project includes 2,000 square feet of accessible community space to be used by local non-profit organizations engaged in the arts and community education.

In light of the findings set forth above and the following conditions imposed by this Council Order, the City Council finds that the public convenience and welfare of the City will be served, and the criteria of §4.2.1.C. 1.-5.; §4.2.2. B.1.; §4.2.5.A; §4.2.5. A. 1.-4. and 6; §5.1.4. A; §5.1.4. C.; §5.1.8.A.; §5.1.8. B. 1., and 2.; §5.1.9. B.; §5.1.10.; §5.1.12.; §5.1.13.; and §7.4.5. B. 1.-8. for granting special permits/site plan approval will be satisfied.

PETITION NUMBER: #96-17

PETITIONER: Mark Newtonville, LLC . As used herein, "Petitioner" shall refer to Mark Newtonville, LLC, and its successors and assigns

LOCATION: 22 Washington Terrace, 16-18 Washington Terrace, 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Street, 869 Washington Street, 867 Washington Street, 861-865 Washington Street, 857-859 Washington Street, 845-855 Washington Street, 245-261 Walnut Street (a/k/a 835-843 Washington Street), 241 Walnut Street, Bailey Place, 22 Bailey Place, 14-18 Bailey Place, and an unnumbered lot on Bailey Place, also identified as Section 21, Block 29, Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 20, 21, 22, and 23, Ward 2, being

currently zoned BU1, BU2, and Public Use and being rezoned in part as MU4 (the Project Site)

OWNER: Mark Newtonville, LLC, Mark Lolich, LLC, and Sunoco, LLC, their successors and assigns

ADDRESS OF OWNER: 57 River Street, Suite 106, Wellesley, MA 02481

TO BE USED FOR: A mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights of not more than 60 feet and five stories, total gross floor area up to 236,000 square feet incorporating no more than 160 residential units, not exceeding 47,165 square feet of commercial space, not less than 2,000 square feet of community space, on-site parking stalls outside at grade or within a below-grade garage, and related site improvements; to authorize uses including retail of more than 5,000 square feet, personal service of more than 5,000 square feet, restaurants over 50 seats, standalone ATMs, health club establishments at or above ground floor, animal service, and street level office

CONSTRUCTION: Masonry structure over a structural steel and concrete base


EXPLANATORY NOTES: Special permits, site plan approval, and parking waivers for the Project, all as more specifically set forth in Schedule A, attached hereto, and as further referenced in the Findings.

ZONING: MU4 and BU2 pursuant to Petition #95-17

Approved subject to the following Conditions.

General 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 the plans identified in Schedule B, and which are hereby incorporated by reference (the "Special Permit Plan Set"). The Project approved by this Order contains 160 residential units as reflected in the site plan referred to as "160 Unit Plans." In the event that the Petitioner voluntarily elects to reduce the number of residential units from 160 to 140, this Order approves the Project with 140 residential units to be constructed consistent with the site plan referred to as "140 Unit Plans." The number of Inclusionary and Middle

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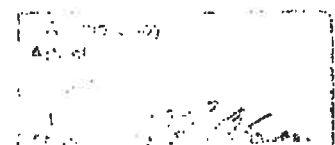
Income units will be reduced pro rata from 24 Inclusionary/16 Middle Income units in a 160 unit Project to 21 Inclusionary/14 Middle Income units in a 140 unit Project. The number of on-site parking stalls outside at grade within the Project Site or within a below-grade garage, shall be no less than 350 in a 160 unit Project, and no less than 309 in a 140 unit Project. While the I&I contribution will be reduced due to the reduction in the number of residential units, the Petitioner shall be required to comply with all other monetary or public benefit obligations in this Order regardless of whether the Project contains 160 or 140 residential units. Final elevations, final floor plans, and any other documents required to be revised by virtue of a decrease in the residential density from 160 to 140 units shall be submitted to the Director of Planning and Development for review and approval, consistent with the terms of this Order, and shall not require the further review or approval of the City Council.

2. The Petitioner shall merge the existing parcels in one new lot no later than thirty (30) days after the issuance of the first building permit (other than a demolition permit). Proof of recording a plan with the Middlesex South District Registry of Deeds shall be submitted to the Department of Planning and Development, the Inspectional Services Department, and the City Solicitor's office.
3. This Special Permit/Site Plan Approval shall be deemed to have been (i) vested, for the purposes of utilizing the benefits of the change of zone authorized by Council Order #95-17, upon the submission to the City of an application for a building permit (other than a demolition permit) for all or any portion of the Project; and (ii) vested and exercised, with respect to the entire Project, once construction under this Special Permit/Site Plan Approval has begun for any portion of the Project.
4. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall submit stamped and signed engineered plans for the reconstruction of the intersection at Walnut and Washington Streets as described on Schedule E attached hereto, for review and approval by the Director of Planning and Development and the Commissioner of Public Works in consultation with the Director of Transportation, and the City Engineer, for consistency with (i) the City's Complete Streets Policy, and (ii) to the extent such plans have been developed at the time of issuance of the building permit for the vertical construction of the Project, the Newtonville Streetscape Project south of the Massachusetts Turnpike. These improvements will be completed by the Petitioner at its sole cost and expense.
5. Prior to the issuance of any final certificates of occupancy, and at the Petitioner's sole cost and expense, the Petitioner shall complete the reconstruction of the intersection of Washington Street and Walnut Street as described on Schedule E attached hereto. The City Engineer shall also inspect and approve the improvements upon completion.
6. The Petitioner shall make or fund off-site improvements in addition to the off-site improvements required in General Conditions ## 4 and 5 and Schedule E in the vicinity of




the Project categorized as: (a) streetscape and street beautification initiatives in the vicinity of the Project including the bridge over the Massachusetts Turnpike and MBTA railroad line, and (b) transportation enhancements for all travel modes, including, but not limited to, pedestrian, bicycle, and elements related to the Newtonville MBTA commuter rail station. Within ninety (90) days after the issuance of a building permit for vertical construction, the City Council shall identify the specific improvements to be made under the foregoing categories and the City Council shall either direct the Petitioner to construct the improvements identified by the City Council, at Petitioner's expense, for an amount not to exceed \$700,000.00, or it shall direct the Petitioner to pay the sum of \$700,000.00 to the City, which the City shall use to construct the off-site improvements. In the event that the City Council elects to accept payment of \$700,000.00 for the off-site improvements, funds from the account in which the \$700,000.00 will be held shall be appropriated to construct the off-site improvements in accordance with municipal finance law. In the event that the City Council directs the Petitioner to construct the improvements and the final cost of the improvements is less than \$700,000.00, the Petitioner shall pay the balance to the City and the City shall use the funds for additional off-site improvements accordance with the provisions of this condition. In the event that the City Council fails to identify the improvements to be made within ninety (90) days after the issuance of a building permit for vertical construction, in accordance with this condition, then the Petitioner shall pay the sum of \$700,000.00 to the City and the Petitioner shall have no further obligation with respect to this General Condition #6.

7. Prior to the issuance of any certificates of occupancy, temporary or final, for the residential portion of the site, the Petitioner, if it elects to pursue development of the Project with 160 residential units, shall pay an amount of \$782,880 to the City, which sum represents an 8:1 ratio for municipal sewer Inflow and Infiltration improvements in accordance with a memorandum from Associate City Engineer John Daghljan dated November 29, 2016, a copy of which is on file in the office of the City Clerk. In the event the Petitioner elects to pursue the Project with 140 residential units, Petitioner shall pay an amount to the City for municipal sewer Inflow and Infiltration improvements based on an 8:1 ratio calculated in a similar fashion to the calculations used in said memorandum, but in no event shall the amount due exceed \$782,880.
8. The Petitioner shall institute a Transportation Demand Management Subsidy Program (the "TDM Subsidy Program") in the amount of \$300,000 and shall commence implementation of the TDM Subsidy Program and the Transportation Demand Management Plan (the "TDM Plan") when the first residential tenant moves into the Project. The details of the TDM Subsidy Program are set forth in Schedule C. The TDM Plan is attached as Schedule D. The Petitioner shall have no obligation to continue the TDM Subsidy Program once the \$300,000 funding is fully expended. Ongoing costs associated with the TDM Plan are not included in the \$300,000 amount, and the Petitioner shall be obligated to continue such Plan for the life of the Project.



9. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), and as proposed in the Preliminary Washington Place Inclusionary Plan (IHP) dated May 25, 2017 a copy of which is on file with the City Clerk, 15% of the residential units in the Project shall be restricted for Inclusionary Units that shall be made available to households earning up to 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size. As proposed in the Preliminary IHP, 50% of these units shall be made available to households earning up to 80% AMI, and 50% of these units shall be made available to households earning up to 50% AMI. Monthly housing costs (inclusive of heat, hot water, electricity, water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. The maximum number of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD). The Preliminary IHP assumes the Project will contain 160 residential units. If the Petitioner elects to pursue the Project with 140 residential units, the Petitioner shall revise the Preliminary IHP accordingly to reflect the actual number of residential units and the actual number of Inclusionary Units based on the percentages set forth in this condition.
10. In addition to the Inclusionary Units, and as proposed in the Preliminary IHP, 10% of the residential units in the Project shall be restricted for Middle Income Units that shall be made available to households earning between 80% and 120% of AMI, as designated by HUD, adjusted for household size. As proposed in the Preliminary IHP, 50% Middle Income Units shall be made available to households earning between 80% AMI and 100% AMI, and 50% of the Middle Income Units shall be made available to households earning between 100% AMI and 120% AMI. For the purposes of calculating rents, monthly housing cost calculation for the Middle Income Units will not include an allowance for utilities that are not included in the rent. The Preliminary IHP assumes the Project will contain 160 residential units. If the Petitioner elects to pursue the Project with 140 residential units, the Petitioner shall revise the Preliminary IHP accordingly to reflect the actual number of residential units and the actual number of Middle Income Units based on the percentages set forth in this condition.
11. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
12. The Middle Income Units will be subject to an Affordable Housing Use Restriction, in a form approved by the Law Department, which shall be substantially similar in form and intent to the Regulatory Agreement and Declaration of Restrictive Covenants that governs the Inclusionary Units. The restriction shall be in perpetuity and shall be executed between the

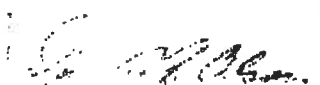
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Petitioner and the City prior to the issuance of any building permits for the vertical construction of the Project.

13. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan for review by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative 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. The Inclusionary Housing Plan and Affirmative Marketing and Resident selection plan should include both the Inclusionary Units and the Middle Income Units and treat the units the same with respect to Affirmative Marketing and advancing Fair Housing in Newton. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.
14. The project shall include at least six three bedroom units, of which at least one of these units will be restricted as an Inclusionary Unit (made available to households earning up to 80% of AMI, as designated by HUD), at least one unit will be restricted as a Middle Income Unit (made available to households earning between 80% and 120% of AMI, as designated by HUD), and the remainder may be made available at market rates.
15. All residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use.
16. The Petitioner shall design and construct a high R-value, durable, environmentally sensitive building. Mechanical, Electrical and Plumbing systems shall be chosen and sized to meet the minimal heating and cooling loads and to ensure occupant comfort. The building shall achieve LEED Gold Certification, and proper commissioning, optimization, and education for building management and tenants shall be conducted to operate the building at the designed level of performance.

Conditions Related To Construction

17. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed, and only if the work complies with the provisions of the Noise Control Ordinance of the City of Newton. In addition, access to and egress from the Site for work conducted outside of the hours specified above, shall be from Washington Street or Washington Terrace only. Notwithstanding the foregoing, there shall be no restriction on work hours for work within Washington Terrace, Washington Street, and Walnut Street in order to limit disruption of the use of these roadways.

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18. The Petitioner shall communicate regular construction updates to the Newtonville Area Council and all immediate abutters during construction as appropriate.
19. Not less than two (2) months prior to the commencement of any Site Work and/or other construction activities related to the work approved through this Special Permit, a Construction Liaison Committee shall be established consisting of two (2) designees of the Petitioner, two (2) immediate abutters, and two (2) residents from the neighborhood surrounding the Project, the Ward 2 Councilors, and any other interested Councilors. The City Council shall appoint the immediate abutter members and the resident neighborhood members. Meetings of the Liaison Committee will be open to the public, and the Liaison Committee will establish such agenda and procedures as it shall see fit.

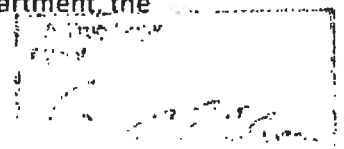
The purposes of the Liaison Committee shall be:

- To enhance and ensure communication as to the status and progress of the construction of the Project by the Petitioner.
- To provide a forum for initial presentation of a construction schedule and any significant changes to schedule or changes of plans for which public review is appropriate.
- To provide a public forum for presentation of supplementary permit requests to the extent required; and
- To receive and deal with construction-specific issues including, without limitation, noise, dust, parking and traffic; to monitor implementation of the final Construction Management Plan; and to receive notices and communications from the Department of Inspectional Services and the Planning and Development Department.

The Liaison Committee shall meet regularly (monthly for the first six (6) months of the construction period, and thereafter, every three (3) months, unless there is consensus within the Liaison Committee that no meeting is necessary until at least six (6) months after the initial occupancy of the final building to be completed. The first meeting shall be convened jointly by the Petitioner and the Ward 2 Councilors. The Liaison Committee shall work by consensus, but nothing in the establishment of the Liaison Committee shall inhibit any member, including the Petitioner, from engaging in any lawful activities.

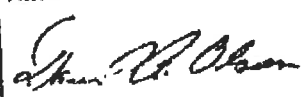
The Liaison Committee shall, at a minimum, give written notice to the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development of its meetings, and such notice shall be posted on the construction activity website that the Petitioner shall be required to establish pursuant to its Construction Management Plan.

20. The Petitioner shall comply in all material respects with the final Construction Management Plan to be submitted for review and approval to the Commissioner of Inspectional Services, in consultation with the Director of Planning and Development, the Fire Department, the



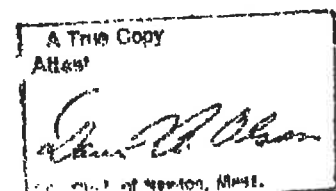
Commissioner of Public Works, and the City Engineer. The Final Construction Management Plan shall include, but not be limited to, the following provisions:

- a. 24-hour contact information for the general contractor of the Project. This contact information shall be provided to the Commissioner of Inspectional Services and to the Newton Police Department, shall be posted on a construction activity website to be established by the Petitioner, and shall be posted on the job site.
 - b. The proposed schedule of the Project, including the general phasing of the construction activities.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
 - d. Proposed truck route(s) that minimize travel on local streets.
 - e. Proposed methods for dust control including but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; and locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the Site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Noise Ordinance. Staging activities shall be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities shall be located as far as practical from noise sensitive locations.
 - g. A plan for rodent control during construction.
 - h. Offer to provide a pre-construction survey at no charge to the owners of the properties abutting the Site.
21. The Petitioner shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
22. The Petitioner shall be responsible for repairing any damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
23. At the Petitioner's sole expense, the Petitioner shall locate all utility service lines on site underground, including any utility service lines along the Project's frontage on Washington and Walnut Streets if such lines are present, subject to necessary approvals from utility companies.

A True Copy
 Attest:

 John P. Olson
 Commissioner of Public Works

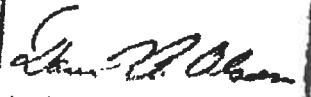
Conditions Precedent To The Issuance Of Any Building Permits

24. No building permit for the vertical construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County and/or the Southern Middlesex Land Court, as appropriate.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in General Condition #1.
 - d. 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 §5.11.9. of the Zoning Ordinance.
 - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
 - g. Submitted sample building façade materials and colors for review and approval by the Director of Planning and Development, which approval shall not be unreasonably withheld.
 - h. Submitted a LEED Checklist to the Director of Planning and Development for review and approval, indicating which points the Project intends to realize in order to achieve LEED Gold Certification.
 - i. Submitted to the Law Department copies of fully executed Regulatory Agreements and Affordable Housing Restriction for all Deed Restricted Units, as described in Conditions 9 through 12.



Conditions Precedent To The Issuance Of Any Certificate of Occupancy

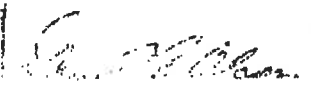
25. No final certificate of occupancy for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with General Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in digital format.
 - c. Completed the payment to the City for municipal sewer Inflow and Infiltration improvements as required in Condition 7.
 - d. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - e. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the improvements as described in Schedule E have been constructed to standards of the City of Newton Public Works Department.
 - f. Submitted to the Department of Planning and Development and the Health Department a final environmental report from a Licensed Site Professional documenting that the Site can be used for residential apartments.
 - g. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that the criteria for LEED Gold Certification have been satisfied.
 - h. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - i. Provided evidence satisfactory to the City Solicitor's Office that the Regulatory Agreements for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds and/or Southern Middlesex Land Court, as appropriate.
 - j. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units, such that no more than three market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.

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Attest

John P. Olson
City Clerk

- k. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, including both the residential and commercial space, prior to installation of required on-site landscaping/ exterior hardscape improvements required in Schedule E , provided that the Commissioner of Inspectional Services, in consultation with the Director of Planning and Development and the Commissioner of Public Works, concludes that the level of completion of the improvements is sufficient to permit temporary occupancy of the buildings without harm to public safety or convenience. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the City Solicitor's Office in an amount not less than 135% of the value of the aforementioned remaining improvements.
- l. Completed the off-site improvements or paid to the City the amount of \$700,000.00 in accordance with General Condition #6.

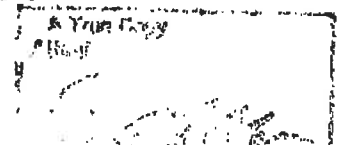
Ongoing Conditions To Be In Effect For So Long As The Project Authorized By This Special Permit/Site Plan Approval Exists

- 26. The cost of residential tenant parking shall be charged separately from residential tenant rents provided, however, that one parking stall shall be provided for the household of each Inclusionary Unit which needs a parking stall without charge to the tenant of such unit.
- 27. All on-Site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
- 28. The Petitioner shall be responsible at its sole cost for trash and recycling disposal for the Project. The trash and recycling disposal shall be scheduled at such times to minimize any disruption of the on-site parking.
- 29. A Comprehensive Sign Package including all tenant signage shall be submitted for review by the Urban Design Committee.
- 30. Managed or valet parking is permitted pursuant to a professionally-prepared Parking Management Plan, which shall be maintained on file and available for review upon request by the Director of Planning and Development or the Director of the Transportation Division of Public Works. Valet parking may be located within the Project Site or off-Site.
- 31. Except as set forth in General Condition #1, no changes to the Project shall be permitted, except as otherwise set forth in this Special Permit/Site Plan Approval, unless they are consistent with the Special Permit Plan Set. Consistency determinations shall be subject to

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Attest


review and approval by the Commissioner of Inspectional Services but shall not require approval of the Council. When making a request for a consistency determination, the Petitioner shall submit updated construction sequencing plans and a memorandum for the Commissioner of Inspectional Services demonstrating that such changes (i) do not constitute a reallocation or reconfiguration of square footage among uses in the Project or otherwise allowed in the MU4 district such that no increase in the parking waiver approved hereunder is required; (ii) do not require additional zoning relief (other than the categories of relief granted and/or modified pursuant to the Special Permit/Site Plan Approval; and (iii) maintain the same percentage of useable open space as shown on the Special Permit Plan Set. If the Commissioner of Inspectional Services grants any consistency ruling pursuant to this Condition, he shall provide a copy to the Land Use Committee of the Council. The LUC shall not be required to vote or to approve the consistency request.

32. At its sole expense and within 12 months of the issuance of the final certificates of occupancy, the Petitioner shall complete a post-occupancy traffic study to document and assess (i) the actual traffic characteristics, volumes, and operating conditions of the Project including safety and crash results; (ii) evaluate the success and refine the elements of the TDM Measures including parking utilization and residential and commercial tenant mode shares; and (iii) assess traffic volumes and operating conditions at the intersection of Walnut and Washington Streets, at the intersection of Washington Street and Lowell Avenue, at the intersection of Foster Street and Walnut Street, at the intersection of Foster Street and Lowell Avenue, at the intersection of Page Road and Walnut Street, and at the intersection of Page Road and Lowell Avenue. Traffic counts shall be performed under average-month conditions while public schools are in regular session. The results shall be submitted to the City prior to the end of the calendar year in which the study is completed. If the results indicate the actual measured traffic volumes associated with the Project as constructed and occupied exceed the trip estimates presented in the Traffic Impact Assessment by more than 10 percent of the projected trip generation for the then occupied uses as measured at the two primary driveways serving the Project or the intersection of Walnut and Washington Streets, then the Petitioner shall correct the problem by implementing the following mitigation measures:
- a. Appropriately adjust the traffic signal timing, phasing and coordination for the Walnut and Washington Streets intersection;
 - b. Implement refinements to on-site traffic flow and parking management; and/or
 - c. Expand or modify the elements of the Transportation Demand Management Plan measures in order to increase use of public transportation and/or other alternatives to automobile travel, subject to review of the Director of Planning and Development in consultation with the City's Director of Transportation.
33. At least 2,000 square feet of accessible community space as shown on Plan A1.13, Second Floor, shall be made available for lease to a local non-profit organization engaged in the arts



through community education. The Owner shall lease such space to the non-profit organization for \$1.00 per year rent plus the cost of utilities actually consumed for such space. The Owner may also require that the non-profit lessee maintain insurance coverage. The terms of the lease shall require the non-profit lessee to provide programming for the use of such space and also require the non-profit lessee to allow other local non-profits or community groups to use such space at least one evening a week and/or at such other times as are convenient for the non-profit lessee. The Owner shall consult with the City's Cultural Affairs office to help find the original local non-profit organization, and any replacement lessee should the original local non-profit be unable to continue the lease at any time in the future while this special permit is being exercised.

- 34. The Petitioner and its successors shall not lease commercial space in the Project to any commercial banks. This condition does not prohibit ATM machines, provided that no ATM machine shall be allowed on the Washington or Walnut Streets exterior facades of the building.
- 35. Petitioner may store snow on the Site to the extent that it does not impede parking and circulation and pedestrian movements. To the extent snow removal is necessary, such removal will be conducted pursuant to a Snow Removal Plan, which shall be maintained on file at the Project and available for review upon request by the Director of Planning and Development. The Petitioner shall remove snow along the sidewalks abutting the Site in accordance with the City's snow removal ordinance.

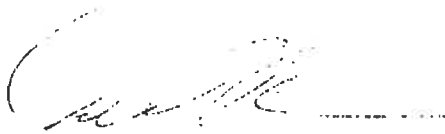
Under Suspension of Rules

Readings Waived and Approved

16 yeas 7 Nays (Councilors Baker, Blazar, Gentile, Harney, Norton, Sangiolo, Yates) 1 Absent (Councilor Brousal-Glaser)


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 June 21, 2017. 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) DAVID A. OLSON, City Clerk

Clerk of the City Council


<p>A True Copy Attest!</p> 
--

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that within twenty days since the filing of the original decision on SPECIAL PERMIT /SITE PLAN APPROVAL #96-17 on June 21, 2017, in the Office of the City Clerk APPEALS of the said decision pursuant to M.G. L. Chapter 40, Section 17 were filed in the Land Court, as Civil Action Nos. 17MISC000373, 17MISC000540, 17MISC000374, and 17PS000511. Pursuant to Mass. R. Civ. P. 41(a)(1)(ii), the above referenced APPEALS of the plaintiffs were dismissed with prejudice on June 26, 2018.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
acting Clerk of the Council

A True Copy
Attest


SCHEDULE A

Relief Sought

Dimensional Standards

1. development of more than 20,000 square feet pursuant to Section 4.2.2.B.1
2. lot area less than 1,000 square feet per unit pursuant to Section 4.2.5.A.3
3. building height of 60' pursuant to Sections 4.2.3 and 4.2.5.A.2
4. 5-story building pursuant to Section 4.2.3 and 4.2.5.A.2
5. floor area ratio of not more than 2.5 pursuant to Section 4.2.3

Design Standards

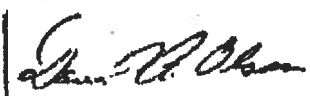
6. waiver of the height setback requirement of Section 4.2.5.A.4.c for buildings greater than 40' pursuant to Section 4.2.5.A.4
7. waiver of the entrance requirements of Section 4.2.5.A.6.a-c

Uses

8. retail sales use of over 5,000 square feet pursuant to Section 4.4.1
9. restaurant of over 50 seats pursuant to Section 4.4.1
10. personal service use of over 5,000 square feet pursuant to Section 4.4.1
11. standalone ATM pursuant to Section 4.4.1
12. health club at or above ground floor pursuant to Section 4.4.1
13. animal services pursuant to Section 4.4.1
14. street level office pursuant to Section 4.4.1 and 4.2.5.A.7

Parking Facility


15. 1.25 parking stalls per residential unit pursuant to Section 5.1.4.A

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Attest


#96-17

Petition #96-17

16. reduction of the overall parking requirement by 1/3 pursuant to Section 5.1.4.C
17. waiver of 97 parking stalls pursuant to Section 5.1.13
18. waiver of the parking stall dimensions required by Sections 5.1.8.B.1 and 2
19. waiver of parking stall setback requirements pursuant to Section 5.1.8.A
20. waiver of dimensional requirements for entrance and exit driveways pursuant to Section 5.1.8.D
21. waiver of end stall maneuvering space requirements of Section 5.1.8.B.6
22. waiver of the 5% interior landscaping requirement of Section 5.1.9.B.1
23. waiver of the interior planting area requirements of Section 5.1.9.B.2
24. waiver of the tree requirements of Section 5.1.9.B.3
25. waiver of the bumper overhang requirements of Section 5.1.9.B.4
26. waiver of the 1-foot candle lighting requirements of Section 5.1.10.A.1
27. waiver of the curbing, wheel stop, guard rail or bollard requirements of Section 5.1.10.B.5
28. waiver of the number of off-street loading facilities required pursuant to Section 5.1.12
29. waiver of the number, size, location and height of signs pursuant to Section 5.2.13

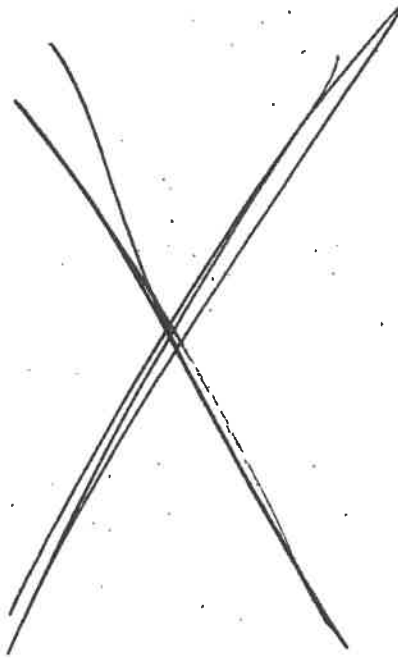
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SCHEDULE B

PLANS



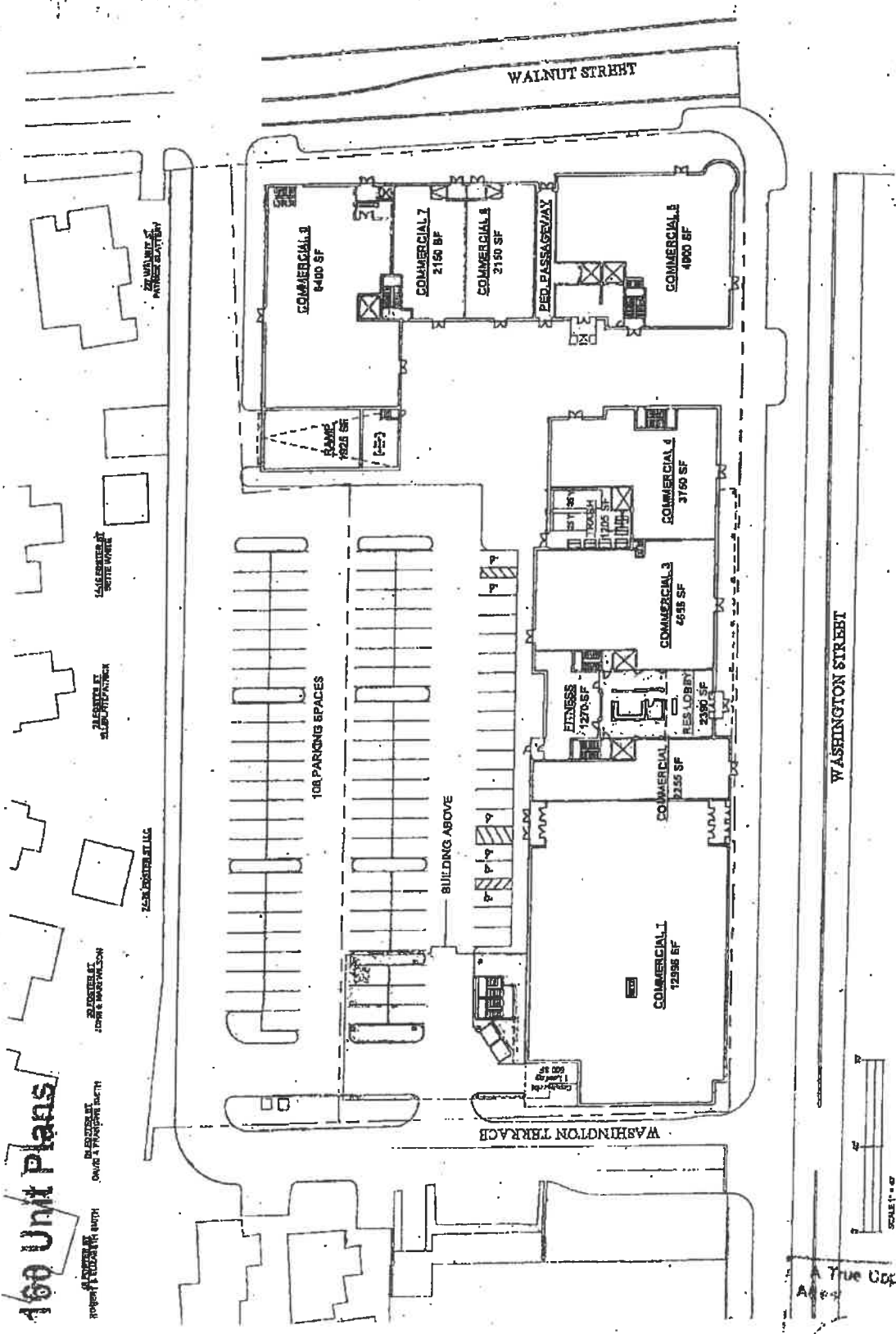
A True Copy
Attest:
John P. Olson
City Clerk of Newton, Mass.

160 Unit Plans

ARCHITECTURE PLANNING DIVISION

WASHINGTON PLACE Ground Floor Plan

04/04/2017 Scale: 1/4" = 1'-0"

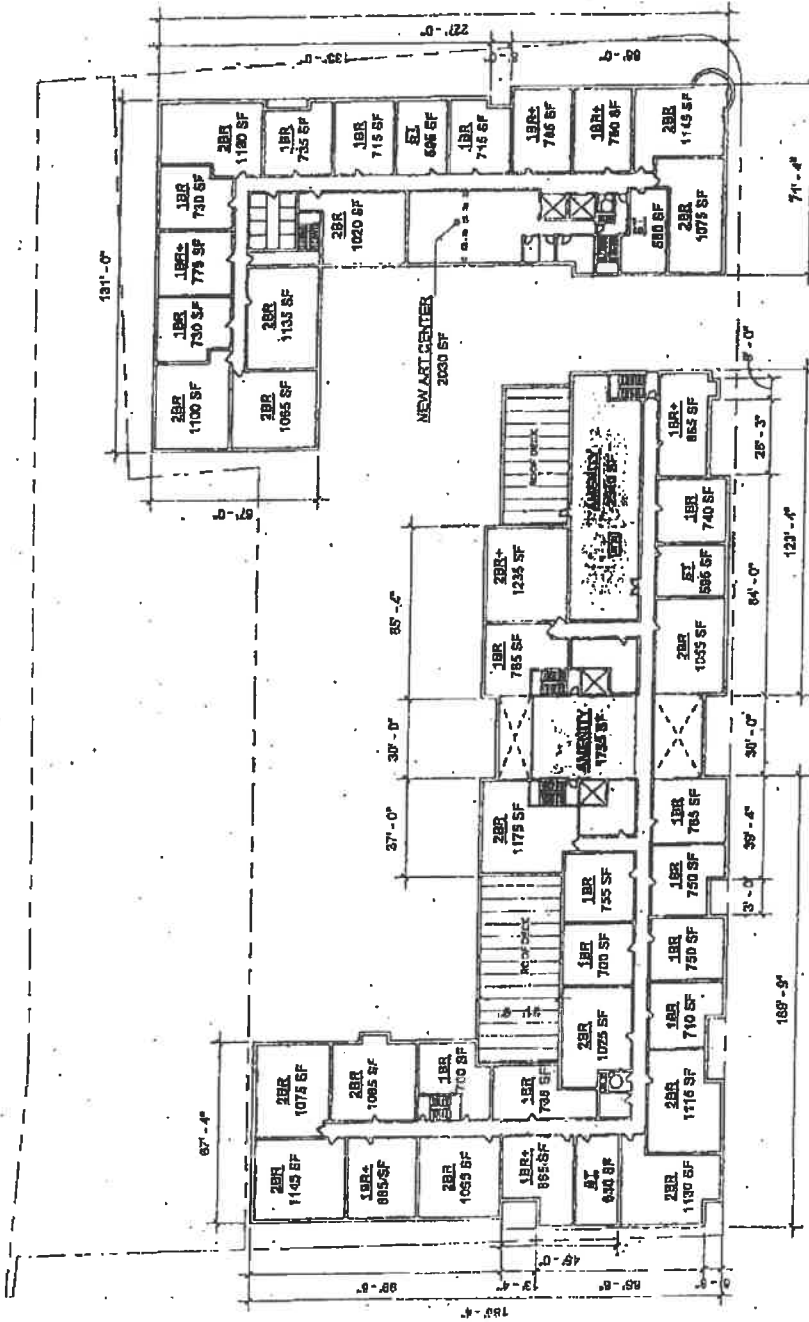


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160 Unit Plans

ARCHITECTURE PLANNING GROUP

WASHINGTON PLACE
Second Floor Plan
Scale: 1/4"=1'-0"



A True Copy
Attest!

Edward H. Olson
Architect
Newton, Mass.

#96-17



Gross Ground Floor Area	
Space	Area (SF)
Total Ground Floor Commercial	43,888 SF
Commercial Loading	1,088 SF
Residential @ Ground Floor	8,980 SF
Storage for Underground Garage	1,128 SF
Public Utility Planting	890 SF
General Trash	1,128 SF
Water	340 SF
SECS	340 SF
Total Ground Floor	58,982 SF

Gross Floor Area	
Basement/Underground	CSDF SF
B1	10,000 SF
B2	20,450 SF
B3	49,000 SF
B4	27,100 SF
B5	10,100 SF
Total	116,650 SF

Unit Mix	GT	TDR	JRH	SBR	Total Units	Avg. Unit	Avg. Unit
Building 1	4	11	21	6	42		
Building 2	1	9	13	7	30		
Building 3	0	20	21	0	41		
Hard Units	13	22	43	1	89		
Unit Mix	0.3%	46.7%	48.0%	4.3%			
MSA Target	10%	30%	30%	30%			
Available Area	682.4	280.1	1883.3	1287.3			
Full Level by Level					125,435.0	903.1	
Level 2	47	17	13	6	83		

Avg. Gross MSA Area	\$,118.6
------------------------	----------

Gross Commercial Floor Area	
Total Ground Floor Commercial	43,888 SF
Basement Level Commercial	4,600 SF
Total Commercial	48,488 SF

Community Space	
Community Room	2,300 SF
Community Meeting	600 SF
Total Community Space	2,900 SF

PCA
 PRATTI & CHAMBER ASSOCIATES
 201 Hupp Drive, Suite 400
 I 817-517-8100 F 817-581-4908
 www.prattichamber.com

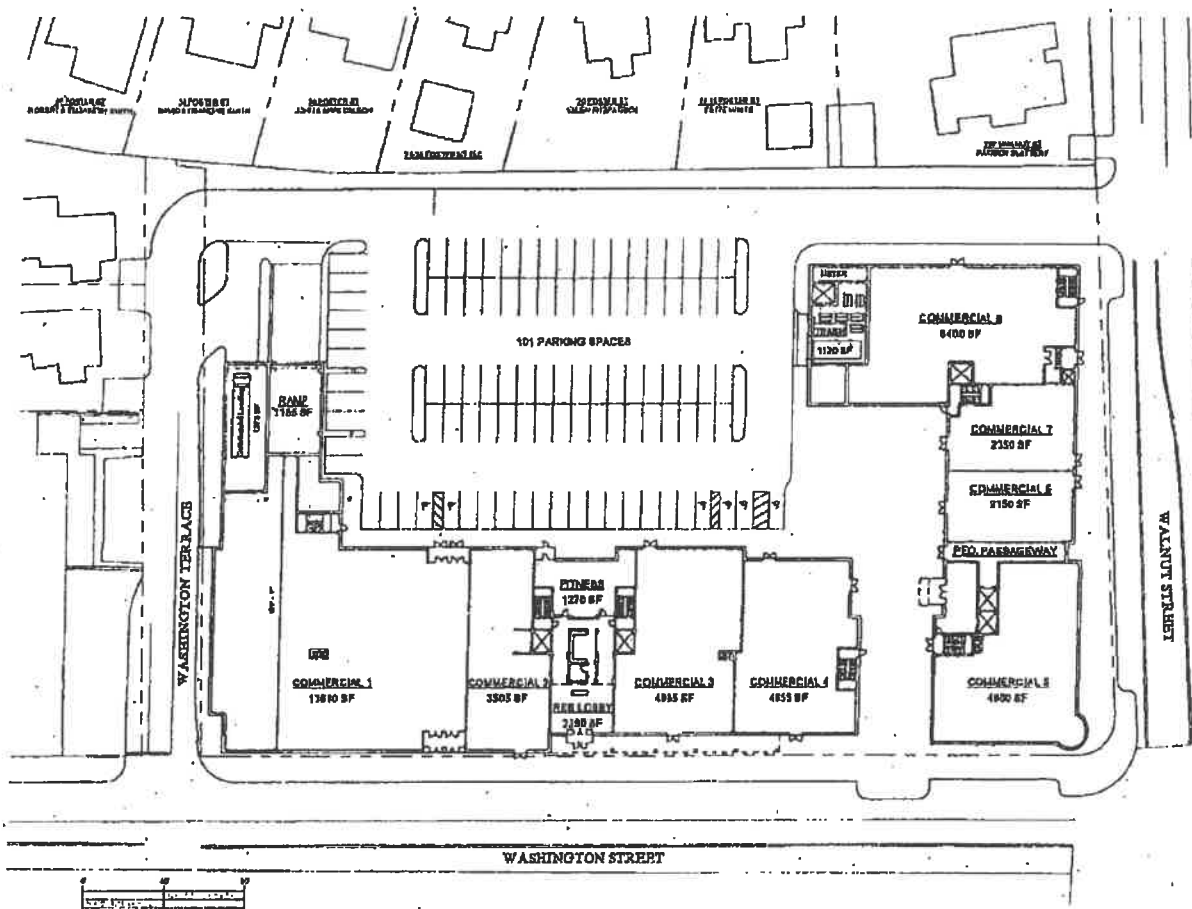
Washington Place Development

June 8, 2017

140 Unit Plans with Alternate Site Plan

John Wilson

#96-17



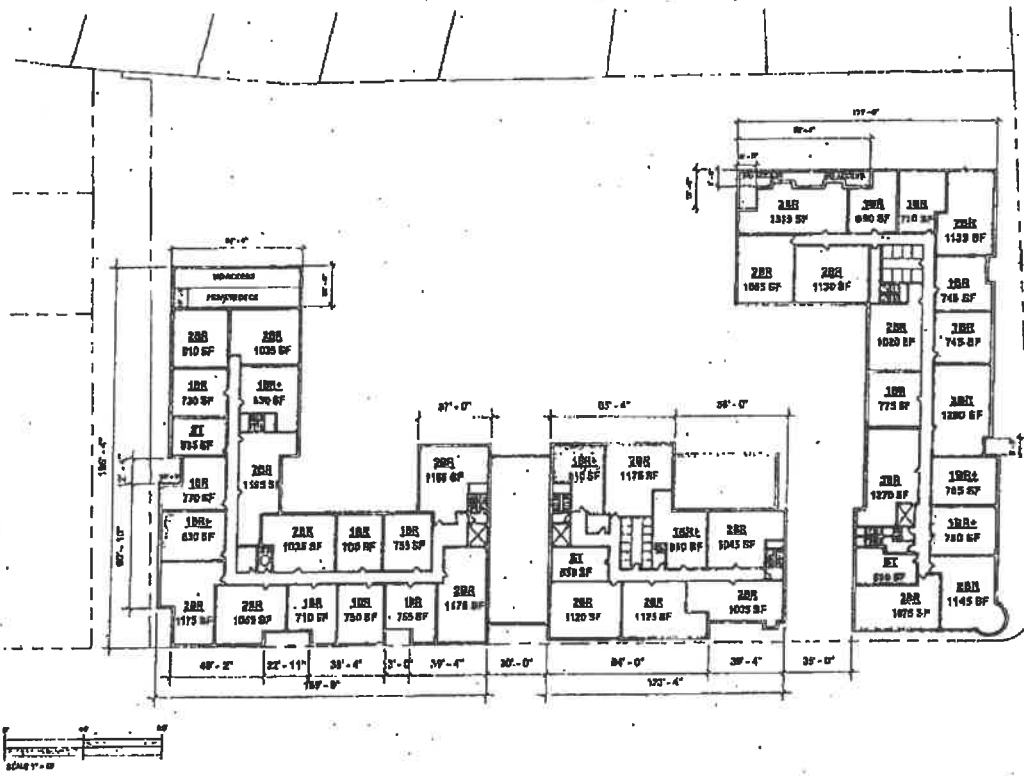
PCOA
 ARCHITECTURE PLANNING INTERIORS

WASHINGTON PLACE
 Ground Floor Plan
 08/08/17 | Scale: 1" = 10'-0"

MARK
 ARCHITECTURE

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P.O.C.

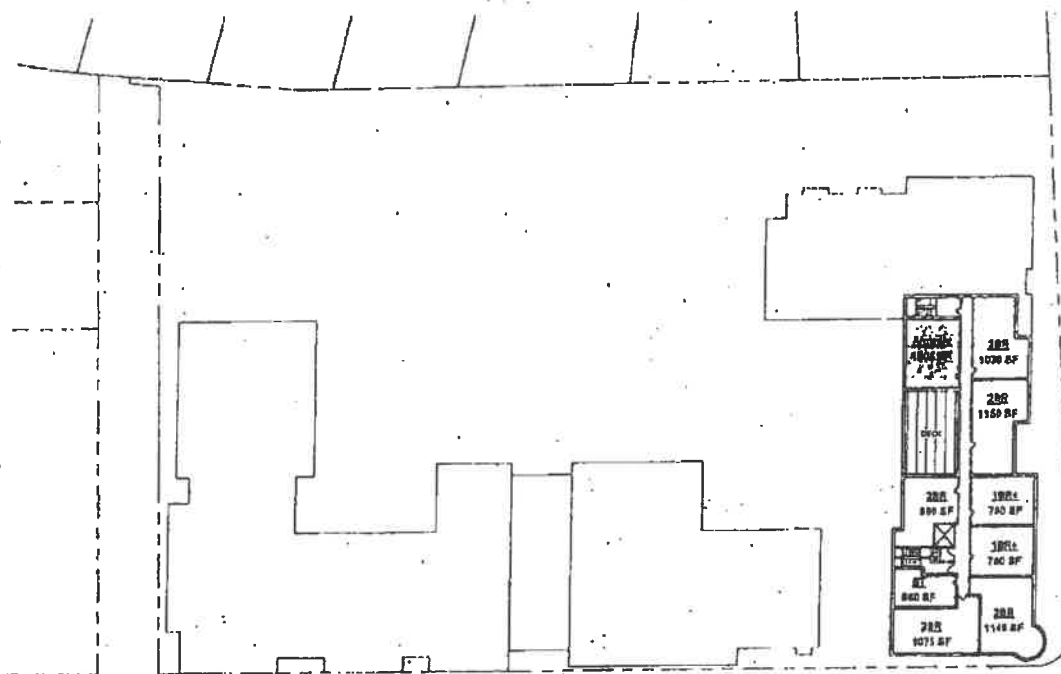
WASHINGTON PLACE
Fourth Floor Plan

M.A.R.J.S. ARCHITECT

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Attest

John H. Wilson

#96-17



PCA
 ARCHITECTURAL PLANNING WORKSHOP

WASHINGTON PLACE
 Fifth Floor Plan
 DWG#0077 | Scale: 1"=4'-0"

MARK

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 Atty
[Signature]

SCHEDULE C

Transportation Demand Management Subsidy Program (the "TDM Subsidy Program")

Transportation reimbursement shall include the following (the figures are estimates):

- 1) Commuter Rail Passes (\$200 / month)
- 2) Subway – T Passes (\$85/month)
- 3) Bus Passes (\$130 - \$170/month)
- 4) Bike Share Passes (TBD)
- 5) Ride Sharing (TBD)

The Petitioner has created a Transportation Subsidy Program within the TDM to discourage car ownership and usage by providing a transportation subsidy for those choosing to commute to and from the site by alternative modes of transportation in the aggregate amount of \$300,000. The subsidy shall reimburse residents up to 90% of the monthly cost *per* alternative mode of transportation, up to a combined monthly total of \$200.

For example, if a residential unit elects not to rent a parking space and instead purchases both a monthly subway pass (\$85) and a monthly bus pass (\$130), the tenant would be entitled to a reimbursement of $(\$85 \times 90\% = \$76.50) + (\$130 \times 90\% = \$117.00) = \$193.50$. As noted below, the reimbursement amount to a residential unit is determined based on the number of parking spaces rented and whether or not a tenant qualifies as an affordable renter or market rate tenant.

Transit Subsidy Program	Affordable Units	Market Units
Monthly Stipend (Based on Usage)	Up to \$200	Up to \$200
0 Parking Spaces Rented per Unit	90% Stipend	90% Stipend
1 Parking Spaces Rented per Unit	75% Stipend	50% Stipend
2 Parking Spaces Rented per Unit	35% Stipend	15% Stipend

The Petitioner shall maintain control of the funds and shall provide an Affidavit on a bi-annual basis to both the Director of Transportation and the Director of the Planning Department, verifying that the funds have been used as rent credits as described above.

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#96-17

DEVELOPMENT

SCHEDULE D

Washington Place
Draft Transportation Demand Management Plan
May 24, 2017

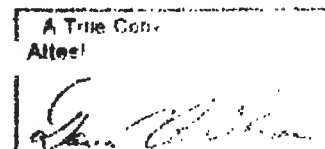
The Petitioner shall implement a Transportation Demand Management Plan ("TDM") at Washington Place in order to minimize traffic, reduce dependency on cars, and promote a healthier environment. To achieve these goals, Washington Place shall include various incentives and programs aimed at encouraging walking, bicycling, public transit, and other sustainable modes of transportation to the site. The TDM shall be in effect for the life of the special permit and will contain the following elements:

I. Informational Services:

- A specific person on the Washington Place staff shall be designated as the traffic demand management coordinator (the "TDM Coordinator").
- The TDM Coordinator shall be responsible for coordinating efforts between the City of Newton and Washington Place to reduce single occupancy vehicles ("SOV").
- The TDM Coordinator shall meet on an annual basis with the City of Newton Director of Transportation to provide an update on the status of the continuing efforts of the TDM, as well as to notify the City of Newton of any new or proposed changes to the program.
- At least every two years, the TDM Coordinator shall conduct a survey of the residential and commercial tenants and provide those detailed findings and discuss mode sharing goals with the City of Newton's Director of Transportation and the Director of the Planning Department.
- The TDM Coordinator shall be available at any time to discuss with the City's Director of Transportation any traffic issues which may arise from the project.

II. Bicycle Accommodations

- Washington Place shall include at least 30 dedicated street level bike parking and repair space for the general public and users of the ground floor commercial space.



#96-17

- Washington Place shall include dedicated weather-protected bike parking and storage at a 1:1 ratio for each residential household. This parking will be secured from the general public and convenient to tenants of the building.

III. Pedestrian Links

- Washington Place shall provide significant improvements to the streetscape, which are intended to promote walkability along Washington Street and Walnut Street. Examples include:
 - Increasing the width of sidewalks by 7' – 10' along Walnut Street and along Washington Street, respectively, allowing for an additional 5,000 SF of walking space.
 - Closing five of the six existing curb cuts.
 - A 35' opening along Washington Street, which shall serve as the entry point to a 9,000 SF plaza creating a pedestrian connection between the north and south sides of the project.
 - Creating a pedestrian connection to the plaza from Walnut Street.

IV. Sustainable Transportation Initiatives:

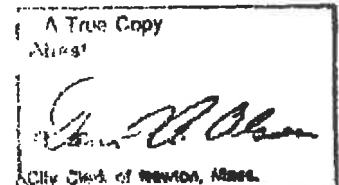
- The Petitioner shall commit to decouple the cost of parking from the rent of the residential units to further discourage car usage.
- Car sharing: Washington Place shall include no less than 2 dedicated parking spaces for a car sharing service provider(s). The Petitioner shall also explore ride sharing partnerships with ride sharing service providers.
- Preferential parking spaces for car pools and van pools will be included.
- Electric Charging Stations: Washington Place shall include a minimum of two charging stations for electric vehicles, one at the street level and one below grade in the parking garage. In addition, the Petitioner shall anticipate in its design the ability to facilitate the addition of charging stations.

V. Marketing Programs:

- Included with each rental package shall be a one-page marketing summary which defines the Washington Place Pilot Transportation subsidy.
- Washington Place shall maintain a commuter information center with a posted transit service schedule and corresponding costs as well as any ride sharing services being offered.
- All households shall be sent a reminder of the program at least once per year and information of the program shall be posted on the site's website

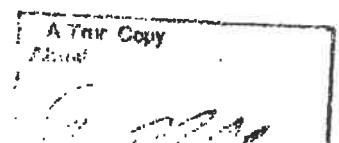
VI. Monitoring and Reporting Plan

- The Petitioner shall produce a survey for both residential and commercial tenants at least every two years and provide a summary of the results to the City's Director of Transportation and the Director of the Planning Department.



#96-17

- The Petitioner shall also track the usage of the Transportation Program and provide the results to the City of Newton Director of Transportation and the Director of the Planning Department. This tracking shall be in effect up until the point that the \$300,000 funding required in Schedule C has been spent.
- The Petitioner shall encourage commercial tenants to promote ride-sharing and use of public transportation with their tenants. The commercial tenants will further be encouraged to create incentives among employees to rideshare or take public transportation. Such language shall be incorporated into any commercial leases for the project.



#96-17


Petition #96-17

SCHEDULE E

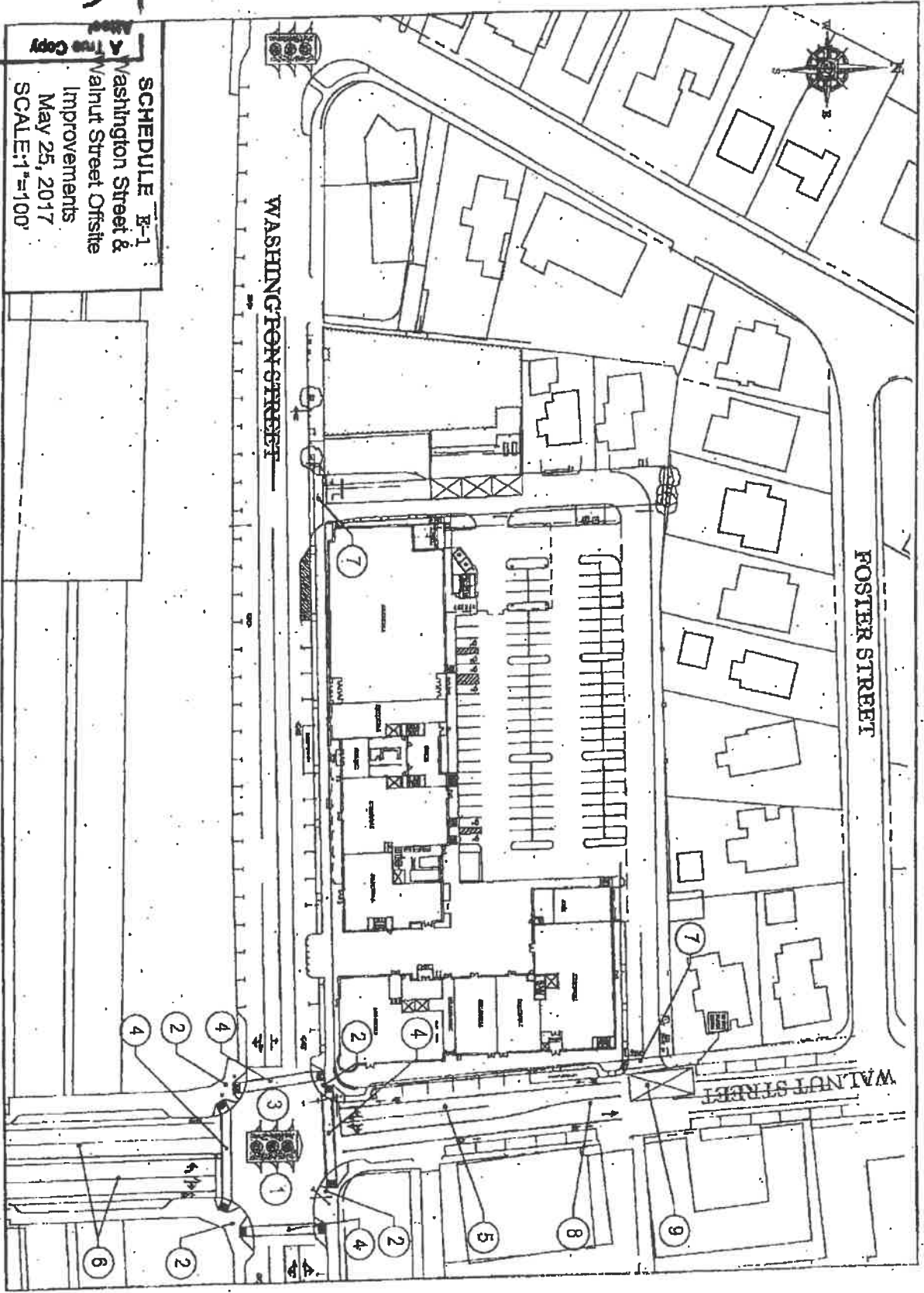
Washington Street and Walnut Street Offsite Improvements

The Petitioner shall make the improvements to the Washington Street and Walnut Street intersection, which are separate and distinct from the offsite improvements set forth in General Condition 6, as detailed below. Each numbered item below is reflected on a plan attached as Schedule E-1.

1. Replace existing traffic signalization. This work is expected to include the following:
 - a. New signal mast arms (4) with traffic signal heads.
 - b. New pedestrian crossing visual and audible indicators (8).
 - c. Coordinate signalization on adjacent traffic signal at Lowell Avenue.
2. Install curb bump-outs on all four corners. The purpose and benefit of this work is to shorten the pedestrian crossings at the Walnut Street and Washington Street intersection as well as to create a larger pedestrian space. The scope of this work includes:
 - a. Removing and installing new curbing at each corner.
 - b. Resetting, adjusting or relocating utility manhole covers and drainage inlets as necessary.
 - c. Installation of new 4" thick broom-finished sidewalk areas with ADA compliant curb ramps.
3. Mill and overlay pavement throughout the intersection (2" depth).
4. Install ADA compliant crosswalks for all four crossings.
5. Update pavement striping to include a second vehicular travel lane and two 6' wide bicycle lanes, one lane on each side of the street, along the Walnut Street southbound approach to the intersection.
6. Update pavement striping at the intersection approach on the Walnut Street bridge to consist of two lanes northbound and two lanes southbound.
7. Consolidate existing curb cuts on Washington Street and Walnut Street (six in total) into one access/egress at Washington Terrace and one access/egress on Walnut Street.
8. Create a "slip" on Walnut Street to facilitate left hand turns into the site.
9. Install DO NOT BLOCK intersection signage and pavement markings at Walnut Street site access and adjacent driveway.

A True Copy
Attest


Handwritten signature
City Clerk of Newton, Mass.



SCHEDULE B-1
 Washington Street &
 Walnut Street Offsite
 Improvements
 May 25, 2017
 SCALE: 1"=100'

1 The Copy

84

845 Washington Street and 245 Walnut Street

#179-19



2019 00159370

Bk: 73468 Pg: 520 Doc: AMEND
Page: 1 of 4 10/16/2019 03:07 PM

CITY OF NEWTON

IN CITY COUNCIL

September 16, 2019

2019 SEP 18 PM 4:20

ORDERED:

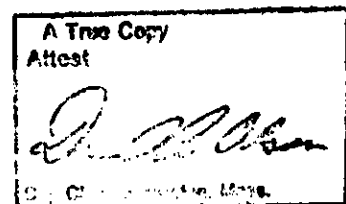
That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #96-17, as amended by Council Order #216-18, to remove a condition prohibiting the petitioner from leasing space to commercial banks, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz.

- 1. The specific site is an appropriate location for the amendment to Council Order #96-17 given the site is located within a Village Center containing a variety of uses. (§7.3.3.C.1)
- ✓ 2. The amendment to Council Order #96-17 as developed and operated will not adversely affect the surrounding neighborhood. (§7.3.3.C.2)
- ✓ 3. The amendment to Council Order #96-17 will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- 4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- 5. The petitioner is offering to dedicate 10,000 square feet within the ground floor of the development to non-formula retail, restaurant, or personal service uses. This commitment will support independent, neighborhood-serving uses. The Council finds that dedicating space to such uses will enhance the village atmosphere in Newtonville.

PETITION NUMBER: #179-19

PETITIONER: Mark Newtonville, LLC

Ref: 71163-565



AS

LOCATION: 845 Washington Street and 245 Walnut Street known as Section 21, Block 29, Lot 10 (the Project Site) ✓

OWNER: Washington Place Owner, LLC ✓ ✓

ADDRESS OF OWNER: 57 River Street, Suite 106, Wellesley, MA 02481

TO BE USED FOR: A mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights of not more than 60 feet and five stories, total gross floor area not exceeding 236,000 square feet incorporating up to 160 residential units, not exceeding 48,000 square feet of commercial space, not less than 2,000 square feet of community space, not less than 309 on-site parking stalls outside at grade or within a below-grade garage, and related site improvements; to authorize uses including retail of more than 5,000 square feet, personal service of more than 5,000 square feet, restaurants over 50 seats, standalone ATMs, health club establishments at or above ground floor, animal service, and street level medical office

CONSTRUCTION: Masonry structure over a structural steel and concrete base

EXPLANATORY NOTES: Amendment to Council Order #96-17 to revise Condition #34 regarding leasing commercial space to banks.

ZONING: Business Use 2 and Mixed Use 4

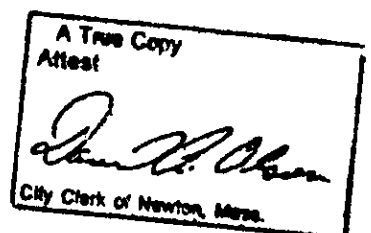
Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #96-17 by modifying Condition #34 regarding the prohibition on commercial banks. All other conditions of Council Order #96-17 remain in full force and effect.

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:
 - I) Ground Floor Plan "Washington Place" dated March 20, 2019.

A True Copy
Attest
John P. Olson
City Clerk of Newton, Mass.

2. Condition #34 of Council Order #96-17 is amended by deleting the first sentence in its entirety, and replacing with the following language: "The Petitioner and its successors may lease commercial space in the Project to not more than one commercial bank with a total square footage not to exceed 3,800 square feet." The remainder of Condition #34 shall remain in full force and effect.
3. In the event that the Petitioner leases commercial space to a commercial bank as allowed by this amendment, the Petitioner is required to reserve (i.e., whether leased or vacant and available for lease) at least 10,000 rentable square feet within the ground floor only, for lease to non-formula retail, restaurant, or personal service use tenants, which requirement shall be in place prior to, and remain in effect after, the issuance of a certificate of occupancy for a commercial bank. For the purposes of this condition, formula retail, restaurant, and personal service use is defined as "Any establishment, which along with nine or more other businesses regardless of ownership or location worldwide, does or is required as a franchise, by contractual agreement, or by other agreement to maintain two of the following features:
 - A standardized menu;
 - A standardized façade;
 - A standardized décor and/or color scheme;
 - A standardized uniform;
 - A standardized sign or signage; or
 - A standardized trademark or service mark."
4. In the event that "The Family Shoe Barn" leases space within the Project, the square footage leased to such tenant shall not count towards the 10,000 rentable square feet dedicated to non-formula retail, restaurant, or personal service uses.
5. In the event that a non-formula tenant disqualifies itself in accordance with the criteria referenced in Condition #3 above, thereby decreasing the total rentable square feet reserved for non-formula tenants to below 10,000 square feet, the tenant may remain. The Petitioner shall dedicate the next available tenant space or spaces, to other non-formula tenants until the Project is compliant with Condition #3 above.
6. Prior to the issuance of any Building Permit for the ground floor, the Petitioner shall provide documentation indicating whether the proposed retail/restaurant/personal service use is a non-formula use in accordance with Condition #3 above. The Petitioner is not entitled to a building permit, if such permit would prevent the Project from complying with Condition #3 above.
7. Prior to issuance of any Building Permit for the Project, the Petitioner shall record a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex



County and file a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

Under Suspension of Rules

Readings Waived and Approved

20 Yeas 4 Nays (Councilors Laredo, Brousal-Glaser, Norton, Markiewicz)

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 September 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.

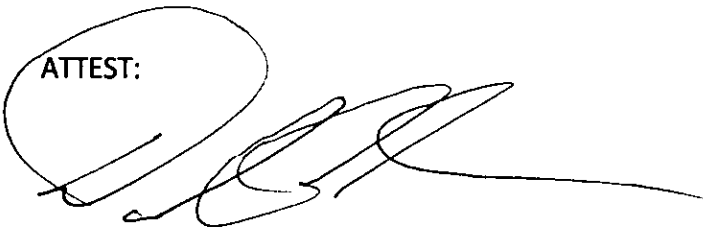
ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on September 18, 2019 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council

