



Land Use Committee Report

City of Newton In City Council

Tuesday, February 26, 2019

Present: Councilors Schwartz (Chair), Lipof, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo, Lappin

City Staff Present: Associate City Solicitor Jonah Temple, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Commissioner of Inspectional Service John Lojek, Director of Housing

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#26-18(2) Request for an Extension of Time to Exercise Special Permit #26-18

SCOTT ROSS petition for an EXTENSION OF TIME to EXERCISE Special Permit Council Order #26-18, creating two attached dwelling units, allowing waivers to the lot area requirements and lot area per unit requirements, to reduce the side setback requirement, to reduce the lot coverage requirement, to allow a driveway within 10' of a side lot line and to allow parking within 20' of a side lot line at 20 Dale Street/19 Simpson Terrace, Ward 2, Newtonville, on land known as Section 22, Block 14, Lot 03, containing approximately 5,968 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.2.4, 6.2.3.B.2 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 8-0

Note: Committee members expressed no concerns relative to the request and voted unanimously to approve a one-year extension of time for Special Permit Council Order #26-18.

#130-17(2) Request for an Extension of Time to Exercise Special Permit at 164 Highland Avenue

ROBERT AND CINDY LAUGHREA petition for an EXTENSION OF TIME to EXERCISE Special Permit Council Order #130-17 for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish a portion of the rear dwelling, front porch and detached garage and construct a two-story rear addition and attached garage for more than three vehicles and in excess of 700 sq. ft. increasing the FAR to .28 where .27 is allowed and .19 exists at 164 Highland Avenue, Ward 2, on land known as Section 24, Block 12, Lot 20, containing approximately 22,230 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3, 7.4, 3.1.9, 3.4.2.C.1 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 8-0

Note: Committee members expressed no concerns relative to the request and voted unanimously to approve a two-year extension of time for Special Permit Council Order #130-17.

#41-19(2) Extension of Time to Open Public Hearing for Special Permit at 24-26 Elliot St
CYPRESS TREE MANAGEMENT, INC agrees to an EXTENSION OF TIME to open the public hearing until MARCH 26, 2019 for Special Permit petition #41-19 for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #288-18 to allow retail marijuana sales in conjunction with as the approved RMD (Registered Medical Dispensary), to waive the 25% façade transparency requirement, to waive minimum stall dimensions, to waive minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive interior landscaping requirements and to waive lighting requirements at 24-26 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 25 Lot 01, containing approximately 25,320 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec 7.3.3, 7.4, 6.10.3.D, 4.4.1, 6.10.3.E.15, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.13, 5.1.9.A, 5.1.9.B, 5.1.10.A, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0

Note: The Committee reviewed the request to move the public hearing for the request to amend Special Permit Council Order #41-19(2) at 24-26 Elliot Street. Committee members voted unanimously in favor of approval.

#497-18 Petition to allow single-family attached dwellings at 10 Pillion Court
MICHAEL MOSKOWITZ/TEN PILLION, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an attached dwelling unit to the existing single-family structure, reduce lot area, frontage and lot coverage requirements, to reduce front and side setback requirements and to allow a driveway along the side lot line, requiring an amendment to Variance #99442 at 10 Pillion Court, Ward 2, on land known as Section 22 Block 7 Lot 46, containing approximately 10,559 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, of the City of Newton Rev Zoning Ord, 2017.

Public Hearing Opened on November 8, 2019

Action: Land Use Held 8-0

Note: Committee members held this item without discussion.

#624-18 Review of compliance with the Hancock Estates Special Permit #102-06(12)
COUNCILORS LAPPIN, LAREDO, GREENBERG, GENTILE, KELLEY, ALBRIGHT, NORTON, CICCONE, LEARY, DANBERG, NOEL, KALIS & GROSSMAN requesting a review by Law, Planning and ISD of the compliance of the current Hancock Estates project with the approved special permit. Questions to be addressed: Are the “dens” legally considered bedrooms? Is the short-term rental guest suite one of the 88 units? What calculations were used to determine habitable space. What calculations were used to determine the percentage of affordable units. Is the project that was built (unit size, bedroom mix, short term rental guest suite, distribution of units, unit square footage, habitable space, crosswalk and ped. light, etc.) the same project the City Council approved? Is CHR in violation of our Inclusionary Zoning Ordinances?

Action: Land Use Voted No Action Necessary 8-0

Note: The Planning Department provided a memo addressing the questions specified in the docket item on February 22, 2019. Chief Planner Jennifer Caira provided an overview of the memo to the Committee. Ms. Caira noted that when the Hancock Estates proposal was presented to the Board, it was one of the first projects featuring inclusionary housing as part of the Special Permit process in a number of years. She stated that as a result of the project, the City has learned a number of lessons relative to process and is now requesting greater detail in pending projects. She noted that the City has implemented additional templates and conditions when analyzing Special Permit petitions.

Hancock Estates was approved as an 80-unit development with 12 inclusionary units in 2014. In 2015, the petitioner sought and was granted an amendment to the Special Permit to increase the number of units to 88 and include one additional inclusionary unit. The Inclusionary Housing Plan was approved at that time. The building permit was issued in 2016 and the development constructed. Ms. Caira confirmed that the Inspectional Services and Planning Departments believe that what was built is consistent with the approved plans with regard to the size, type, and location of the affordable units.

In 2017 and 2018 the petitioner requested amendments to the Special Permit to relocate some of the affordable units off-site. Ultimately, both requests were withdrawn, and all inclusionary units are located on site. Per the City's Ordinances, compliance with inclusionary zoning is required prior to issuance of the final Certificate of Occupancy. There are multiple points (building permit, temporary Certificate of Occupancy) where the project is reviewed, but there was no requirement to submit Inclusionary Housing at the time the project was being constructed. In order to be fully compliant with DHCD guidelines however, the inclusionary housing plan must be submitted sooner. Ms. Caira confirmed that the City has updated the standard conditions for Special Permits to require the approved IHP and local action plan prior to issuance of a building permit and submission of a signed regulatory agreement, proof of marketing and tenant selection prior to issuance of a temporary Certificate of Occupancy. Director of Housing and Community Development Amanda Berman confirmed that the finishes of the affordable units are comparable to the market rate units.

Ms. Caira noted that when the City realized that the process did not comply with DHCD guidelines, the building permit was halted (December 2017). After DHCD approved the local action application, the City continued to hold units until after receipt of the signed regulatory agreement, marketing and tenant selection and occupying of the inclusionary units. Ms. Caira explained that the inclusionary units, in accordance with DHCD guidelines, must be dispersed throughout the development and located at locations no less desirable than the market rate units. There are size requirements that either the one-bedroom inclusionary units are a minimum of 650 sq. ft. and the two-bedroom units are a minimum of 950 sq. ft. or the inclusionary units are greater than or equal to 60% of the average square footage of the market rate units, whichever is greater. Ms. Caira noted that at Hancock Estates, the inclusionary units are appropriately located within the development and the 650 sq. ft./950 sq. ft. is greater and exceeds the requirements.

A Councilor questioned how the Hancock Estate "dens" impact the number of inclusionary units, noting that the dens meet the code requirements for bedrooms. Ms. Caira confirmed that neither the City's Ordinance nor DHCD guidelines regulate dens and DHCD approved the plans that were submitted. Commissioner Lojek stated that building code only requires a room to have an egress and a smoke

detector to meet requirements for bedrooms. Ms. Caira stated that for future projects, if the room meets size and egress requirements, they will consider the space as possible bedroom space. She confirmed that the Planning Department has been evaluating what is considered a bedroom to provide additional clarity in the Zoning Ordinance. Additionally, she noted that the City has gained experience in projects of this size and confirmed that the Planning Department is asking for more clarity in plans than was requested in the past.

It was noted that after approval of the Special Permit, a common area space identified as “blank” on the approved plans was converted into a “guest suite”, to be used by the tenants of the development. It was noted that the petitioner sought a consistency ruling from the Commissioner of Inspectional Services to include the guest suite. Commissioner of Inspectional Services John Lojek confirmed that he determined that the guest suite is an amenity to the tenants of the building. It was noted that the Commissioner is requiring that the petitioner submit a written statement prior to issuance of the final Certificate of Occupancy certifying that the guest suite can only be used by residents, by all residents, it cannot be rented, it may only be used for a certain period of time, and it will not turn into a short-term rental or Airbnb. A Councilor suggested that the guest suite constitutes an 89th unit and should count towards the requirement for inclusionary housing. Ms. Caira confirmed that if the Council approved an 89th unit, the inclusionary requirements would have been met with the existing number of inclusionary units.

As part of the approved Special Permit, the petitioner was required to install a pedestrian signal. The company who manufactures the signals went out of business. Because of this, another company needed to be certified by the state, causing widespread delays and preventing the developer from installing the signal. It is anticipated that the pedestrian signal will be installed on March 18, 2019.

Councilors agreed that it is important that projects that are built should reflect what is approved and conditions discussed should be incorporated into the Council Order. A Councilor suggested that knowing that the dens could be legally considered bedrooms, the project built is not what was approved and requested that the Law Department provide a definition of bedrooms. Committee members agreed that the Zoning Ordinance should not be so restrictive that residents are precluded from entertaining short-term visits.

Marc Levin, Chestnut Hill Realty, noted that it was anticipated that the development would appeal to “empty-nesters”. He suggested that there is a market trend for creating guest suites so residents may downsize without compromising their total ability to host overnight guests. He noted that the guest suite is a small unit for short-term use.

Associate City Solicitor Jonah Temple confirmed that it is at Commissioner Lojek’s discretion what is considered consistent with the approved plans. He stated that treating the guest suite as an amenity is reasonable particularly considering its treatment as an amenity for the Austin Street development. Committee members noted that conditions prohibiting the creation of a guest suite can be included in future project, if there are concerns. A Councilor questioned whether the guest suite should have been approved through the consistency ruling process or whether it should have required an amendment to the Special Permit. It was noted that when final plans come for review, Planning performs a preliminary review, flagging any inconsistencies. If there are inconsistencies, Commissioner Lojek may make a

determination or request a consistency ruling from the Land Use Committee. Committee members noted that it is difficult to provide terms for the consistency ruling process, as it falls under the discretion of the Commissioner of Inspectional Services.

It was noted that during the marketing of the market rate units, a banner was placed in the Chestnut Hill Mall that may not have been compliant with Fair Housing Laws. Atty. Temple noted that Fair Housing Compliance is not overseen by the City. Ms. Caira confirmed that when the issue was brought to the attention of Planning staff, they alerted DHCD who required removal of the banner. Ms. Caira confirmed that while the City is not responsible for oversight of all marketing materials or compliance with Fair Housing Laws, Planning is happy to forward information to the appropriate agencies, wherever necessary. Director of Housing and Community Development confirmed that Planning Staff monitors annual income certifications, the housing wait list and release of the inclusionary units. It was noted that there are some municipalities charge developers an annual monitoring fee and hire contractors for monitoring.

Councilors asked that Planning continue to track and apply lessons learned. Councilor Lipof motioned No Action Necessary and Committee members voted unanimously in favor of the motion. Ms. Caira confirmed that the City will have several additional opportunities to review the project prior (I&I fee, pedestrian signal) to final Certificate of Occupancy.

#566-18 Petition to allow multi-family dwellings at 424-432 Cherry Street

DENNIS CAMERON/CRM MANAGEMENT, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert an existing single-family dwelling to construct a six-unit residential dwelling with, to construct a second three-story 34.5' residential dwelling with three units, to allow ground floor units, to allow a reduction in the parking requirements to 1.25 per dwelling unit, to waive minimum stall width requirements, to reduce the minimum aisle width requirements, to waive the minimum driveway width, to waive perimeter landscape screening requirements and to waive lighting requirements in Ward 3, West Newton, at 424-432 Cherry Street, Section 33 Block 11 Lot 2, containing approximately 14,204 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.3, 4.1.3, 5.1.4.A, 5.1.13, 5.1.8.C, 5.1.8.B.1, 5.1.8.D.1, 5.1.9.A, 5.1.10.A of the City of Newton Rev Zoning Ord, 2017.

Public Hearing Opened on January 8, 2019 and February 26, 2019

Action: Land Use Approved 8-0; Public Hearing Closed February 26, 2019

Note: Attorney Terry Morris, offices at 57 Elm Road represented the petitioner and provided updates to the Special Permit petition for 424-432 Cherry Street. Atty. Morris stated that the petitioner modified the plans based on concerns raised at the public hearing on January 8, 2019. Atty. Morris noted that the changes to the proposed development include a reduction in the number of parking spaces from 15 stall to 12 stalls, creating a ratio of 1.25 stalls per unit. The reduction in the total number of parking stalls at the site allowed the petitioner to reduce the driveway from 16' to 12' and include a landscape buffer. Atty. Morris confirmed that the Fire Department is supportive of this change. Finally, he noted that the revised plans include pushing the building back into the site, increasing the front setback to 23' and allowing an additional unit to be made accessible. He noted that the proposed building is sited approximately where the historical building was.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, revised site and landscape plans, a comparison of the proposed petition in Business Use 1, Multi-Residence 2 and Multi-Residence 3 zones, and a comparison of the proposed site with the historical context. Mr. Cronin noted that the proposed structure, 23' set back, allows increased open space and the size is consistent with the historic structure. He stated that the Housing Division has found the Inclusionary Housing Plan to be acceptable and the petitioner will be required to submit a final IHP prior to issuance of the final certificate of occupancy. Mr. Cronin noted that while the Planning Department has determined that the landscape plan is sufficient, there is a deficit of 44" in tree plantings, requiring a payment from the petitioner of \$7,392 into the tree fund.

Public Comment

Simon French, Glen Avenue, noted that the residences will be condos that are sold, not rented.

Committee members questioned whether the dimensions of the parking stalls are sufficient for maneuverability at the site. Mr. Cronin confirmed that the Planning Department is comfortable with the turning radius at the site. Ms. Caira noted that with respect to substandard parking stalls, the Planning Department is typically more concerned with commercial properties with faster turnover rather than residents who are familiar with a parking configuration. It was noted that of the 12 proposed stalls, 8 are dimensionally compliant. Committee members questioned whether the parking stalls might be reconfigured to allow for more compliant parking stall dimensions. Architect Ron Jarek noted that the parking stalls are configured to allow space for a dumpster, to align with the accessible unit on the first floor of the building and to be equally proportioned. He noted that the curbs, which are not raised, will allow additional space for maneuverability of spacing of the proposed stalls.

Committee members questioned whether the petitioner might evaluate whether more trees can be planted at the site. Mr. Jarek confirmed that the landscape plan has been reviewed with Deputy Commissioner of Parks & Recreation Marc Welch. As the sidewalk will be constructed as part of the project, Committee members asked that the petitioner work with DPW to develop a design that considers removal of the berm. Seeing no other member of the public who wished to speak, Councilor Kelley motioned to close the public hearing which carried unanimously. A Committee member expressed some concern relative to the decrease in number of parking stalls. Committee members reviewed the draft Council Order (attached). Committee members voted unanimously in favor of approval of a motion from Councilor Kelley.

#564-18

Petition to allow nine-unit multi-family dwelling at 39 Herrick Road

STUART ROTHMAN/HERRICK ROAD REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a 36' three-story nine-unit multi-family dwelling with accessory parking for nine cars, to allow multi-family residential use on the ground level in a BU1 district, to allow a reduction to one parking stall per unit, to waive 18 stalls on the parcel associated with the multi-family dwelling located on the adjacent parcel, to allow off-site parking facilities, ~~to waive~~ to allow parking in the side setback, to allow a reduced minimum aisle width, to waive maneuvering space required of restricted stalls, to allow a retaining wall greater than 4' in the setback, to waive perimeter screening requirements and to waive lighting and surfacing requirements at 39 Herrick Road, Ward 6, on land known as

Section 61 Block 36 Lot 7, containing approximately 12,979 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.3, 5.1.4, 5.1.13, 5.1.6.A, 5.1.6.B, 5.1.8.A, 5.1.8.B.6, 5.1.8.C.2, 5.1.9.A, 5.1.10, 5.4.2.B of the City of Newton Rev Zoning Ord, 2017.

Public Hearing Opened on January 8, 2019 and February 26, 2019

Action: **Land Use Held 7-0 (Laredo Recused)**

Note: Atty. Terry Morris, offices at 57 Elm Road represented the petitioner Stuart Rothman/Herrick Road Realty Trust. Atty. Morris stated that the petitioner has worked with the Urban Design Commission to adjust the design of the development. He noted that the petitioner has agreed to a modification to the plan, creating access to the property through the municipal parking lot on Cypress Street and eliminating access from Herrick Road.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, proposed site plan, as shown on the attached presentation. Mr. Cronin noted that the petitioner three-story, 35' structure will contain nine dwelling units, including one inclusionary unit. He noted that the design of the proposed development borrows architectural details from other structures in the neighborhood. The petitioner proposes to use the proposed development for senior housing. The petitioner is scheduled to appear before the Fair Housing Committee on March 6, 2019. Additionally, the petitioner requires a variance from the Zoning Board of Appeals for a 0' setback. Because portions of a retaining wall for the proposed development are located on the adjacent property at 17-31 Herrick Road, the petition has also been re-advertised for a public hearing on March 26, 2019.

Mr. Cronin noted that there are several outstanding items to address including the Fair Housing Review. The petitioner must discuss the proposed access through the municipal lot with the Fire Department. As the proposed development will displace residents at 17-31 Herrick Road, the Planning Department has requested that the petitioner create a Transportation Demand Management Plan to disincentivize car ownership and encourage alternative transportation strategies that align with the transit-oriented location of the site.

A Committee member questioned why the petitioner is seeking a Special Permit before a variance. Atty. Morris noted that the petitioner has historically sought a Special Permit prior to the variance in order to resolve any changes to the site plan. Committee members asked that details of the landscape plan and open space, details of the TDM plan and details of the retaining wall be provided for the meeting on March 26, 2019. A Committee member questioned whether the residents at 17-31 Herrick Road can be included in the TDM plan. The petitioner confirmed that residents at 17-31 Herrick Road can be included in the TDM plan. No member of the public wished to speak. Councilor Lipof motioned to hold the item which carried unanimously.

The Committee adjourned at 9:50 pm.

Respectfully Submitted,

Greg Schwartz, Chair



PLANTING IN PROJECT:
 TOTAL EXISTING TREE CALIPER INCHES REMOVED: 74"
 TOTAL PROPOSED TREE CALIPER INCHES ADDED: 30"
 REMAINING 44" CALIPER INCHES WILL BE PAID TO THE FUND

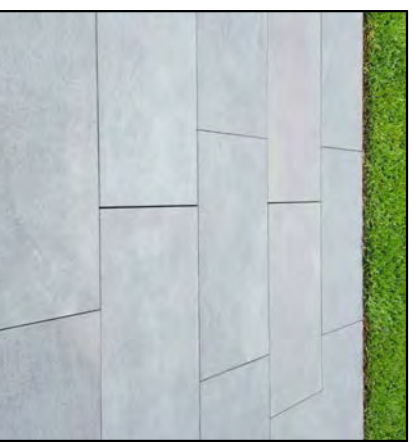
(1) HONEY LOCUST @ 3" CALIPER INCHES
 5 trees = Total caliper inches 15"



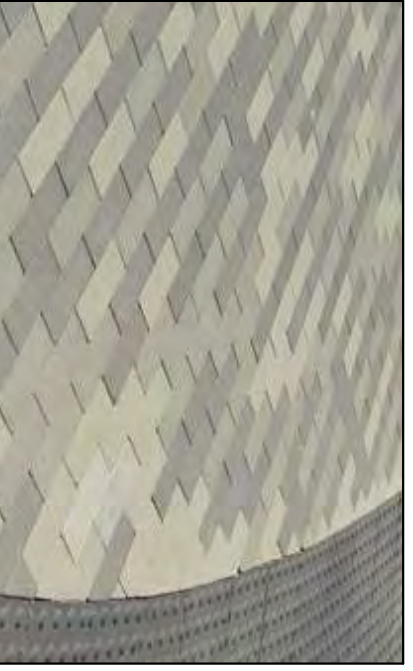
(2) WHITE BIRCH @ 3 STEM x 2 1/2" CALIPER INCHES
 2 trees = Total caliper inches 15"



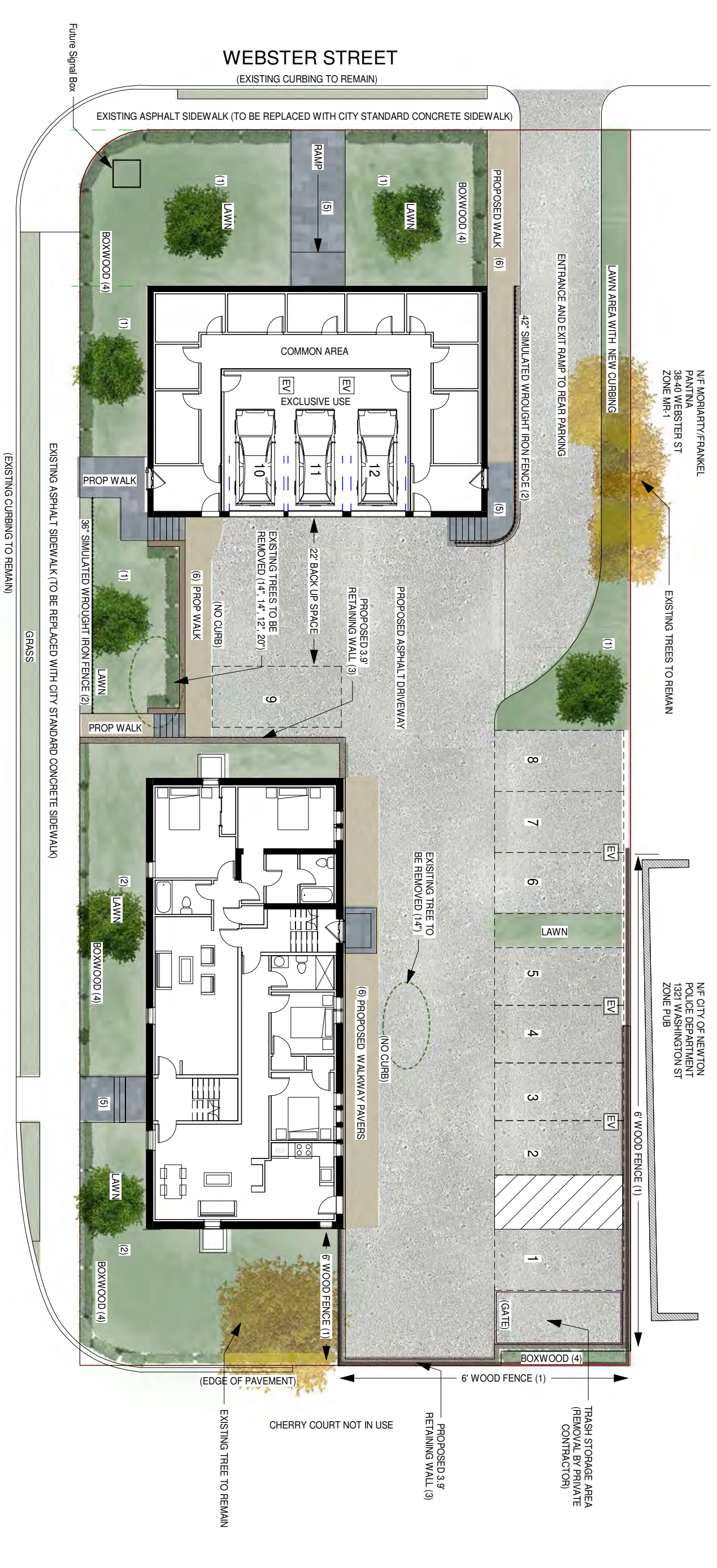
(4) - 30" BOXWOOD PROPERTY LINE PERIMETER HEDGE
 INDIVIDUAL SHUBS SPACED AT INTERVALS NECESSARY TO FORM
 AN UNINTERRUPTED PLANTING LINE



(5) BLUESTONE PAVERS



(6) CONCRETE PAVER WALKWAY



Ronald F. Jarek ARCHITECT

487 Watertown Street - Newtonville, MA, 02460 - (617) 818-4540 - Fax (617) 965-0653

MGD+ LLC [DESIGN + CONSULTANTS]

634 COMMONWEALTH AVE-S 210 - NEWTON - MA 02459 - (857) 399-5320 - INFO@MGDPLUS.COM

REGISTERED ARCHITECT
 RONALD F. JAREK
 No. 8853
 NEWTON
 MASS.
 STATE BOARD OF ARCHITECTS

STAMP

REVISION	DATE
A	02-20-19

SPECIAL PERMIT SET
 09-24-2018

432 CHERRY ST
 &
46 WEBSTER ST


PRELIMINARY
 PLANTING PLAN

Project number	17-0404
Date	02/01/19
Drawn by	Author
Checked by	Checker

L-01


Scale 1/16" = 1'-0"

**Department of
Planning and Development**



**PETITION #566-18
424-432 CHERRY STREET**


SPECIAL PERMIT/SITE PLAN APPROVAL
TO ALLOW A MULTI-FAMILY
DEVELOPMENT CONTAINING NINE
UNITS, OF THREE STORIES AND 30 FEET
IN HEIGHT, AND WAIVER FROM THE
PARKING PROVISIONS



FEBRUARY 26, 2019

1

Requested Relief



- To allow multi-family dwellings, with ground floor units (§4.4.1).
- To allow two 3-story structures, 30 feet in height (§4.1.2.B.3 and §4.1.3).
- To allow a reduction in the residential parking requirement to 1.25 stalls per unit (§5.1.4.A and §5.1.13).
- To reduce the minimum aisle width requirements (§5.1.8.C and §5.1.13)
- To reduce the minimum driveway width (§5.1.8.D.1 and §5.1.13)

2

Requested Relief Continued

- To waive the lighting and the perimeter landscaping requirements pertaining to parking facilities containing more than five stalls (§5.1.9.A, §5.1.10.A, and §5.1.13)

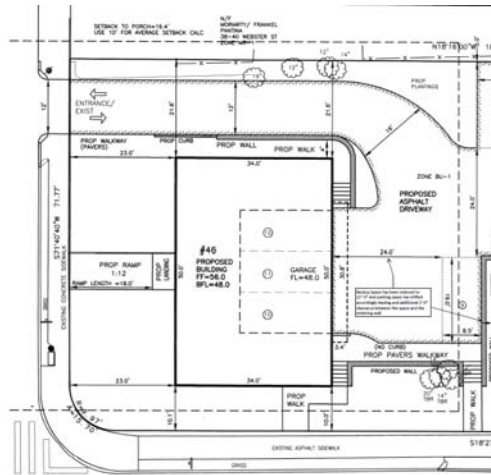
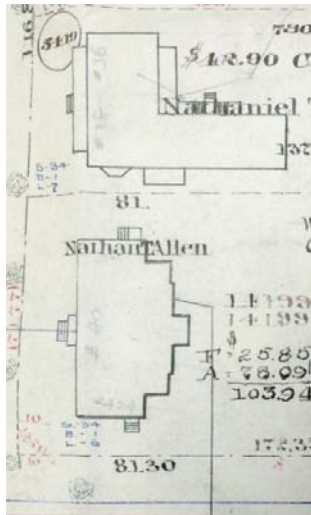
3

Special Permit Criteria

- The specific site is an appropriate location for the proposed multi-family dwellings. (§7.3.3.C.1)
- The multi-family dwellings as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13)

4

Historic Context



7

Additional Reviews

- Engineering Review
- Newton Historical Commission
- Inclusionary Zoning
- Landscaping

8

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 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to convert office space into six residential units, including ground floor units and to allow three stories, to construct a second multi-family dwelling on site containing three stories and 30 feet in height, to reduce the parking requirement from two stalls per unit to 1.25 stalls per unit, to reduce the minimum stall dimensions, to waive the dimensional and design controls for parking facilities containing more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- 1) The site is an appropriate location for the multi-family dwellings given the presence of other multi-family structures in the neighborhood and the site's location within West Newton Square. (§7.3.3.C.1)
- 2) The proposed project as developed and operated will not adversely affect the neighborhood because the project's density is compatible with other multi-family developments in the neighborhood. (§7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner will remove a landscape hedge, thereby increasing sight distances and will update the sidewalks along the property's frontage to be compliant with City Standards and Massachusetts Architectural Access Board regulations. (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's location within West newton Square. (§7.3.3.C.4)
- 5) Exceptions to the parking requirements, including reducing the parking requirement to 1.25 stalls per unit, waving the dimensional standards of parking stalls, reducing the minimum aisle width, reducing the minimum driveway width, and waiving the dimensional and design controls for parking facilities containing more than five stalls are in the public interest for the following reasons:
 - a. Reducing the parking requirement to 1.25 stalls per unit is appropriative given the project's location within West Newton Square and its proximity to transit options.

- b. Reducing the minimum parking stall dimensions, the minimum width of maneuvering aisles, and the minimum driveway width, makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
- c. Fencing and a retaining wall with landscaping will screen the surface parking facility from abutting properties. Additionally, lighting will be minimized to mitigate trespass onto neighboring properties and to ensure the site's lighting is consistent with the adjacent residences while still lighting the facility to promote safety.

(§5.1.4.A, §5.1.8.B.1, §5.1.8.C, §5.1.8.D.1, §5.1.9.A, §5.1.10.A and §5.1.13)

PETITION NUMBER: #566-18

PETITIONER: CRM Management, LLC C/O Dennis Cameron

ADDRESS OF PETITIONER: 432 Cherry Street
Newton, MA 02465

LOCATION: 424-432 Cherry Street

OWNER: CRM Management, LLC C/O Dennis Cameron

ADDRESS OF OWNER: 432 Cherry Street
Newton, MA 02465

TO BE USED FOR: A multi-family development consisting of nine units, including ground-floor units, in two separate structures, and a surface parking facility containing nine stalls, hereinafter the "Project."

EXPLANATORY NOTES: Special permits per §7.3.3: To allow a nine-unit multi-family development with ground-floor units of three-stories and 30 feet in height (§4.4.1, §4.1.2.B.3, §4.1.3); To reduce the parking requirement to 1.25 stalls per unit (§5.1.4.A and §5.1.13); To waive the parking stall dimensional requirements (§5.1.8.B.1, and §5.1.13); To waive the minimum width of maneuvering aisles (§5.1.8.C, and §5.1.13); To waive the minimum driveway width (§5.1.8.D.1, and §5.1.13); To waive the perimeter screening requirements of parking facilities containing more than five stalls (§5.1.9.A and §5.1.13); To waive the lighting and surfacing requirements of parking facilities containing more than five stalls (§5.1.10.A and §5.1.13).

ZONING: Business Use 1

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by Everett M. Brooks Co., signed and stamped by Bruce R. Bradford, Professional Land Surveyor, and Mike S. Kosmo, Professional Engineer, consisting of the following four (4) sheets:
 - Existing Conditions Plan, dated April 3, 2018, revised April 25, 2018, September 26, 2018, and December 19, 2018.
 - Proposed Layout Plan, dated April 3, 2018, revised April 25, 2018, September 26, 2018, December 19, 2018, January 3, 2019, and January 30, 2019.
 - Utility Plan, dated April 3, 2018, revised April 25, 2018, September 26, 2018, December 19, 2018, January 3, 2019, and January 30, 2019.
 - Detail Sheet, dated April 3, 2018, revised April 25, 2018, September 26, 2018, December 19, 2018, January 3, 2019, and January 30, 2019.
 - b. Architectural Plans entitled, "432 Cherry Street and 46 Webster Street" signed and stamped by Ronald P. Jarek, Registered Architect, dated February 1, 2019.
 - c. Landscape Plan, entitled, "432 Cherry Street and 46 Webster Street" signed and stamped by Ronald P. Jarek, Registered Architect, dated February 1, 2019.
 - d. Lighting Plan, entitled, "432 Cherry Street and 46 Webster Street" signed and stamped by Ronald P. Jarek, Registered, dated February 1, 2019.
2. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), one (1) of the residential units in the multi-family structure shall be made an ownership unit available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA. This unit (Unit 8 in the IHP) shall be made available to households earning at or below 80% AMI and shall be priced to be affordable to a household having an income of not more than 70% of AMI. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery, 70% 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 Inclusionary Units shall comply with the provisions of the City's Inclusionary Zoning Ordinance (§5.11.4).

3. The inclusionary unit shall be a three-bedroom unit, duplex unit, located within the new three-unit dwelling on the second and third floors, as proposed in the Preliminary Inclusionary Housing Plan dated February 22, 2019, on file with the City Clerk, and approved by the Director of Planning and Development.
4. To the extent permitted by applicable regulations of DHCD, the Inclusionary Unit shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Unit through DHCD's Local Initiative Program. Prior to the issuance of any temporary occupancy certificates, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
5. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the Inclusionary Unit will be affirmatively marketed and leased through a lottery.
6. No dwelling unit shall be constructed to contain, and/or marketed and/or sold to contain more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1(b).
7. The petitioner shall preserve the existing proportions, substrate and architectural details that contribute to the historic significance of the existing structure including but not limited to all exterior walls, roof structure, and window openings. Any replacement in kind or deviation shall be by prior approval only by Preservation Planning and ISD staff.
8. The cost of parking stall(s) shall be sold separately from the cost of a unit, provided, however that the cost of one parking stall shall be included in the price for the Inclusionary Unit. Prior to the issuance of any certificate of occupancy for a market rate unit, the petitioner shall provide evidence of such separation to the Director of Planning and Development.
9. The petitioner shall provide space for not less than ten bicycles in the below grade garage of the proposed three-unit, multi-family structure. Additionally, the petitioner shall provide five electric vehicle (EV) charging stations on site.
10. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
11. The Petitioner shall remove all snow from site.
12. The petitioner shall comply with the City's Tree Preservation Ordinance.

13. 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.
14. At the Petitioner's sole expense, the petitioner shall locate all utility service lines on site underground from the right of way into the site.
15. Prior to the issuance of a temporary certificate of occupancy for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
16. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, Fire Department, and Inspectional Services.
17. The Petitioner shall update all sidewalks along the Project's frontage to comply with City Design Standards and Massachusetts Architectural Access Board Standards. This work shall be completed to the satisfaction of the Engineering Division of Public Works prior to the issuance of a temporary Certificate of Occupancy for the Project. The petitioner shall also be responsible for repairing all damage to public ways and property by any construction vehicles.
18. Prior to the issuance of any temporary certificates of occupancy, the petitioner shall provide the City with a permanent easement, in a form approved by the Law Department, providing the City with the right to install a foundation for a pole and mast arm for a new traffic signal, as well as the right to maintain the equipment, at the intersection of Cherry and Webster Streets. The petitioner shall be responsible for preparing all necessary documentation and plans. Such easement shall be incorporated in the Master Deed for the property.
19. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.

- d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - 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; 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 Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
20. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
21. No building permit for the 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.
 - 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 Condition #1.
 - d. Submitted a final Inclusionary Housing Plan and Affirmative Fair Housing and Resident Selection Plan for review and approval by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Newton Zoning Ordinance.
 - e. Submitted final engineering, utility, and drainage plans 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.
22. No temporary occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and a professional land surveyor certifying compliance with 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 paper and digital format.
 - c. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #14.
 - 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 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.
 - f. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Units has been completed to the Director of Planning and Development for review and approval.
 - g. Entered into, and recorded at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants for the Inclusionary Unit with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Unit in perpetuity.
 - h. The Inclusionary Unit shall be constructed and available for occupancy coincident with market rate units such that no more than four market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
 - i. The Commissioner of Inspectional Services may issue one or more certificates of

temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans as long as all other conditions of this order have been met. 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 Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.

Department of Planning and Development



PETITION #564-18
39 HERRICK ROAD

SPECIAL PERMIT/SITE PLAN APPROVAL
TO ALLOW A NINE-UNIT, MULTI-FAMILY
DEVELOPMENT OF THREE STORIES AND
36 FEET IN HEIGHT, AND WAIVERS
FROM THE PARKING PROVISIONS



JANUARY 8, 2018

1

Requested Relief



- To allow a multi-family dwelling, with ground floor units (§4.4.1).
- To allow a 3-story structure, 36 feet in height (§4.1.2.B.3 and §4.1.3).
- To allow a reduction in the residential parking to one stall per unit (§5.1.4.A and §5.1.13).
- To allow off-site parking facilities (§5.1.6.A, §5.1.6.B and §5.1.13).
- To allow a retaining wall exceed four feet within a setback (§5.4.2.B)

2

Requested Relief Continued

- To allow parking within the side setback (§5.1.8.A and §5.1.13)
- To waive the maneuvering space required of restricted stalls (§5.1.8.B.5 and §5.1.13)
- To reduce the minimum aisle width requirements (§5.1.8.C.2 and §5.1.13)
- To waive the lighting and the perimeter landscaping requirements pertaining to parking facilities containing more than five stalls (§5.1.9.A, §5.1.10.A, and §5.1.13)

3

Special Permit Criteria

- The specific site is an appropriate location for the proposed multi-family dwelling. (§7.3.3.C.1)
- The multi-family dwelling as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features (§5.1.13).

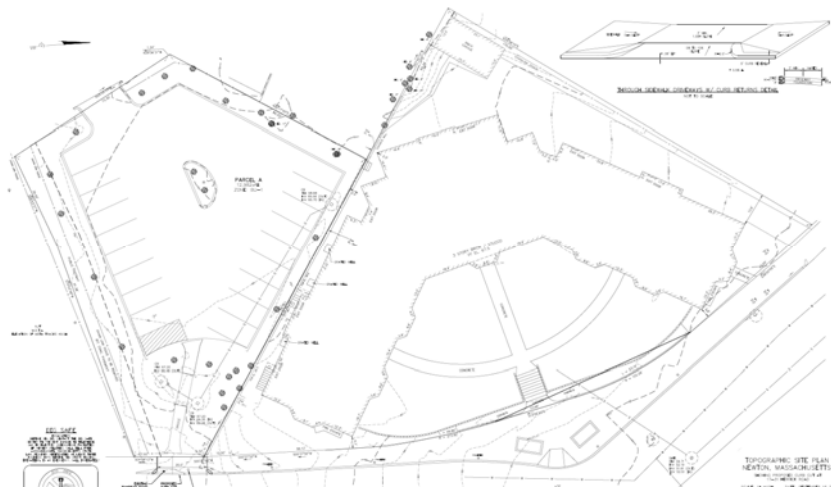
4

AERIAL



5

Existing Site Plan



6

Parking

- Surface parking stalls leased by residents of 17-31 Herrick Road will be displaced.
- Staff is supportive of the amount of stalls proposed, and the stalls will be unbundled from the cost of rent.
- Staff suggests the petitioner implement a Transportation Demand Management Plan.

9

Consistency with *Comprehensive Plan* and Other Studies

- Staff believes the petition aligns with the *Comprehensive Plan* as well as the Housing and Transportation Strategies.

10

Outstanding Items

- Fair Housing Committee Review
- Inclusionary Housing Plan Review
- NFD Review
- Engineering Division Review
- Landscape Plan