



## Land Use Committee Report

### City of Newton

### In City Council

**Tuesday, October 10, 2017**

**Present:** Councilors Laredo (Chair), Schwartz, Auchincloss, Cote, Harney, Lipof, Crossley, Lennon

**Also Present:** Councilor Yates, Leary

**City Staff:** Senior Planner Michael Gleba, Senior Planner Neil Cronin, Chief Planner Jennifer Caira, Associate City Solicitor Bob Waddick

**#286-16(2) Request for an extension of time for Special Permit at 115 Waban Street**

JOHN MULLIGAN Request for an extension of time to EXERCISE SPECIAL PERMIT #286-16 granted on October 4, 2016 to build a 308 sq. ft. one story addition including a mudroom, study and half bath at 115 Waban Street, Ward 1, Newton, on land known as SBL 12004 0032, containing approximately 7,072 sq. ft. in a district zoned MULTI-RESIDENCE 1. Ref: 7.3, 7.4, 3.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 6-0; (Lipof, Lennon not Voting)

**Note:** Mr. John Mulligan presented the request for a one year extension of time to exercise the Special Permit approved in 2016 at 115 Waban Street. Mr. Mulligan noted that they hope to schedule the contractor for Spring. Councilor Crossley motioned to approve the extension of time which carried unanimously.

**#132-17 Special Permit to amend Special Permit for Kessler Woods**

KESSELER WOODS, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #102-06(15) at Kessler Woods to allow relocation of the inclusionary zoning units by use of the Off-Site Development Option in conjunction with the rehabilitation of the apartment building at 219 Commonwealth Avenue resulting in an increased number of affordable units from the approved site of 179 Kessler Way, Ward 8, on land known as Section 82 Block 037 Lot 0095, containing approximately 640,847 sq. ft. of land in a district zoned MULTI RESIDENCE 3. Ref: 7.3, 7.4, 5.11.4, 5.11.6 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved Withdrawal without Prejudice 6-0 (Lipof, Lennon not Voting)

**Note:** Attorney Frank Stearns noted that the petitioner is regretful that there could not be an agreement for the proposed off-site affordable housing. He stated that the petitioner will review his options and possibly return at a later time. With a motion from Councilor Crossley to approve the withdrawal without prejudice, Committee members voted unanimously in favor.

**#303-17 Class 2 Auto Dealer License**

CICCONE MOTORS

22 West Street

Newton, MA. 02458

**Action:** Land Use Approved 6-0 (Lennon, Lipof not Voting)

**Note:** Committee Clerk Nadia Khan confirmed that excise taxes are current and the Clerk's Office is not concerned about a renewal of the Class 2 Auto Dealer license for Ciccone Motors. Councilor Cote motioned to approve the Auto Dealer License which carried unanimously.

**#224-17 Special Permit to increase non-conforming FAR and setbacks at 168 Allerton Road**

ALAN LOBOVITS AND LISA ROSENFELD petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing detached garage and construct an attached garage, mudroom and kitchen, extending the existing non-conforming front setback, requiring a variance to allow a rear setback of 7.6' and increasing the FAR to .55 where .40 is allowed and .50 exists at 168 ALLERTON ROAD, Ward 6, Newton Highlands, on land known as Section 52, Block 27, Lot 08, containing approximately 9,000 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3, 7.4, 3.1.3, 3.1.9, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 7-0 (Lennon not Voting); Public Hearing Closed 10/10/2017

**Note:** Architect Michael Huller presented on behalf of petitioners Alan Lobovits and Lisa Rosenfeld at 168 Allerton Road. At the initial public hearing on September 26, 2017, Committee members shared concerns that there would not be sufficient space in front of the proposed two car garage to park a car without overhang into the sidewalk. The revised plans have a reduction in the garage size which has also been pushed six inches further into the site. These changes will create a 9x19 space in front of the garage, should the petitioner need to park a car there. It was noted that there will not be a 5' buffer. A Committee member noted that due to the existence of two compliant parking stalls in the garage, there is no legal requirement for the third space in front of the garage.

Committee members expressed appreciation for the flexibility on behalf of the petitioner and architect to revise the plans. Committee members asked that the Planning Department review the parking stall requirements as the City redrafts the Zoning Ordinance.

With no member of the public wishing to speak, Councilor Schwartz motioned to close the public hearing which carried unanimously. Councilor Schwartz motioned to approve the petition. Committee members reviewed the draft findings and conditions. Deputy City Solicitor Ouida Young noted that the revised site plan identifies the space in front of the garage as a parking stall. As the two required stalls will be in the proposed garage, Atty. Young suggested that a revised site plan be submitted without identifying that space as a parking stall. Mr. Huller

confirmed that a revised site plan can be submitted prior to the full Council vote. Committee members voted unanimously in favor of approval.

**#227-17      Special Permit to amend Order #94-16 to allow changes to the site plan**  
THEODORE VENTOURIS petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #94-16 to allow a retaining wall, pillars and grading changes not consistent with the previously approved site plan at 2171 COMMONWEALTH AVENUE, Ward 4, Auburndale, on land known as Section 41, Block 18, Lot 0032A, containing approximately 19,682 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3, 7.4 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Approved Subject to Second Call 6-0-1 (Harney abstaining, Lennon not Voting); Public Hearing Closed 10/10/2017**

**Note:**      Petitioners Theodore Ventouris and Evanthia Nassios presented the petition to amend Council Order #94-16 to allow changes to the site plan at 2171 Commonwealth Avenue. The site plan, approved in 2016 included the replacement of a chain link fence. Mr. Ventouris stated that after reading the special permit, he did not realize that the construction of the retaining wall in lieu of the chain link fence would require City Council approval. He constructed the stone wall and set it 2' within the property. Mr. Ventouris noted that he explained the plans to Inspectional Services to construct pillars, connected by an iron fence and was issued the building permit.

Issuance of the Certificate of Occupancy requires confirmation from the Planning Department that the as-built plans are consistent with the plans approved during the Special Permit process. Senior Planner Michael Gleba noted that the Planning Department was unable to conclude that the plans were consistent. The Commissioner of Inspectional Services determined that the changes to the plans would require an amendment to the Special Permit.

Mr. Gleba reviewed the as-built conditions, showing the location of the pillars on the site and the retaining wall on the southwest boundary, adjacent to Lyons Field. Mr. Gleba showed images of the constructed wall and pillars. Mr. Gleba noted that the Engineering Department had initial concerns that the regrading and/or the wall occurred in a City easement, over a sewer main. After a site visit, the Engineering Department has determined that the regrading is in the easement, but has not concluded if the wall is. One Committee member noted that the site plan is signed by a licensed surveyor, does not show the wall in the easement and questioned why the Engineering Department has concerns. Mr. Gleba stated that the Engineering Department has not been able to locate a manhole or the sewer in the easement. It was noted that based on the amount of construction at the site, the petitioner would have been required to inspect or upgrade the service. Mr. Ventouris stated that his property is connected to the sewer at the rear of the property. He noted that he has worked with the Engineering Department to find the missing manhole, but he is not confident that it exists. He stated that when he purchased the property, it appeared as though significant regrading had already occurred at the site.

The public hearing was opened. With no member of the public wishing to speak, Councilor Lipof motioned to close the public hearing which carried unanimously.

A Committee member noted that the landscaping plan submitted as part of the original special permit has not been completed. Mr. Ventouris confirmed that it is his intent to complete the landscaping as it is on the approved plan. It was noted that the petitioner has bonded 135% of the cost in order to guarantee completion of the landscaping. It was noted that the landscaping will lessen the impact of the wall.

Some Committee members were not concerned about the changes to the site plan and were supportive. It was noted that if the sewer is not located within the easement, that is of no fault to the petitioner. Committee members were in agreement that without a determination from the Engineering Department relative to the status of the easement, the item could get sent back to Committee. Councilor Lipof motioned to approve the item, subject to second call, pending confirmation that the Engineering Department has no concerns relative to the petition. Committee members reviewed the modifications to the findings and conditions. Committee members voted 6-0-1 with an abstention from Councilor Harney.

**#60-17 Request to Rezone Hovey Street parcels**

SUNRISE DEVELOPMENT, INC./431 WASHINGTON STREET, LLC petition for a change of zone to Business Use 2 for land located at 29 Hovey Street, also identified as Section 12, Block 006, Lot 004, and an unnumbered lot on Hovey Street, also identified as Section 12, Block 006, Lot 003, containing approximately 34,361 sq. ft. of land in a district zoned MULTI RESIDENCE 2, further described as follows:

Beginning at a point on the Westerly side of Hovey Street, said point being N 21°00'54" W and a distance of one hundred twenty-six and no hundredths (126.00) feet from a bound at the Northwesterly intersection of Hovey and Washington Streets being the Southeast corner of the parcel herein described; thence

S 69°15'05" W	A distance of seventy-three and forty hundredths (73.40) feet to a point; thence
S 69°07'43" W	A distance of one hundred forty-five and no hundredths (145.00) feet to a point; thence
N 20°20'22" W	A distance of forty-five and fifty hundredths (45.50) feet to a point; thence
N 18°34' 11" E	A distance of sixty-one and forty-seven hundredths (61.47) feet to a point; thence
N 21°09'23" E	A distance of two and forty-one hundredths (2.41) feet and on the same bearing a distance of thirty-six and eight hundredths (36.08) feet to a point; thence

N 21°31'11" E            A distance of one hundred sixteen and eighty-eight hundredths (116.88) feet to a point; thence

N 28°57'55" E            A distance of twelve and seventy hundredths (12.70) feet to a point; thence

N 71°07'46" E            A distance of sixty-four and fifteen hundredths (64.15) feet to a point; thence

S 21°00'54" E            A distance of one hundred thirty-one and no hundredths (131.00) feet and on the same bearing a distance of eighty-three and no hundredths (83.00) feet by the Westerly sideline of Hovey Street to the point of beginning.

Said parcel containing 34,361 square feet or 0.789 acres, more or less.

**Action:**            **Land Use Approved Subject to Second Call 7-0-1 (Harney abstaining); Public Hearing Closed 09/26/2017**

**#61-17**            **Special Permit Petition to construct elderly housing on Washington Street**  
SUNRISE DEVELOPMENT, INC./431 WASHINGTON STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct elderly housing with services in excess of 20,000 sq. ft. of gross floor area, consisting of 85 living units in a four-story structure not to exceed 48’ in height and Floor Area Ratio not to exceed 2.0, extending the existing nonconforming front setback and constructing a retaining wall greater than 4’ in a setback at 431 Washington Street, 29 Hovey Street, and the adjacent unnumbered lot to the north on Hovey Street, on land known as Section 12 Block 006 Lots 003, 004, and 005, containing approximately 66,909 sq. ft. of land in districts zoned BUSINESS 2 AND MULTI-RESIDENCE 2. Ref.: 7.3, 7.4, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 4.4.1, 5.1.13, 5.4.2.B, 5.11.11, 6.2.10, 6.2.10.B, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:**            **Land Use Approved Subject to Second Call 7-0-1 (Harney abstaining); Public Hearing Closed 09/26/2017**

**Note:**            The Chair noted that the public hearing was closed on September 26, 2017. Committee members reviewed the draft findings and conditions in the draft Council Order dated October 6, 2017 (attached). Councilors posed questions and comments as follows:

PROPOSED FINDINGS

3. Remove “significantly” in the last line.

5. Switch “or” to “an”, unless the wording has been taken from the ordinance. A Committee member noted that there is no finding relative to the conservation of natural resources and sustainability. Deputy City Solicitor confirmed that she will work to incorporate components of the petitioner’s document that references commitment to sustainability.

6. Combine the two sentences to read “The site is an appropriate location for a retaining wall greater than four feet as the proposed wall will facilitate access to an underground parking garage reducing the amount of surface parking and any portion of the wall above grade will be landscaped.”

7. A Committee member noted that while the structure will be less nonconforming with regard to set back, it will be taller than the previous structure. It was noted that the height is not a nonconforming condition. A Committee member suggested that height is not irrelevant to the setback, as sometimes it is appropriate to set a building back, as the height increases. Committee members asked that the Planning Department review height as the Zoning Ordinances are revised.

8. Atty. Young noted that this finding is included to show not only compliance with the ordinance, but evidence of an additional public benefit. Committee members asked that Atty. Young revise the wording of the finding and include that it is a public benefit.

9. Remove the words “large” and “growing”.

DRAFT CONDITIONS

1. The final set of plans references are those that were presented to the Land Use Committee on September 26, 2017.

2. A Committee member asked for confirmation that the mechanical equipment on the roof is screened and separated from the neighborhood. Architect Mark Moeller, JSA Architects noted that any roof equipment will be recessed in the sloped portion of the roof or screened by vertical walls. Mr. Moeller noted that the equipment will not be visible from abutting streets. Mr. Moeller confirmed that the screens force the noise upward as opposed to outward, which is typical treatment used. It was noted that the screening is shown on the plans that will be referenced in the Special Permit.

5. Committee members deliberated the appropriateness of allowing extended delivery times as the delivery area has been relocated from Hovey Street to Washington Street, a main road. Atty. Buchbinder stated that the petitioner is seeking the extended hours to allow vendor deliveries to occur outside of rush hours. He noted that while there is parking on site for one truck, a second delivery vehicle would have to park in the street.

Atty. Young confirmed that the hours for deliveries cannot be modified after the granting of the Special Permit. Councilors noted that the neighborhood is residential, even on Washington Street and emphasized their preference to keep deliveries limited from 8:00 am – 5:00 pm. The Committee made no changes to the hours of delivery.

6. A Committee member noted that the petitioners' standard care includes up to 45 minutes of care per day. Beyond the 45 minutes of care per day, a resident is responsible for additional care costs. For this reason, it was noted that it should be made clear in that residents selected for the facility, must have assets that will allow them to have continued care beyond 45 minutes per day. Atty. Buchbinder noted that 45 minutes of care per day is part of the standard package for residents. The petitioner is not willing to increase the amount of time offered at no expense to the residents. Committee members agreed that as resident selection is the responsibility of the Newton Housing Authority, the Memorandum of Understanding should clearly identify that residents must have resources to afford continued care.

Committee members discussed whether the condition should specify each specific amenity and service or if it should allow more flexibility. It was noted that the condition, as drafted, does not specify certain expenses, like renters insurance, cable or internet; but does specifically list meals, snacks, beverages, housekeeping, laundry, etc. A Committee member noted that as Surnise's services changes, amenities could change; rendering portions of the condition irrelevant. Atty. Buchbinder noted that resident fees are comprised of two components; housing and care which are listed in the Q&A memo dated October 5, 2017 (attached). Committee members asked that Atty. Young draft the condition to allow future standard services to be included as the program evolves.

7. A Committee member asked whether modifications can be made on the third lot if there is agreement between the petitioner and the neighborhood. Atty. Young noted that if there is an agreement and not a substantial cost increase, modifications might be considered as part of a consistency ruling. Committee members noted that the draft Council Order does not include the language relative to a restriction on the third lot, in perpetuity. Atty. Young emphasized that a restriction cannot be required in perpetuity. She noted that a conservation restriction would not likely be supported by the Newton Conservators as the land will be subject to daily public access. A Committee member noted that a major benefit of the project is the restriction on the third lot in perpetuity. Atty. Buchbinder confirmed that the petitioner would agree to a permanent restriction on the third lot, in perpetuity. This restriction would remain upon sale of the property, because the petitioner offered it. Atty. Young stated that she would redraft the condition, but noted that there may be a term limit (99 years) on the restriction.

10. A Committee member asked if a pre-construction survey could occur at no charge to the abutters to the site. Atty Buchbinder noted that pre and post construction surveys are part of the peitioners' standard procedure. The petitioner confirmed that the survey results can be made available for abutters. Atty. Buchbinder confirmed that the pre and post construction surveys can be included in the Council Order.

11b. Committee members deliberated whether the hours of construction on Saturday should be limited to 8:00 am – 3:00 pm. It was noted that while limiting weekend construction hours may be beneficial, it may also extend the life of the project. Committee members agreed that the weekend hours of construction should remain from 8:00 am – 5:00 pm.

11d. Mr. Moeller confirmed that the Council Order can prohibit contractor parking during construction on Waban Street, Hovey Street and Jewett Street. He noted that they will either accommodate parking on-site or find an alternate location.

13. A Committee member asked that representatives be included for the Liasion Committee from Waban Street, Hovey Street, Jewett Street and Avon Place. The representatives will be appointed by the Council President.

14g. Atty. Young confirmed that the rezoning of the site is contingent on exercise of the Special Permit. The site will not be rezoned independently.

16. Mr. Moeller confirmed that testing of the site has occurred. He noted that while the site is cleaner than anticipated, there are some contaminants including oil and metal. Mr. Moeller noted that the soil will be extracted, cleaned and retested. Atty. Young confirmed that this is satisfactory.

17. & 20. State regulation prohibits occupancy in assisted living facilities with a temporary Certificate of Occupancy. If there are circumstances beyond the petitioner's control that impede the construction of the intersection improvements, landscaping or bus stop, the petitioner has requested to bond for 135% of the cost of completion in order to obtain the Certificate of Occupancy.

Atty. Buchbinder noted that the petitioner has agreed to reimburse employees up to 50% of their monthly MBTA passes. Atty. Buchbinder noted that the TDM will be updated to include this for a condition #22.

With a motion from Councilor Lennon to approve the zone change, Committee members voted 7-0-1 with an abstention from Councilor Harney. With a motion from Councilors Lennon and to approve the special permit petition, subject to second call Committee members voted 7-0-1 with an abstention from Councilor Harney.

**Respectfully submitted,**

**Marc C. Laredo, Chair**



431 Washington Street, 29 Hovey Street, and adjacent unnumbered lot

CITY OF NEWTON

IN CITY COUNCIL

October \_\_, 2017

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 construct a 76,843 square foot, 85 unit elderly housing with services facility of four stories and 47.4 feet in height and a floor area ratio (FAR) of 1.15, allow a retaining wall greater than four feet within a side setback, and the extension of a nonconforming front setback, as recommended by the Land Use Committee ("LUC") for the reasons given by the Committee through its Chairman, Councilor Marc Laredo.

**Procedural Background**

The proposed development (the "Project") for 431 Washington Street, 29 Hovey Street, and the adjacent unnumbered lot (the "Site") was submitted by Sunrise Development, Inc. (the "Petitioner").

The Petitioner filed a request to re-zone 29 Hovey Street and the adjacent unnumbered lot from MR2 to BU2 and simultaneously filed a special permit/site plan application for the Project with the City Clerk on March 3, 2017, *i.e.*, Docket ## 60-17 and 61-17. Notice of the public hearing was published on March 21, 2017 and March 28, 2017 in *The Boston Globe*, and on March 29, 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 Land Use Committee ("LUC") of the City Council opened the public hearing on April 4, 2017 and continued the public hearing on May 23, 2017, June 22, 2017, August 8, 2017, and September 26, 2017.

Over the course of the public hearings on Docket # 61-17 presentations were made by the Petitioner and its Project team including its attorney, Stephen J. Buchbinder of Schlesinger and Buchbinder, LLP; its architect, Mark Moeller of JSA ; its landscape architect, Connie Fan of LSG Landscape Architecture; and its transportation consultant, Randy Hart of Vanasse Hangen Brustlin, Inc. ("VHB"). Presentations were also made by City staff Michael Gleba, Senior Planner of Current Planning for the Planning and Development Department.

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 which recommended that the requested re-zoning be approved, and the Urban Design Commission. 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.

Following a final presentation by the Petitioner and City staff, as well as public testimony, the public hearing was closed on September 26, 2017. On October 10, 2017 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 the special permit criteria under §7.3.3. C.1.-5.:

1. The Site is an appropriate location for the building and proposed use as designed, given the adjacent neighborhood's mix of residential and commercial land uses and structures of varying scales and heights. The Project will serve as a transitional use along Washington Street from the commercial uses to the east and the residential uses to the west and north. (§4.1.2.B.1; §4.1.3; and §7.3.3.C.1)
2. The Project as designed, developed and operated will not adversely affect the neighborhood as it is residential in nature and will be less traffic intensive than the Site's previous use as a car dealership. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians as the main entrance to the Project will be located at a signalized intersection that will be improved as a condition of this special permit approval. Further, the Project will reduce the number of curb cuts and generate fewer vehicle trips than the previous use of the Site. (§7.3.3.C.3)
4. Access to the Site over the streets is appropriate for the types and numbers of vehicles coming to and going from the Project. (§7.3.3.C.4)
5. The site planning, building design, construction, maintenance, or long-term operation of the Project will contribute significantly to the efficient use and conservation of natural resources and energy as it is located near a village center and close to transit options and

the Petitioner has represented that the Project will be operated so as to qualify for "Energy Star" certification by the United States Environmental Protection Agency (EPA). (§7.3.3.C.5)

6. The Site is an appropriate location for a retaining wall greater than four feet as the proposed wall will facilitate access to an underground parking garage reducing the amount of surface parking and any portion of the wall above grade will be landscaped. (§5.4.2.B ; §7.3.3.C.1)
7. Extending the nonconforming front setback along Hovey Street by allowing the building to have a front setback of 5.6 feet where 10 feet is required will not be substantially more detrimental than the existing nonconforming structure to the neighborhood as the existing structure has no setback and is built to the property line along Hovey Street. (§7.8.2.C.2)
8. The Petitioner will provide affordable housing on site for three income-eligible residents in accordance with the requirements of the Newton Zoning Ordinance Inclusionary Housing for elderly housing with services and the applicable condition of this Order for the life of the Project as a public benefit. (§5.11.11)
9. The Project will include publicly accessible open space amenities.
10. Consistent with Newton's Comprehensive Plan, the Project will address some of the needs of the City's growing elderly population.

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

1. 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 the access driveway and the location and design of handicap parking. (§7.4.5.B.1)
2. The method for disposal of sewage, refuse and other wastes, and the methods of regulating surface water drainage, are adequate for the following reason:
  - 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. (§7.4.5.B.2)
3. The provisions for on-street and off-street loading facilities are sufficient to service the Project. (§7.4.5.B.3)
4. The screening of parking areas and structures on the site from adjoining premises is sufficient based on the landscape plans referenced in Condition #1. (§7.4.5.B.4)
5. The Project avoids unnecessary topographical changes. (§7.4.5.B.5)
6. All utility service lines on site will be underground. (§7.4.5.B.6)
7. The proposed site design and massing is appropriate in the context of the Newton Corner commercial village center location and will serve as a transitional use from the

commercial village center to the east of the Site and the residential uses to the west of the Site. The Petitioner has incorporated a number of building treatments and design elements that enhance the appearance of the building. (§7.4.5.B.6)

- 8. The Project will not cause the removal or disruption of any historic resources on or off-site. (§7.4.5.B.7)
- 9. The Project contributes significantly to the efficient use and conservation of natural resources and energy as it is located near a village center and close to transit options. The Petitioner has represented that the Project will be operated so as to qualify for "Energy Star" certification by the United States Environmental Protection Agency (EPA). (§7.4.5.B.8)

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 §4.4.1; §6.2.10; §6.2.10.B; §4.1.2.B.1; §4.1.2.B.3; §4.1.3; §7.8.2.C.2; §5.4.2.B; §5.11.11; §7.3.3.C.1.-5. and §7.4.5. B. 1.-8. for granting special permits/site plan approval will be satisfied.

PETITION NUMBER: #61-17

PETITIONER: Sunrise Development, Inc. and its successors and/or assigns

ADDRESS OF PETITIONER: 7902 Westpark Drive  
McLean, VA 22102

LOCATION: 431 Washington Street, 29 Hovey Street, and an adjacent unnumbered lot on Hovey Street, , Ward 1, on land known as Section 12, Block 6, Lots 3, 4, and 5, containing approx. 66,909 sq. ft. of land

OWNER: 431 Washington Street, LLC

ADDRESS OF OWNER: 391 Providence Highway  
Norwood, MA 02062

TO BE USED FOR: Elderly Housing with Services

EXPLANATORY NOTES: Special permit per §7.3.3:

- To allow an Elder Housing with Services facility (§4.4.1; §6.2.10)
- Development of 20,000+ square feet of gross floor area (§4.1.2.B.1)

- To allow a building with four stories (§4.1.2.B.3; §4.1.3)
- To extend a nonconforming front setback (§4.1.3, §7.8.2.C.2)
- To allow a retaining wall in excess of 4 feet in a setback (§5.4.2.B)
- Inclusionary housing provisions (§5.11.11)

Site Plan per §7.4.5

ZONING: Business 2 (BU2)

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. A set of plans entitled "Sunrise of Newton, 431 Washington St, Newton, Massachusetts, Special Permit Application," consisting of the following sheets:
    - i. Site/Civil plans, prepared by VHB, dated March 3, 2017 as revised through September 12, 2017, signed and stamped by Curtis R. Quitzau, Professional Engineer:
      - Legend and General Notes (C-1);
      - Area Plan (C-2);
      - Zone Change Plan (C-3);
      - Zoning Assessment Plan (C-4);
      - Layout and Materials Plan (C-5);
      - Grading and Drainage Plan (C-6);
      - Utility Plan (C-7);
      - Erosion and Sediment Control Plan (C-8);
      - Site Details (C-9.1);
      - Site Details (C-9.2);
      - Fire Access Plan (C-10);
      - Existing Conditions Plan of Land (SV-1).
    - ii. Architectural plans, entitled "Sunrise of Newton, Washington & Hovey Streets, Newton, MA 02458," prepared by JSA Inc., dated June 13, 2017, as revised through September 12, 2017, consisting of the following sheets:
      - Floor Plans- Parking and First Floor (A0.01);

- Floor Plans- Second and Third Floors (A0.02);
  - Floor Plans- Fourth Floor and Roof (A0.03);
  - Exterior Elevations (A2.01);
  - Rendered Site Plan (L1);
  - Landscape Plan (L1.1);
  - Fencing / Paving Details (L2.2);
  - Planting Details (L2.3);
  - Front View from Washington Street;
  - View from Hovey Street;
  - View from Jewett Street;
  - Roof Comparison.
2. The Petitioner shall comply with the City's Noise Control Ordinance, §20-13 et seq of the Revised Ordinances 2012, at all times, which may require, among other measures, the installation and maintenance of acoustical treatments of any and all Heating, Ventilation and Air Conditioning (HVAC) units.
  3. All on-site utilities shall be located underground on the property.
  4. All lighting fixtures shall be residential in scale.
  5. Deliveries to the facility shall be limited to 8:00 AM – 5:00 PM; deliveries shall be made only with so-called "box trucks" or smaller vehicles (excepting only in the event of emergencies where additional supplies are required, such as a storm or flood, and as approved in advance by the Commissioner of Inspectional Services).
  6. To satisfy the requirement of §5.11.11 to provide affordable elder housing with services on-site, the Petitioner shall at all times and at its sole cost provide beds with attendant services to at least three residents whose incomes do not exceed 80 percent of the applicable median income for elders in the Boston Municipal Statistical Area, adjusted for household size. As used in this condition, the phrase "beds with attendant services" shall mean that the Petitioner shall, at no cost to such residents, provide the same level of housing and services provided to the other residents as part of the "housing component" of the Petitioner's residential fee. In addition, at a minimum regardless of what the Petitioner includes in the "housing component" of its residential fee, "beds with attendant services" as used in this condition shall include all charges for rent, utilities (gas, water, electricity), cable/internet, food (3 meals per day plus snacks), housekeeping, laundry, transportation to and from appointments, activities (including exercise programs), on-call staff, renter's insurance, and at least 45 minutes of care per day as well as any additional charges included in the "housing component" of the Petitioner's residential fee. Such residents shall be responsible for the cost of care beyond the initial 45 minutes per day. The provision of such beds with attendant services shall be compliant with the income, resident selection, and reporting requirements of §5.11.11.C, D, and E of

the Newton Zoning Ordinance. In accordance with the requirements of §5.11.11.D, to the extent permitted by law, Newton residents shall have first opportunity to participate in the affordable elder housing with services program.

Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall enter into a Memorandum of Understanding (MOU) with the City of Newton, acting through its Director of Planning and Development, that defines the administration, management and reporting requirements for these three beds, including but not limited to resident selection, resident income verification, and procedures and timing for the enrollment of such residents.

7. The Petitioner shall create and maintain a park as shown on the Landscape Plan (Sheet L1.1) referenced above in Condition 1 located on the northern portion of the property on Hovey Street, labeled "Public Area" and shown to include a "natural play area," "public picnic area (mulch)" and "labyrinth (permeable paving)". These areas shall be open to the public at no cost from dawn to dusk every day. The Petitioner's obligation to maintain the park and to allow public access as required by this condition shall continue for so long as the Project authorized by this special permit/site plan approval and/or any amendment thereto is in effect.

In addition to the requirements of this condition, the Petitioner shall grant a restriction to the City of Newton for a term of 99 years on the unnumbered parcel of land that is part of the Site, which restriction shall provide as follows: 1) keep such parcel of land as open space; 2) prohibit the construction of any building(s) other than an ornamental structure such as a gazebo or the parking of any vehicle(s) on such parcel of land; and 3) allow public access at no cost to that portion of such parcel which is identified in the preceding paragraph as the "Public Area" from dawn to dusk every day. Such restriction shall allow the area and the lineal dimensions of such parcel of land to be considered in satisfaction of any dimensional requirements of the Newton Zoning Ordinance with regard to development of the Site and shall continue for the term of 99 years regardless of whether the Project authorized by this special permit/site plan approval and/or any amendment thereto is in effect.

8. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, 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 adopted by Petitioner and recorded at the Middlesex South District Registry of Deeds herewith. Evidence that the O&M has been recorded shall be submitted to the Engineering Division of Public Works.
9. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
10. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval 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.

11. 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. 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. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity relating to the nearby public school in determining hours and routes for construction vehicles. In accordance with the Noise Ordinance, interior construction work may occur at times outside the hours specified above, but only after the building is fully enclosed, and only if the work complies with the requirements of the Noise Ordinance of the City of Newton.
  - 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 which parking shall be prohibited on Hovey Street, Jewett Street, and Waban Street, 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 during construction.
  - i. Offer to provide a pre-construction survey at no charge to the owners of the properties abutting the Site.
  - j. The CMP shall also address the following:
    - safety precautions;



- anticipated dewatering during construction;
  - site safety and stability;
  - impacts on abutting properties; and
  - Home Protection Protocol as outlined generally in a letter dated October 12, 2017, on file in the City Clerk's office.
12. 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.
13. 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, one (1) resident from each of the following streets: Hovey Street, Jewett Street, Waban Street, Avon Place, and Washington Street, as well as the Ward 1 Councilors. The President of the City Council shall appoint the resident neighborhood members, provided that the Liaison Committee can meet without residents from the identified streets if no resident is willing to serve. 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 the 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.
  - 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 final certificate of occupancy/inspection is issued. The first meeting shall be convened jointly by the Petitioner and the Ward 1 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.

14. The Petitioner shall design, construct and operate the Project consistent with the Sustainability Measures set out in a letter dated June 21, 2017, on file with the City Clerk, including receiving certification pursuant to the EPA Energy Star Program for Senior Housing or its equivalent successor program.
15. Prior to occupancy by any residents the Petitioner shall provide a certificate from a Licensed Site Professional to the Director of Planning and Development certifying that the property is in full compliance with all applicable state and local statutes and regulations for hazardous waste cleanup and disposal.
16. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development a statement from the Engineering Division approving the Final Site Plan.
  - d. Provided a Final Landscape Plan showing all new plantings for review and approval by the Director of Planning and Development.
  - e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with the plans approved in Condition #1.
  - f. Obtained a written statement from the Engineering Division of Public Works that confirms the receipt of a certified copy of the recorded O&M in accordance with Condition #8.
  - g. Record at the Middlesex South District Registry of Deeds an Approval Not Required (ANR) plan duly approved in accordance with Massachusetts General Laws Chapter 41 Section 81P that combines the three separate lots that are the subject of this Special Permit/Site Plan Approval (land presently known as Section 12, Block 6, Lots 3, 4, and 5) into one lot as well as all required documents evidencing such combination of the lots and their conveyance into common ownership. Certified copies of such recorded documents shall be filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
17. The Petitioner shall be responsible for repairing any and all 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 Inspection/Occupancy, provided, however, if all repair

work cannot be completed prior to the issuance of any Final Inspection/Occupancy Permit due to weather conditions or for other reasons beyond the control of the Petitioner, the Petitioner shall be required to post a bond in a form satisfactory to the Commissioner of Public Works and the City Solicitor in an amount not less than 135% of the value of any incomplete repair work to secure completion of such Improvements. If, however, 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, the repair work must be initiated within one month of the Commissioner making such determination, shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.

18. Prior to the issuance of any Final Inspection/Occupancy Permit for the Project authorized by this Special Permit/Site Plan Approval, the Petitioner shall, at its sole cost and expense and in coordination with the Department of Public Works, complete the Intersection Improvements described in Schedule A attached hereto and subject to inspection and approval by the City Engineer upon their completion, provided, however, if such Intersection Improvements cannot be completed prior to the issuance of any Final Inspection/Occupancy Permit due to weather conditions or for other reasons beyond the control of the Petitioner, the Petitioner shall be required to post a bond in a form satisfactory to the Commissioner of Public Works and the City Solicitor in an amount not less than 135% of the value of any incomplete Intersection Improvements to secure completion of such Improvements.
19. Prior to the issuance of any Final Inspection/Occupancy Permit for the Project authorized by this Special Permit/Site Plan Approval, the Petitioner shall install, or arrange for the installation of, a covered bus shelter in the vicinity of the project, the design and location of which has been reviewed and approved by the Director of Transportation, the cost of which shall not exceed \$25,000, provided, however, if such bus shelter cannot be completed prior to the issuance of any Final Inspection/Occupancy Permit due to weather conditions or for other reasons beyond the control of the Petitioner, the Petitioner shall be required to post a bond in a form satisfactory to the Commissioner of Public Works and the City Solicitor in an amount of \$37,250 to secure completion of the bus shelter.
20. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the Petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in paper and digital format.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development a statement from the Engineering Division certifying that the final site construction details have been constructed as required in Condition #1.

- d. Filed with the City Clerk and the Commissioner of Inspectional Services a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
  - e. Record at the Middlesex South District Registry of Deeds a deed restriction subject to review and approval by the City Solicitor in accordance with the requirements of Condition #7 and file certified copies of the recorded restriction with the City Solicitor, City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
21. Notwithstanding the provisions of Condition #20(d) above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
  22. All landscaping and fencing shall be maintained in good condition, and dead or diseased landscaping shall be replaced with similar materials on an annual basis.
  23. Upon occupancy of the Project, the Petitioner shall institute a Transportation Demand Management Plan ("TDM Plan"), the details of which are set forth in Schedule A attached hereto. The Petitioner shall be obligated to continue such TDM Plan for the life of the Project and bear any and all costs associated with said plan including reimbursing employees fifty (50%) of the cost of monthly MBTA passes.

## SCHEDULE A

### Traffic Mitigation

#### Intersection Improvements

The Petitioner shall make or cause to have made, at its sole cost and expense, the following improvements in the area of the intersection of Washington Street and Church Street (including the so-called "Site Driveway"), as described below and shown in **Attachment 1**:

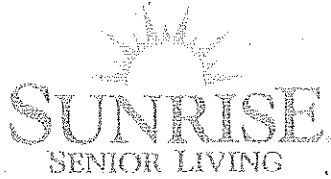
- Install additional signal heads facing the southbound Site Driveway approach, requiring two new 10-foot posts and foundation
- Install a new signal head to the existing signal poles on the southeast and southwest corners of the intersection
- Relocate the existing pedestrian signal heads across the Church Street approach
- Install video detection module to existing traffic signal pole in on north side of street to control the Site Driveway approach
- Make pavement marking changes on the Church Street approach to include a shared left-through lane and an exclusive right turn lane
- Install a new crosswalk across the Site Driveway approach, complete with ADA compliant wheelchair ramps on each side
- Install two additional pedestrian signal heads for the new crosswalk across the Site Driveway approach
- Upgrade the existing "Do Not Block Intersection" signage and pavement markings at Washington Street/ Hovey Street
- Modify the controller and cabinet assembly to accommodate proposed timing and phasing changes necessary for driveway approach inclusion

#### Transportation Demand Management (TDM)

The Petitioner shall implement the following Transportation Demand Management measures:

- Display all public transit schedules in a central location within the facility;
- Provide a map of the area that displays the location of the Newtonville MBTA station, MBTA bus stops, sidewalks, and crosswalks. This information shall be distributed to employees and posted in common areas;
- Provide a secure bicycle storage area on site;
- Implement an onsite car-pool rideshare program with guaranteed ride home; and
- Reimburse employees for fifty (50%) percent of the cost of monthly MBTA passes.





June 21, 2017

RE: Sunrise of Newton – Sustainability Measures

To whom it may concern”

Sunrise Senior Living is committed to environmental stewardship. The design for the Sunrise of Newton is concerned with its impact on the environment as it is constructed, and with a long-range commitment to energy efficiency as it operates.

### Exterior Envelope

- A robust, continuous thermal envelope with a continuous air infiltration barrier, continuous exterior insulation and a high R value will ensure minimal heat loss/gain and reduce the load on heating systems.
  - The windows will have a low U value, low E coating and will be argon gas-filled, which also translates to heat/cold resistance and reduces the load on heating and cooling the building. They are also carefully detailed to prevent thermal bridging and avoid air infiltration.
  - Windows are plentiful and placed to take advantage of daylighting opportunities.
- The flat roof portions of the building will be covered in white, light reflecting TPO, which will reduce the heat gain.
- The roof will be “solar ready”, meaning that both structurally and electrically, if solar panels are added in the future they can be very easily accommodated.
  - The building will also be computer modeled to show compliance with the new Mass IECC and stretch code requirements.
  - After construction, the mechanical systems will be commissioned to ensure that they are installed correctly to reach maximum efficiency during operation.

### Interior of Building

- We will use LED lighting wherever possible and will utilize occupancy sensors and lighting controls.
- Exterior lighting is on automatic controls to conserve energy.
- Plumbing fixtures will be low-flow (i.e. showers, faucets, toilets)
- The interior environment is planned to enhance the resident’s well-being. Fresh ventilation is provided to each room. Low VOC paints will be specified, and low emitting materials will be utilized.
- Energy Recovery Units will be provided as part of the mechanical system. They utilize the temperature of exhausting air to temper the incoming ventilation air, thus reducing the energy required to either heat or cool incoming air to the desired temperature.

### Site

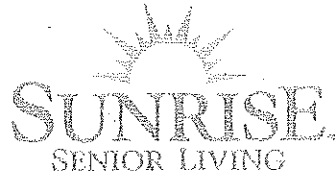
- The site design uses permeable paving that allows water to drain through which then recharges the storm water system replenishing the natural water supply.
- Plants are specified as drought tolerant, and indigenous to the area.

Community Support Office

1000 Westgate Drive, Suite 100, Newton, MA 02459

Phone: 781.552.1100

[www.sunrise.com/dlyme/na](http://www.sunrise.com/dlyme/na)



- Irrigation is provided with a “smart” system which gathers local weather data and regulates the amount of water that goes out to the heads. This reduces water use and prevents over-watering and potential damage to the hardscape.
- The building is located at a public bus stop, and employees are encouraged to car pool and use public transit.

### Post Construction

- After construction, during normal operation, Sunrise has committed to being certified by the EPA Energy Star Program. The EPA Energy Star Program is a voluntary energy efficiency program. It promotes products and practices that help protect the environment. Sunrise is already committed to the Energy Star Program and enrolls its communities in the program. Since the EPA created “Senior Housing” as a building type for Energy Star Certification, Sunrise Senior Living communities have been certified every year. The water, gas and electric bills for all these communities are monitored monthly and rated against other Energy Star participants. The ENERGY STAR certification signifies that these buildings perform in the top 25 percent of similar buildings nationwide for energy efficiency and meet strict performance levels set by the EPA. These communities use an average of 35 percent less energy and release 35 percent less carbon dioxide than typical communities.
- This Sunrise community will have a comprehensive maintenance program in place to maintain equipment and conserve energy costs; they will focus on best practices for efficiency in the areas of kitchen and laundry operations, lighting and HVAC&R (Heating Ventilation Air Conditioning and Refrigeration).

We hope this information has been helpful and we look forward to building and operating a successful and energy efficient Sunrise Senior Living community.

Sincerely,

Andy Coelho  
Senior Vice President  
Sunrise Development, Inc.

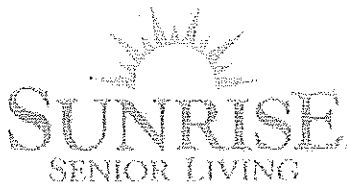
Community Support Office

1000 W. 10th Street, Suite 1000, Minneapolis, MN 55401

Phone: (612) 338-1100

Fax: (612) 338-1101





To: Newton City Council

From: Philip Kroskin

Date: October 12, 2017

Re: Home Protection Protocol

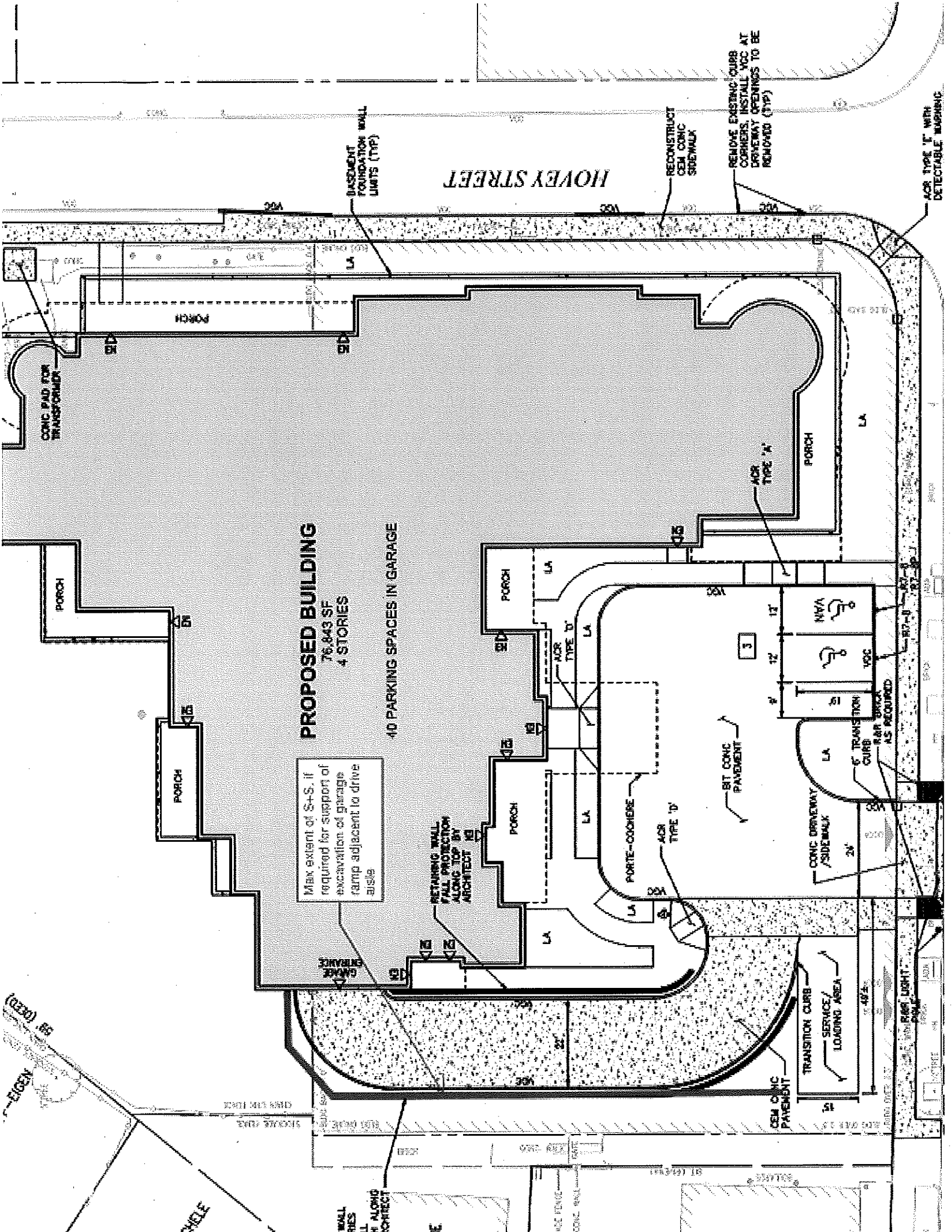
The Sunrise of Newton is being constructed with a below ground garage that is primarily built on spread footings (not piles). However, driven or drilled soldier piles and lagging (sheeting and shoring) may be used in the location of the ramp and retaining wall down into the garage and possibly along Hovey and a portion of Washington Street. The location along the drive aisle closest to the Conroy and Cedrone residences is the area most in need for construction impact/vibration consideration. Given our plan we expect no vibration impacts on the remaining adjacent neighbor homes.

Our plan with regard to the construction will be as follows:

1. No blasting is envisioned for any rock removal given the Geotech report findings.
2. Rock excavation, if encountered, will be accomplished with hoe ram, which will cause vibration.
3. For the installation of the driven or drilled soldier piles and lagging:
  - a. This can be done without encroachment onto any adjacent property.
  - b. Test pile will be installed to assess initial vibration impacts.
  - c. 8' drive aisle buffer will be maintained.
  - d. Driven piles will cause vibration.
  - e. Installation of the piles / lagging will likely take 10 weeks.
4. Home protection methods:
  - a. All adjacent homes will have photos taken both inside and out prior to construction to set baseline of existing conditions.
  - b. Vibration monitoring devices will be set on adjacent foundations / buildings.
  - c. Structural engineer will evaluate homes' existing foundations and construction and produce survey.
  - d. Structural engineer will take measurements of static ground vibration prior to construction start and with test pile.
  - e. Vibration thresholds will be established considering adjacent structures.
  - f. Vibration will be monitored during construction.
  - g. All work will be performed within engineered tolerances.
  - h. Alarms will be set if thresholds exceeded.
  - i. Following construction, structural engineer will re-inspect all adjacent homes.

Community Support Office

7502 Westpark Drive, N. Littleton, Virginia 22102  
Main: (703) 273-7500 www.sunriseseniorliving.com



**PROPOSED BUILDING**  
 76,843 SF  
 4 STORIES

10 PARKING SPACES IN GARAGE

Max extent of S+S, if required for support of excavation of garage ramp adjacent to drive aisle

RETAINING WALL FALL PROTECTION ALONG TOP BY ARCHITECT

PORTE-COCHERE

BIT CONC PAVEMENT

CONC DRIVEWAY / SIDEWALK

TRANSITION CURB SERVICE / LOADING AREA

HOVEY STREET

BASEMENT FOUNDATION WALL LIMITS (TYP)

RECONSTRUCT CEM CONC SIDEWALK

REMOVE EXISTING CURB CORNERS INSTALL VOC AT DRIVEWAY OPENINGS TO BE REMOVED (TYP)

ACR TYPE 'T' WITH DETECTABLE MARKING

CONC PAD FOR TRANSFORMER

PORCH

PORCH

PORCH

PORCH

PORCH

RESTROOM

RESTROOM

VOC

6" TRANSITION CURB

BAR BARRICA

AS REQUIRED

LA

2'

3'

5'

12'

17'

3'

2'

49"

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**SCHLESINGER AND  
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October 5, 2017

RECEIVED  
Newton City Clerk  
2017 OCT -5 PM 3:54  
David A. Olson, CMC  
Newton, MA 02459

**BY HAND**

Marc C. Laredo, Chairman  
Land Use Committee  
Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: Petition # 60-17 and Petition #61-17/Sunrise Development, Inc.  
431 Washington Street, 29 Hovey Street, and Unnumbered Lot on Hovey Street

Dear Chairman Laredo,

At the September 26, 2017 public hearing on this matter, Councilors and neighbors raised additional questions regarding the proposed project. The petitioner was asked at that time to provide answers to those questions prior to the next meeting of the Land Use Committee on October 10, 2017. The questions and answers are set forth below.

1. Can Sunrise accommodate Medicare into its business model?

Medicare does not pay assisted living rates anywhere in the country. A Medicaid program within Massachusetts, called Group Adult Foster Care, is a highly constrained program which has not had rate updates in approximately 15 years. Sunrise does not participate in that program. However, if State Senate Bill 344 passes, Sunrise would consider participating in this new Medicaid waiver program.

2. Will you establish a neighborhood liaison committee?

The draft Council Order provides for such a committee. Additionally, Sunrise, as part of its standard practice, typically establishes a neighborhood relations team for its development projects.

3. Has the Fire Department reviewed the plans?

The Fire Department has reviewed this project for access and egress, and will examine the construction plans as part of its standard building permit review.

**SCHLESINGER AND BUCHBINDER, LLP**

Chairman Marc C. Laredo  
October 5, 2017

Page 2

4. Describe the Sunrise fee structure.

As Sunrise does not expect the building to be ready for occupancy for approximately two years, the rates for this project have not yet been determined. Ultimately, those rates will be dependent upon market conditions. In general, resident fees are comprised of two components: housing and care. The housing component includes rent, utilities (gas, water, electricity), cable/internet, food (3 meals per day plus snacks), housekeeping, laundry, transportation to and from appointments, activities (including exercise programs), on-call staff, renter's insurance, and up to 45 minutes of daily care service. The resident fees for housing and associated services are based upon the type of housing selected (i.e., studio, one bedroom, or two bedroom, and sole or shared occupancy). The rates at Sunrise of Arlington range from approximately \$3,600/month to approximately \$6,750/month.

The care component is based upon the resident's individual needs. A schedule of current rates is attached hereto. Within Sunrise facilities in Massachusetts, the average monthly care fee is \$2,129 (Care Level 3 and Medication Management Level 1).

5. Can Sunrise expand the affordable contribution beyond three beds?

Sunrise's inclusion of three beds at no housing cost to the residents (see response to question 4, above) is a significant and meaningful contribution given the size and associated costs of the proposed building. Sunrise is unwilling to provide additional affordable beds.

6. Is there an entry fee?

No.

7. Does Sunrise charge by the bed or by the unit?

Sunrise charges individual residents. As noted above, there are two components to the charges: housing and care. With respect to housing, costs for a resident will vary depending upon the unit the individual selects, (i.e., studio, one bedroom, or two bedroom) and whether or not the individual shares that unit with another resident. With respect to care, all residents are assessed for their individual care needs upon admission, and a fee is paid for the individualized care plan. See response to question 4, above, for further details.

8. On what grounds was the need for 43 parking stalls determined?

Please see the attached parking calculation.

**SCHLESINGER AND BUCHBINDER, LLP**

Chairman Marc C. Laredo  
October 5, 2017

Page 3

9. What is the proposed timeline for demolition and construction?

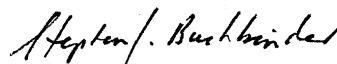
Approximately 18 months.

10. What is the security for memory-care patients?

All patients within the Sunrise Reminiscence Program live on a secure floor with 24 hour supervision.

In addition to the questions and answers listed above, I want to address one issue raised in the draft Council Order relating to proposed deliveries to the site. When the deliveries were going to be made off of Hovey Street, Sunrise agreed to restrict the times of delivery and the size of the delivery trucks as an accommodation to its neighbors. Now that the deliveries have been moved to Washington Street, Sunrise believes that greater flexibility would be appropriate. Accordingly, the petitioner proposes that deliveries be permitted between 6:30 a.m. and 8:30 p.m. Sunrise would further ask that the condition on the size of delivery trucks be removed.

Sincerely,



Stephen J. Buchbinder

SJB/mer  
enclosures

cc: (By Hand, w/enclosures)  
Councilor Gregory R. Schwartz, Vice Chair  
Councilor Scott F. Lennon  
Councilor Jacob D. Auchincloss  
Councilor James R. Cote  
Councilor John W. Harney  
Councilor Deborah J. Crossley  
Councilor Richard A. Lipof

Councilor Allan L. Ciccone, Jr.  
Councilor Alison M. Leary

Ms. Nadia Khan, Committee Clerk  
Mr. Barney Heath, Director, Planning and Development  
Mr. Michael Gleba, Senior Planner  
Ms. Amanda Berman, Housing Development Planner  
Ouida C. M. Young, Esquire, Deputy City Solicitor  
Robert J. Waddick, Esquire, Assistant City Solicitor  
John Daghlian, Associate City Engineer

(By First Class Mail, w/enclosures)  
Mr. Philip Kroskin

## SUNRISE SENIOR LIVING

### 2017 MONTHLY FEES FOR CARE AND MEDICATION MANAGEMENT

#### CARE

- Level 1 - \$0 45 minutes of service per day
- Level 2 - \$821 75 minutes of service per day
- Level 3 - \$1,582 120 minutes of service per day
- Level 4 - \$2,312 180 minutes of service per day
- Level 5 - \$3,012 240 minutes of service per day
- Level 6 - \$3,346 300 minutes of service per day

#### MEDICATION MANAGEMENT

- Level 1 - \$548
- Level 2 - \$700
- Level 3 - \$852

## PARKING CALCULATION

In terms of parking, the proposed project will provide 43 regular parking stalls on-site. Pursuant to Section 5.1.4.A of the Newton Zoning Ordinance (the "Zoning Ordinance"), an elderly housing with services facility requires 1 parking stall per every 2 dwelling units, 1 parking stall per every 4 nursing beds, plus 1 parking stall per every 3 employees. The proposed facility will not have "dwelling units" as defined under the Zoning Ordinance, as none of the units provide independent cooking facilities. The Zoning Review Memorandum dated February 27, 2017 confirms that in this situation, for the purposes of determining the parking requirement, only the number of beds and the number of employees would be used. Based on that determination, the parking calculation is as follows:

1 parking stall per every 4 beds

1 parking stall per every 3 employees

Total number of beds: 112

Total number of employees: 25

$(112 \text{ beds}/4) + (25 \text{ employees}/3) = 28 + 9 = 37 \text{ parking stalls}$

Since 43 parking stalls will be provided, the proposed facility will have sufficient parking.