

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #302-21 by eliminating below grade parking and reconfiguring the previously approved surface parking facility for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The specific site is an appropriate location for amendment to Special Permit #302-21, which amends the previously approved site plan's parking configuration as the proposed changes still comply with the required parking per the zoning and maintain the same access from Watertown Street as the approved plans. (§7.3.3.C.1)
2. The amendment to Special Permit #302-21, which amends the previously approved site plan's parking configuration will not adversely affect the neighborhood as the reduced number of parking stalls as the reduced number of parking stalls still comply with the project's approved parking ratio of 1.25 spaces per unit. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians created by the amendment to Special Permit #302-21, which reconfigures the site's parking and generally improves pedestrian and vehicular safety by increasing maneuvering aisle width and decreases the number of restricted end stalls. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved in the amendment to Special Permit #302-21, which reconfigures the site's parking, as the reduced number of stalls still exceed the required number of stalls. (§7.3.3.C.4)

PETITIONER: JLM Realty Trust

LOCATION: 386-394 Watertown Street

OWNER: JLM Realty Trust

ADDRESS OF OWNER: 386 Watertown Street Newton, MA 02458

TO BE USED FOR: Mixed-Use Development with ten dwelling units and 890 square feet of commercial space

RELIEF GRANTED: Amendment of Special Permit #302-21 per §7.3.3 to allow project changes to reconfigure the parking and eliminate below grade parking

ZONING: Business Use 1

The prior special permits for this property are Special Permits #201-17, #134-18, and #302-21. This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this Special Permit #342-24 are null and void.

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. Proposed Conditions Site Plan signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated July 8, 2024.
 - b. Parking Schedule, prepared by Ron Jarek, Registered Architect, dated May 24, 2024.
 - c. Architectural Plans, entitled "Park View Residences" 386-394 Watertown Street, signed and stamped by Ronald F. Jarek, Registered Architect, consisting of the following six (6) sheets, dated May 24, 2024:
 - i. Sheet SP.103 Roof Plan and Building Section
 - ii. Sheet SP.201 Front and Right Elevations
 - iii. Sheet SP.202 Left and Rear Elevations
2. The Petitioner, the Project, and the Inclusionary Units shall comply with all applicable provisions of the City's Inclusionary Zoning Ordinance, §5.11, in effect as of the date of this Special Permit/Site Plan Approval, regardless of whether such requirements are set forth herein.

- The bedroom mix of the Inclusionary Units shall be equal to the bedroom mix of the market-rate units in the Project. The proposed mix of the Inclusionary Units is:

	1BR	2 BR
Inclusionary Units	1	1

The final bedroom mix shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for the Project.

- The Petitioner shall provide a fractional cash payment in accordance with the City's Inclusionary Zoning Ordinance, §5.11, prior to the issuance of any certificate of occupancy.
- Monthly housing costs (inclusive of rent, utility costs for heat, water, hot water, and electricity, 1 parking space and access to all amenities offered to tenants in the building), must not exceed 30% of the applicable household income limit for that Inclusionary Unit and shall be consistent with Zoning Ordinance, § 5.11.4.D.1.
- Prior to commencing any pre-sale or pre-marketing activities, the Petitioner must submit an Affirmative Fair Housing Marketing & Resident Selection Plan (AFHMP) for review and approval by the Director of Planning and Development. The Affirmative Fair Housing 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 §5.11.8. of the Inclusionary Zoning Ordinance. The units will be affirmatively marketed and leased through a lottery. The nature and extent of the local preference scheme included in any final AFHMP submitted to DHCD for its review and approval shall be in accordance with the applicable provisions of the City's Revised Ordinances and/or Zoning Ordinance governing the percentage of local preferences for Inclusionary Units in a project in effect at the time of such submission to DHCD.
- Prior to the issuance of any building permits for the Project, the Petitioner shall provide a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the Inclusionary Zoning Ordinance.
- Prior to the issuance of any temporary or final occupancy certificates for the Project, the Petitioner, the City, and if applicable EOHLC 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.
- To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.

10. The Inclusionary Units shall be designed and constructed subject to the provisions of the Inclusionary Zoning Ordinance, §5.11.7.
11. Inclusionary Units, and their associated parking spaces, shall be proportionally distributed throughout the Project and be sited in no less desirable locations than the market-rate units, and the locations of such units and parking spaces shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for the Project.
12. No residential unit shall be constructed to contain or be marketed and/or sold as containing more bedrooms than the number of bedrooms indicated for said unit in the Project Master Plans referenced in Condition #1.
13. Any room that meets the minimum dimensional and egress requirements to be considered a bedroom under the state building code and Title 5 regulations shall be counted as a bedroom for purposes of determining the required bedroom mix of the Inclusionary Units in accordance with the Inclusionary Zoning Ordinance.
14. The cost of residential tenant parking for market-rate units shall be charged separately from residential tenant rents, and the rental period cannot commence prior to, nor extend past the end of, the rental period of the unit. At all times, the designated residential parking stalls shall only be rented to current residential tenants. Prior to the issuance of any certificate of occupancy for a market rate unit (temporary or final), the Applicant shall provide evidence of such separation to the Director of Planning and Development.
15. One (1) parking stall shall be available for each Affordable Unit without charge to the tenant of such unit.
16. The petitioner shall install signalization measures for the residential building's parking garage of highly visible parking warning signs designed to increase awareness of potentially hazardous situations and to alert entering and exiting vehicles of any oncoming vehicle(s). The petitioner shall provide evidence of signalization measures prior to the issuance of a building permit for this project.
17. The Petitioner shall make payments in the aggregate amount of \$18,777.75 to the City for infrastructure improvements for infiltration and inflow (I&I). Payments shall be made as follows:
 - a. \$9,388.50 at the issuance of any Building Permit for the Project.
 - b. \$9,388.50 at the first dwelling unit certificate of occupancy (temporary or final) in the Project
18. The Petitioner shall make payments in the aggregate amount of \$56,333.25 to the City for off-site transportation, pedestrian, or safety improvements or mitigation in the vicinity of the Project. The Petitioner's payments shall be made to a municipal account dedicated for such mitigation and improvements as follows:

- a. \$28,166.63 at the issuance of any Building Permit for the Project.
 - b. \$28,166.62 at the first dwelling unit certificate of occupancy (temporary or final).
19. Prior to the issuance of any Building Permit, 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 applicant and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
20. 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.
21. The Petitioner shall communicate regular construction updates to the Ward 1 City Councilors, to the Nonantum Neighborhood Association, and to all immediate abutters during construction, as appropriate.
22. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any building permit, the petitioner shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity prior to construction, and plan for preventing pest migration off-site during construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Planning and Development Department, Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any building permit.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of any temporary certificate of occupancy, the Pest Control Operator shall file a final report with the Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site and neighborhood assessment.
 - e. In the event any construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final) the petitioner shall offer rodent abatement services on an as needed basis for all immediate abutters and a waiver of liability.

23. The Petitioner shall comply with the Vibration Control Ordinance §5-23, as applicable to this project.
24. All construction activity shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-7:00PM on Saturdays, excluding holidays, unless waived by the Mayor in accordance with Revised Ordinances, §20-13. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed.
25. 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, the Commissioner of Public Works, the City Engineer, and the Chief of the Fire Department. The CMP shall comply with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the final Construction Management Plan, which shall be consistent with 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. The proposed schedule of the project, including the general phasing of the construction activities and anticipated milestones and completion dates.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging area(s) for construction and delivery vehicles, and location of any security fencing.
 - d. Proposed methods for dust control including, but not limited to, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; and locating a truck washing station to clean muddy wheels on all trucks and construction vehicles before exiting the site.
 - e. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. 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 practicable from noise sensitive locations.
 - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - g. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
26. The Petitioner shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
27. The Petitioner shall be responsible for repairing any damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a

final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.

28. Snow shall not be stored on site.
29. At the Petitioner's sole expense, the Petitioner shall locate all utility service lines on site underground, including any utility service lines along the Project's frontage on Watertown Street if such lines are present, subject to necessary approvals from utility companies.
30. No building permit for 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. Received approval from Director of Planning and Development for the Inclusionary Housing Plan and Affirmative Fair Housing and Resident Selection Plan which shall be authorized by the Mayor and provided evidence of submission of the Local Action Unit Application to EOHL.
 - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a copy of the pest and rodent remediation action plan in accordance with Condition #12.
 - g. Submitted a final Construction Management Plan (CMP) for review and approval in accordance with Condition #14.
 - h. Submitted a copy of the pest and rodent remediation action plan in accordance with Condition #12.
31. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and 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. 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 have been constructed to standards of the City of Newton Public Works Department.
 - d. 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.
 - e. 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.
 - f. Entered into a Regulatory Agreement and Declaration of Restrictive Covenants for each of the Inclusionary Units 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 Units in perpetuity.
 - g. Constructed Inclusionary Units and made them available for occupancy coincident with market rate units; such that no more than four market rate units may receive occupancy permits until the corresponding Inclusionary Unit has received its occupancy permit.
 - h. Provided a fractional payment in accordance with Section 5.11.5.B.
32. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
33. Provided that all other requirements in Condition #31 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may in their discretion, issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).