

CITY OF NEWTON
IN BOARD OF ALDERMEN
LAND USE COMMITTEE REPORT
TUESDAY, JULY 29, 2014

Present: Ald. Laredo (Chairman), Ald. Cote, Crossley, Harney, Lennon, Lipof, and Schwartz;
absent: Ald. Albright; also present: Ald. Norton
Staff: Stephen Pantalone (Senior Planner), Ouida Young (Associate City Solicitor), Linda
Finucane (Assistant Clerk of the Board), James Freas (Associate Director of Planning)

*Public hearing opened on January 14, continued to February 11 March 11, April 8; May 13,
June 3, June 10, and July 29:*

#424-13 UBC EQUITY PARTNERS, LLC/KS RETAIL MANAGE, LLC petition for a
SPECIAL PERMIT/SITE PLAN APPROVAL to allow a future potential mixture
of office, retail, services, restaurant, and storage uses, which will involve no
proposed physical changes, in an existing building and to waive 37 parking stalls
or to allow, if necessary, 40 off-site parking stalls in addition to the existing 185
parking stalls at 19-33 NEEDHAM STREET, Ward 5, Newton Upper Falls, on
land known as SBL 51, 28, 25B, 25C, 25D, containing approximately 109,396 sf
of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-13(b)(1),
(3), (4), (5), 30-19(f)(1), (2) *or* 30-19(c)(3), and 30-19(m) of the City of Newton
Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: Although the public hearing was opened and continued in January, the first presentation
took place on May 13. Attorney Alan Schlesinger represented the petitioner. There was no
public comment at any of the hearings. Please note that the Planning Department produced
three very detailed memoranda, dated May 6, May 30 and June 6, which are available online
under Board of Aldermen/Current Special Permits/19-33 Needham Street.

The site is located in a Mixed Use 1 zoning district that extends along the west side of Needham
Street and allows a mix of by-right and permitted commercial uses. Properties on the opposite
side of the street are in a Mixed Use 2 district, which allows more of a variety of uses, to the
northwest the zoning transitions to Manufacturing and Public Use. The property consists of a
109,396 square-foot lot that contains two attached c. 1960s buildings along Needham Street and
Easy Street and another smaller building in the west corner to the rear of the property. The site
abuts the Newton Upper Falls Greenway (Greenway). Current tenants include an automotive
retail store, which was the subject of special permit #141-92(2), and offices. A significant
portion of the commercial buildings are vacant. There is no proposed increase in the amount of
gross floor area on the site.

The petitioner is seeking a special permit to allow a mix of uses on the site, uses which will
include general retail, service, and warehouse, to allow flexibility in renting the vacant spaces.
The petitioner is also seeking a special permit to allow the leasing of off-site parking stalls
located within the MBTA right-of-way and Easy Street, a private right-of-way, and/or a waiver

of the number of parking stalls required with the proposed additional uses. The site functions as two separate lots, with the upper lot accessed via Easy Street and the lower lot accessed from Needham Street. As the unique shape and topography of the property limits the circulation of vehicles on and from the site and how the buildings function, the petitioner is also seeking waivers from the dimensional and design controls to legalize the existing noncompliant layout. The petitioner is seeking to create an aggregate parking demand cap to accommodate the proposed mix of uses with built in flexibility for future re-tenanting to eliminate the need for future tenants to request additional parking waivers as part of their permitting process.

The *2007 Newton Comprehensive Plan* identifies the Needham Street corridor as an area where a mix of uses could and should be accommodated. The Planning Department has no concerns about the proposed mix of uses on the site, but is concerned that the proposed parking and circulation configuration may lead to increased traffic congestion on and from the site at peak times in an area where studies indicate there is deficient traffic circulation. The Planning Department noted there appears to be a discrepancy between the amount of total square footage of buildings presented by the petitioner and the square footage for the buildings identified in special permit #141-92(2). The apparent discrepancy needs to be clarified as it will impact the parking demand. Although the layout of the parking appears to have been dimensionally compliant in the site plan approved in Special permit #141-92(2), it appears that since it was granted the parking layout has been restriped.

Currently, the property has 145 parking stalls, with an additional 29 stalls located on the adjacent MBTA property, and another 11 stalls on Easy Street for a total of 185 parking stalls. In addition, a number of stalls were waived by special permit #141-92(2), although the exact number actually waived is unclear. The proposed pavement marking plan shows 126 stalls on-site and 31 leased off-site stalls (23 located on the MBTA right-of-way and 8 along Easy Street). In order to establish a baseline to determine whether any additional parking stalls need to be waived, it's necessary to understand the number of stalls provided and waived under special permit #141-92(2). In accordance with the approved site plan, 121 stalls were shown on the site. An additional 37 stalls off site were also shown, but it does not appear that the stalls were formalized under the special permit approval. It is also unclear whether the dimensions and design of the parking facility shown on the approved site plan actually complied with the dimensional and design controls of the ordinance. The special permit does not indicate the number of stalls actually waived. Also, it appears the petitioner was required to remove approximately 15 stalls between the building and Needham Street. As a result, the Planning Department in consultation with the Law Department concluded that the previous parking waiver granted under special permit #141-91(2) was for between 37 and 68 parking stalls.

The petitioner has a license from the MBTA for an area currently used for parking at the northwest corner of the site, adjacent to the Greenway. Since the area will no longer be used for parking the Planning Department suggested that the pavement be removed. The area could be used for snow storage but, in any case, the edge of it should be re-vegetated with all-season plantings to screen the activities of the site and discourage vehicles from trespassing on the Greenway. The petitioner is willing to remove the pavement but will need permission from the

MBTA to do so. The petitioner is proposing to grant an easement to the city to allow pedestrian and bicycle access to the Greenway across its property and has agreed to install way-finding sign(s) to guide users across the property, as well as institute measures to minimize potential conflicts between pedestrians and vehicles on the site.

Subsequent to the May 13 meeting, the petitioner provided floor plans identifying the potential square footage allocation to each of the proposed uses. The total building square footage for existing and proposed uses appears to be approximately 66,289 square feet instead of the 74,860 square feet identified in special permit #141-92(2).

Easy Street is a private way owned by the petitioner and by National Lumber. With approximately 22 feet available to vehicles and pedestrians, the Planning Department is concerned about safe maneuverability and separation of pedestrians and vehicles. The city's Transportation Director expressed concern about the existing substandard angled parking stalls and the Easy Street parking configuration. He suggested that the diagonal parking stalls on Easy Street be converted to parallel stalls and that Easy Street be improved.

The petitioner also provided an update of the historic and proposed parking calculations, dated May 28, 2014. As of June 3, the Planning Department was awaiting comments from the city's Transportation Division on the Updated Parking Evaluation and Trip Generation Evaluation Report submitted by the petitioner, as well as a planting detail plan.

Prior to the June 10 meeting the petitioner provided a landscape plan. The Planning Department believes the proposed plantings will provide screening as well as deter vehicles from trespassing on the Greenway. On a visit to the site, the Planning Department noted that numerous existing planters on the site are either sparsely planted or not planted at all. The petitioner should rectify this to improve the visual appearance of the site.

Relative to the Updated Parking Evaluation and Trip Generation Evaluation Report, the city's Transportation Division remained concerned with the shared parking stalls along Easy Street, the duration and timing of the parking study, and the parking capacity of the preferred scenario. Mr. Schlesinger reiterated that the petitioner does not want to undertake additional parking counts on a vacant building. The Transportation Division had suggested it would like to meet with the petitioner's consultant, MDM Transportation Consultants. MDM provided the Transportation Division emailed correspondence and a revised Conceptual Site Improvement Plan, which after review the city's Transportation Division found to be satisfactory.

The petitioner spoke with Steven Kaitz of National Lumber about the use of Easy Street. Mr. Kaitz confirmed that National Lumber employees park on the northerly side of Easy Street and that the petitioner's tenants, employees, and customers park on the southerly side. There is an informal agreement that each will park on their own side of the street. The committee had asked if there is law on the issue of who can park in a private way. Mr. Schlesinger provided a case in which the Court affirmed that each abutter can park in 10' of the private way adjacent to its property.

MDM reviewed proposed marking of Easy Street for bicyclists and concluded that such markings would not meet the customary standards for bike paths, and would have the potential to cause confusion. The petitioner is not unwilling to do some type of marking, but it is MDM's assessment that it is more unsafe to have markings on Easy Street than to leave it unmarked. However, an alternative is directional signage, which the petitioner has agreed to provide. Signage could also urge caution to motorists and cyclists. The city's Transportation Division is satisfied with the updated Conceptual Site Improvement Plan which responded to its comments regarding bicycle route signage. After some discussion, the committee was convinced that the installation of bicycle route pavement markings was not advisable because the right-of-way does not meet the minimum dimensional standards. The petitioner is concerned about installation and maintenance of signage on the northerly half of Easy Street, which is owned and maintained by National Lumber; however, the petitioner has agreed to talk with National Lumber about installing signage on its side of the street. Easy Street does not meet the requirements for acceptance by the city. The Fire Department has reviewed and approved the proposed site plan and the access from Easy Street. The petitioner reported that he has a signed license agreement with the MBTA which will allow the petitioner to remove pavement adjacent the Greenway.

At the suggestion of the Planning Department, the petitioner has agreed to:

- Reconfigure the upper and lower parking lots, including removing parking stalls from in front of loading doors, removing the detached shed to improve maneuverability and removing stalls with inefficient turning movements
- Install way-finding signage at the terminus of the Newton Upper Falls Greenway and the intersection of Easy and Needham Streets
- Install landscape/screening between the upper parking lot and the Greenway and create a trailhead at the terminus of the Greenway.

Suggestions the petitioner found impracticable for the following reasons:

- Redesigning the parking stalls to comply with the dimensional controls of Chapter 30 would result in a substantial loss of parking stalls and require a larger parking waiver.
- Pursuing with the abutting property owner Avalon at Newton Highlands an internal drive aisle linking the two properties, which the Planning Department believes would provide improved turning on to Needham Street from an entry drive with adequate site distances, would be cost prohibitive and eliminate additional stalls in the lower parking lot, and the petitioner does not want to lose the existing turning movements from the lower parking lot via the existing entrance drive.
- Constructing a sidewalk segment along the northeast side of the building adjacent to Easy Street and reconfiguring the parking stalls on Easy Street in a parallel parking configuration would reduce the travel width of Easy Street to less than 18 feet, be costly, and result in a loss of parking stalls.

The Planning Department stated that it believes the petitioner has made a good attempt to address all of its concerns and it is satisfied with the revised site plan, which results in the waiver

of 18 additional parking stalls, with a total waiver of 53 stalls, for an aggregate parking demand cap of 200 parking stalls on the site, as well as waivers from dimensional and design controls.

Alderman Crossley moved approval of the petition with the findings and conditions enumerated in draft special permit #424-13, dated August 11, 2014. The motion to approve carried unanimously.

#230-14 CHESTNUT HILL SHOPPING CENTER LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to hold a temporary and seasonal open air farmers' market selling artisan foods and select crafts at 1-55 BOYLSTON STREET (THE STREET), Ward 7, CHESTNUT HILL, on land known as SBL 63, 37, 18A, 26, 27, 22, 25, containing approximately 20 acres of land in districts zoned BUSINESS 1 and 4. Ref: Sec 30-24, 30-23, 30-11(c), 30-11(d)(10) of the City of Newton Rev Zoning Ord, 2012.

ACTION: HEARING CLOSED; APPROVED 7-0

NOTE: The petition was presented by attorney Franklin Stearns of K&L Gates, LLP. The former Chestnut Hill Shopping Center received special permit #161-11(2) which authorized a new development pattern, site configuration pattern, and parking for the shopping center and rebranded it *The Street*. The petitioner is seeking a special permit to operate a seasonal open-air market on Sundays. Sunday is a slow day, and this part of the city is not served by this type of amenity, which will sell produce, artisanal foods, and crafts. The petitioner expects the market will operate April through October, approximately 11:00 AM to 3:00 PM. The vendor the petitioner has chosen to run the market operates the SoWa market, which has operated successfully for 10 years in Boston, and markets in New Hampshire and Vermont, as well as a holiday market in Hingham

The proposed market will necessitate closing a portion of the parking lot. The parking requirement to operate an open-air market is 30 stalls. Calculations indicate that based on the allowed aggregate parking demand for the site under the previously-approved special permit and the current uses, the proposed market does not require a parking waiver. The proposed use will utilize approximately 86 parking stalls for the market area tents, with 20 stalls for vendors. The Planning Department believes the proposed use will complement the current mix of uses and help to further activate the site. The city's Transportation Division reviewed the proposed site plan and did not raise any concerns. However, the Planning Department is concerned about the number of parking stalls that will be temporarily displaced and the temporary elimination of two parking aisles and the potential impact on circulation within the parking lot. The Planning Department suggested the petitioner employ staff to direct traffic during operating hours. In addition special permit #161-11(2) requires the petitioner to conduct a Parking Utilization "After Study" this fall, which will provide data on parking utilization at full occupancy and which can include operation of the market, should it be approved.

The petitioner at the request of the Planning Department identified commercial spaces that are closed on Sunday: the entire medical office space is closed as well as half of the non-medical office space – 70,000 square feet of space is not open on Sunday. There is ample parking.

Alderman Schwarz raised the issue of pedestrian safety. Mr. Stearns explained that because tents are considered structures, they cannot be placed closer to Hammond Pond; however there will be barricades and a defined pedestrian connection to restaurants, which are very popular on weekends, and stores. Staff will direct traffic, and additional signage will guide pedestrians and vehicles. The committee suggested a process whereby, at least initially, the petitioner would return to review how the displacement of the parking stalls and change in the circulation pattern were working. Ultimately, it decided that, like the special permit granted to Bloomingdale's when it displaces 90 parking stalls for its annual tent sale, it could grant a special permit through October 2015. At that time the petitioner can return and report how the market has functioned. The petitioner agreed that the Parking Utilization "After Study" will to the extent possible include a parking count of available stalls during the market's commercial operating hours.

There was no public comment. Alderman Crossley moved approval of the petition with the findings and conditions in draft special permit #230-14, dated August 11, 2014. The motion to approve carried unanimously.

Application for a Class 2 Auto Dealer License

#67-14(2) AUCTION DIRECT PRE-OWNED INC.
1545 Washington Street
West Newton

ACTION: APPROVED 7-0

NOTE: The petitioner was granted special permit #67-14 on April 22, 2014 for automotive service and sales. The petitioner now needs a license to operate its business. The special permit includes conditions that the maximum number of vehicles allowed on the site within the designated "vehicle storage areas" shall not exceed fourteen vehicles at one time. The petitioner must also provide a copy of the license to the Planning Department. Alderman Harney moved approval, which carried unanimously.

Hearing opened on June 10, continued to July 15, continued to July 29

#166-14 CREDERE VENTURES LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to enclose an existing carport in order to create a garage containing approximately 324 sf at 22 LENOX STREET, Ward 2, West Newton, on land known as SBL 32, 50, 5, containing approximately 9,353 sf of land in a district zoned SINGLE RESIDENCE 1.

ACTION: REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE APPROVED 6-0 (Laredo recused)

The meeting was adjourned at approximately 11:15 PM.

Respectfully submitted,
Marc C. Laredo, Chairman