

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 18, 2006

Present: Ald. Mansfield (Chairman), Ald. Merrill, Albright, Hess-Mahan, Vance, and Harney;
absent: Ald. Fischman and Samuelson
City staff: Nancy Radzevich, Chief Planner; Ouida Young, Associate City Solicitor; Linda
Finucane, Chief Committee Clerk; Lou Taverna, City Engineer, Martha Horn, Senior
Environmental Planner

#258-06 HIXSON ARCHITECTS/ENGINEERS/INTERIORS/FEDERATED
DEPARTMENT STORES petition for a SPECIAL PERMIT/SITE PLAN
APPROVAL for five signs: a 385 square-foot “Bloomindales’s” back illuminated
sign, pin mounted on the south façade above where the former “Filene’s” sign was
mounted; one 35 square-foot “Bloomingdale’s” non-illuminated sign, mounted on
the new central window of the south façade; two signs, each 50 square-foot
maximum, non-illuminated “tenant” signs mounted to the glass and masonry walls
adjacent to tenant entries of the south façade; and, one 39 square-foot
“Bloomingdale’s” non-illuminated sign, mounted to the wall between the entrances
on the north façade, at 225 BOYLSTON STREET, Wards 6 and 7, on land known as
Sec 65, Blk 8, Lot 99, containing approx 185,564 sf of land in a district zoned
BUSINESS 1. (Ref: Section 30-24, 30-23, 30-210(f)(2) and (l) of the City of Newton
Rev Zoning Ord, 2001.)

ACTION: APPROVED 6-0

NOTE: The public hearing opened on July 11. Architect L.T. Thorn of Hixson Architects
represented the petitioner Federated Department Stores. Federated has recently purchased the west
anchor building of The Mall at Chestnut Hill (The Mall). (Federated now owns both the east and
west buildings.) The former Filene’s space is undergoing by-right renovations and will house
Bloomingdale’s women’s department store currently located in the Chestnut Hill Shopping Center.
The petitioner plans to open for the 2006 holiday season. Included in the renovations is the
proposed installation of five new wall-mounted signs on the north and south facades.

Because there are existing freestanding signs on-site the five proposed signs are considered
secondary signs; however, only two of the signs require special permit relief:

- Sign 1, the large-scale “Bloomingdale’s” illuminated sign, 385sf, mounted on the south
façade wall--for size and
- Sign 2, the “Bloomingdales” non-illuminated sign, 33sf, mounted on a new central window
of the south façade over the main doorway--for a second secondary sign.

The remaining three signs, non-illuminated and each not exceeding 50sf are permitted by right and are included for informational purposes. Two of those signs are reserved for future tenants that will occupy space within Bloomingdale's, e.g., a spa. As required, the petitioner appeared several times before the Urban Design and Beautification Commission. The petitioner upon the advice of the UDBC modified the large-scale sign. The UDBC suggested that a comprehensive signage program be developed for The Mall as a whole because, although the petitioner only owns the two anchor ends of the building, The Mall essentially functions as one site. (Subsequent to the public hearing, the committee received a letter dated July 14 from Simon Property Group, owner of The Mall, in which stated their opinion that such an overall signage program was premature, but indicated Simon's willingness to work with the city in the future independent of the Bloomingdale's petition.)

The committee questioned the size of Sign 1 compared to the 185 square-foot "Filene's" sign and the other Bloomingdale's signs on the Bloomingdale's home furnishing and men's stores. Is it illuminated from the rear? When will it be turned off? With respect to Sign 2, will there be any backlighting from retail space behind the window, and if so, when will those lights be turned off? There was no public comment and upon a motion by Ald. Hess-Mahan, the hearing was closed.

At this evening's working session the committee reviewed a letter from Mr. Thorn of Hixson Architects attached to the Planning Department working session memorandum in which he responded to questions asked at the hearing. There are two existing identical signs for the home furnishings and men's store at the east and south facades. Each sign, approximately 11' tall by 35' in length, equals in effective area the 7' tall (not including the tail of the letter "g") by 55' in length of the proposed 385 square-foot Sign 1. This takes into account the area covered by the sign including the spaces between lines of text. Proposed Sign 1 will be aligned with the existing signs at the top to the curtain wall frame, closely matching the top of the parapet of The Mall, approximately 36' above the sidewalk to the top of the text. Although Sign 1 has almost twice as many letters as the previous "Filene's" sign, it compares nearly equally to the existing home and men's store signage. It will be illuminated internally with a neon tube inside the letters. The front face and sides of the letters are solid. Light shines out the back onto the wall.

Proposed Sign 2, over the new central window on the south façade, is non-illuminated and will be mounted 2' out from the exterior face of the glass of the window. The window is lighted internally from the sill and head, but lighting will not be directed at the sign. A sheer curtain combined with the internal lighting would serve as a luminous backdrop for the black sign. All lighting will comply with the provisions of Chapter 30 §20(i)(4) which prohibits lighted signs between the hours of 11:00 p.m. and 7:00 a.m., except ... in the case of commercial establishments, signs which may be lighted during a period extending from one half- hour before opening for business and to one-half hour after closing. This would be included as a condition of the special permit.

Mr. Thorn's letter also addressed the Planning Department's reference to the UDBC's request for a comprehensive sign package for The Mall. He explained that the two anchor stores owned by Federated and the Simon building are located on separately owned parcels. Federated and Simon

have discussed a comprehensive sign package, but Simon Properties is not planning any exterior renovations in the near future.

Ald. Vance moved approval, finding that the size of Sign 1 is justified because of the setback from Route 9 and is an appropriate size for the length of the façade; Sign 2 will distinguish the main entrance from future tenants; and, there is no adverse impact on the neighborhood. The committee agreed and voted 6-0 to approve the petition.

#317-03(5) CITY OF NEWTON/CHESTNUT HILL SHOPPING CENTER LLC/C&R REALTY TRUST, DANIEL E. ROTHENBERG & JULIAN COHEN, TRUSTEES petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to remove three parking spaces at 33-55 BOYLSTON STREET, Ward 7, CHESTNUT HILL, to allow the installation of a bio- retention area to improve the quality of stormwater runoff going overland into Hammond Pond in furtherance of the Hammond Pond Stormwater Management Grant to the City of Newton, on a portion of the land known as Sec 63, Blk 37, Lot 26, containing approximately 381,805 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, and 30-19(c), (d), (m) of the City of Newton Rev Zoning Ord, 2001.

ACTION: APPROVED 6-0

#317-03(6) CITY OF NEWTON/CHESTNUT HILL SHOPPING CENTER LLC/C&R REALTY TRUST, DANIEL E. ROTHENBERG & JULIAN COHEN, TRUSTEES petition for SPECIAL PERMIT/SITE PLAN APPROVAL for adjustments to and partial relocation of preexisting and nonconforming parking stalls along the shoreline of Hammond Pond to allow for the installation of a bio-retention area to improve the quality of stormwater runoff going overland into Hammond Pond in furtherance of the Hammond Pond Stormwater Management Grant to the City of Newton, at 33-35 BOYLSTON STREET, Ward 7, CHESTNUT HILL, on a portion of the land known as Sec 63, Blk 37, Lot 26 containing approximately 381,805 sf of land in a district zoned BUSINESS 1, Ref: Sec 30-24, 30-23, 30-21(b), and 30-19(m) of the City of Newton Rev Zoning Ord, 2001.

ACTION: APPROVED 6-0

NOTE: The public hearing opened on July 11. City of Newton Senior Environmental Planner Martha Horn presented the petition. City Engineer Lou Taverna also was present. In January 2003, the City through the Conservation Commission and the Hammond Pond Task Force received approval of a \$149,500 grant from the Massachusetts Department of Environmental Protection (DEP) for stormwater improvements near Hammond Pond. This petition would implement Phase I of two, or possibly three phases, (Phase II is water treatment) of the *Hammond Pond Stormwater Management Master Plan*, prepared by Horsley & Witten (now Horsley Witten Group) in 2002. In December of 2003, the Board approved the removal of three parking spaces for the installation of a bioretention facility in the same location, but the two-year period in which to exercise the permit has lapsed. The Mayor has obtained an extension for the grant funding through May 2007. Ms. Horn clarified that, although there are two docket numbers, this is actually one petition that

proposes to remove three existing parking spaces and relocate 45 non-conforming parking spaces within the existing non-conforming parking lot at the Chestnut Hill Shopping Center in order to install a bioretention facility. A bioretention facility consists of porous soil, a topping layer of common hardwood mulch, and installation and establishment of a variety of different native plant species. The area where the three parking spaces proposed for relocation are situated is adjacent to the Pond and experiences recurrent “pooling” of rainwater that significantly affects the parking lot’s drainage pattern. The bioretention facility will aid in filtering waste in the surface water runoff from the parking lot. The asphalt where the three spaces are located will be removed and replaced with a layer of soil and types of vegetation especially effective at filtering out impurities from the water. Ms. Horn explained that the City and the owner of the Chestnut Hill Shopping Center, who is the co-petitioner, have an easement agreement that includes permission for the City to perform work on its property.

Section 30-19(m) and 30-21(b) authorize the Board of Aldermen to approve the elimination of the three parking spaces and partially relocate 45 existing dimensionally non-conforming spaces adjacent to Hammond Pond’s shoreline in an existing non-conforming parking lot. (The re-stripping of another eight spaces is not subject to the special permit request.) The three spaces slated for removal and the 45 spaces proposed for relocation are located directly behind the current Bloomingdale’s women’s department store. Although Star Market, located on Lot 25, has agreed through a separate special permit (appeal currently pending in Land Court) to contribute \$150,000 to a future phase of the project, all work subject to this petition will occur on Lot 26.

The Planning Department noted that since the current maneuvering aisle is excessively wide, the reconfiguration of the parking layout and the reduction in aisle width from 30-36’ to 24’ should act as a traffic calming measure, resulting in a safer environment for pedestrians and vehicles. The Committee asked that the Fire Department and City Traffic Engineer review the reconfiguration of the parking and maneuvering aisle for the working session.

A question arose concerning the sufficiency of funding. Ms. Horn said the DEP has agreed to reimburse the City through the grant money for in kind work performed by the Department of Public Works as the contractor. The Committee asked to see a draft Construction Management Plan.

There was a question concerning snow storage. Where is it stored? How does it affect the Pond? Ms. Horn said the snow would be contained and treated to minimize harm to the Pond.

The plan shows an engineer’s note relative to a walkway adjacent to the pond. Ms. Horn said it is desirable and a dream of Representative Ruth Balser, but not part of Phase I.

One person, a resident of Chestnut Hill who is also a commercial tenant in the shopping center, spoke. She is concerned about the snow being properly stored and treated. She mentioned that turtles nest between the pond and the parking spaces where the future walkway might be located. She asked if this petition is related to the \$150,000 from Star Market. Ms. Horn is aware of the

nesting turtles. She reiterated that the Star Market money is to fund Phase II and is separate from this petition.

There was no other comment and upon a motion by Ald. Hess-Mahan, the hearing was closed.

At this evening's working session the Committee reviewed the Planning Department memorandum prepared in response to questions raised at the public hearing.

Two petitions were docketed for what is essentially one petition at the suggestion of the co-petitioner's attorney, who thought it would clarify the difference between the previously approved special permit for the removal of 3 spaces and the addition of the relief needed under 30-21(b) involving the reconfiguration of the spaces. Apparently, instead of illustrating the difference, the docketing of two petitions became somewhat confusing; however, the Law Department assured the Committee that both petitions could be handled in one decision. The co-petitioner's attorney agrees.

A total of five bioretention areas will be installed, but only two need a special permit. As explained at the hearing, the City will be the contractor. Some work will be a matching contribution as is some of the time put into the project during the design and planning phases. The grant has been restructured by the DEP so that work and material cost outlays by the DPW will be reimbursable, the same as if the DPW were an independent contractor. The walkway shown but not part of this project will be removed from the plan.

The Preliminary Construction Management Plan, including phasing, attached to the Planning Department working session memorandum needs to be reviewed and agreed to by the co-petitioner. Ms. Young suggested this be a condition of approval of the permit. The easement agreement between the City and the co-petitioner was executed in May. This agreement controls the project. The City must adhere to a time schedule in order to complete the project by May of 2007. The agreement stipulates a cessation of work from the beginning of the holiday season in October until January. City Engineer Lou Taverna believes the work can be completed within the timeframe without jeopardizing the grant.

Assistant Chief of Operations for the Fire Department Bruce Proia reviewed the plan and said the 24' width of the maneuvering aisle will give the fire department sufficient width for accessibility. He noted that the 24' must be maintained at all times, with snow removed during the winter months and vehicles towed if parked illegally. The Committee observed that this was being treated essentially as a fire lane.

City Traffic Engineer Clint Schuckel also reviewed the plan and concurred that the proposed design provides sufficient aisle width for vehicle maneuvering. It provides a traffic calming benefit by narrowing the aisle from 30-36' to a uniform 24'. He said that although the spaces remain non-conforming, the modifications represent an improvement over current conditions.

In response to a question about discouraging Canada geese, Ms. Horn said that she has taken the MSPCA training and will be working to implement many of those suggestions, including the planting of certain species, providing educational information to visitors, etc.

Alderman Vance moved approval of both petitions finding that the removal of three parking spaces in order to implement the stormwater management plan will provide a public benefit, one that has been previously approved by the Board; and that the reconfiguration of the 45spaces will provide better fire access and create a traffic calming benefit. The special permit will reflect the easement agreement and the amended Order of Conditions, modified to reflect the new plans and extension of time to allow completion of the project. The Committee voted approval 6-0.

The meeting adjourned at approximately 9:20 PM.

Respectfully submitted,

George E. Mansfield, Chairman