

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, JULY 20, 2004

Present: Ald. Mansfield (Chairman), Ald. Salvucci, Albright, Fischman, Samuelson, and Merrill; absent: Ald. Harney and Vance

City staff present; Ouida Young, Associate City Solicitor; Alexander Ananth, Planner; Eric Jerman, Senior Planner; Linda Finucane, Chief Committee Clerk

REQUEST FOR A CONSISTENCY RULING FROM CHESTNUT HILL SCHOOL RE PLANTING ALONG CHESTNUT HILL ROAD PURSUANT TO SPECIAL PERMIT #96-02.

When Planner Alexandra Ananth visited the site to sign off for completion of the special permit granted in 2002 to extend a non-conforming structure she noticed the landscaping along the Chestnut Hill Road portion of the property did not match what was shown on the approved site plan. Apparently the trees noted on the approved plan were an inappropriate species that didn't survive the winter. She pointed out that the landscaping was not intended to screen anything, just provide additional green and that the existing landscaping is beautifully done and complements the plantings on surrounding properties on that private way, including a total of ten new trees, appropriate for the climate. The Committee's agreed this is a minor change to the approved site plan and asked Ms. Ananth to convey that to the Commissioner of Inspectional Services.

#75-03(2) GALAXY AUTO BODY, INC. request for an EXTENSION OF TIME in which to EXERCISE Special Permit #75-03, granted on April 7, 2003, for the relocation of an auto body shop, including a first-floor addition of approx 240 sf to be located in the side yard at 30-36 BORDER STREET, Ward 3, WEST NEWTON, on land known as Sec 33, Blk 15, Lot 234, containing approx 14,448 sf of land in a district zoned MANUFACTURING. Ref: Sec 30-24(c) (4) of the City of Newton Rev Zoning Ord, 2001.

ACTION: ONE-YEAR EXTENSION OF TIME APPROVED 6-0

NOTE: The Petitioner's attorney submitted a letter stating that many months have been spent resolving numerous issues relative to financing, engineering, and water and sewer line requirements proposed by the acting City Engineer. When this petition was discussed in March, 2003, that Land Use Committee recalled drainage problems that surfaced in its review of a previous petition located directly across the street and, although it felt it was the City's responsibility, was pleased this petition included certain drainage improvements to capture additional runoff and environmental contaminants. The Petitioner worked with the Engineering Department to obtain a video examination of the culvert running under Border Street, and has undertaken that project. The special permit allowed delay of the front façade improvements until

2004, when the tenant's lease expired. The Petitioner recently sent architectural plans to two general contractors for bidding. Attorney Young explained that although Section 30-24 requires an extension of time either before or after expiration of one year to exercise a special permit, MGL chapter 40A allows two years. Section 30-24 requires no particular standards, other than "good cause" for granting an extension. Ald. Samuelson said this well-run business provides an important service to the community. Upon a motion by Ald. Salvucci, an extension of time through April 11, 2005 was approved 6-0.

#285-04 BLOOMINGDALE'S DEPARTMENT STORES, INC./FEDERATED DEPARTMENT STORES, INC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL for a 5-YEAR permit for a temporary tent to hold an ANNUAL rug sale in August not to exceed 15 days and the temporary displacement of approximately 90 parking spaces for the event at 225 BOYLSTON STREET, CHESTNUT HILL, Ward 7. REF: Sec. 30-24, 30-23, 30-11(d)(10), 30-19(m) of the City of Newton Rev. Zoning Ords., 2001.

ACTION: APPROVED 6-0

NOTE: The Petitioner seeks permission pursuant to Section 30-11(d) to hold its annual outdoor rug sale and pursuant to 30-19(m) to temporarily remove approximately 90 parking spaces in order to erect the tent in which to hold it. Bloomingdale's has sought and been granted permission from the Board of Aldermen to hold this event since 1996. Traditionally, late August is a slow retail period and the loss of 90 spaces does not affect the parking. For the first three years the permit was granted annually; however, since there was no substantial change year-to-year, the Land Use Committee suggested in 1998 that the Petitioner request a five-year permit, which the Petitioner did ask for and was granted in 1999. There was no testimony at the public hearing on July 13. The Committee discussed whether there was a need for the Petitioner to return repeatedly, or whether to grant a special permit that might be reviewed administratively each year. Ultimately, the Committee concluded it was comfortable with the five-year permit. Ald. Samuelson moved approval, finding there is sufficient parking to accommodate the special event sale because it occurs at a time when parking demand is low and that there is no substantial change anticipated re the use of the special event, i.e., the sale of rugs. Given the possibility of future development on Route 9, the Committee agreed to include a condition requesting that if the Petitioner seeks to continue the tent sale beyond five years, it will conduct a parking demand survey during the summer of 2008 (not necessarily during the time of the tent sale), and the survey will be submitted with the re-application for continued tent sales. The motion to approve carried 6-0.

#2110-04 OMNIPOINT HOLDINGS, INC. (WHOLLY-OWNED SUBSIDIARY OF T-MOBILE USA, INC.)/ANDOVER NEWTON THEOLOGICAL petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to install façade-mounted wireless communication equipment consisting of four 72"x12"x4" panel antennae, one attached to each of the two existing chimneys on Worcester Hall and two attached to the eastern chimney at Fuller Hall; a GPS/E 911 antenna attached to a chimney on each of the two buildings; a connection from the antennae on Worcester Hall to three base transceiver station (BTS) units to be located in a newly constructed 8'x10' masonry enclosure adjacent to the building's north side and from the antennae on Fuller Hall to BTS units located in the attic at 210 HERRICK

ROAD, Ward 6, NEWTON CENTRE, on land known as Sec 65 Blk 19, Lot 45, land in a district zoned SINGLE-RESIDENCE 3. Ref: Sec. 30-18(A)(e)(3) and (f), of the City of Newton Rev Zoning Ord, 2001.

(9/8/04)

ACTION: APPROVED 6-0

NOTE: The Committee held this petition on June 8 pending receipt of revised plans reducing by 6" the height of the antennae on Fuller Hall and placing the coaxial cable trays on Worcester Hall internally, changes recommended by the Historical Commission. Revised plans were submitted on July 2. A question arose at the last meeting about the Historical Commission's role and jurisdiction. Although neither Worcester Hall nor Fuller Hall is considered an historic resource by itself, they are part of the campus which is on the National Register. Because the campus is on the National Register the Massachusetts Historical Commission reviews all installations of this type. Ms. Ananth explained that the Newton Historical Commission, per agreement with Mass Historic, forwards its review to Mass Historic, which in turns stamps its approval, a pro forma process. Ald. Salvucci moved approval finding the placement of the equipment shed 17' from the property line shared by Andover Newton and Hebrew College, two non-profit institutions, which normally would require 30', appropriate given the change in topography and the fact it abuts a parking lot. The effects are minimized visually by the shorter antennae that will be painted to match the chimneys and the internal placement of the cable trays. The usual boilerplate relative to maintenance and removal of the equipment will be included as conditions. The motion to approve carried 6-0.

Since the 90 days will expire on August 10th, the Petitioner agreed to a further extension of time in which to act on petition #210-04, which was also approved 6-0.

#213-04 BROOKLINE STREET, LLC, c/o MARK KAPLAN, 99 BALDPATE HILL ROAD petition to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL nos. 504-80 & 504-80(2) by subdividing an existing 61,498 square-foot lot at 333 BROOKLINE STREET, Ward 8, into two lots in order to construct two single-family dwellings. Front Lot B, containing 26,226 sf, will be accessed through a permanent easement on the adjoining lot and rear Lot A, containing 32,224 sf, will be accessed from Brookline Street, with the remaining 3,049 sf conveyed to the abutter at 363 Brookline Street. The land, also known as Sec 82, Blk 20, Lot 15, is located in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15(b)(4), 30-15 Floor-area-ratio, 30-19(f)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2001. **(9/23/04)**

ACTION: HELD 6-0

#213-04(3) EXTENSION OF TIME in which to ACT on BROOKLINE STREET, LLC, c/o MARK KAPLAN, 99 BALDPATE HILL ROAD petition #213-04 to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL nos.504-80 & 504-80(2) by subdividing an existing 61,498 square-foot lot at 333 BROOKLINE STREET, Ward 8, into two lots in order to construct two single-family dwellings; said EXTENSION will run from SEPTEMBER 9, 2004 to SEPTEMBER 23, 2004.

ACTION: APPROVED 6-0

NOTE: The petition was heard on May 11, 2004. The request is to amend special permits/site plan approvals granted in 1980 & 1981 for a rear lot subdivision that created 5 lots, including two rear lots at 327, 233, 341, 343 and 363 Brookline St. That petition left the original house at #333 on a 61,498 sf. Lot, and four new homes were built on the adjoining lots. The current petition proposes to divide the original lot at #333 into two lots, one of which is a rear lot, to demolish the existing house and build two new houses. In addition, two common driveways presently serve four of the lots, with the lot at #333 sharing both through a circular driveway. The petition seeks to extend the common driveway to the east to serve the new rear lot while the driveway to the west would become an individual driveway to serve only #363. The new front lot would be served by a new individual driveway, increasing the curb cuts on Brookline Street by one.

At the public hearing, many neighbors were present but none spoke against the petition and only one spoke in favor. An abutter who owned one of the original rear lots submitted a letter in opposition, but he subsequently sold the property.

The existing house was built in 1925, is about 3,200 sf., and is set back from the street 144 feet. The Historical Commission found the house was preferably preserved and imposed a demolition delay period in 11/02, but that period has expired, and the petitioner hold a demolition permit. The owners chose not to work with the Commission in the design of the new homes in exchange for waving the demolition delay. The main relief sought is the rear lot subdivision and the shared driveway. Ald. Samuelson asked what standards should the Board consider, and Ms. Young replied that there were no specific standards for rear lot subdivisions or common driveways beyond the general special permit standards. For the driveways, however, she suggested a finding that literal compliance with individual driveway may not be practical, and for safety reasons, sharing is encouraged. Initially, the Planning Department recommended that to minimize curb cuts at a dangerous curve in the roadway, the common driveway to the west should be retained to serve #363 and the new front lot. But the petitioner proposed the new curb cut to obtain the support of the abutter at #363. Ald. Fischman described there choices: keep the shared driveway with #363, expand the shared driveway to serve 5 homes at the east entrance, where sight lines are better than on the west, or do what the petitioner proposed. Another issue addressed was that the width of the shared driveway would be increased from 13' to 14' at the request of the Fire Dept. The Planning Dept. recommended a 12' width.

The Committee also noted that the new homes would be over 5,000 sf. in floor area, larger than anything else on Brookline St., and the front house is essentially at the maximum for FAR and lot coverage. Some members were concerned with the amount of paving proposed, 12% on the rear lot and 7% on the front lot. A tree removal plan was filed on July 9, showing 16 trees to be removed, none along

the street frontage. The Tree Warden has not yet reviewed this plan. The petitioner has not presented a current landscape plan. The City Engineer asked that a leaching galley be relocated.

The Committee requested and obtained agreement from the petitioner to an extension through 9/23/04, in order to receive a revised landscape plan, a plan for screening at the rear of the property, and the Tree Warden's review. Ald. Fischman also asked for a template to be applied to the driveways to see if pavement could be reduced. The extension was approved 6-0, and the item was held 6-0.

#164-04 McDONALD'S CORPORATION (McCOY ASSOCIATES, INC. – FRANCHISEE) petition to AMEND SPECIAL PERMIT/SITE PLAN APPROVAL #140-78) and for an EXTENSION of a NON-CONFORMING USE to rehabilitate an existing 136-seat restaurant with the addition of drive-through and pick-up windows on the south side of the building; a menu display board, reconfiguration of the existing parking area, including lights, curb cut, signage and landscaping, and the addition of new exit driveway at 111 NEEDHAM STREET, Ward 5, on land known as Sec 51, Blk, 28, Lot 16, containing approx 40,335 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2), 30-21(b), 30-13(b)(1), (5), (16), 30-19(m), 30-20(l), of the City of Newton Rev Zoning Ord, 2001. **(9/9/04)**

ACTION: DENIED 3-1-2 (Ald. Samuelson, Albright and Mansfield in the affirmative; Salvucci opposed; Fischman and Merrill abstaining)

NOTE: This petition was heard on May 11, 2004, and was discussed at two previous working sessions of the Committee on June 8 and June 22. Those discussions have been reported on previously. The Petitioners are seeking to demolish the existing McDonald's restaurant on Needham Street and reconstruct a slightly smaller restaurant with a drive-through in approximately the same location. The new building would have a reduced number of seats, 105 instead of the present 136, and the site would provide 39 parking spaces instead of the present 74.

Although other matters were discussed, such as noise generation, site lighting, landscaping and signage, the Committee identified the most important issues to consider in evaluating this petition were traffic generation and traffic and pedestrian circulation on site, including entering and existing the site from Needham Street. Consequently, City Traffic Engineer Clint Schuckel attended the June 22 meeting to answer questions and to respond to points raised by the Petitioners' traffic engineer, VHB, Inc. Following that discussion, Ald. Samuelson moved denial of the petition, but most Committee members believed they needed more empirical data in order to vote on any motion, and asked the City Traffic Engineer to visit other local McDonald's sites that had been reported on by VHB to observe how the drive-through lanes worked at peak lunch hour traffic volumes.

Mr. Schuckel submitted a memorandum reporting on his observations July 13, 14 and 15 at locations on California Street in Nonantum, Soldiers Field Road in Brighton, and Route 9 in

Natick. In a memo dated July 19, he found the volumes slightly higher than VHB had reported, attributing this increase to a seasonal difference. He concluded that the proposed drive-through on Needham Street could experience as many as 110-120 vehicles per hour with a maximum queue of up to 13 during the peak lunch hour. VHB commented on the City Traffic Engineer's memo in their own memo of the same date, confirming the reasonableness of his findings and asserting that the site design for the Needham St. location would allow space for 14 vehicles in a queue without disrupting circulation, and 18 vehicles without encroaching onto Needham St.

For this meeting, the Petitioners also submitted revised plans that sought to improve site circulation and resolve potential conflicts between vehicles entering and exiting the site, between those using the drive-through lane and the parking stalls, and between vehicles and pedestrians. These revisions included extending the raised cobblestone pavers at the entrance to "channelize" the traffic, relocating parking spaces and assigning the spaces closest to the entrance to employees to minimize their turnover, expanding the marked and textured pedestrian walkways within the parking area, installing a safety rail at the exit door to prevent customers from stepping into the drive-through exit lane, and installing a yield sign, if feasible. The plans also moved the menu order board so that its lights and speaker no longer faces the adjacent residential Avalon property. Finally, McDonald's agreed to limit the drive-through hours of operation to 6 AM to 11 PM daily. (The original proposal had been to operate until 1 AM.)

The Committee discussed these changes and the Traffic Engineer's observations. Unfortunately, although both the Chair and the Planning Department had anticipated that Mr. Schuckel would attend the meeting to answer any questions about his observations, he was not in attendance. Ald. Mansfield explained that he would liked to have been able to ask for more details about the layouts of the other sites, and whether Mr. Schuckel had observed the queues there forming in the manner in which they are depicted on the Petitioners' plans, essentially all medium-sized cars stacked bumper to bumper. This, he explained, is an important question since the site may not be able to accommodate a 13-vehicle queue if some of the vehicles are trucks or large vans and/or drivers leave spaces of a car-length or more between vehicles, especially between the order board, the payment window and the pick-up window. He also noted, as had been observed in earlier discussions, that drivers have only one or two parking spaces and no pull-out zones after leaving the drive-through and before exiting the site onto Needham St. This could be both an inconvenience and a safety hazard, he suggested, and he would have liked to ask the Traffic Engineer if the other sites were better designed for this use.

After reconfirming that the proposed new mix of uses is expected to generate 115 new trips during the peak hour, a 49% increase in traffic, the Committee reviewed a list of draft conditions of approval prepared by the Planning Department, taking into account the recent revisions offered by the Petitioners. These also include previously agreed-to conditions about tying the exercise of the special permit to the installation of the traffic signal at the Avalon entrance and means of resolving noise and light impacts upon the residential neighbors. This list is attached to this report. The Committee also considered letters from five residents stating opposition to this petition, two of whom being members of the Newton Highlands Area Council, and two members of CPAC.

Ald. Samuelson, once again, moved denial of the petition, finding that that the proposal does not meet the City's planning goals for Needham St. by introducing a use that encourages vehicle use and discourages pedestrian, walk-in customers both by offering the drive-through and reducing the seating capacity. She also found that the proposed use would increase traffic on Needham St., already rated level of service F, and the extension of the non-conforming use would be substantially more detrimental since the site design poses new dangers to pedestrians and vehicles and this increased traffic in the "front yard" of the new 300-unit apartment complex is incompatible with this residential use. Ald. Merrill added his concerns about the increased traffic, as well as concerns about the health effects of reduced local air quality from the exhaust of idling vehicles in the drive-through queue. Ald. Fischman compared the benefits of the proposal, the potential of safer left turns out of the site via the Avalon driveway signal, which also will provide a pedestrian cycle, with the detriments of cross traffic conflicts on site, increased noise, and potential gaps in the queuing backing traffic onto Needham St. He concluded he would abstain from the vote. Ald. Salvucci cited the 598 additional weekday trips and the 346 additional Saturday trips anticipated by the proposal, but explained that if the Traffic Engineer believed the site could handle this increase, he could not support the motion to deny. Ald. Albright, however, voiced support for the motion, noting that the proposed cross traffic on site reminded her of the pattern on the bridge at Newton Corner, a danger for both vehicles and pedestrians. Ald. Mansfield said that while the site revisions proposed by the Petitioners were a significant improvement over the original plans, he agreed with Ald. Samuelson's findings that a drive-through use was inconsistent with the City's goals for Needham St. and was also a particularly poor use for this constrained site, being better suited to highway commercial areas where more land was available and pedestrians were not a factor. The motion to deny was approved by a vote of 3-1 with 2 abstentions, Ald. Salvucci opposed, Ald. Fischman and Merrill abstaining

#237-04 PEAK FITNESS, LLC/SEYMOUR SALETT, TRUSTEE, JACK REALTY TRUST petition to AMEND the site plan and parking waiver granted in SPECIAL PERMIT/SITE PLAN APPROVAL/ EXTENSION NON-CONFORMING STRUCTURE #166-93, granted July 12, 1993, to allow a service establishment and related parking to be located in an existing structure at 70 JACONNET STREET, Ward 8, NEWTON HIGHLANDS, on land known as Sec 83, Blk 28, Lot 3, containing approx 18,548 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, 30-13(b)(4), 30-21(a)(2)b, 30-21(b), 30-19(m) of the City of Newton Rev Zoning Ord, 2001. **(9/13/04)**

ACTION: APPROVED 4-0-1 (Mansfield abstaining; Merrill not voting)

NOTE: This is a petition to amend the site plan and parking waiver granted in Special Permit #166-93 for an auto parts business to allow a service establishment, providing adult personal fitness training and gymnastics classes for children, with related parking, to be located in an existing structure at 70 Jaconnet St. Jaconnet St. is a private, dead-end street with both commercial and residential uses located off Needham St. The relief requested includes a 7-space parking waiver, as well as landscape and lighting waivers associated with the parking, and the extension of use of a non-conforming building, as well as the permissive use for a service establishment in a Mixed Use 1 zoning district.

A public hearing was held on June 15, 2004 and this is the first working session discussion of this petition. One resident of Newton Highlands and the mother of one of the petitioners spoke in favor of the petition at the hearing. A traffic and parking analysis was submitted, prepared by Kenneth Cram, P.E., and the Committee asked for the City Traffic Engineer's review of this analysis. A series of memos were prepared by the petitioners' engineer and the City Traffic Engineer, proposing and reviewing a complex schedule of personal training sessions and gymnastics classes structured to maintain a parking demand of not more than 24 spaces, the number available on the site. In addition, the petitioners propose four 15-minute spaces signed for Peak Fitness drop-off/pick-up only on Jaconnet St. in front of the building. (Since Jaconnet St. is a private way, the petitioners have control of those spaces.) In his most recent memo, July 15, 2004, Traffic Engineer Clint Schuckel concluded that the petitioners had addressed all his previous concerns.

With the assistance of the Planning Department, the Committee reviewed the program, the site plan, the floor plans, and the traffic and parking associated with the petition. As proposed, the gymnastics classes for children would operate 7 days per week with a maximum of 5 children per class, each with an instructor, and no more than 3 simultaneous classes. Personal training sessions for adults would have a maximum of 5 clients per hour, each client having one trainer. On Saturday afternoons, children's birthday parties would be held, each party limited to 10 children with one facilitator and no more than 2 simultaneous parties. Half-hour breaks would be scheduled between gymnastics classes and birthday parties to allow time for parents to drop off and pick up children.

No changes are proposed to the footprint of the building. There are two front doors on Jaconnet St., one leading to the training area, the other to the gymnastics area. There is also an emergency exit leading directly to the parking lot. The parking lot to the left of the building has 20 spaces; 4 spaces perpendicular to Jaconnet St. are also in front of the building. The latter spaces will be reserved for employees, with one dedicated as a handicapped space. Finally, there are 4 parallel spaces on the private way itself, not counted towards the required number but dedicated for short-term drop-off and pick-up. Solicitor Young pointed out that since the private way is open to the public, the petitioners may not have the exclusive right to control these 4 spaces. But Ald. Samuelson suggested that the petitioners could tow from this area if properly signed. The Committee also reviewed the interior floor plans. While not subject to the special permit, they influence the circulation outside the building. Ald Merrill questioned the unisex dressing room for gymnastics classes, but it was explained that this is a coat room and there are no changing rooms and no shower facilities. He also asked whether the personnel were licensed by the State, and was told they are certified by a professional association.

Ald. Samuelson stated that her only real concern is the potential traffic congestion and lack of pedestrian safety on a narrow private way that could be affected by the drop-off and pick-up activity associated with the gymnastics classes. The petitioners had agreed to install a sidewalk in front of the property, but in response to a request from the Committee that the sidewalk be extended to Needham St. (one parcel away), they replied that they could not extend the sidewalk across the private property of the abutter, who uses what would be the sidewalk area for parking. Ald. Mansfield recalled that this adjoining site had been the subject of a special permit several years ago, and questioned whether a sidewalk had been required then. He also noted that the two

properties appeared to be in common ownership. The Planning Department found that the special permit at 170 Needham St. had included a condition to install a sidewalk, but the permit had never been exercised nor the sidewalk installed. The current retail use is by-right. Moreover, the owner of 70 Jaconnet St. has sold the 170 Needham St. site.

The Planning Department had recommended additional landscaping of the parking area, and Ald. Albright spoke in support of this enhancement. The discussion returned to the key point of scheduling activities and drop-off/pick-up of gymnastics students/partygoers, for which Ald. Fischman sought further clarification. The Committee's key concern was not that there would be insufficient parking spaces, but that parents dropping off and picking up children would use the private way, double-parking or parking in front of other private property, rather than use the parking area for this activity when the 4 designated spaces were in use. This concern was exacerbated by the observation that the gymnastics entrance was not adjacent to the parking lot, but on the other end of the building. However, the petitioners agreed to conditions that require them to inform their clients of the necessity to park on site, and that children would be escorted by staff or parents from the building to the parking lot for pick up.

Ald Fischman then moved approval of the petition, finding that the proposed use takes advantage of a vacant building and offers a service to the community that is not provided in this area. He noted that the safety of the private way would be enhanced with the improvement of the sidewalk and the reduction in width of the parking lot curb cut, that the new use would not be substantially more detrimental in the current non-conforming building since no changes will be made to expand the footprint, that additional landscaping will improve the site, and that the parking waiver is justified by the detailed scheduling of the use of the site in which the "worst-case" parking demand does not exceed the parking space availability. Ald Samuelson suggested a performance standard for parking, or a requirement that all drop-off and pick-up be restricted to the parking lot, but she was subsequently satisfied with the condition requiring escorts for the children in the gymnastics classes and parties. Ald. Mansfield said that he shared Ald. Samuelson's concerns about the potential traffic patterns and pedestrian safety, and since he had not visited the site with these questions in mind, he would abstain from the vote and visit the site before the full Board meeting.

The motion was approved 4-0 with one abstention, Ald. Mansfield abstaining, Ald. Merrill not voting.

#470-03 THE TRAVIS CORPORATION
d/b/a THE CAR STORE
19 Rolling Lane
Chestnut Hill 02467 Class 2

ACTION: HELD 4-0 (Merrill and Salvucci not voting)

NOTE: On March 16th the Land Use Committee recommended that Licensee Marc Epstein be granted a temporary license through June 30th. At that time the Committee asked Mr. Epstein to work with the City Treasurer to resolve the over \$50,000 in past due excise taxes the Treasurer's records indicate he owes the city. Mr. Epstein had contended the City couldn't hold his current corporation responsible for debts accrued under corporations now dissolved. Ms. Young said

that Associate City Solicitor Gayle Smalley was still researching the corporation laws. Ms. Young explained to the Committee the standards and requirements of MGL chapter 140 relative to what the licensing authority may consider in granting or revoking a license, e.g., whether an applicant is a proper person to engage in the business and the provision that a hearing be given the licensee prior to revocation of a license. Ms. Young suggested that the Registry of Motor Vehicles had a form that Mr. Epstein might fill in and submit to both the Registry and city that he no longer owned the vehicles or possessed the license plates on which he continues to accrue interest on past due excise taxes. The Committee asked Mr. Epstein to provide evidence of a contract for warranty repairs as required by MGL chapter 90 7N1/4. Mr. Epstein agreed to do so. Ald. Samuelson moved that the item be held to afford Mr. Epstein the opportunity to contact the Registry and the Treasurer. The item was held 4-0, with Ald. Merrill and Salvucci not voting.

The meeting was adjourned at approximately 1:40 AM.

Respectfully submitted,

George E. Mansfield, Chairman