

#102-06(10)

CITY OF NEWTON
IN BOARD OF ALDERMEN



Bk: 54169 Pg: 88 Doc: EXT
Page: 1 of 22 01/19/2010 01:33 PM

December 7, 2009

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, hereby grants a ONE (1) YEAR EXTENSION OF TIME IN WHICH TO EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #102-06(9), granted on November 17, 2008. BK 52087-553

PETITION NUMBER: #102-06(10)

PETITIONER: Kessler Development LLC

LOCATION: Ward 8, on land known as Section 82, Block 37, Lot 95, and shown as H-1 on a Subdivision Plan of Land in Newton MA, "Toomey-Munson & Associates, Inc." dated April 28, 2004. measuring approximately 640,847 square feet.

OWNERS: Cornerstone Corporation,

ADDRESS OF OWNER: 400 Blue Hill Drive, suite 2C,
Westwood, MA 02090

TO BE USED FOR: 52 multifamily dwelling units with interior parking garage, 10 attached dwelling units, on-site parking, pool and play area.

CONSTRUCTION: Wood-frame construction with wood clapboard siding, cultured stone, simulated stucco exterior finish, asphalt shingled gable roofs, poured concrete foundation walls, clad-wood windows and doors; wood balconies, and brick chimneys.

EXPLANATORY NOTE: §30-9(b)(5) and §30-24 allows the Board of Alderman to approve a special permit for single family attached dwellings in the MR-3 zone. §30-9(d)(1) allows approval of multifamily building in the MR-3 zone; §30-15, Table 1 footnote 9, allows the Board to approve a special permit for

Labrange Street (Lot H-1), Newton

Return to:
Bernard F. Shadrawy, Jr.
31 State St., 5th Floor
Boston, MA 02109

A True Copy
Attest
[Signature]
CITY OF NEWTON

multifamily building having three and a half stories in the MR-3 zone; and for approval of multifamily building 46 ft.9 in. in height in the MR-3 zone; §30-5(b)(4) allows a grade change in excess of 3 ft. for 190,500 sq. ft. and fill area of 8,700 sq. ft. to a maximum grade change of 34 ft.; §30-19(m) allows the Board to approve the following waivers from the parking requirements: §30-19(h) and §30-19(h)(2)e) for relief from dimensional standards for parking facilities to allow for and maneuvering space for 71 spaces at 8ft. 6 in. x 19 ft., and 8 spaces at 8ft. 9in x 19 ft.; §30-19(j)(1)b) for a waiver to allow lighting of parking facilities at less than 1.0 foot candles; §30-19(k)(2) to allow placement of bicycle spaces in garage level instead of near the main entrance. §30-20(l) allows the Board to approve a waiver of §30-20(e)(5) for a freestanding directional sign and sign dimensions in excess of 3 sq. ft.; §30-23, for site plan development approval of 52 multifamily and 10 attached dwelling units, including internal and exterior parking, for approval of lighting plan; for approval of landscape plan; and §30-24(d) for approval of special permit for combined multifamily and attached dwelling unit development.

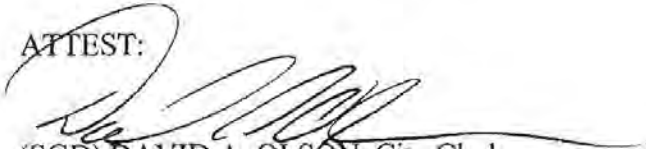
Under Suspension of Rules

Readings Waived and ONE YEAR EXTENSION OF TIME Approved

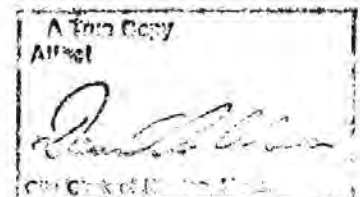
23 yeas 0 nays 1 absent (Alderman Gentile)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting an EXTENSION OF TIME from November 17, 2009 to November 17, 2010 IN WHICH TO EXERCISE SPECIAL PERMIT/SITE PLAN APPROVAL #102-06(9), attached, is a true and accurate copy of said decision, the original of which having been filed with the CITY CLERK.

ATTEST:


(SGD) DAVID A. OLSON, City Clerk

Clerk of the Board of Aldermen



20



2009 00006312

#102-06(9)

CITY OF NEWTON

IN BOARD OF ALDERMAN

November 17, 2008

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CITY CLERK
NEWTON, MA 02119

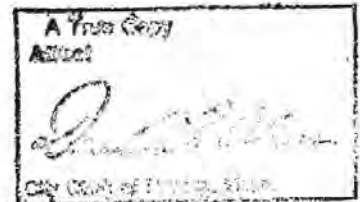
ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, hereby grants the following SPECIAL PERMIT and SITE PLAN APPROVAL for the construction of attached dwellings and a multiple family structure, with waivers to the parking ordinance and a grade change of more than three feet, and in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee through its Chairman, Alderman George Mansfield:

1. The Board finds that the construction of the 52-unit multifamily dwelling and 10 attached dwelling units is appropriate for this Site because this type of residential use is consistent with other uses in the surrounding area and the use should not adversely impact the surrounding neighborhood.
2. The Board finds proposed mix of single-family attached structure and a 3½ story, multifamily dwelling increases the distance of the buildings from the abutters and from LaGrange Street by allowing for a more compact development that maintains more of the Site in its natural state along these property lines.
3. The Board finds that the proposed project, with the conditions included in this special permit board order, provide greater protections for the abutting conservation land than a by-right use.
4. The Board finds that the public convenience and welfare will be served through the creation of eleven affordable housing units, which is two units more than that which is required by Section 30-24(f) of the City's Zoning Ordinance.
5. The Board finds that, with the assistance of the City's peer review consultants, the conditions contained in this special permit board order include increased protections for the residents within the surrounding neighborhood, most particularly during construction of the proposed project, and result in a better project, overall.

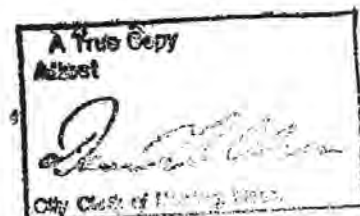
LaGrange Street (Lot H-1), Newton, MA

Return to: Bernard F. Shadrawy, Jr.
Shadrawy & Rabinovitz
15 Broad St. Suite 512
Boston, MA 02109



BK 42435.200

6. The Board finds that the proposed project includes less impervious surface than might otherwise be constructed if the Site was developed as single-family attached dwellings because of the incorporation of the underground parking facility and the use of a more compact design.
7. The Board finds that the proposed access to the Site is appropriately located to allow for the best sight lines and that the traffic generated by these new units should not adversely impact traffic on adjacent streets.
8. The Board finds that the proposed project includes a construction management plan that provides more protective standards for noise, dust and blasting than would be present during by-right construction at the Site.
9. The Board finds the freestanding signs at the entrance and at the start of the loop road, help identify the Site and structures to motorists, and that at 10 sq. ft., the size of the sign at the loop road is appropriately scaled to the development and helps direct traffic through the Site.
10. The Board finds that the waivers to the parking ordinance are appropriate because:
 - a. the waiver to the minimum 1 foot-candle lighting requirement will allow for light levels that are more consistent with the residential use of this Site and the character of the surrounding area;
 - b. the location of the bike racks, in the basement of the multifamily is more appropriate than at the main entrance of the structure because the racks will be primarily used by the residents of the building, and will provide protection for the bicycles in inclement weather; and
 - c. the waiver to the width of the parking stalls in the garage, allowing for spaces that are 8'-6" wide versus 9'-0" wide, is appropriate the garage will be utilized by residents only, and such use of the parking facility does not result in a high turn over of parking spaces.
11. The public convenience and welfare will be served by the building's design, construction, maintenance and long-term operation, which will contribute significantly to the efficient use and conservation of natural resources and energy through use of a compact site design, low-emitting building materials, abundant daylight in interior spaces, high quality stormwater systems, and recycling of building materials.



12. The proposed project furthers the goals of the *Newton Comprehensive Plan* because the compact form of development preserves significant open space and protects natural resources on the property. In addition, the production of eleven restricted affordable housing units supports the housing goals of the *Newton Comprehensive Plan* by contributing to the diversity of the City's housing stock.

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PETITIONER: Kessler Development LLC

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OWNERS: Cornerstone Corporation

ADDRESS OF OWNER: 400 Blue Hill Drive, Suite 2C,
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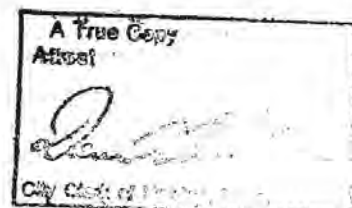
EXPLANATORY NOTE: §30-9(b)(5) and §30-24 allows the Board of Alderman to approve a special permit for single family attached dwellings in the MR-3 zone. §30-9(d)(1) allows approval of multifamily building in the MR-3 zone; §30-15, Table 1 footnote 9, allows the Board to approve a special permit for a multifamily building having three and a half stories in the MR-3 zone; and for approval of multifamily building 46 ft.9 in. in height in the MR-3 zone; §30-5(b)(4) allows a grade change in excess of 3 ft. for 190,500 sq. ft. and fill area of 8,700 sq. ft. to a maximum grade change of 34 ft.; §30-19(m) allows the Board to approve the following ~~triggers~~ from the

Attest

 City Clerk of Newton, Mass.

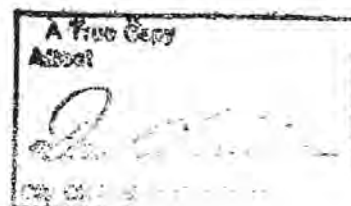
parking requirements: §30-19(h) and §30-19(h)(2)e) for relief from dimensional standards for parking facilities to allow for and maneuvering space for 71 spaces at 8ft. 6 in. x 19 ft., and 8 spaces at 8ft. 9in x 19 ft.; §30-19(j)(1)b) for a waiver to allow lighting of parking facilities at less than 1.0 foot candles; §30-19(k)(2) to allow placement of bicycle spaces in garage level instead of near the main entrance. §30-20(1) allows the Board to approve a waiver of §30-20(e)(5) for a freestanding directional sign and sign dimensions in excess of 3 sq. ft.; §30-23, for site plan development approval of 52 multifamily and 10 attached dwelling units, including internal and exterior parking, for approval of lighting plan; for approval of landscape plan; and §30-24(d) for approval of special permit for combined multifamily and attached dwelling unit development.

APPROVED, subject to rezoning of the Site to MR-3 as proposed in Docket Item #102-06(8), and further subject to the following conditions:

1. All structures, parking areas, driveways, walkways, landscaping, grading, and other site features shall be located and constructed consistent with the following plans submitted by the Petitioner and filed herewith:
 - a. Plan set titled "Kessler Woods Condominiums, Newton, MA", prepared by H.W. Moore Associates, Inc., Engineers & Planners, 112 Shawmut Ave., Boston, MA 02118, bearing the stamp of a registered professional engineer:
 - (i) Sheet 1 of 12 — Cover Sheet, revised 4/6/06
 - (ii) Sheet 2 of 12 — Existing Conditions Plan of Land, dated 1/31/06
 - (iii) Sheet 3 of 12 — Site Grading & Utility Plan, revised 4/6/06
 - (iv) Sheet 4 of 12 — Grading Change Plan, revised 4/6/06
 - (v) Sheet 5 of 12 — Site Plan & Building Setback Plan, revised 4/6/06
 - (vi) Sheet 6 of 12 — Drain/Sewer Schedules & Site Details, revised 4/6/06
 - (vii) Sheets 7 & 8 of 12 — Site Details, revised 4/6/06
 - (viii) Sheet 9 of 12 — Sewer Profile, revised 4/6/06
 - (ix) Sheet 10 of 12 — Earthwork Plan, revised 4/6/06
 - (x) Sheet 11 of 12 — Fire Access Route Plan, dated 4/6/06
 - (xi) Sheet 12 of 12 — Sight Distance Plan, dated 4/6/06
 - (xii) Site Detail — Entrance Sign Setback Plan, dated 6/1/06
 - (xiii) Site Detail — Revised Water Quality Infiltration Trench Plan, dated 6/1/06
 - (xiv) Construction Phasing Plan, dated 5/10/06
 - (xv) Entrance Sign Site Plan, dated 6/1/06



- (xvi) Revised Water Quality Infiltration Trench Plan, dated 6/1/06
- b. Plan set titled "Kessler Woods Condominiums, Newton, MA", prepared by The Architectural Team, Inc., 50 Commandant's Way, Chelsea, MA 02150, stamped and signed by Michael Liu, registered architect, including the following:
- (i) Sheet T1.01 — Title Sheet, dated 7/24/2008
 - (ii) Sheet A1.00 — Building A Garage Floor Plan, dated 6/1/2006
 - (iii) Sheet A1.00A — Building A, Parking Layout Plan, dated 4/1/2006
 - (iv) Sheet A1.01 — Building A First Floor Plan, dated 11/29/2006
 - (v) Sheet A1.02 — Building A Second Floor Plan, dated 11/29/2006
 - (vi) Sheet A1.03 — Building A Third Floor Plan, dated 11/29/2006
 - (vii) Sheet A1.04 — Building A Fourth Floor Plan, dated 11/29/2006
 - (viii) Sheet A1.05 — Building A Roof Plan, dated 11/29/2006
 - (ix) Sheet A2.01 — Building B Floor Plans, dated 7/24/2008
 - (x) Sheet A2.02 — Building B Floor Plans, dated 7/24/2008
 - (xi) Sheet A2.03 — Building C Floor Plans, dated 1/23/2006
 - (xii) Sheet A4.01 & .02 — Building A Elevations, dated 11/29/2006
 - (xiii) Sheet A4.03 — Building B & C Elevations, dated 7/24/2008
 - (xiv) Sheet A5.01 — Graphic Site Sections, dated 1/23/2006
 - (xv) Sheet A5.02 — Story & Height Calculation Building A, dated 11/29/2006
 - (xvi) Sheet A5.03 — Story & Height Calculation Buildings B&C, dated 1/23/2006
 - (xvii) Sheet A5.04 — Building Relative Heights Plan, dated 11/29/2006
 - (xviii) Sheet PH1.01 — Building Photometric Plan, dated 1/23/2006
- c. Plan Set titled "Kessler Woods Condominiums, Newton, MA — Landscape Plan", Prepared by Mary Smith Associates, 30 Chestnut Street, Quincy, MA, stamped and signed by Mark C. Kopchell, consisting of
- (i) Sheet 1 — Tree Removal Plan, dated 4/1/2006
 - (ii) Sheet 2 — Landscape Plan, revised 9/29/2006, stamped by Jay M. Berkson, Landscape Architect
 - (iii) Sheet 2a — LaGrange Street and Town Line Vegetative Buffer Plan, dated 4/1/2006
 - (iv) Sheet 3 — Elevations, dated 4/1/2006
 - (v) Sheet 4 — Photometric/Lighting Plan, dated 4/1/2006
- d. "Kessler Woods Condominiums, Newton, MA — Abutter's Landscape Plan", Prepared by MKA Landscape Architects, 30 Chestnut Street, Quincy, MA, dated 1/30/2007 and revised 3/21/2007
2. For the following conditions, the term "Petitioner" shall mean the Petitioner, its successors and/or assigns.

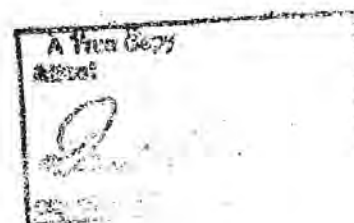


3. For the following conditions, the term "Site Work" shall include: the clearing and/or removal of any existing trees or plant materials, the staging or siting of any on-site construction trailers; the siting, staging and/or use of heavy construction equipment including, but not limited to backhoes, bulldozers, concrete mixers, excavators, front loaders/tractors, cranes, graders, pile drivers, drilling machines, dump trucks, pavers, pneumatic tools, rollers, scrapers electric drills, sanders, saws (including chainsaws), compressors, generators or other power tools of all types whether hand held or otherwise; construction or installation of any temporary or permanent roadways/driveways, structures, parking areas and/or utilities; all blasting, drilling, rock cutting, boring, or excavation for the purposes of clearing and preparing the Site for construction of the approved roadways, structures, parking facilities, and/or utilities; and any regrading work, including but not limited to the removal of any soil and installation of any fill on the subject property. Excluded from the term "Site Work" is any boring or drilling work that may be necessary for the Petitioner to evaluate the existing soil conditions, as needed to complete the final engineering plan; to conduct the necessary tests on the existing utility lines; or to set up monitors and other equipment that may be necessary to evaluate existing ground water conditions.
4. Any master condominium deed filed for the property, shall include the continuing maintenance obligations and restrictions that are included as conditions in this special permit and shall include provisions for the condominium association to continue to carry out and comply with the obligations and restrictions which are included as conditions in this special permit.
5. The Petitioner shall install as much landscape screening as soon as practical, on the northeast side of the Site, after commencing initial Site Work but prior to commencing blasting, rock crushing and drilling, in order to provide an additional noise and visual buffer to the abutting residents. The Petitioner should submit a partial-phased landscape installation plan for review and approval by the Director of Planning and Development and Tree Warden that depicts the numbers, locations, and types of landscaping that will be installed to facilitate screening during the construction process. The Petitioner shall only be expected to install landscaping that can be maintained throughout the construction process and that will not impede construction activities.
6. As soon as possible following the occupancy of any unit, the Petitioner shall install landscaping along the loop road to shield the abutting residential properties from automobile headlights in accordance with Landscape Plan dated September 29, 2006. The Director of Planning and Development shall review such landscaping and may require additional landscaping to be installed by the Petitioner as needed to shield the abutting residential properties.



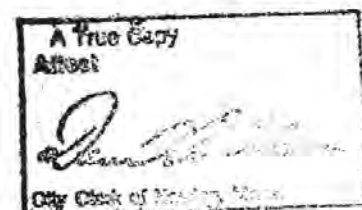
7. The Petitioner shall maintain in good condition all landscaping approved by this Board Order, including all new landscaping installed in the existing wooded areas, and shall annually replace any plant material that becomes diseased or dies with similar material to that as specified on the Final As-Built Landscape Plan.
8. Every spring and fall, the Petitioner shall perform regular maintenance on the wooded areas that surround the development and remain in the ownership of the condominium association, particularly along the north and west side of LaGrange Street, along the rear yards of residences with frontage on Rangeley Road, and the areas adjacent to and including the 100 foot wetland buffer zone. Maintenance shall include the removal of any trash that may accumulate and non-native invasive species to preserve the natural wooded character of these areas and to ensure that all existing mature trees and new landscaping installed in the wooded areas, through this special permit, have a suitable environment to continue to survive.
9. In order to protect the conservation and passive recreation values of these natural areas, including scenic and wildlife habitat issues, as part of the regular maintenance plan, the Petitioner may conduct any of the following activities, with prior approval from the Tree Warden and, if such work is within the 100 ft. wetland buffer zone, from the Conservation Commission:
 - a. Maintenance activities that are consistent with accepted professional land management practices, including, but not limited to, the selective pruning and cutting of trees or brush to prevent, control or remove hazards, disease, insect damage or fire, or to preserve or improve the condition of the natural area, including vistas, woods, trails, etc., provided that the cutting of trees for commercial timber production shall not be allowed.
 - b. Vista pruning and replacement of dead vegetation for the purpose of maintaining the physical and visual buffer in perpetuity. Removal of dead or diseased trees shall only be removed if such trees pose a danger to people, adjacent residences, wildlife and/or adjacent trees.
 - c. Removal of vegetation as required in the course of good forestry management practices, but only as may be necessary to preserve the present condition of the natural area.
 - d. The right and obligation to remove trash and other non-natural debris from the natural area on an as-needed basis, but no less than annually.

The Petitioner shall submit a plan to the Tree Warden and, for work within the 100 ft. wetland buffer zone, the Senior Environmental Planner, for any such maintenance work, other than the removal of trash, for review and approval, prior to conducting such work.

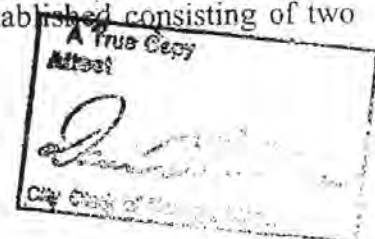


10. The exterior lighting fixtures on the buildings shall be residential in scale and type. The lighting fixtures for the parking areas, driveways and walkways shall be a metal halide or other white lighting, and the light source of these fixtures shall be concealed so that the light source is not visible off the Site and to prevent light over-spill onto abutting properties and consistent with Section 30-19. No floodlights shall be permitted on any building to illuminate the façades of the buildings, the yards or the patio areas.
11. The Petitioner shall submit final civil engineering, drainage and utility plans to the City Engineer for review and approval prior to the issuance of any building permits. As appropriate, the final engineering plans shall address all issues raised and/or responses based on the following memoranda, all of which are on file with the City Clerk:
 - a. Memo from Associate City Engineer John Daghlian to Alderman George Mansfield, dated May 12, 2006;
 - b. Memo from Woodard and Curran to City Engineer Lou Taverna, dated May 11, 2006;
 - c. Memo from Haley & Aldrich to Comerstone Corporation, dated May 8, 2006, and
 - d. Memo from Woodard and Curran to Lou Taverna, dated June 15, 2006.
12. Prior to the commencement of any Site work, the Petitioner shall submit a plan for pre- and post-construction investigation of the groundwater conditions for review and approval by the City Engineer. Such plan shall be developed in accordance with the May 11, 2006 memo from Woodard and Curran to City Engineer Lou Taverna, on file with the City Clerk, and shall include, but not be limited to: the proposed location of three (3) observation wells, details on the proposed methods and timeframes for the investigation of the existing groundwater conditions, and the superimposition of the proposed building sections and elevations on the flow lines prior to the applicant beginning such investigation. This plan shall also include provisions for correcting alterations to the groundwater conditions that may adversely and materially increase the groundwater flow to the abutting neighbors, or that adversely and materially decrease the groundwater flow to the adjacent wetland, due to on-site blasting.

In the event that alterations to the groundwater flows are discovered, the Petitioner shall immediately contact the City Engineer, and submit a schedule for the implementation of remediation efforts for review and approval by the City Engineer. Remediation efforts shall be undertaken at the earliest time possible. The Petitioner's obligation to undertake remediation efforts shall commence upon the discovery of any alteration of the groundwater flow that adversely affects either the abutting neighbors or the adjacent wetland, and shall continue for a period of two (2) years from the date of the issuance of the last certificate of occupancy for the project.



13. The Petitioner shall clean the Site's catch basins and riprap annually, and shall have the leaching galleys inspected by a qualified specialty contractor every year and cleaned as necessary. The Petitioner shall file a certificate of such cleanings and inspections annually with the Commissioner of Public Works.
14. The Petitioner shall submit a final sign package for review and approval by the Director of Planning and Development and City Traffic Engineer showing the proposed location and details of all directional signage on the Site and at the access points.
15. Prior to the installation of the freestanding sign, the Petitioner shall submit final details, material and color samples for the proposed sign to the Director of Planning and Development for review to assure consistency with the signs approved through this special permit.
16. The Petitioner shall comply with the affordable housing requirements set out in Section 30-24(f) of the Zoning Ordinance and the Inclusionary Housing Program dated June 20, 2006, approved by the Director of Planning and Development, on file with the City Clerk. A total of 11 two bedroom units shall be provided; the number, and location of units shall be as follows:
 - a. Building A, first floor, 3 units at 80% income level;
 - b. Building A, second floor, 4 units at 80 % income level;
 - c. Building A, third floor, 1 units at 80% income level; 2 units at 120% income level; and
 - d. Townhouses, Building B, 1 unit at 120% income level.
17. The Petitioner shall remove snow from the Site's driveway, loop road, hammerheads, and surface parking areas at its sole expense. Such snow removal shall be done in a timely manner to the reasonable satisfaction of the Fire Department in order to ensure passable access for emergency vehicles.
18. All constructed retaining walls shall be faced with fieldstone. Prior to the commencement of any Site Work, the Petitioner shall submit final details, elevations and materials of the retaining walls, prior to the issuance of any building permit. Any retaining walls with over four feet of unretained soil or 8 ft. total height shall be stamped by a licensed structural engineer. The details and locations of all retaining walls shall be reviewed and approved by the City Engineer and Commissioner of Inspectional Services; and the proposed finish materials shall be reviewed and approved by the Director of Planning and Development.
19. No less than 45 days prior to the commencement of any Site Work and/or other construction activities related to the work approved through this Special Permit/ Plan Approval, a Neighborhood Liaison Committee shall be established consisting of two

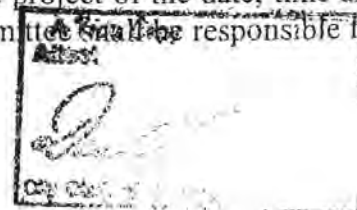


(2) designees of the Petitioner, and one (1) resident from each of the following neighborhood streets: Rangeley Road, Vine Street, and LaGrange Street. The President of the Board shall recommend and the Board of Aldermen shall appoint the resident neighborhood members. The Aldermen of Ward 8 may serve as members of the Neighborhood Liaison Committee (ex-officio) if they choose to do so. Meetings of the Neighborhood Liaison Committee will be open to the public, and the Committee will establish such agenda and procedures as it shall see fit. The purposes of the Neighborhood Liaison Committee will be:

- a. To enhance and insure communication as to the status and progress of construction and operation of the development project;
- b. To provide a forum for initial presentation of a construction schedule and any significant changes to the schedule or changes in plans for which public review is required;
- c. To provide a public forum for presentation of supplementary permit requests to the extent required;
- d. To consult on construction issues including, without limitation, blasting, rock crushing, coordination of construction activity and external events/community activities, and to give advance notice as to blasting times and areas;
- e. To receive and discuss construction-specific issues such as blasting complaints, construction conditions including dust, noise, parking and traffic and to receive notices and communications from the Planning Department, Fire Department, and Inspectional Services Department; and
- f. To discuss implementation of the final Construction Management Plan.

The Neighborhood Liaison Committee will meet on a monthly basis unless there is consensus within the Committee that no meeting is necessary or the members agree to an alternative meeting schedule. The first meeting shall be convened jointly by the Petitioner and the Aldermen of Ward 8 and shall be held not later than thirty (30) days prior to the start of any Site Work. The Committee shall continue to meet until at least six (6) months after initial occupancy of the buildings. The Neighborhood Liaison Committee shall work by consensus, but nothing in the establishment of the Neighborhood Liaison Committee shall prevent any member, including the Petitioner from engaging in any lawful activity even if such activity is inconsistent with the position of the Committee.

The Neighborhood Liaison Committee shall, at a minimum, give written notice at least 7 days in advance of such meetings, except for such times when the Committee determines that an emergency meeting is necessary, to the City Clerk, the Commissioner of Inspectional Services and the Director of Planning and Development and to the residents in the neighborhoods surrounding the project of the date, time and location of its meetings. The Neighborhood Liaison Committee shall be responsible for



identifying to whom such notice shall be given. The Petitioner shall pay for any cost associated with providing notice of the Committee's meetings.

20. The Petitioner shall establish an e-mail list of neighborhood residents that wish to receive construction updates. The Petitioner shall designate a single individual to communicate with the neighbors via e-mail. The designated individual shall send updates of any changes to the construction schedule to the established distribution list.
21. The hours of construction will be 7:00 a.m. until 6:00 p.m. Monday through Friday. When work is performed on Saturdays, it will be between 8:00 a.m. and 5:00 p.m. Any on-site drilling, rock crushing, and/or blasting will not begin before 8:00 a.m. on weekdays and 9:00 a.m. on Saturdays. Drilling, rock crushing, and/or blasting activities shall not take place after 2pm on Saturdays. There will be no exterior construction on Sunday. Interior work may occur at other times when a building is fully enclosed. Exterior construction work may be permitted at other times, due to exigent circumstances, with the advance approval of the Commissioner of Inspectional Services, and the Neighborhood Liaison Committee will be notified by the Petitioner no less than 48 hours in advance of any such change in construction hours. There will be no construction during legal holidays or on Rosh Hashanah (First Day) and Yom Kippur.
22. Prior to the commencement of any Site Work, the Petitioner shall submit a Final Construction Management Plan (Final CMP), in accordance with the Preliminary Construction Management Plan dated September 11, 2006 the "Construction Phasing Plan" Dated May 10, 2006, prepared by H.W. Moore, Engineers, 112 Shawmut Avenue, Boston, MA, and, the memo from the Associate City Engineer to Alderman George Mansfield, dated May 12, 2006, on file with City Clerk, to the City Engineer, City Traffic Engineer, Director of Planning and Development, Fire Department, and Commissioner of Inspectional Services for review and approval. The Final CMP may be amended from time to time in order to provide modification or additional details as the project construction progresses. Any such amendments to the Final CMP shall be subject to the approval of the City Engineer, City Traffic Engineer, Director of Planning and Development, Fire Department and Commissioner of Inspectional Services. All construction shall conform to the approved Final CMP. In the event there is any conflict between the requirements of the Final CMP and the conditions contained in this board order, the conditions of this board order shall control.

Within or in conjunction with the submission of the Final CMP, the Petitioner shall submit the following:

- a. A detailed Dust Control Plan, for review and approval by the Commissioner of Inspectional Services and the Commissioner of Health and Human Services. This Dust Control Plan shall include provisions for controlling and monitoring dust levels on-site, including, but not limited to: wetting of materials and affected

work areas, use of stone mats, covering of all open truck transporting debris, crushed rocks/stones, or fill to and from the property, proposed number and locations of monitoring devices, and any additional provisions that may be necessary to control the dust levels on-site and at all property lines. The level of dust at the property lines shall not exceed 150 micrograms per cubic meter of air (PM10, breathable particulate matter), or the current acceptable levels, in place at the time of issuance of a building permit, based on the National Ambient Air Quality Standards set by the Environmental Protection Agency.

The Petitioner shall conduct all Site Work in accordance with the approved Dust Control Plan and shall file weekly reports on the recorded levels of dust with the Commissioner of Inspectional Services and the Commissioner of Health and Human Service. In addition, the Petitioner shall regularly check the dust monitors through the course of the day to assure that the maximum acceptable dust levels are not exceeded. If the levels of dust exceed the maximum acceptable levels, the Petitioner shall stop all dust producing work activities that resulted in excessive dust levels until they have developed an appropriate method to reduce the levels of dust, which is acceptable to the Commissioner of Health and Human Services, and implement the newly adopted procedures or mitigation. Within 24 hours of resuming dust producing Site Work after any incident where the dust exceeded the maximum permitted levels, the Petitioner shall file a report with Commissioner of Health and Human Services to confirm that the adjustments made on-site have sufficiently controlled the dust levels.

In addition, at the discretion of the City Engineer, the Petitioner shall be responsible for street sweeping any portion of LaGrange Street due to the transmission of dust, dirt, crushed rocks, stones or other debris from the construction .

- b. A Noise Control Plan for review and approval by the Commissioner of Inspectional Services and Director of Planning and Development shall include details on the proposed methods for controlling noise impacts from the on-site construction activities, in accordance with the City's Noise Ordinance, and shall also include provisions to control and monitor noise impacts on abutting residents such that the noise levels shall not exceed 86 dBA at the Site's property lines. This noise control plan shall include, but not be limited to: the number and location of noise monitors, provisions for any sound barriers around the area of the Site where blasting, crushing, and/or jackhammering is being conducted, and/or any additional provisions for controlling sound at the property lines. The level of noise at the property lines shall not exceed 86 dBA, except for when explosives are detonated for the purposes of blasting on-site rock/stone and that such momentary peaks in the noise levels shall be limited to no more than three (3) times per day.

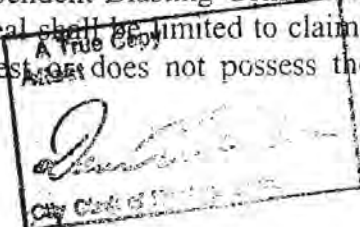


The Petitioner shall conduct all work in accordance with the approved Noise Control Plan and shall file weekly report on the recorded noise levels with the Commissioner of Inspectional Services. In addition, the Petitioner shall regularly check the noise monitors through the course of the day to assure that the maximum permitted noise levels are not exceeded. In the event the readings from the noise monitors exceed the limits established in the Noise Ordinance, the permissible levels established by OSHA, or 86 dBA at the Site's property lines, the Petitioner shall immediately stop all significant noise producing Site Work that exceeded permissible levels and present a plan which is acceptable to the Commissioner of Inspectional Services for reducing noise levels to permissible levels. The Petitioner may resume noise producing Site Work once the approved mitigation measure or adjustments to procedures are in place. Within 24 hours of resuming noise producing work after an incident where the noise levels exceeded the maximum permitted levels, the Petitioner shall file a report with the Commissioner of Inspectional Services to confirm that the adjustments made have sufficiently controlled the noise levels.

- c. A detailed Blasting Plan, in accordance with Board of Aldermen's Standard Blasting Conditions, except where more stringent controls have been proposed by the Petitioner, through Haley & Aldrich, as detailed in their memo to Cornerstone Corporation, dated May 8, 2006, and in the Preliminary Construction Management Plan, dated September 11, 2006, on file with the City Clerk, for review and approval by the Fire Department and Commissioner of Health and Human Services.

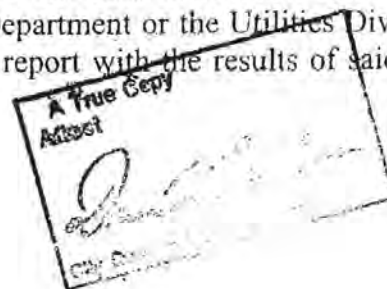
An Independent Blasting Consultant shall be selected by the Newton Fire Department and paid for by the Petitioner to review the Blasting Plan prepared by the Petitioner's blasting contractor, conduct an initial review of the installation of the calibration, location and installation of seismograph monitors, and if required by the Fire Department, shall determine the blast limits in consultation with Petitioner's Blasting Consultant and the Fire Department through the blast period. The Independent Blasting Consultant shall also act as an "on-call" consultant throughout the blasting period, to provide support and technical expertise to the Fire Department in the evaluation of additional data and/or to address any issues that may arise. In addition, the Independent Blasting Consultant, in conjunction with the Commissioner of Health and Human Services, shall review the proposed explosives and/or other blasting agents that may be used on-site, to evaluate any potential adverse impacts on the immediately surrounding environment and/or on the abutting residents, either through ground water contamination or through air-born transmission.

The Petitioner shall have a right to appeal the Independent Blasting Consultant, selected by the Fire Department, however, such appeal shall be limited to claims that the selected consultant has a conflict of interest or does not possess the



minimum required qualifications. Such an appeal shall be conducted through a process consistent with the appeal process established for appeals of outside consultants in Section 6 of the Rules and Orders of the Board, 2006-2007.

23. All construction shall comply with the City's Revised Ordinances, in effect as of the date of this Special Permit except where more stringent performance standards for noise and dust have been identified in the Preliminary Construction Management Plan and as detailed in the approved Final Construction Management Plan.
24. Prior to the commencement of any Site Work, the Petitioner shall retain a qualified contractor that specializes in Closed Circuit Television (CCTV) inspections of the underground pipes. The CCTV inspection shall be performed on all utility pipes determined by the City Engineer, but particularly the existing drainage and sewer lines within LaGrange Street and within any City of Newton easements that abut the project. A representative from the Engineering Division of Public Works shall be present, at all pre- and post-construction inspections of utility pipes. The videotapes shall be given to the representative of the Engineering Division at the end of each inspection. All post construction inspections of utility pipes shall be performed prior to issuance of any Final Certificates of Occupancy.
25. Prior to the commencement of any Site Work, the Petitioner shall submit a plan with the final locations of all proposed fire hydrants for review and approval by the Fire Department and the Director of Utilities.
26. Prior to the commencement of any Site Work, the Petitioner shall conduct additional fire flow tests if required by the Fire Department and Director of Utilities, and such tests shall be coordinated with the Fire Department and Director of Utilities. At least 48 hours in advance of such test, the Petitioner shall notify the Fire Department and Director of Utilities, and the date and time of the testing shall be coordinated such that a representative from the Fire Department and the Utilities Division of the Department of Public Works can be present to witness the testing.
27. Prior to the installation of the water main extension to/at the Site, the Petitioner shall submit a plan and easement language for the proposed water main extension to the City Engineer for review and approval, and the Petitioner shall have filed the approved easement with the Middlesex Registry of Deeds.
28. Prior to commencing any construction involving wood framing of structures and/or the installation of exterior wood cladding at or above the ground level on-site, all fire hydrants shall be installed and operable, and a flow test shall have been conducted, witnessed by a representative from either the Fire Department or the Utilities Division of the Department of Public Works, or both, and a report with the results of said test shall have been submitted to both departments.



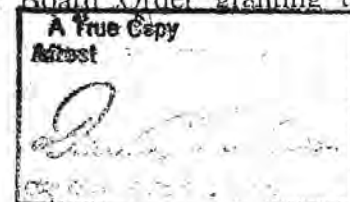
29. Prior to commencing any construction involving wood framing of structures and/or the installation of exterior wood cladding at or above the ground level on-site, or construction of any structural system above the ground floor, the internal road system and means of access for Fire Department equipment and other emergency vehicles shall be finished with a hard, all weather surface that is designed to adequately support the heaviest piece of Fire Department equipment. This access way shall be kept clear of obstructions throughout the construction process.
30. The Petitioner shall have filed a request and been granted approval for an extension of the proposed water main in LaGrange Street by the Board of Aldermen, prior to commencing any work on the extension of the water main. The final plans and details for the water main extension shall be filed for review and approval by the Director of Utilities prior to issuance of a Utility Connection Permit. The installation of the water main extension shall have been completed and inspected and water flows test shall be acceptable to the Fire Department and Director of Utilities prior to the issuance of any Certificates of Occupancy, unless fire flow tests indicate that the extension is needed for sufficient fire flow during construction, in which the operable water main shall be completed, inspected and approved prior to the required activation of the hydrants, on-site.
31. Prior to the commencement of any work on the underground utilities on LaGrange Street, the Petitioner shall submit a traffic mitigation plan for review and approval by the City Traffic Engineer and the Newton Police Department. Such plan shall include a construction phasing plan, specifically for the work associated with the utility work under LaGrange Street, proposed construction signage plan, and a provision for detouring traffic, as may be necessary to facilitate the underground utility work.
32. The Petitioner shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process, but specifically related to the underground utility work on LaGrange Street and when on-site blasting activities are sited close to the roadway, such that traffic flows may need to be temporarily disrupted to ensure safety of motorists from potential flyrock.
33. The Petitioner shall be responsible for repairing any damage to public ways caused by any construction vehicles. All repair work shall be done prior to the issuance of Final Certificates 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 timeframe, as determined by the Commissioner.

In addition, prior to the issuance of any Final Certificates of Occupancy, if deemed necessary by the Commissioner of Public Works due to significant amount of



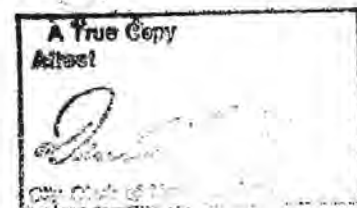
construction traffic entering and exiting the Site, the Petitioner shall be required to resurface LaGrange Street, which shall include milling the roadway surface and installing 1 1/2" Type I-1 bituminous concrete, curblin to curblin, from the existing sewer manhole near Byron Road to the Brookline town line. Such work shall be completed prior to the issuance of any Final Certificates of Occupancy.

34. Once installed and operational, all exterior HVAC equipment shall comply with the City's Noise Ordinance.
35. No SITE WORK shall be permitted pursuant to this SPECIAL PERMIT and SITE PLAN APPROVAL until:
 - a. The Petitioner shall have submitted a plan for pre- and post-construction evaluation of the groundwater conditions for review and approval by the City Engineer in accordance with Condition 12 and shall have commenced with the pre-construction evaluation in accordance with such approved plan.
 - b. The Petitioner shall have submitted details on all proposed retaining walls including materials, stamped by a structural engineer, as required, for review and approval by the City Engineer, Commissioner of Inspectional Services, and Director of Planning and Development, in accordance with Condition 18.
 - c. The Petitioner shall have established a Neighborhood Liaison Committee, and the first meeting shall have been held in accordance with Condition 19.
 - d. The Petitioner shall have submitted a Final Construction Management Plan for review and approval in accordance with Condition 21.
 - e. Notwithstanding the provisions of Conditions 21 and 34d., the Commissioner of Inspectional Services may issue a Site Work permit, for the commencement of Site Work with the exception of blasting activities, prior to the submission and approval of the final Blasting Plan, as long as all other aspects of the Final Construction Management Plan, including the Noise and Dust Control Plans, have been approved in accordance with this Board Order, and that all other requirements specifically cited in this Board Order have been met.
 - f. The Petitioner shall have completed the pre-construction inspection of the underground pipes in accordance with Condition 23.
 - g. The Petitioner shall have completed any additional fire flow test that may be required by the Fire Department and Director of Utilities, in accordance with Condition 25.
 - h. The Petitioner has recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this



SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon. The Petitioner shall have filed a certified copy of such recorded notice with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.

36. No BUILDING PERMIT shall be issued pursuant to this SPECIAL PERMIT and SITE PLAN APPROVAL until:
- a. The Petitioner shall have submitted a final landscape plan indicating the location, number, size and type of landscaping and landscape materials and a final tree preservation plan for review and approval by the Director of Planning and Development and the Tree Warden, and a statement certifying that such plans are consistent with the plans cited in Condition 1 shall have been filed with the City Clerk and the Inspectional Services Department.
 - b. The Petitioner shall have filed final architectural plans, including architectural plans including the facade and roof materials and colors of the building and materials of proposed retaining walls for review and approval by the Director of Planning and Development, and a statement certifying that the architectural plan are consistent with the plans cited in Condition 1 shall have been filed with the City Clerk and Inspectional Services Department.
 - c. The Petitioner shall have submitted a final photometric plan and specifications on the proposed lighting fixtures for the project to the Director of Planning and Development for review and approval, and a statement certifying such approval shall have been filed with the City Clerk and Inspectional Services Department.
 - d. The Petitioner shall have filed final engineering, utility and drainage plans, in accordance with condition, for review and approval by the City Engineer, and 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.
 - e. The Petitioner shall have complied with all requirements of the City's Tree Preservation Ordinance as they are set forth in Sec.20. ARTICLE IV, §§20-30 through 20-39, including any payments required in lieu of trees planted, and a statement from the Tree Warden certifying such compliance, shall have been filed with the City Clerk, Commissioner of Inspectional Services and the Director of Planning and Development.
 - f. The Fire Department and the Commissioner of Health and Human Services shall have approved the final blasting plan in accordance with Condition 22(c).



- g. The Petitioner shall have filed plans for the fire suppression system, with hydraulic calculations, based on the results of the fire flow test, which shall be conducted in accordance with Conditions 25 and 26 for review and approval.
37. No TEMPORARY OCCUPANCY PERMITS for any portion of the development subject to this SPECIAL PERMIT and SITE PLAN APPROVAL shall be approved until:
- a. The Petitioner shall have filed for and been granted approval for an extension of the water main in LaGrange Street, in accordance with Condition 30, and the installation of such water main shall have been completed and inspected, and water flow tests shall have been conducted and deemed acceptable to the Director of Utilities and the Fire Department.
 - b. The Petitioner shall provide evidence that the use of the open space areas on along LaGrange Street and along the rear yards of residences with frontage on Rangeley Road is restricted within the master condominium documents.
 - c. The Petitioner shall have filed with the Director of Planning and Development 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 all remaining landscaping, fencing, etc. to secure installation of such landscaping.
 - d. The Petitioner shall have filed a certified bank check with the City Engineer to cover the material and installation in an amount not less than 135% of the value of the remaining Site engineering work to secure completion of such final Site work, including but not limited to final work, final grading, retaining walls, installation of directional signage, and installation of final binder course to the interior roadways and parking facilities, and any necessary repairs to or resurfacing of LaGrange Street.
38. No FINAL OCCUPANCY PERMITS for any portion of the development subject to this SPECIAL PERMIT and PLAN APPROVAL shall be approved until:
- a. The Petitioner shall have filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect for all structures, and a registered engineer for Site conditions, certifying that Condition 1 has been complied with.
 - b. The Petitioner shall have submitted to the City Engineer final as-built, record Site engineering plans, in digital and paper format, with the latter sealed by a licensed surveyor.
 - c. The Petitioner shall have submitted to the Director of Planning and Development, final as-built plans in digital format.



- d. The Petitioner shall have filed with the City Clerk and the Department of Inspectional Services a statement by the City Engineer certifying that the construction of walls, the finished grades and final construction details of the driveways, parking area, and drainage systems have been constructed to standards of the City's Public Works Department.
- e. The Petitioner shall have filed a certification by a registered surveyor in an as-built survey that the maximum mid-point of the roof of Building A does not exceed 46.9 feet as determined under the provisions of the City's Zoning Ordinance.
- f. The Petitioner shall have installed all directional signage in accordance with the sign package submitted to the Director of Planning and Development and the City Traffic Engineer for review and approval under Condition 14.
- g. Prior to occupancy of Building "A", final locations of the planting in the open space areas along LaGrange Street and Rangeley Road shall have been reviewed and approved by the Tree Warden and the Director of Planning and Development. The final landscape plan shall balance the need to provide screening with Site conditions and likelihood of plant survivability.
- h. The Petitioner shall have filed the approved easement with the Middlesex Registry of Deeds, in accordance with Condition 27 above, and copies of such recorded easement shall have been filed with the City Engineer and the City Clerk. Prior to issuance of any Final Certificates of Occupancy, the Petitioner shall have filed with the City Clerk, Department of Inspectional Services and the Director of Planning and Development documentation of the final as-built location, number and type of plant materials, landscape features, parking areas, and lighting installation.
- i. The Petitioner has complied with the Inclusionary Zoning Ordinance, Section 30-24(f), and the Inclusionary Housing Program under Condition 16.

Under Suspension of Rules

Readings Waived and Approved

18 yeas 4 nays (Aldermen Harney, Parker, Sangiolo, and Swiston) 2 absent (Aldermen Fischman and Johnson)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on November 20, 2008. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.



ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 11/30 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

