



Land Use Committee Report

City of Newton In City Council

Tuesday, August 18, 2020

Present: Councilors Lipof (Chair), Kelley, Greenberg, Markiewicz, Downs, Bowman, Laredo

Also Present: Councilors Albright, Gentile, Krintzman

City Staff Present: Chief Planner Neil Cronin, Associate City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#26-20 **Request to Rezone Approximately 4.4 acres to MU-3 to Create a Contiguous MU-3 Zone**
MD 399 GROVE OWNER, LLC/RAMIREZ CONCORD, LLC/BH NORMANDY RIVERSIDE, LLC/MASSACHUSETTS BAY TRANSPORTATION AUTHORITY petition for a change of zone to Mixed Use 3/Transit Oriented District for portions of land located at 355 Grove Street (currently zoned BU-2) and 399 Grove Street (currently zoned BU-5), also identified as Section 42, Block 11, Lots 3, 4, and 4A, abutting the existing MU-3 Zone.

Action: **Land Use Held 7-0; Public Hearing Continued**

#27-20 **Petition to allow Mixed Use Transit Oriented Development at Riverside Station**
MD 399 GROVE OWNER, LLC/RAMIREZ CONCORD, LLC/BH NORMANDY RIVERSIDE, LLC/MASSACHUSETTS BAY TRANSPORTATION AUTHORITY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed use, transit-oriented development of residential units, office, retail, personal services, restaurant, hotel, and related commercial uses not to exceed 1,025,000 square feet of gross floor area, with residential uses comprising not less than 60% of the total gross floor area with a residential density of not less than 800 square feet per unit with not less than 560 units nor more than 620 units with special permit relief and/or waivers as follows: as to dimensional standards, a development of more than 20,000 square feet of gross floor area, building height of up to 170 feet, buildings up to 11 stories, Floor Area Ratio of up to 2.5, beneficial open space of not less than 15%, increase of height of certain buildings with the Grove Street Area Corridor (to the extent necessary), and reduction in setback from Grove Street for certain buildings within the Grove Street Corridor Area (to the extent necessary); as to design standards, waiver of the sustainable development design standards and placement of a retaining wall greater than 4 feet in height located in a setback; as to uses, for-profit educational use, retail sales of over 5,000 square feet, restaurant with more than 5,000 square feet of gross floor area, personal service use of over 5,000 square feet, place of amusement, health club on ground floor, animal services, hotel, bank up to and over 5,000

square feet, theatre/hall, laboratory/research facility, parking facility, accessory, multi-level, parking facility, non-accessory, single level; as to parking, reduction of the residential parking requirement to 1.25 stalls per unit, reduction of the overall commercial parking requirement by 1/3, and waiver of parking stalls not to exceed 685 stalls, above and beyond the reductions specified above; as to parking facilities, waivers of the parking stall dimension requirements, the end stall maneuvering space requirements, the driveway entrance and exit requirements, the 5% interior landscaping requirements, the interior planting area requirements, the tree requirements, the bumper overhang requirements, the one-foot candle lighting requirement, the parking stall striping requirements (to the extent necessary), the curbing, wheel stop, guard rail, or bollard requirements, and the number of off-street loading facilities requirements; and as to signage, waiver of the number, size, type, location, and design requirements, all at 355 and 399 GROVE STREET on land known as Section 42, Block 11, Lots 3, 4 and 4A, containing approximately 13.05 acres of land in districts zoned Mixed Use 3 Transit Oriented (MU3), BU2 (a portion to be rezoned to MU3), BU5 (to be rezoned to MU3). Ref: Sec. 4.2.2.B.1, 4.2.2.B.3, 4.2.3, 4.2.4, 4.2.4.A.4, 4.2.4.B.3, 4.2.4.G.2, 4.4.1, 5.1.4, 5.1.4.A, 5.1.4.C, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.B.6, 5.1.8.D.1, 5.1.8.D.2, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10.A.1, 5.1.10.B.3, 5.1.10.B.5, 5.1.12, 5.1.12.B.4, 5.1.13, 5.2, 5.2.13, 5.4.2.B, 5.12, 6.4.29.C.5, 7.3.3, 7.3.5, 7.4 of the City of Newton Revised Zoning Ordinance, 2017. Additionally, as to infiltration and inflow mitigation, an abatement of the infiltration/inflow mitigation fee pursuant to Section 29-170 of the City of Newton Revised Zoning Ordinance, 2017.

Action: Land Use Held 7-0; Public Hearing Continued

Note: The Committee continued their discussion of the draft Council Order for the Riverside Special Permit #27-20. Chief Planner for Current Planning Neil Cronin, Associate City Solicitor Jonah Temple and members of the development team joined the Committee for the review and discussion of draft conditions. The Committee deliberated and made changes to conditions as shown below.

Local Preference

Atty. Temple explained that the Law Department has reevaluated the condition relative to the requirement for 70% local preference. He noted that there is a lack of clarity as to whether unique projects are required to have 70% or whether a smaller percentage of local preference units can be required on a project by project basis. Atty. Temple noted that the recommendation to amend the zoning ordinance remains. He noted that currently the language of the ordinance requires "up to 70%" indicating that the Council may require a percentage of local preference units at their discretion.

The Committee expressed support for amendment of the zoning ordinance. The Committee acknowledged that data is lacking relative to the current breakdown of the local preference units and whether they are serving their intended goals. Committee members agreed that additional time is needed to allow the City to gather data that will inform the policy decision. It was noted that the scope of the Riverside project warrants a review of the percent of the required percentage of local preference units. The Committee considered a condition that the percentage of local preference units complies with the zoning ordinance. Atty. Temple expressed some concern relative to approval of the petition subject to a future zoning amendment. He noted that the Department of Housing and Community Development (CHCD) must approve the percent of local preference and the timing of the application with DHCD may

not align with the City's zoning amendment process. He suggested that the Committee could require a range and leave the final requirement at the discretion of the Planning Department, who will be evaluating local preference for Dunstan East and Riverdale (40B projects not subject to inclusionary zoning). The Committee was not supportive of delegating the local preference to the Planning Department and agreed that it would be preferable to have the Council Order follow the City's policy decisions. The Committee asked the Law Department and Planning Department to consider next steps and provide an update at the next meeting.

Monitoring Conditions

Conditions 61-67 – Mr. Cronin noted that in response to concerns raised by the Committee regarding the post occupancy monitoring for traffic beginning at 95% occupancy of the residential units, these conditions have been revised to include a lower threshold for the post occupancy monitoring to 80% residential occupancy. He noted that if monitoring occurs below 95% of the residential occupancy, the maximum number of allowable trips will be decreased in accordance with the corresponding occupancy rate. It was noted that at a point of 80% occupancy of the residential units, it is possible that the commercial and retail components of the project may have been built and occupied for years. It was suggested that the language is revised to a point of 80% residential occupancy or four years after issuance of the first building permit (excluding the garage). Monitoring would occur from the trigger date to five years after occupancy of 95% of the residential units.

VHB Traffic Engineer Randy Hart explained that the driving force on the traffic generation is occupying of a substantial number of residential units. He noted that the office and commercial will have less of an impact on the traffic. Mr. Hart confirmed that monitoring can begin at 80%, provided the calculations for trip maximums are consistent with the calculations that were used to generate the number at 95% occupancy (696 trips). Mr. Korff emphasized that monitoring should be limited to five years, regardless of when it begins. He noted that the ordinance requires two years but the petitioner agreed to five. He suggested that monitoring in excess of five years would be problematic for the development team. Atty. Temple stated that while the petitioner can agree to more years of monitoring than the ordinance requires, the City cannot require additional years of monitoring with their objection. Committee members expressed concern relative to this interpretation and noted that while the ordinance calls for two years of monitoring, it doesn't indicate that there is a maximum. The Committee noted that some Transportation Demand Management (TDM) measures will not even have kicked in at 80% residential occupancy. Mr. Korff suggested that the City can wait to determine if monitoring should begin after a review of the data requested by the Director of Planning and Development (if a count is requested at a point sooner than 95% occupancy). The Committee was not generally supportive of reducing the five-year monitoring post 95% occupancy.

The Committee discussed the frequency of the counts. Mr. Hart explained that counts would typically be taken in April and October according to industry standards. There is a clause that authorizes the Director of Planning and Development to request an additional count based on a degradation of service. The Committee questioned whether the frequency should be increased to three times each year.

The Committee discussed mitigation if the trip data does not match the trip projections as presented. Mr. Cronin explained that there is \$1 million dollars in mitigation money reserved to implement mitigation measures if the maximum trip number is not met. This \$1 million dollar mitigation fund is separate from the mitigation package totaling \$7.9 million dollars. Mr. Cronin explained that the funds could be directed to various mitigation efforts aimed to reduce the number of trips to lower than 110%. Some support was expressed for uncapped mitigation funds to address traffic counts exceeding the projections. It was noted that an uncapped liability was appropriate at Northland, where no public transit exists. The Committee noted that uncapped liability can be difficult to explain to lenders. Atty. Temple confirmed that if the trip counts exceed 110% of the projections, the zoning ordinance requires the developer to take steps to reduce the number of trips below the threshold, regardless of the cost.

Conditions 68 – 69 – The Committee discussed monitoring of the water, sewer, and stormwater conditions. A suggestion was made that the post construction studies begin at 80% occupancy rather than 95% occupancy to be consistent with the Transportation Conditions. The Committee expressed some concern relative to earlier monitoring, noting that monitoring at 80% will not reflect the conditions once the site is fully developed. Atty. Temple noted that if the targets are not met in years one or two, the site will be subject to an additional five years of monitoring and assessment.

Condition 71 – Replaced this language to require replacement as soon as practical, but no longer than annually.

Illumination – relative to lighting during and post construction. The Committee discussed how lighting will be managed and appropriate times, etc. It was noted that the City needs a way of determining the appropriate light levels. Atty. Temple confirmed that the City has an ordinance governing light trespass (over onto an abutting property and into the sky).

Condition 72 – Recycling – It was confirmed that the petitioner will bear the cost of recycling and will have a trash and recycling program. It was noted that recycling will be encouraged but cannot be mandated. Atty. Temple stated that language can be drafted that requires the petitioner to use best efforts to encourage recycling.

The Committee asked that where conditions reference “snow” the language is modified to include “snow and ice”.

Comprehensive Sign Package

It was noted that the Comprehensive Sign package as currently proposed has some discrepancies with what was agreed upon with the neighborhood. Although the Committee reviewed the Comprehensive Sign package, it was noted that a final Comprehensive sign package has not been approved. Mr. Cronin noted that the Committee did not make major recommendations relative to the final proposed parameters for building signage and stated that all other signage will be in accordance with the zoning ordinance. He noted that wayfinding and temporary signage will be reviewed by the Urban Design Commission. It was noted that the Ward 4 Councilors will work with the neighborhood and petitioner to identify discrepancies in the final Comprehensive sign package with the package that was agreed upon by the neighborhood.

Design Guidelines

Mr. Cronin explained that the Design Guidelines are goals and principles intended to guide the architectural details and urban design to ensure they meet the City's design expectations as the project progresses. The MU-3 zone governs the use, size, and number of units. The site plan will govern building location and height, etc. The Design Guidelines are intended to guide finishing components of the project. Some concern was raised that the Design Guidelines refer to design details that were never proposed as part of the Riverside project. It was suggested that the language and features are very generic and not applicable to the project. The Committee asked that more precise language is incorporated into the Design Guidelines and updated prior to the next meeting.

Grove Street Design/Layout

A suggestion was made that removal/relocation of the right turn lane into the site could create safer conditions for pedestrians and cyclists by eliminating the right turn on red. Additionally, the setback could be increased and raising of the crosswalk could help with traffic calming.

Mr. Hart noted that based on requests from the City and the petitioner, this roadway has been extensively analyzed. He confirmed that the right turn lane is warranted and necessary. Mr. Cronin stated that the peer reviewer believes the right turn is warranted but confirmed that the peer reviewer can investigate the configuration again. It was noted that additional signalization on the street will contribute to provide some traffic calming as well.

With that, that Committee voted unanimously in favor of a motion to hold items #26-20 and #27-20 from Councilor Markiewicz. The Committee adjourned at 10:00 pm.

Respectfully Submitted,

Richard Lipof, Chair