

CITY OF NEWTON

IN BOARD OF ALDERMEN

August 10~~July 13~~, 2015

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, 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, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to construct a three-story addition to a one-story building, which will increase the gross floor area in aggregate by more than 20,000 square feet, and retaining walls greater than four feet within the setbacks, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The specific site is an appropriate location for the expanded office building, , because it is located within the Wells Avenue Office Park proximate to other large office buildings §30-24(d)(1))
2. The construction of retaining walls greater than four feet in height within the setbacks is appropriate in this location because rock outcroppings limit the full use of the site. (§30-5(b)(4) and §30-24(d)(1))
3. The proposed use, as developed and operated, will not adversely affect the neighborhood, as it is a use allowed by right in the Limited Manufacturing district and is consistent with the used permitted by the Deed Restriction.. (§30-24(d)(2))
4. The proposed project will not result in the creation of a nuisance or hazard to vehicles or pedestrians on the site or in the surrounding neighborhood. (§30-24(d)(3))
5. Access to the site-, is appropriate for the types and number of vehicles involved. The Traffic Impact Assessment report indicates that Wells Avenue has adequate capacity to accommodate the additional vehicle trips generated by the proposed expansion of the office use, and the petitioner has agreed to implement a Transportation Demand Management Plan, which includes participation in the 128 Business Council shuttle bus. In addition, City planned improvements to the signalization at the entrance/exit to the Wells Avenue office park and at the Winchester/Nahanton Street intersection are intended to mitigate additional traffic generated by potential future development within the office park. (§30-24(d)(4))

6. The proposed project will contribute significantly to the efficient use and conservation of natural resources and energy. The petitioner has incorporated numerous environmentally responsible and sustainable features into the building design, site design and facility programming, including, but not limited to low VOC and recycled building materials, high efficiency heating, cooling and lighting systems, low-flow plumbing fixtures, a roof membrane with high solar reflectance, highly insulated roof and wall assemblies, no disruption of adjacent sensitive ecological areas, extensive landscaping using primarily native and drought tolerant tree and plant species, and programs to encourage employees to use modes of transit other than single-occupancy vehicles trips. The petitioner will implement an advanced stormwater management system designed to capture and infiltrate runoff generated in a 1% (" 100 year") storm for both the new and existing building as well as for new parking and nearly all of the existing parking areas, substantially relieving the city stormwater system and improving water quality. (§30-24(d)(5))
7. The petitioner's voluntary contribution of the construction of concrete sidewalks and pedestrian aprons along the frontage of the property bordering Wells Avenue between the two driveways of the site is a public benefit to the City that will enhance the safety of pedestrians and improve pedestrian movements in the Wells Avenue Office Park.
- ~~7-8.~~ [The petitioner's voluntary contribution to a Traffic Mitigation Fund will help pay for future infrastructure improvements to the Winchester/Nahanton Streets intersection and Wells Avenue/Nahanton Street intersection as well as other traffic improvements, technical assistance, or studies that the City may undertake to improve traffic circulation into and out of Wells Avenue office park and along the Nahanton traffic corridor. In addition, the petitioner has expressed its willingness to cooperate in the development of a second means of access/egress to the office park over a portion of its property should this be undertaken by the City in the future.](#)

PETITION NUMBER: #124-15

PETITIONER: Wells Avenue, LLC.

LOCATION: 2 Wells Avenue, Ward 8, on land known as Section 84, Block 34, Lot 2K, containing approx. 436,175 square feet of land

OWNER: Wells Avenue, LLC. and The CCS Companies

ADDRESS OF OWNER: 2 Wells Avenue  
Newton, MA 02459

TO BE USED FOR: Office Building and Retaining Walls

EXPLANATORY NOTES: §30-13(g)(2), to allow the construction of an addition to a building greater than 20,000 square feet; and §30-5(b)(4), to allow the

construction of retaining walls in excess of four feet in height within setbacks.

ZONING: Limited Manufacturing district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
  - a. Architectural plan set titled "Two Wells Ave – 2 Wells Ave., Newton, MA", prepared by Spagnolo Gisness & Associates, Inc., dated May 8, 2015. The plan set consists of the following ten (10) sheets:
    - i. Site Plan;
    - ii. Site Plan with Existing;
    - iii. Site Plan Zoning;
    - iv. Perspective View;
    - v. Level 1;
    - vi. Level 2;
    - vii. Level 3;
    - viii. Elevations, revised on June 18, 2015;
    - ix. Elevations, revised on June 18, 2015; and
    - x. Abutters.
  - b. Civil plan set titled "2 Wells Avenue Expansion, Newton Massachusetts", prepared Nitsch Engineering. The plan set consists of the following forty-three (43) sheets:
    - i. Cover, dated May 8, 2015;
    - ii. Notes, Abbreviations, and Legend, Sheet C-0.0, dated May 8, 2015;
    - iii. Area Wide Plan and Key Plan, Sheet C-1.0, dated May 8, 2015;
    - iv. Existing Conditions Plan, Sheet EX-1.1, dated September 5, 2014;
    - v. Existing Conditions Plan, Sheet EX-1.2, dated September 5, 2014;
    - vi. Existing Conditions Plan, Sheet EX-1.3, dated September 5, 2014;
    - vii. Existing Conditions Plan, Sheet EX-1.4, dated September 5, 2014;
    - viii. Existing Conditions Plan, Sheet EX-1.5, dated September 5, 2014;
    - ix. Layout and Materials Plan, Sheet C-2.0, dated May 8, 2015;
    - x. Layout and Materials Plan, Sheet C-2.1, dated May 8, 2015;
    - xi. Layout and Materials Plan, Sheet C-2.2, dated May 8, 2015;
    - xii. Layout and Materials Plan, Sheet C-2.3, dated May 8, 2015;
    - xiii. Fire Access Plan, Sheet C-2.4, dated May 8, 2015;
    - xiv. Soil Test Pit data (Form 11), Sheet C-2.5, dated May 8, 2015;

- xv. Soil Test Pit Data (Form 11), Sheet C-2.6, dated May 8, 2015;
- xvi. Utility and Grading Plan, Sheet C-3.0, dated May 8, 2015;
- xvii. Utility and Grading Plan, Sheet C-3.1, dated May 8, 2015;
- xviii. Utility and Grading Plan, Sheet C-3.2, dated May 8, 2015;
- xix. Utility and Grading Plan, Sheet C-3.3, dated May 8, 2015;
- xx. Average Grade Plane Plan, Sheet C-3.4, dated May 8, 2015;
- xxi. Erosion and sedimentation Control Plan, Sheet C-4.0, May 8, 2015;
- xxii. Erosion and sedimentation Control Detail, Sheet C-5.0, May 8, 2015;
- xxiii. Erosion and sedimentation Control Detail, Sheet C-5.1, May 8, 2015;
- xxiv. Civil Construction Details 1, Sheet C-5.2, May 8, 2015;
- xxv. Civil Construction Details 2, Sheet C-5.3, May 8, 2015;
- xxvi. Civil Construction Details 3, Sheet C-5.4, May 8, 2015;
- xxvii. Civil Construction Details 4, Sheet C-5.5, May 8, 2015;
- xxviii. Civil Construction Details 5, Sheet C-5.6, May 8, 2015;
- xxix. Site Cross-Sections, Sheet C-6.1, dated May 8, 2015;
- xxx. Tree Removal Plan 1, Sheet L-0.0, dated May 8, 2015;
- xxxi. Tree Removal Plan 2, Sheet L-0.1, dated May 8, 2015;
- xxxii. Tree Removal Plan 3, Sheet L-0.2, dated May 8, 2015;
- xxxiii. Tree Removal Plan 4, Sheet L-0.3, dated May 8, 2015;
- xxxiv. Planting Plan 1, Sheet L-1.0, dated May 8, 2015;
- xxxv. Planting Plan 2, Sheet L-1.1, dated May 8, 2015;
- xxxvi. Planting Plan 3, Sheet L-1.2, dated May 8, 2015;
- xxxvii. Planting Plan 4, Sheet L-1.3, dated May 8, 2015;
- xxxviii. Plant Schedule and Details, Sheet L-1.4, dated May 8, 2015
- xxxix. Lighting Plan1, Sheet L-2.0, dated May 8, 2015;
  - xl. Lighting Plan 2, Sheet L-2.1, dated May 8, 2015;
  - xli. Lighting Plan 3, Sheet L-2.2, dated May 8, 2015; and
  - xlii. Lighting Plan 4, Sheet L-2.4, dated May 8, 2015.

2. The trash collection area shall be maintained in a sanitary condition at all times when not in use. The collection/emptying of such receptacles shall only occur on weekdays between 8:00 a.m. and 5:00 p.m.
3. Snow shall only be stored in approved locations identified as "Snow Storage Area" on the "Layout and Materials Plans" listed above in Condition #1.
4. The petitioner shall not use salt or associated chemicals on roadways and parking areas.
5. All landscaping associated with this Special Permit/Site Plan Approval shall be maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.

6. The petitioner agrees that the petitioner and any successor in title to the petitioner for the period of 15 years from the date of approval of this special permit will refrain from altering, developing, building or constructing anything, whether above or below grade, on the portion of its property north of the developed portion of the site that would impede, obstruct or increase the difficulty of the City of Newton in creating a second means of vehicular access and egress for the Wells Avenue office park. Because the exact location and dimensions of such public way are unclear at this time, and because various private and public entities have legal interests in or regulatory authority over the area which would be crossed by such public way, it is uncertain when and if such a public way will be feasible. In the event that the City takes affirmative steps to develop a second means of access and egress to the Wells Avenue office park through the petitioner's site, upon receipt of written notice from the City that the City is undertaking the development of such public way, the petitioner agrees to enter into an option agreement with the City to acquire a public way easement on such mutually agreeable terms and conditions to be negotiated at that time. Any design plans by the City for such public way on the petitioner's property must include such screening, both natural landscaping and otherwise that is consistent with the Wells Avenue office park. The area of petitioner's property that would be impacted by this condition is reflected in the shaded area on Sheet # identified in Condition 1 above.

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7. The petitioner shall execute a Traffic Mitigation Fund Agreement and donate \$67,500.00 which it has offered to pay for the cost of traffic and roadway improvements, studies/technical assistance, and transportation programs selected by the City that will mitigate potential impacts of the project or improve traffic safety and flow at the intersection of Wells Avenue and Nahanton Street, the intersection of Nahanton Street and Winchester Street, and on Wells Avenue and Nahanton Street. The form of the Traffic Mitigation Fund Agreement is set out in Exhibit A attached to this Board Order. Each project funded, in whole or in part through the Traffic Mitigation Fund shall be undertaken or constructed by the City or a contractor engaged by the City, not by the petitioner. The Commissioner of Public Works, or her/his designee, shall request the Mayor to request an appropriation from the Board of Aldermen for any project to be funded, in whole or in part, by the Traffic Mitigation Fund.

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8. The petitioner shall implement a transportation demand management program to be reviewed and approved by the Department of Planning and Development, which program shall encourage the use of public transportation, promote the use of bicycles by provisions of lockers and shower facilities for cyclists, promote ride sharing, and assistance in the organization as well as participation in a shuttle service for Wells Avenue.

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~~5.~~

~~6.9.~~ Signage shall conform to the City standards and provisions of the Deed Restriction. The Urban Design Commission and the Director of Planning and Development shall review and approve all by-right signs.

~~7.10.~~ Prior to the issuance of any building permit, the petitioner shall submit final lighting details or manufacture's cut-sheets, illustrating light poles and shielded light fixtures that

will be installed on the site, for review and approval by the Director of Planning and Development.

~~8-11.~~ Prior to the issuance of any building permit, the petitioner shall submit final architectural details and plans for the roof-top mounted acoustical shielding.

~~9-12.~~ Prior to the issuance of any building permit, the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Board Order and shall include, but not be limited to, the following provisions:

- a. 24-hour contact information for the general contractor of the project.
- b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. Except as to construction within the proposed building once it is fully enclosed.
- c. The proposed schedule of the project, including the general phasing of the construction activities.
- d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
- e. Proposed truck route(s) that minimize travel on local streets.
- f. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
- g. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
- h. A plan and proposed methods for control of any blasting work, in accordance with City and State regulations.
- i. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.

~~j.~~ A plan for rodent control during construction.

~~k.~~

~~10-13.~~ Prior to issuance of a certificate of occupancy, the petitioner, at its sole expense, shall complete pedestrian safety improvements consisting of the installation of concrete sidewalks and pedestrian aprons along the frontage of the property bordering Wells Avenue

between the two driveways to the site. The petitioner shall submit final details and plans for such improvements to the City Engineer for review and approval as part of the building permit process.

~~11.14.~~ No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners has:

- a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval and an amendment to the Deed Restriction as proposed in Board Order #124-15(2) with the Registry of Deeds for the Southern District of Middlesex County.
- b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
- c. Submitted final lighting details or manufacture's cut-sheets for review and approval by the Director of Planning and Development.
- d. Submitted final architectural details and plans for the roof-top mounted acoustical shielding for review and approval by the Director of Planning and Development.
- e. Submitted a construction management plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer.
- f. Submitted construction details and plans for the pedestrian safety improvements for review and approval by the City Engineer.
- g. Filed a tree permit with the Tree Warden.
- h. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
- ~~h.i.~~ [Execution of the Traffic Mitigation Fund Agreement and payment of the traffic mitigation contribution per Condition 7.](#)

~~12.15.~~ No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioners has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development, a statement by a registered architect or engineer certifying compliance with Condition #1.
- b. Submitted to the Department of Inspectional Services and the Department of Planning and Development, a final as-built survey plan in paper and digital format by a licensed surveyor.
- c. Constructed, at its sole expense, the pedestrian safety improvements referenced in Condition #10, above, and all consistent with the plans to be approved by City Engineer. The petitioner shall submit a final as-built for the foregoing proposed improvements to the City Engineer for review and approval.
- d. Filed with the Department of Planning and Development, a statement from the City's Tree Warden stating that the petitioner has complied with all requirements of the City's Tree Preservation Ordinance.

- e. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, fencing, signage and parking areas.

| ~~13.16.~~ Notwithstanding the provisions of Condition #12e above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, signage and parking areas provided that the Petitioner shall first 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 the aforementioned remaining site work to secure installation of such landscaping, fencing, signage and parking areas.