

CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

DATE: May 19, 2017
TO: Marc Laredo, Chairman, Land Use Committee
All Members, Land Use Committee
FROM: Ouida C.M. Young, Deputy City Solicitor
RE: #96-17 Draft Order
Washington Place Project



Attached for your review is a lengthy revised draft Order for the special permit/site plan approval being requested by the developer of the Washington Place Project. This draft Order incorporates the revisions to both findings, conditions, and schedules discussed since our February meetings and is based on the draft Order revised to February 2, 2017.

There is still work to be done on this draft Order, and while I've included the latest version of Schedule D which addresses the Improvements to be paid for by the \$700,000 contribution from the developer, the cost of those improvements is still be verified. I expect Schedule D to be revised again before it goes out in next Friday's packet. I am also waiting for a more detailed Scope of Work for the intersection and street improvements which is Schedule G. I have not included the last version of that Schedule in this draft. Alexandra Ananth also noted that Schedule F which contains the Transportation Demand Management needs further work.

Accordingly, please feel free to forward any comments or edits you might have on the current draft to me. We will be continuing to work on the draft Order over the next week, and expect to have a more finished draft for the May 26, 2017 packet. However, I had promised to provide the next draft Order by today's packet whatever its condition.

I want to again thank Alexandra Ananth for her continued assistance with drafting.

DRAFT
#96-17 _____
5-19-17 revisions

CITY OF NEWTON
IN CITY COUNCIL
June _____, 2017

ORDERED:

That the Council, 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 for a mixed use development consisting of three interconnected buildings which incorporate 160 residential units (approximately 180,000 square feet), not exceeding 45,000 square feet of retail sales, service establishment, restaurant, health club, and/or medical office space, not less than 2,000 square feet of office/community space, and not less than 350 on-site parking stalls outside at grade within the Project Site or within a below-grade garage, all in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee . therefore, through its Chairman, Councilor Marc C. Laredo.

Procedural Background

The proposed development (the "Project") for Washington Place (the "Site") was submitted by Mark Newtonville, LLC (the "Petitioner") and reflects efforts to diversify Newton's housing stock, provide affordable housing choices, encourage pedestrian-oriented development with a mix of residential and business uses, and enhance the quality of life in Newtonville and Newton's village commercial centers, all in accordance with Newton's *Comprehensive Plan*.

The Petitioner filed a request to re-zone the Site from B1/B2/Public Use to MU4 and simultaneously filed special permit/site plan application for the Project with the City Clerk on May 9, 2016, *i.e.*, Docket ## 179-16 and 180-16. Notice of the public hearing was published on May 24, 2016 and May 31, 2016 in *The Boston Globe*, on June 1, 2016 in the *Newton Tab*, and re-noticed and re-published on November 18, 2016, November 25, 2016, December 28, 2016, and January 4, 2017 in *The Boston Globe* and on November 23, 2016 and December 28, 2016 in the *Newton Tab*, and mailed to all parties in interest in compliance with the Newton Zoning Ordinance and M.G.L. c. 40A, Section 11. The Land Use Committee ("LUC") of the City Council opened the public hearing on June 7, 2016 and continued the public hearing on July 12, 2016, September 13, 2016, October 6, 2016, November 1, 2016, November 29, 2016, December 15, 2016, January 12, 2017, January 31, 2017, February 7, 2017, and February 28, 2017. The LUC also held a special meeting on March 20, 2017, at which meeting public testimony was not taken, to allow the City Council to identify concerns regarding the Petition prior to the close of

the public hearing.

Over the course of the public hearings on Docket # 179-16 presentations were made by the Petitioner and its Project team including its attorney, Stephen J. Buchbinder of Schlesinger and Buchbinder, LLP; Damlen Chaviano of Mark Development, LLC; its architects, David Chilinski and Steven Allen of Prellwitz Chilinski Associates, Inc.; its landscape architect, Shauna Gillies-Smith of Ground, Inc.; its fiscal consultant, John Connery of Connery Associates; its transportation consultant, Randy Hart of Vanasse Hangen Brustlin, Inc. ("VHB"); its sustainability consultant, Lauren Baumann, of New Ecology; and its lighting consultant, Carrie Hawley of HLB Lighting. Presentations were also made by City staff including Alexandra Ananth, Chief Planner of Current Planning for the Planning and Development Department, and the City's transportation consultant and peer reviewer, Michael Santos of Howard Stein Hudson.

The LUC received extensive oral and written testimony from the public and written reports from the City's professional consultants and various City boards, commissions, and departments, including the Planning and Development Department, the Department of Public Works, the Planning and Development Board, the Urban Design Commission, and the Newtonville Area Council. During the review process, supplemental materials and testimony have been submitted in response to requests by the Council and the public. All testimony, written reports, and supplemental materials prepared by the Petitioner and its consultants, and the City and its staff, consultants, boards, and commissions, as well as public testimony and supplemental materials submitted by the public, are included in the record of the Council's proceedings, and provide factual and technical background for the Findings and Conditions set forth within the body of this order.

Because of a protest filed pursuant to G.L. c. 40A, sec. 5 challenging Petitioner's request to re-zone the Site, the Petitioner requested leave to withdraw without prejudice the special permit/site plan petition Docket #179-16 and the rezoning petition Docket #180(2). The LUC closed the public hearings on both petitions on March 28, 2017, and recommended approval the request to withdraw without prejudice, which request was granted by the City Council on April 3, 2017.

On April 4, 2017, the Petitioner refiled the special permit/site plan approval for the Project, as well as a request to re-zone a portion of the Site totaling 92,907 sq. ft. from B1/Public Use to MU4, *i.e.*, Docket ## 95-17 and 96-17, with the City Clerk. A portion of the Site that is currently B2 would not be rezoned. Given that the Project as refiled is identical to the Project proposed at the time of request to withdraw without prejudice was granted with the exception of the rezoning request, the LUC is incorporated by reference all oral or written testimony and reports received by the LUC from the Petitioner and his consultants, the City staff and consultants, and from the public in connection with Docket ## 179-16 and 180-(1)&(2). No new special permits are required for the Project as refiled although the special permit waivers for FAR and lot area per dwelling unit are slightly changed

Notice of the public hearing was published on April 18, 2017 and April 25, 2017 in *The Boston*

Globe and on April 26, 2017 in the *Newton Tab*, and mailed to all parties in interest in compliance with the Newton Zoning Ordinance and M.G.L. c. 40A, Section 11. The Land Use Committee ("LUC") of the City Council opened the public hearing on May 2, 2017 and continued the public hearing on

Following a final presentation by the Petitioner and City staff, as well as public testimony, the public hearing was closed on . On the LUC voted to recommend approval of the Project to the Council as follows:

Finding that all applicable provisions of the Zoning Ordinance have been complied with and taking into consideration the testimony and evidence provided by all interested parties, the Council GRANTS approval of this Special Permit/Site Plan Approval based on the following findings, as recommended by the LUC of the Council:

With regard to how the Project furthers the purposes of the MU-4 Districts and meets the requirements of §7.3.3.C.1.-5., for those uses or dimensional waivers requiring special permits:

1. The Council finds pursuant to the requirements of §4.2.1.C.1.-5. that the Project is consistent with the purposes of the MU-4 district and the Newton *Comprehensive Plan*, including the Mixed Use Centers Element adopted in November 2011, in that:
 - a. The Project will allow the development of buildings and uses appropriate to the Newtonville village commercial center and aligned with the vision of the City's *Comprehensive Plan* by providing a compact development with residences, shops, public gathering spaces, and mixed use development opportunities in a commercial village center. (§4.2.1.C.1)
 - b. The massing of the Project along two blocks on the north side of the Massachusetts Turnpike and at the corner of Washington and Walnut Streets as well as matching the Project's streetscape improvements to those streetscape improvements being made along Walnut Street south of the Turnpike with help visually connect Newtonville's commercial village center which is bifurcated by the Turnpike. (§4.2.1.C.2)
 - c. The Project will allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community. (§4.2.1.C.3)
 - d. The Project will expand the diversity of housing options available in the City. (§4.2.1.C.4)
 - e. The Project will promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community. (§4.2.1.C.5)
2. The Council finds that all 160 residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units and are visitable

Comment [OCMV1]: Check to see if there are additional zoning sec. references necessary with the B2 district which will contain only parking spaces and site circulation.

by those in a wheelchair. In addition, per MAAB guidelines, 5% of the units will conform to "Group 2A" unit requirements and will be designed for immediate use and occupancy by anyone in a wheelchair, and with the ability to adapt additional components of the units upon need, at the Petitioner's sole cost and expense. This will add to the diversity of Newton's housing stock, thereby increasing housing choices and opportunities in the City.

3. The Council finds that the residential units fill a need for smaller, accessible, residential units as identified by multiple sources including the City's Housing Needs Analysis and Strategic Recommendations Report dated June 2016, the Metropolitan Area Planning Council's Population and Housing Demand Projections for Metro.Boston, and the two Demographic Trends and Projections Reports prepared by The Dukakis Center for the City of Newton.
4. The Council finds that the Petitioner has taken steps to alleviate the increasing costs of housing in Newton by providing two income tiers of affordability as follows:
 - a. The first tier of affordability per Newton's Inclusionary Zoning Ordinance will set aside 15% of the total residential units as Inclusionary Units affordable to households earning up to 80% of Area Median Income ("AMI") as designated by the US Department of Housing and Urban Development (HUD), adjusted for family size (the "Inclusionary Units") in perpetuity. The Project will consist of 12 units for households earning at or below 50% of AMI and 12 units for households earning at or below 80% of AMI. This results in a blended rate of no more than 65% of AMI.
 - b. The second tier of affordability provides an additional 10% of the total residential units affordable to households earning between 80% and 120% AMI (the "Middle Income Units") in perpetuity. The Inclusionary Units and the Middle Income Units will sometimes be referred to hereinafter as the "Deed Restricted Units."
5. The Council finds that by including both tiers of affordability there will be potential for upward mobility within the Project, as residents may be afforded the option to transition from one tier to the next, where they would have otherwise been required to relocate or pay market rate rents if their income exceeded the cap on the Inclusionary Units.
6. The Council finds that to the extent allowed by the Massachusetts Department of Housing and Community Development (DHCD), the Petitioner will seek permission to set aside 70% of the Deed Restricted Units as Local Preference Units.
7. The Council finds that the specific Site is an appropriate location for the Project as the site plan maximizes the benefits of its Newtonville commercial village center location by expanding needed housing choices, diversifying commercial options in the village, connecting the Site to the village through intersection and streetscape improvements, and maximizing the number of parking stalls available on-site to the greatest extent consistent with appropriate site planning. (§7.3.3.C.1)

8. The Council finds that the use as developed and operated will not adversely affect the neighborhood as the Project will enhance the long term economic stability of the commercial village center, the vitality and walkability of the village, and will create an approximately 9,000 square foot accessible public gathering space. (§7.3.3.C.2)
9. The Council finds that through improvements to the intersection of Walnut and Washington Streets for vehicles and pedestrians as well as the consolidation of site driveways at the Project Site, there will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
10. Access to the site over streets is appropriate for the types and numbers of vehicles involved. The Petitioner conducted studies peer reviewed by the City which conclude that the traffic generated by this Project are accommodated by improvements that the Petitioner will make at its sole cost and expense at the intersection of Washington and Walnut Streets (§7.3.3.C.4)
11. The Council finds that the site planning, building design, construction, maintenance, and long-term operation of the Project will contribute significantly to the efficient use and conservation of natural resources and energy. The Project is located in a commercial village center close to multiple transit options and with the benefits of a walkable commercial village center. The building shall achieve LEED Gold for Homes Midrise Version 3 certification. (§7.3.3.C.5 and §7.4.5.B.8)

With regard to the special permit to allow retail sales establishments over 5,000 square feet, restaurants with more than 50 seats, personal service establishments over 5,000 square feet, standalone ATMs, health club(s) at or above the ground floor, animal service uses, and/or street-level medical office uses pursuant to §4.4.1.:

12. The Council finds that the Site is an appropriate location for retail sales establishments over 5,000 square feet, restaurants with more than 50 seats, personal service establishments over 5,000 square feet, standalone ATMs, health club(s) at or above the ground floor, animal service uses, and/or street-level medical office uses, as the proposed uses are appropriate for the commercial center of the village and will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed uses fill a demonstrated need for the uses within the vicinity, and that the proposed uses are not inconsistent with the purposes of the MU-4 district or the City's *Comprehensive Plan*.

With regard to the special permit to allow a building in excess of 20,000 square feet of gross floor area, pursuant to §4.2.2.B.1.:

13. The Council finds that the size of the interconnected buildings are not inconsistent with the MU-4 district or the Mixed Use Centers Element of the *Comprehensive Plan*. The proposed site plan and buildings improve the pedestrian environment, create beneficial open space, and the proposed mix of uses will enhance the commercial and civic vitality of the Newtonville commercial village center.

With regard to the special permit to allow a building height of 60 feet and 5 stories, and to

waive the setback requirement for buildings taller than 40 feet pursuant to §4.2.5.A.2 and §4.2.5.A.4.c.:

14. The height and number of stories is allowable by special permit in the MU-4 district and the Council finds that the building height of up to 60 feet and 5 stories is compatible in visual scale to its Newtonville commercial village center surroundings, is appropriate given the width of the street, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of the MU-4 district.
15. The waiver of the setback requirement for the portions of the buildings taller than 40 feet is appropriate as the varied 4-5 story height and predominant massing on Washington Street is appropriate at this corner location and scales downward as the building approaches its residential abutters.

With regard to the special permit to allow floor area ratio ("FAR") of not more than 1.90 pursuant to §4.2.3.:

16. The FAR is less than the maximum permitted by special permit in either the MU-4 district (2.5) or the Business 2 district (2.0). The Council finds that the FAR of not more than 1.90 is appropriate for the site and not inconsistent with the MU-4 district or the City's *Comprehensive Plan*.

With regard to the special permit to waive the lot area per dwelling unit requirement, pursuant to §4.2.5.A.3.:

17. The Council finds that the density of approximately 775 square feet of lot area per unit creates a beneficial living environment for the residents, does not adversely affect the traffic on Washington Street or Walnut Street, and better achieves the purposes of the MU-4 district than strict compliance with these standards.

With regard to the special permit to waive the front setback requirement, pursuant to §4.2.5.A.4.:

18. The Council finds that the waivers from the front setback requirement better protects the surrounding community from shadows and blocked views, supports pedestrian vitality, and encourages the purposes of this district.

With regard to the special permit to waive entrance requirements, pursuant to §4.2.5.A.6.:

19. The Council finds that a waiver of the requirement for an entrance every 50 feet on the building frontage facing Walnut Street, Washington Street, and Washington Terrace better enables appropriate use of the Site, supports pedestrian vitality, and better achieves the purposes of the MU-4 district than strict compliance with these standards.

With regard to special permits for the number of parking stalls and various requirements for the design of parking facilities, pursuant to §5.1.4.A.; §5.1.4.C.; §5.1.8.A.; §5.1.8.B.1.2.; §5.1.9.B.; §5.1.10.; §5.1.12.; and §5.1.13.:

20. The Council finds that exceptions to the parking requirements, including a waiver for not more than 97 required parking stalls, to locate parking within a setback, and within five feet of a residential structure, to waive the dimensional requirements for some parking

stalls, to waive the screening requirements for parking lots, to waive the interior landscaping requirements, and to waive the off-street loading requirements, are in the public interest or in the interest of safety, or protection of environmental features for the following reasons:

- a) The Project will provide 243 parking stalls in the underground garage and 109 parking stalls above ground. Six handicap stalls will be provided in the outdoor parking lot and 7 additional handicap stalls will be provided in the underground garage. The Petitioner is proposing 1.25 parking stalls per residential unit and a 1/3 reduction of the commercial parking requirement in addition to a waiver not to exceed 97 stalls. The less than 900 square foot average size of the units will likely attract tenants who have only one automobile per unit and use public transit, making a parking waiver appropriate at this site. Covered bicycle parking will also be provided in the below-grade garage to encourage bike use. The Petitioner intends to have car-sharing services provided on-site and has submitted a Transportation Demand Management Plan and Transportation Demand Management Subsidy Program hereto attached as Schedules E and F.
- b) The parking for the market rate residential units will be charged separately and in addition to the rent so as to encourage reduced car ownership and parking demand while encouraging increased transit usage.
- c) The commercial and residential uses are complementary and will allow for shared usage of the garage at different times.
- d) The location of parking within property boundary setbacks and within five feet of a residential structure makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
- e) The allowance for reduced length of parking stalls (from 19 feet to 18 feet) will not create a nuisance or hazard to vehicles.
- f) The Petitioner will dedicate at least two stalls to Zipcar or other similar services and have at least 30 at-grade bike parking stalls and covered bike storage for at least 160 bicycles in the garage below.
- g) The waiver for some parking lot interior landscape screening helps maximize the number of parking stalls that will be available to the public, and that a sufficient number of trees will be added to the Site in more perimeter locations so as to improve the streetscape, perimeter screening, and public plaza area.
- h) That provisions for on-street and off-street loading facilities are sufficient to service the buildings and related uses on the site.
- i) The waiver to allow for reduced parking lot lighting is in the public interest and in the interest of abutting residential properties.
- j) The waiver for curbing, wheel stops, guard rails and bollards is appropriate given the proposed layout of the parking lot.

With regard to the special permit to waive of the number, size, location, and height of signs pursuant to § 5.2.13

21. The Council finds that the nature of the use of the premises, the architecture of the buildings, and the Project's location at the intersection of Washington Street and Walnut Street, justifies exceptions to the limitations imposed by §5.2 on the number, size, location, and height of signs. The Petitioner will submit a Comprehensive Sign Package for all signage to the Urban Design Commission for review.

With regard to the site plan approval criteria under §7.4.5.B.1.-7.:

22. The Council finds that the Project has been designed to ensure the safety of vehicular and pedestrian movement within the Site and in relation to adjacent streets, properties, and improvements, including regulation of the number, design and location of access driveways and the location and design of handicap parking. The two access driveways include stop signs, open viewing, low planters, and wide sidewalks, and have been located as far away from the intersection as is practical. (§7.4.5.B.1)
23. The Council finds that the methods for disposal of sewage, refuse and other wastes , and that the methods of regulating surface water drainage are adequate for the following reasons:
 - a) The City Engineering Division has reviewed submitted plans and raised no concerns with respect to this Project. The Engineering Division will review all plans submitted for building permits for compliance with City of Newton Engineering Division design standards prior to the issuance of any building permits.
 - b) The Petitioner will be making a \$782,880 contribution to the City of Newton for municipal sewer Inflow and Infiltration improvements. (§7.4.5.B.2)
24. The Council finds that provisions for on-street and off-street loading facilities are sufficient to service the buildings and related uses on the site. (§7.4.5.B.3)
25. The Council finds that screening of parking areas and structures on the site from adjoining premises is sufficient based on the landscape plans referenced in Condition #1. (§7.4.5.B.4)
26. The Council finds that the Project avoids unnecessary topographical changes. (§7.4.5.B.5)
27. The Council finds that all utility service lines on site will be undergrounded. (§7.4.5.B.6)
28. The Council finds that the proposed site design and massing is appropriate in the context of the Newtonville commercial village center location and will serve to improve connections to the south side of Newtonville with an active pedestrian streetscape designed to invite the public into the site and with pedestrian improvement designed to be consistent with the Walnut Street streetscape south of the Massachusetts Turnpike. The Petitioner has incorporated a number of building treatments and design elements that enhance the appearance of the structure, including articulating the façade to

proportion building elements to a human scale and setting the fifth story back from the street in certain locations. (§7.4.5.B.6)

29. The Council finds that the Petitioner worked with the community to design a Project that mitigates the removal of the existing buildings on site. (§7.4.5.B.7)
30. The Council finds the Project will provide public benefits to the residents of Newton as the Project includes 2,000 sq. ft. of accessible community space to be used by local non-profit organizations engaged in the arts and community education.

In light of the findings set forth above and the following conditions imposed by this Council Order, the City Council finds that the public convenience and welfare of the City will be served, and the criteria of §4.2.1.C. 1.-5.; §4.2.2. B.1.; §4.2.5.A; §4.2.5. A. 1.-4. and 6; §5.1.4. A; §5.1.4. C.; §5.1.8.A.; §5.1.8. B. 1., and 2.; §5.1.9. B.; §5.1.10.; §5.1.12.; §5.1.13.; and §7.4.5. B. 1.-8. for granting special permits/site plan approval will be satisfied.

PETITION NUMBER: #179-16

PETITIONER: Mark Newtonville, LLC , its successors and assigns

LOCATION: 22 Washington Terrace, 16-18 Washington Terrace, 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Street, 869 Washington Street, 867 Washington Street, 861-865 Washington Street, 857-859 Washington Street, 845-855 Washington Street, 245-261 Walnut Street (a/k/a 835-843 Washington Street), 241 Walnut Street, Bailey Place, 22 Bailey Place, 14-18 Bailey Place, and an unnumbered lot on Bailey Place, also identified as Section 21, Block 29, Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 20, 21, 22, and 23, Ward 2, currently zoned Business 1, Business 2, and Public Use (the Project Site)

OWNER: Mark Newtonville, LLC, Mark Lolich, LLC, and Sunoco, LLC, their successors and assigns

ADDRESS OF OWNER: 57 River Street, Suite 106, Wellesley, MA 02481

TO BE USED FOR: A mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights of not more than 60 feet and five stories, total gross floor area not exceeding 235,000 square feet

incorporating 160 residential units, not exceeding 45,000 square feet of commercial space, not less than 2,000 square feet of community space, not less than 350 on-site parking stalls outside at grade or within a below-grade garage, and related site improvements; to authorize uses including retail of more than 5,000 square feet, personal service of more than 5,000 square feet, restaurants over 50 seats, standalone ATMs, health club establishments at or above ground floor, animal service, and street level office

CONSTRUCTION: Masonry structure over a structural steel and concrete base

EXPLANATORY NOTES: Special permits, site plan approval, and parking waivers for the Project, all as more specifically set forth in Schedule A, attached hereto, and as further referenced in the Findings.

ZONING: MU-4

Approved subject to the following Conditions.

General 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 the plans identified in Schedule B, and which are hereby incorporated by reference.
2. The Petitioner shall merge the existing parcels to one new lot either prior to the issuance of the first building permit (other than a demolition permit) or within thirty (30) days from the issuance of such building permit. Proof of recording a plan with the Middlesex South District Registry of Deeds shall be submitted to the Department of Planning and Development, the Inspectional Services Department, and the City Solicitor's office.
3. This Special Permit/Site Plan Approval shall be deemed to have been (i) vested, for the purposes of utilizing the benefits of the change of zone authorized by Council Order #180(2)-16, upon the submission to the City of an application for a building permit (other than a demolition permit) for all or any portion of the Project; and (ii) vested and exercised, with respect to the entire Project, once construction under this Special Permit/Site Plan Approval has begun for any portion of the Project.
4. Prior to the issuance of any building permits, the Petitioner shall submit stamped and signed engineered plans for the reconstruction of the intersection at Walnut and Washington Streets as described on Schedule G attached hereto, for review and approval

by the Director of Planning and Development and the Commissioner of Public Works in consultation with the Director of Transportation, and the City Engineer, for continuity with the Newtonville Streetscape Project south of the Massachusetts Turnpike and consistency with the City's Complete Streets Policy. These improvements will be completed by the Petitioner at its sole cost and expense.

5. Prior to the issuance of any building permits, the Petitioner shall submit stamped and signed engineered streetscape design plans for the improvements to Walnut and Washington Streets adjacent to the project site, for review and approval by the Director of Planning and Development and the Commissioner of Public Works in consultation with the Director of Transportation, and the City Engineer, for continuity with the Newtonville Streetscape Project south of the Massachusetts Turnpike and consistency with the City's Complete Streets Policy.
6. Prior to the issuance of any building permits, the Petitioner shall submit stamped and signed engineered streetscape design plans for the improvements on the east side of Walnut Street for review and approval by the Director of Planning and Development and the Commissioner of Public Works in consultation with the Director of Transportation, and the City Engineer, for continuity with the Newtonville Streetscape Project south of the Massachusetts Turnpike and consistency with the City's Complete Streets Policy.
7. Prior to the issuance of any final certificates of occupancy, and at the Petitioner's sole cost and expense, the Petitioner shall complete the reconstruction of the intersection of Washington Street and Walnut Street as described on Schedule G attached hereto. The City Engineer shall also inspect and approve the improvements upon completion.
8. Prior to the issuance of any final certificates of occupancy, and at the Petitioner's sole cost and expense, the Petitioner shall design and construct bike facilities on both sides of Walnut Street from Newtonville Avenue north to Foster Street. The design of the bike facilities shall be reviewed and approved by the Director of Planning and Development and the Commissioner of Public Works in consultation with the Director of Transportation, and the City Engineer, for consistency with the Newtonville Streetscape Project and consistency with the City's Complete Streets Policy.
9. Prior to the issuance of any final certificate of occupancy, the petitioner shall complete all offsite improvements as described in Schedule D attached hereto, the estimated cost of which is approximately \$700,000.
10. Prior to the issuance of any certificates of occupancy, temporary or final, for the residential portion of the site, the petitioner shall pay an amount of \$782,880 to the City, which sum represents an 8:1 ratio for municipal sewer Inflow and Infiltration improvements in accordance with a memorandum from Associate City Engineer John Daghljan dated November 29, 2016, attached hereto as Schedule C.

11. Prior to the issuance of any certificates of occupancy, temporary or final, for the residential portion of the site, the Petitioner shall fund a Transportation Demand Management Subsidy Program (the "TDM Subsidy Program") in the amount of \$300,000. The details of the TDM Subsidy Program are set forth in Schedule E. The Transportation Demand Management Plan is attached as Schedule F.
12. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), and as proposed in the Preliminary Washington Place Inclusionary Housing Plan (IHP) dated January 18, 2017 as described as Schedule H attached hereto, the Project shall include a total of 15% Deed Restricted units for low- and moderate-income households (Inclusionary Units totaling twenty-four units) that shall be made available to households earning up to 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size. As proposed in the Preliminary IHP, twelve of these units shall be made available to households earning up to 80% AMI, and twelve of these units shall be made available to households earning up to 50% AMI. Monthly housing costs (inclusive of heat, hot water, electricity, water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. The maximum number of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).
13. In addition to the Inclusionary Units, and as proposed in the Preliminary (IHP), the Project shall further include 10% Deed Restricted units for Middle Income Households (Middle Income Units, totaling sixteen units) that shall be made available to households earning between 80% and 120% of AMI, as designated by HUD, adjusted for household size. As proposed in the IHP, eight Middle Income units shall be made available to households earning up to 80% AMI and 100% AMI, and eight of the Middle Income Units shall be made available to households earning up to 100% AMI and 120% AMI. For the purposes of calculating rents, monthly housing cost calculation for the Middle Income Units will not include an allowance for utilities that are not included in the rent.
14. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any building permits for the construction of the Project, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
15. The Middle Income Units will be subject to an Affordable Housing Use Restriction, in a form approved by the Law Department, which shall be substantially similar in form and intent to the Regulatory Agreement and Declaration of Restrictive Covenants that governs the Inclusionary Units. The restriction shall be in perpetuity and shall be executed

between the Petitioner and the City prior to the issuance of any building permits for the construction of the project.

16. Prior to the issuance of any building permits, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan for review by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. The Inclusionary Housing Plan and Affirmative Marketing and Resident selection plan should include both the Inclusionary Units and the Middle Income Units and treat the units the same with respect to Affirmative Marketing and advancing Fair Housing in Newton. In accordance with DHCD's current guidelines, the units will be Affirmatively Marketed and leased through a lottery.
17. The project shall include at least six three bedroom units. At least one of these units will be restricted as an Inclusionary Unit (made available to households earning up to 80% of AMI, as designated by HUD), at least one unit will be restricted as a Middle Income Unit (made available to households earning between 80% and 120% of AMI, as designated by HUD), and the remainder may be made available at market rates.
18. All 160 residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the units will be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use.
19. In accordance with the memorandum from New Ecology dated November 22, 2016, attached hereto as Schedule I, careful attention will be paid to design and construct a high R-value, durable, environmentally sensitive building. Mechanical, Electrical and Plumbing systems will be chosen and sized to meet the minimal heating and cooling loads and to ensure occupant comfort. The building shall achieve LEED Gold for Homes Midrise Version 3 certification, and proper commissioning, optimization, and education for building management and tenants shall be ensured to operate the building at the designed level of performance.

Conditions Related To Construction

20. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works. Interior work may occur at other times when the building is fully enclosed.

21. The Petitioner shall communicate regular construction updates to the Newtonville Area Council and all immediate abutters during construction as appropriate.
22. Not less than two (2) months prior to the commencement of any Site Work and/or other construction activities related to the work approved through this Special Permit, including any demolition activities requiring a building permit, a Construction Liaison Committee shall be established consisting of two (2) designees of the Petitioner; two (2) immediate abutters and one (1) resident from each of the following neighborhood streets: XXXXXX; and the Ward 2 Councilors and any other interested Councilors. The City Council shall appoint the resident neighborhood members. Meetings of the 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 Liaison Committee shall be:

- To enhance and insure communication as to the status and progress of the construction of the Project by the Petitioner.
- To provide a forum for initial presentation of a construction schedule and any significant changes to schedule or changes of plans for which public review is appropriate.
- To provide a public forum for presentation of supplementary permit requests to the extent required.
- To receive and deal with construction-specific issues including, without limitation, noise, dust, parking and traffic; to monitor implementation of the final Construction Management Plan; and to receive notices and communications from the Department of Inspectional Services and the Planning and Development Department.

The Liaison Committee shall meet regularly (monthly for the first six (6) months of the construction period, and thereafter, every three (3) months, unless there is consensus within the Liaison Committee that no meeting is necessary) until at least six (6) months after the initial occupancy of the final building to be completed. The first meeting shall be convened jointly by the Petitioner and the Ward 2 Councilors. The Liaison Committee shall work by consensus, but nothing in the establishment of the Liaison Committee shall inhibit any member, including the Petitioner, from engaging in any lawful activities.

The Liaison Committee shall, at a minimum, give written notice to the City Clerk, the Commissioner of Inspectional Services and the Director of Planning and Development of its meetings, and such notice shall be posted on the construction activity website that the Petitioner shall be required to establish pursuant to its Construction Management Plan.

23. The Petitioner shall comply in all material respects with the final Construction Management Plan to be submitted for review and approval to the Commissioner of Inspectional Services, in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer. The Final Construction Management Plan shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the Project. This contact information shall be provided to the Commissioner of Inspectional Services and to the Newton Police Department, shall be posted on a construction activity website to be established by the Petitioner, and shall be posted on the job site.
 - b. The proposed schedule of the Project, including the general phasing of the construction activities.
 - c. 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.
 - d. Proposed truck route(s) that minimize travel on local streets.
 - e. 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; and locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the Site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Noise Ordinance. 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.
 - g. A plan for rodent control during construction.
 - h. Provide a pre-construction survey at no charge to the owners of any abutting property that consent to such survey.
24. The Petitioner shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
25. The Petitioner shall be responsible for repairing any damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate 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 time frame, as determined by the Commissioner.

26. At the Petitioner's sole expense, the Petitioner shall locate all utility service lines on site and along the Project's frontage on Washington Street and Walnut Street underground, subject to necessary approvals from utility companies.

Conditions Precedent To The Issuance Of Any Building Permits

27. No building permit shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:

Comment [OCMY2]: Review critical path, construction phasing and demo timing -- petitioner needs to provide time line

- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
- b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
- c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
- d. Obtained a written statement from the Department of Planning and Development and the Commissioner of Public Works that confirms that final plans for the reconstruction of the intersection at Walnut and Washington Streets, the improvements to Walnut and Washington Streets adjacent to the project site, and the improvements to the east side of Walnut Street including bike facilities, are consistent with the Newtonville Streetscape Project and the City's Complete Streets Policy.
- e. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
- f. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. 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.
- g. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
- h. Submitted sample building façade materials and colors for review and approval by the Director of Planning and Development.
- i. Submitted a LEED Checklist to the Director of Planning and Development for

review and approval, indicating which points the Project intends to realize in order to achieve LEED Gold for Homes Midrise Version 3 certification.

- j. Submitted to the Law Department copies of fully executed Regulatory Agreements and Affordable Housing Restriction for all Deed Restricted Units, as described in Condition 12 and Condition 13.

Conditions Precedent To The Issuance Of Any Occupancy Permits

28. No occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner 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 and civil engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in digital format.
 - c. Completed the payment to the City for municipal sewer Inflow and Infiltration improvements as required in Condition 10.
 - d. Completed all off-site improvements as described in Schedule D.
 - e. Funded a Transportation Demand Management program with \$300,000 as described in Schedule E.
 - f. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - g. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details including the reconstruction of the intersection at Washington and Walnut Streets, the Walnut Street and Washington Street Streetscape improvements adjacent to the project site, the improvements to the east side of Walnut Street, including bike facilities, have been constructed to standards of the City of Newton Public Works Department.
 - h. Submitted to the Department of Planning and Development and the Health Department a final environmental report from a Licensed Site Professional documenting that the Site can be used for residential apartments.
 - i. Filed evidence of that the criteria for LEED Gold certification has been satisfied.
 - j. Filed with 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, and parking areas.

- k. Provided evidence satisfactory to the Law Department that the Regulatory Agreements for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds or Southern Middlesex Land Court, as appropriate.
- l. Deed Restricted units shall be constructed and occupied coincident with market rate units, such that no more than three market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
- m. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building constructed subject to this special permit prior to installation of landscaping or exterior hardscape improvements required in Condition 31, provided 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 improvements to ensure their completion.

Ongoing Conditions To Be In Effect For So Long As The Project Authorized By This Special Permit/Site Plan Approval Exists

- 29. The cost of residential tenant parking shall be charged separately from residential tenant rents so as to minimize car ownership by residential tenants, provided, however, that one parking stall shall be provided for the household of each Inclusionary Unit which needs a parking stall without charge to the tenant of such unit.
- 30. All landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
- 31. The Petitioner shall be responsible at its sole cost for trash and recycling disposal for the Project. The trash and recycling disposal shall be scheduled at such times to minimize any disruption of the on-site parking.
- 32. A Comprehensive Sign Package including all tenant signage shall be submitted for review by the Urban Design Committee.
- 33. Managed or valet parking is permitted pursuant to a professionally-prepared Parking Management Plan, which shall be maintained on file and available for review upon request by the Director of Planning and Development or the Director of the

Transportation Division of Public Works. Valet parking must be located within the Project site.

34. No changes to the Project shall be permitted, except as otherwise set forth in this Special Permit/Site Plan Approval, unless they are consistent with the Special Permit Plan Set. Consistency determinations shall be subject to review and approval by the Commissioner of Inspectional Services but shall not require approval of the Council. When making a request for a consistency determination, the Petitioner shall submit updated construction sequencing plans and a memorandum for the Commissioner of Inspectional Services demonstrating that such changes (i) do not constitute a reallocation or reconfiguration of square footage among uses in the Project or otherwise allowed in the MU-4 district such that no increase in the parking waiver approved hereunder is required; (ii) do not require additional zoning relief (other than the categories of relief granted and/or modified pursuant to the Special Permit/Site Plan Approval; and (iii) maintain the same percentage of useable open space as shown on the Special Permit Plan Set. If the Commissioner of Inspectional Services grants any consistency ruling pursuant to this Condition, he shall provide a copy to the Land Use Committee of the Council. The Land Use Committee shall not be required to vote or to approve the consistency request.
35. At its sole expense and within 12 months of the issuance of final certificates of occupancy, the Petitioner shall complete a post occupancy traffic study to document and assess (i) the actual traffic characteristics, volumes, and operating conditions of the Project including safety and crash results; (ii) evaluate the success and refine the elements of the TDM Measures including parking utilization and residential and commercial tenant mode shares; and (iii) assess traffic volumes and operating conditions at the intersection of Walnut and Washington Streets. Traffic counts shall be performed under average-month conditions while public schools are in regular session. The results shall be submitted to the City prior to the end of the calendar year in which the study is completed. If the results indicate the actual measured traffic volumes associated with the Project as constructed and occupied exceed the trip estimates presented in the Traffic Impact Assessment by more than 10 percent of the projected trip generation for the then occupied uses as measured at the two primary driveways serving the Project or the intersection of Walnut and Washington Streets, then the Petitioner shall correct the problem by implementing mitigation measures, including but not limited to the following:
- a. Appropriately adjust the traffic signal timing, phasing and coordination for the Walnut and Washington Streets intersection;
 - b. Implement refinements to on-site traffic flow and parking management;
 - c. Expand or modify the elements of the Transportation Demand Management Plan measures in order to increase use of public transportation and/or other alternatives to automobile travel, subject to review of the Director of Planning and Development in consultation with the City's Director of Transportation.

Comment [OCMY3]: Who and how long

36. At least 2,000 square feet of accessible community space as shown on Plan A1.13, Second Floor, shall be made available for lease to a local non-profit organization engaged in the arts through community education. The Owner shall lease such space to the non-profit organization for \$1.00 per year rent plus the cost of utilities actually consumed for such space. The Owner may also require that the non-profit lessee to maintain insurance coverage. The terms of the lease shall require the non-profit lessee to provide programming for the use of such space and also require the non-profit lessee to allow other local non-profits or community groups to use such space at least one evening a week and/or at such other times as are convenient for the non-profit lessee. The Owner shall consult with the City's Cultural Affairs office to help find the original local non-profit organization, and any replacement lessee should the original local non-profit be unable to continue the lease at any time in the future while this special permit is being exercised.
37. The Petitioner and its predecessors agree to not lease commercial space in the Project to any banks. This condition does not prohibit ATM machines.

Comment [OCMY4]: Need to work out details of this and also issue of request from medical office on ground floor

Additional conditions need to be added to deal with consistency rulings as well as the phasing of the Project and completion of off site improvements. Consider conditions similar to the following from the Chestnut Hill Square Order

A Certificate of Occupancy may be issued for any portion of the Project prior to installation of all required landscaping and hardscape/open space areas shown in the Special Permit Plan Set or installation of the sidewalk along Florence Street. Prior, however, to issuance of such Certificate of Occupancy, the Commissioner of Inspectional Services in consultation with the Director of Planning and Development may require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining landscaping, hardscape/open space areas, and the sidewalk along Florence Street to secure the installation of these items. The Commissioner of Inspectional Services may include in the value of such bond or other security the costs associated with any portion or all of the required landscaping, hardscape/open space, and/or Florence Street sidewalk as he deems reasonably necessary to ensure that the site amenities, pedestrian and vehicular circulation pathways, and gathering spaces as show on the Special Permit Plan Site will be installed even if the Project's Phase 1 or Phase 2 are not completely built-out. The review under this condition shall be in addition to the review to be conducted under condition 8 above.

No changes to the Project shall be permitted, except as otherwise set forth in this Special Permit/Site Plan Approval, unless they are consistent with the Special Permit Plan Set. Consistency determinations shall be subject to review and approval by the Commissioner of Inspectional Services but shall not require approval of the Board. When making a request for a consistency determination, the Petitioner shall submit updated construction sequencing plans and a memorandum to the Commissioner of Inspectional Services demonstrating that such change(s): (i) do not require further Massachusetts Environmental Policy Act (MEPA) review under 301 CMR 11.10(8); (ii) constitute a reallocation or reconfiguration of square footage among uses in the Project or otherwise allowed in the BU-4 District such that no increase in the Parking Reduction approved hereunder is required; (iii) do not require a new type of zoning relief (other than the categories of relief granted and/or modified pursuant to this Special Permit/Site Plan

Approval); and (iv) maintain the same percentage of useable open space as shown in the Special Permit Plan Set. If the Commissioner of Inspectional Services grants any consistency ruling pursuant to this Condition, he shall provide a copy to the Land Use Committee of the Board. The Land Use Committee shall not be required to vote or to approve the consistency request.

Nothing in this Special Permit/Site Plan approval shall prevent the Petitioner from submitting a building(s) to a condominium property regime, provided that the land on which such condominium is located shall not be subdivided. In no event shall the submission of the buildings to a condominium property regime relieve the Petitioner of any applicable requirements of this Special Permit/Site Plan Approval. The violation of the conditions of this Special Permit/Site Plan Approval by an owner or occupant of a single condominium unit within the Project shall not be deemed to be a violation by any other owner or occupant within the Project, but shall be deemed to be a violation by the owner or occupant of the condominium unit(s)/premises violating the conditions of this Special Permit/Site Plan Approval. The City may, at the election of the Commissioner of Inspectional Services, look to the applicable condominium association, or in the event of a lease-hold condominium, the applicable lessor, in connection with such violation. Nothing herein shall limit the rights of a condominium association against a violating owner or occupant.

The Petitioner shall merge the existing 11 distinct parcels to one new lot either prior to the issuance of the first building permit for the Project, or within thirty (30) days from the issuance of such permit.

SCHEDULE A

Relief Sought

Dimensional Standards

1. development of more than 20,000 square feet pursuant to Section 4.2.2.B.1
2. lot area less than 1,000 square feet per unit pursuant to Section 4.2.5.A.3
3. building height of 60' pursuant to Sections 2.2.3 and 4.2.5.A.2
4. ~~5-5~~-story building pursuant to Section 4.2.3 and 4.2.5.A.2
5. floor area ratio of not more than ~~1.90~~2.5 pursuant to Section 4.2.3

Design Standards

6. waiver of the height setback requirement of Section 4.2.5.A.4.c for buildings greater than 40' pursuant to Section 4.2.5.A.4
7. waiver of the ~~transparency and entrance~~ requirements of Section 4.2.5.A.6.a-c

Uses

8. retail sales use of over 5,000 square feet pursuant to Section 4.4.1
9. restaurant of over 50 seats pursuant to Section 4.4.1
10. personal service use of over 5,000 square feet pursuant to Section 4.4.1
11. standalone ATM pursuant to Section 4.4.1
12. health club at or above ground floor pursuant to Section 4.4.1
13. animal services pursuant to Section 4.4.1

Medical office use at the street level?

Parking Facility

14. 1.25 parking stalls per residential unit pursuant to Section 5.1.4.A

15. reduction of the overall parking requirement by 1/3 pursuant to Section 5.1.4.C
16. waiver of 97 parking stalls pursuant to Section 5.1.13
17. waiver of the parking stall dimensions required by Sections 5.1.8.B.1 and 2
18. waiver of parking stall setback requirements pursuant to Section 5.1.8.A
19. waiver of dimensional requirements for entrance and exit driveways pursuant to Section 5.1.8.D
20. waiver of end stall maneuvering space requirements of Section 5.1.8.B.6
21. waiver of the 5% interior landscaping requirement of Section 5.1.9.B.1
22. waiver of the interior planting area requirements of Section 5.1.9.B.2
23. waiver of the tree requirements of Section 5.1.9.B.3
24. waiver of the bumper overhang requirements of Section 5.1.9.B.4
25. waiver of the 1-foot candle lighting requirements of Section 5.1.10.A.1
26. waiver of the curbing, wheel stop, guard rail or bollard requirements of Section 5.1.10.B.5
27. waiver of the number of off-street loading facilities required pursuant to Section 5.1.12
28. waiver of the number, size, location and height of signs pursuant to Section 5.2.13

SCHEDULE B

Plans

DRAFT

SCHEDULE C

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – Washington Place

Date: November 29, 2016

CC: James Mcgonagle, Commissioner DPW
Ted Jerdee, Director of Utilities
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Alexandria Ananth, Chief Planner
Michael Gleba, Sr. Planner

In reference to the above application, Engineering & Utilities Divisions had a meeting with the applicant's consultants in regards to I & I for the proposed development.

Washington Place will use exceptionally water-efficient fixtures and appliances all of which will be EPA WaterSense or Energy Star rated appliances (dish washers, washing machine); and based on actual flow rates presented the follow flow rates were agreed to the following:

WASHINGTON PLACE						
29-Nov-16						
Infiltration & Inflow Breakdown						
Type of Use	Square Footage	Per 1,000	Flow Rate Gal/Day	# of Seats	# Bedrooms	Total Daily Flow
Commerical	31,550	31.55	50			1,578
Restaurant	7,625	7.63	50	177		381
Office Space	2,030	2.03	75			152
Residential	-		61		226	13,786
Gallons per day =						15,897
Requested Contribution calculation						
\$8.40/Gallon(treatment & transmission cost) x 8 x 17,094 gallons =						\$1,068,278
Additionally with the reduction of daily from based on actual meter reading totalling 4,247 gpd						
Adjusted Contribution:						
	Treatment Transmission Cost	Reduction Rate	Flow Rate Reduced Gal/Day	Adjusted Contribution		
	\$ 8.40	8	-4,247	\$ (285,398.40)		
Total Assessment:	\$1,068,278					
Less	\$285,398					
Net Contribution	\$782,880					

If you have any questions please call me.

SCHEDULE D

\$700,000 of Improvements

The Petitioner has agreed to fund and construct certain offsite improvements, over and above the Washington Street/Walnut Street intersection improvements set forth in Schedule G, which offsite improvements have an estimated cost of approximately up to \$700,000. The Petitioner will construct the following improvements even if the cost of the same exceeds \$700,000.

1. Provide bike facilities on both sides of Walnut Street that extend from Foster Street across the bridge to Newtonville Avenue (approximate cost \$20,000);-
2. Install a bike sharing station at a location to be agreed upon by the Petitioner and the Director of Transportation. Provide funding for two standard bike share stations/and or equivalent number of bikes if system is "stationless", that are part of citywide bike share system; in Newtonville including one to be located at or at near the development site at a location to be agreed upon with the Director of Transportation (up to a cost of up to \$120,000 with any excess funds to be used by the City for operations of the bike share program); and
3. Provide streetscape improvements on the east side of Walnut Street (pavers, lighting, trees) (consistent with the similar improvements on the west side of Walnut Street adjacent to the site) from Washington Street up to and including the frontage of the Bram Building. The Director of Public Works shall approve the design and all cost estimates for such work (approximate cost \$xx,000).

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If \$700,000 has not been expended on the above items 1-3, the Petitioner agrees to fund the following up to but not exceeding a total amount of \$700,000. The City will work with the Newtonville Area Council to prioritize which items below are funded and how remaining funds will be spent.

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4. Contribute up to \$100,000 to be held in escrow by the City to be used for improvements to the Newtonville Commuter Rail Station.
5. Contribute up to \$100,000 to the Newtonville Streetscape Project on Walnut Street south of the Massachusetts Turnpike.
6. Contribute up to \$60,000 for the purchase and installation of two new bus station shelters to be located proximate to the intersection of Walnut and Washington Streets.
4. Bury the utility lines on the south side of Washington Street from opposite Washington Terrace to Walnut Street.

Alternatively, at the option of the City, the Petitioner will pay the sum of \$700,000 to the City, and the City then would be responsible for the prioritization and construction of the above listed improvements.

SCHEDULE E

Transportation Demand Management Subsidy Program (the "TDM Subsidy Program")

Transportation reimbursement to include the following (the figures are estimates):

- 1) Commuter Rail Passes (\$200 / month)
- 2) Subway – T Passes (\$85/month)
- 3) Bus Passes (\$130 - \$170/month)
- 4) Bike Share Passes (TBD)
- 5) Ride Sharing: Zip-Car, Uber, LYFT, etc. (TBD)

The Developer has created a Transportation Subsidy Program within the TDM to discourage car ownership and usage by providing a transportation subsidy for those choosing to commute to and from the site by alternative modes of transportation. The subsidy will reimburse residents up to 90% of the monthly cost *per* alternative mode of transportation, up to a combined monthly total of \$200.

For example, if a residential unit elects not to rent a parking space and instead purchases both a monthly subway pass (\$85) and a monthly buss pass (\$130), the tenant would be entitled to a reimbursement of $(\$85 \times 90\% = \$76.50) + (\$130 \times 90\% = \$117.00) = \$193.50$. As noted below, the reimbursement amount to a residential unit is determined based on the number of parking spaces rented and whether or not a tenant qualifies as an affordable renter or market rate tenant.

Transit Subsidy Program	Affordable Units	Market Units
Monthly Stipend (Based on Usage)	Up to \$200	Up to \$200
0 Cars per Household	90% Stipend	90% Stipend
1 Car per Household	75% Stipend	50% Stipend
2 Car per Household	35% Stipend	15% Stipend

MARK DEVELOPMENT

SCHEDULE F

Washington Place Draft Transportation Demand Management Plan January 19, 2017

Mark Development will implement a Transportation Demand Management Plan ("TDM") at Washington Place in order to minimize traffic, reduce dependency on cars and promote a healthier environment. To achieve these goals, Washington Place will include various incentives and programs aimed at encouraging walking, bicycling, public transit and other sustainable modes of transportation to the site. The Transportation Demand Management Plan shall be in effect for the life of the special permit and will contain the following elements:

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I. Informational Services:

- A specific person on the Washington Place staff will be designated as the traffic demand management coordinator (the "TDM Coordinator").
- The TDM Coordinator will be responsible for coordinating efforts between the City of Newton and Washington Place to reduce single occupancy vehicles ("SOV").
- The TDM Coordinator will meet on an annual basis with the City of Newton ~~Traffic Engineer~~ Director of Transportation to provide an update on the status of the continuing efforts of the TDM, as well as to notify the City of Newton of any new or proposed changes to the program.
- Every two years, the TDM Coordinator will conduct a survey of the residential and commercial tenants and provide those detailed findings and discuss mode sharing goals with the City of Newton's Director of Transportation and the Director of the Planning Department ~~Traffic Engineer~~.
- The TDM Coordinator will be available at any time to discuss with the City's Director of Transportation any traffic issues which may arise from the project.

II. Nearby Transit Services

- Commuter Rail (Framingham/Worcester Line): Newtonville Stop (<.25 miles)
- Bus lines (.004 miles):
 - 553 (Downtown Boston via Newton Corner & Central Square)
 - 554 (Waverley Square – Downtown Boston)
 - 556 Express (Waltham Highlands – Downtown Boston via Newton Corner)
 - 59 (Watertown Square – Needham via Newtonville)

III. Bicycle Accommodations

- Washington Place will include 30 dedicated street level bike parking and repair space for the general public and users of the ground floor commercial space.
- Washington Place will include dedicated weather-protected bike parking and storage in the below grade parking facility at a 1:1 ratio for each residential household. This parking will be secured from the general public and convenient to tenants of the building.
- Mark Development will provide the funding for ~~1~~ up to 2 bike share stations, with at least ~~1~~ one station to be installed ~~at or near~~ -the site, at location(s) to be agreed on with the City of Newton Planning Department and the Director of Transportation at a cost not to exceed ~~\$130~~ 120,000. This cost includes both the purchase and installation of the bike stations. Any excess funds may be used by the City for operations of the bike share program.
- Mark Development will be installing dedicated bike facilities on both sides of Walnut Street extending from Foster Street south across the bridge.

IV. Pedestrian Links

- Washington Place will provide significant improvements to the streetscape, which are intended to promote walkability along Washington Street and Walnut Street. Examples include:
 - Increasing the width of sidewalks by 7' – 10' along Walnut Street and along Washington Street respectively, allowing for an additional 5,000 SF of walking space.
 - Closing the five existing curb cuts.
 - A 35' opening along Washington Street, which will serve as the entry point to a 9,000 SF plaza creating a pedestrian connection between the north and south sides of the project.
 - Creating a pedestrian connection to the plaza from Walnut Street.

V. Sustainable Transport Initiatives:

- Mark Development will commit to decouple the cost of parking from the rent of the residential units to further discourage car usage.
- Car sharing: Washington Place will include no less than 2 dedicated parking spaces for Zip Car. Mark Development will also explore ride sharing partnerships with service providers including, but not limited to, ~~BRID~~ Uber and Lyft.
- Preferential parking spaces for car pools and van pools will be included.

- Electric Charging Stations: Washington Place will include a minimum of two charging stations for electric vehicles, one at the street level and one below grade in the parking garage.

VI. Transportation Subsidy Program:

• Mark Development will create a TDM Subsidy Program for Washington Place, and commit to funding \$300,000 towards reducing dependency on cars, particularly SOVs, as outlined in Schedule E. The plan will work as follows:

○ Each household will have the ability to receive up to \$200 per month for the use of alternative modes of transportation. Alternative modes that would qualify include, but are not limited to, are as follows (combinations are acceptable):

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- Commuter Rail Passes (Monthly)
- Subway/ T-passes (Monthly)
- Bus Passes (Monthly)
- Bike Share Passes (TBD)
- Ride Sharing (TBD)

• To encourage reduced parking demand and incentivize use of public transit, the Developer has created a Transportation subsidy program for residential tenant that elect an alternative mode(s) of transportation to commute to and from the site. The subsidy will reimburse residents up to 90% of the monthly cost per alternative mode of transportation, up to a combined monthly total of \$200.

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• For example, if a residential unit elects not to rent a parking space and instead purchases both a monthly subway pass (\$85) and a monthly buss pass (\$130), the tenant would be entitled to a reimbursement of $(\$85 \times 90\% = \$76.50) + (\$130 \times 90\% = \$117.00) = \$193.50$. As noted below, the reimbursement amount to a residential unit is determined based on the number of parking spaces rented and whether or not a tenant qualifies as an affordable renter or market rate tenant.

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A sample Subsidy Program is provided in the chart below. Final details to be determined with input from the City.

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Transit Subsidy Program	Affordable Units	Market Units
Monthly Stipend (Based on	Up to \$200	Up to \$200

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Usage)		
— 0 Cars per Household	— 90% Stipend	— 90% Stipend
— 1 Car per Household	— 75% Stipend	— 50% Stipend
— 2 Car per Household	— 35% Stipend	— 15% Stipend
—		
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VII. Marketing Programs:

- Included with each rental package will be a one-page marketing summary which defines the Washington Place Pilot Transportation subsidy.
- Washington Place will maintain a commuter information center with a posted transit service schedule and corresponding costs as well as any ride sharing services being offered.
- All households will be sent a reminder of the program at least once per year and information of the program shall be posted on the site's website

VIII. Monitoring and Reporting Plan

- In order to determine future requirements for traffic demand management measures, Mark Development will produce a survey for both residential and commercial tenants every two years and provide a summary of the results to the City's Director of Transportation and the Director of the Planning Department.
- Mark Development will also track the usage of the Transportation Program and provide the results to the City of Newton Director of Transportation and the Director of the Planning Department. This tracking will be in effect up until the point that the \$300,000 funding has been spent.
- Mark Development will encourage commercial tenants to promote ride-sharing and use of public transportation with their tenants. The commercial tenants will further be encouraged to create incentives among employees to rideshare or take public transportation. Such language shall be incorporated into any commercial leases for the project.

Preliminary Washington Place Inclusionary Housing Plan

Washington and Walnut Street, Newton, MA (the "Subject Property")

June 7, 2016, Updated January 18, 2017

This document is submitted in connection with the Special Permit Application to the City of Newton dated May 9, 2016, as amended, by Mark Newtonville, LLC (the "Developer") for the Subject Property. The Developer has engaged LDS Consulting Group, LLC of 233 Needham Street, Newton, MA to assist with this matter.

As proposed, the subject property will include 160 residential rental units. The following sets forth the Developer's proposed Inclusionary Housing Plan in accordance with the City's Inclusionary Zoning Ordinance, Section 5.11 of the Zoning Ordinances (the "Ordinance"). As required by Section 5.11.4 of the Ordinance, the Developer will set aside no fewer than 15% of the residential units as inclusionary units. Therefore, the Developer has proposed that 12 units shall be for households earning at or below 50% of AMI and 12 units shall be for households earning at or below 80% of AMI, for a total of 24 affordable housing units. This is a total 15% of all residential units and results in a blended rate of no more than 65% AMI as required by the Ordinance. Please see the table below for additional detail as to unit type and affordability:

Washington Place (12 Units – 15%)					
AMI	Studio	1-Bed	2-Bed	3-Bed	Total
50%	1	6	5	0	12
80%	1	6	4	1	12
Total	2	12	9	1	24

The approximate size of these units and location of the units are set forth on the attached plan prepared by PCA and dated 1/17/2017. The Developer notes that the size and location of units may change over time. Nevertheless, it is its intent to comply with all Fair Housing Rules and Regulations and evenly disburse the affordable units throughout the three buildings. The next charts set forth the current income limits by level of affordability as set forth by HUD for the City of Newton which is located in the 2016 Boston-Cambridge-Quincy HUD area ("BCQ").

2016 Boston-Cambridge-Quincy HUD Income Limits						
AMI	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
50%	\$34,350	\$39,250	\$44,150	\$49,050	\$53,000	\$56,900
80%	\$51,150	\$58,450	\$65,750	\$73,050	\$78,900	\$84,750

We have set forth an estimate of the gross rent and rent net of tenant paid utilities based on today's rent limits set forth by HUD for the BCQ and based on the City of Newton utility allowance schedule for high rise units dated October 1, 2016. We have assumed that the utility allowance ("UA") covers the cost of heat, hot water, and electricity that will be paid by the tenant. Rents will be reviewed and approved as part of the Local Action Unit (LAU) application and Regulatory Agreement.

2016 Maximum Allowable Rents (IZ Units)				
50%	Avg. Sq. Ft	Gross	UA	Net
Studio	583	\$858	\$84	\$774
1-Bed	732	\$920	\$106	\$814
2-Bed	1,051	\$1,103	\$139	\$964
3-Bed	1,315	\$1,275	\$163	\$1,112
80%	Avg. Sq. Ft	Gross	UA	Net
Studio	583	\$1,278	\$84	\$1,194
1-Bed	732	\$1,370	\$106	\$1,264
2-Bed	1,051	\$1,643	\$139	\$1,504
3-Bed	1,315	\$1,899	\$163	\$1,736

For a household with a Section 8 voucher, the rent and income will be as established by the Newton Housing Authority with the approval of HUD and in accordance with LAU standards.

It is the intent of the Developer that the Inclusionary Housing Units be qualified as "Local Action Units" pursuant to the requirements of the Comprehensive Permit Guidelines of DHCD, and therefore will take all steps necessary to make them eligible to be counted on the City of Newton Subsidized Housing Inventory.

In accordance with Section 5.11.9.B.4, to the extent allowed by the Massachusetts Department of Housing and Community Development ("DHCD"), the Developer will set aside 70% of their units as local preference units. In the event this Development results in the displacement of individuals who qualify for a unit in terms of household size and income, first preference shall be given to those displaced applicants, unless such preference would be unallowable under the rules of any source of funding for the project.

In addition, the Developer will provide housing for up to three affordable units for "displaced renters" earning at or below 80% of AMI during the construction period. The Developer has already identified three income qualified households in the existing buildings earning between 30% and 80% of AMI. To the extent they meet typical renter qualifications in addition to income such as a credit check and CORI check, the Developer will provide temporary housing for those

three households to live in during construction. Assuming these households still qualify for an affordable unit when the Development is ready for occupancy, they will be given first preference as noted above.

After the displace renters, preference shall be given for qualified applicants in the following order:

1. Any other qualified applicants who fall within any of the following equally weighted categories:
 - a. Individuals or families who live in the City;
 - b. Households with a family member who works in the City, has been hired to work in the City, or has a bona fide offer of employment in the City; and
 - c. Households with a family member who attends public school in the City.

Preferences for dwelling units having features that are designed, constructed, or modified to be usable and accessible to people with visual, hearing, or mobility disabilities shall be given to qualified applicants in the following order:

1. First preference for initial occupancy shall be given to applicants who are displaced as a result of the project and who need the features of the unit;
2. Then to households that include a family member needing the features of the unit and having preference under one or more of the three categories listed above (Section 5.11.9.C.2);
3. Then to households that include a family member needing the features of the unit but that do not have a preference under one of the three categories listed in Section 5.11.9.C.2.; and
4. then to households having preference under one or more of the three categories listed in Section 5.11.9.C.2.

Above and beyond the affordable housing mandated under the IZB, the Developer voluntarily agrees to provide an additional 10% or 16 of its units to middle income households earning between 80% -120% of AMI, with an average income of 100% of AMI. These units will not be required to be Local Action Units and therefore will not be counted on the City of Newton's SHI. The units count by unit type is noted below:

Washington Place Middle Income "MI" Unit Mix					
	Studio	1-Bed	2-Bed	3-Bed	Total
Middle Income (10%)	2	7	6	1	16

The range of incomes by number of person per unit allowed under this program for 2016 with lowest to highest income are noted below:

2016 Boston-Cambridge-Quincy HUD Income Limits						
AMI	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
80%	\$51,150	\$58,450	\$65,750	\$73,050	\$78,900	\$84,750
100%	\$68,700	\$78,500	\$88,300	\$98,100	\$106,000	\$113,800
110%	\$75,570	\$86,350	\$97,130	\$107,910	\$116,600	\$125,180
120%	\$82,440	\$94,200	\$105,960	\$117,720	\$127,200	\$136,560

We have set forth an estimate of the gross rent and rent net of tenant paid utilities based on today's rent limits set forth by HUD for the BCQ and based on the City of Newton utility allowance schedule for high rise units dated October 1, 2016. We have assumed that the utility allowance ("UA") covers the cost of heat, hot water, and electricity that will be paid by the tenant. Rents will be reviewed and approved as part of the Local Action Unit (LAU) application and Regulatory Agreement.

AMI	Avg. Sq. Ft	Gross	UA	Net
Studio	583	\$1,716	\$84	\$1,632
1-Bed	732	\$1,840	\$106	\$1,734
2-Bed	1,051	\$2,206	\$139	\$2,067
3-Bed	1,315	\$2,550	\$163	\$2,387

No less than six months prior to the issuance the first certificate of occupancy, the Developer shall finalize the attached Affirmative Fair Marketing and Resident Selection Plan and have it approved by DHCD. The Developer agrees to execute and record a covenant with the Middlesex South Registry of Deeds that limits the rental of affordable units to eligible households in accordance with Section 5.11.9.G.2.

The Developer also agrees to provide an annual compliance report to the City of Newton's Director of Planning and Development.

Washington Place Affordable Summary:

Affordable Unit Count & Mix:

Washington Place Overall Affordable Unit Mix					
AMI	Studio	1-Bed	2-Bed	3-Bed	Total
50%	1	6	5	0	12
80%	1	6	4	1	12
100%	2	7	6	1	16
Total	4	19	15	2	40

Affordable Rents:

Washington Place Affordable NET Rents (IZ + MI)				
AMI	Studio	1-Bed	2-Bed	3-Bed
50%	\$774	\$814	\$964	\$1,112
80%	\$1,194	\$1,264	\$1,504	\$1,736
100%	\$1,632	\$1,734	\$2,067	\$2,387

Exhibit 1 – Floors Plans Showing Affordable Unit Locations

Affordable Units are Designated with an "A"

Exhibit 2 – Affirmative Fair Marketing and Resident Selection Plan