

# MARK DEVELOPMENT

57 River Street, Suite 106  
Wellesley, MA 02481

February 22, 2017

Newton City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Dear Councilors:

I write today with great regret to inform you that Mark Development plans to withdraw its Washington Place project from consideration. Unfortunately, it has become clear to me that despite the many great benefits of this project to the City of Newton, the existing approval process is almost certain to guarantee an unsuccessful vote at the City Council.

From the outset, I approached the revitalization of the Orr Block with two goals in mind: creating an updated village commercial center, and adding new housing options for Newton residents. Most importantly, my intent was to do so with open ears and open eyes to ensure that this project benefited from widespread community input. I was confident that I had a proposal that was consistent with the City's Mixed Use 4 (MU-4) zoning, financially viable, and capable of earning community support.

## Project Elements:

For those members of the City Council who are not familiar with this project, a brief summary of the key elements of the proposal currently before the Land Use Committee may be helpful. Located at the corner of Washington Street and Walnut Street, the 4 and 5 story building project would include:

- 160 units of rental housing, a total of 40 of which are affordable --24 inclusionary (50%-80% of AMI), and 16 middle income (80%-120% AMI).
- Approximately 39,000 square feet of retail space at the ground floor and an additional 4,600 square feet at the basement level for a multi-level retailer; discussions have been underway to assure a mix of both Newton-based or independent retailers and national tenants.
- A community center programmed by the New Arts Center.

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- Significant community benefits, including: a public plaza of 9,600 square feet, 6,000 additional square feet of sidewalk space, improved streetscapes on both Washington Street and Walnut Street, an upgrade of the traffic signalization and new bump-outs and crosswalks at the Washington Street/Walnut Street intersection, and \$700,000 for additional offsite improvements.
- \$300,000 for Newton's first Alternative Mode Transportation pilot study.
- An inflow and infiltration payment (calculated at an 8:1 ratio) of \$782,880.
- LEED Gold certification.

The project was designed specifically with the MU-4 zoning in mind, and requires both a zone change (to MU-4) and special permit.

**Public Process:**

From the outset, our team has believed that it was important to listen to the community, share clear information about our project and its anticipated benefits, and respond to constructive suggestions. It was through this process that we hoped to earn public support. We were vigorous and comprehensive in our efforts to engage the community, including:

- Meetings with the immediate residential abutters on Foster Street.
- Meetings with local business owners.
- Multiple community meetings at Newton North High School.
- Presentations to a variety of community organizations, including the Newtonville Area Council, the Newton-Needham Chamber of Commerce, the Newton Housing Partnership, and Livable Newton.
- Engaging in a grassroots outreach effort that included personal conversations with more than 1,600 residents and information left with more than 16,000 individuals with an invitation to contact our team for more information.
- Ten sessions to date with the Land Use Committee, two meetings with the Urban Design Commission, and two meetings with the Planning Board.

Based on our outreach, as well as more than 100 positive comments by residents at public meetings and nearly the same number of letters submitted to the Council, we believe that the project has a wide base of support. Our supporters range from local businesses (such as The

Barn, Cook Restaurant, and Newtonville Camera, among many others) and established groups (Livable Newton, the League of Women Voters, Green Newton, Bike Newton, Newton Housing Partnership, Engine 6, Newton High Performance Building Coalition, CAN-DO, and the Newton Needham Chamber of Commerce, among others) to countless residents who told us they had never felt compelled to come to a public hearing before learning about this project.

It is also worth noting that we have spent a great deal of time meeting with our current residential and commercial tenants to assure that they are well informed about our plans and have the opportunity to plan for their own future. Whenever possible, we have been helpful to these tenants in considering their options and taking steps to lessen the impact of our proposed project on their business or housing situation.

**Project Evolution:**

The public engagement process has been a constructive, two-way dialogue. At every opportunity, we listened to the feedback of individual residents, the Newtonville Area Council, the Land Use Committee, the Planning Board, and the City's professional planning staff, and committed to exploring their suggestions fully. Many of these suggestions were adopted, creating what we believe is a significantly better project today than the one which we had initially proposed. Among the changes we made:

- Increase in the number of affordable units.
- Programming of the community space for more active engagement by the New Arts Center.
- Increase in the incentives for residents to use public transit (both in the form of transportation subsidies and by decoupling the cost of parking from rent).
- Reducing the overall project size by 11 units.
- Stepping back the height of the project in areas closest to the abutters and focusing height at the corner of Washington Street and Walnut Street.
- Increased focus on environmentally sustainable design (from LEED Silver certifiable to LEED Gold certified).
- An increase in sidewalk widths by as much as 10 feet on Washington Street and 7 feet on Walnut Street.
- A pedestrian passageway that connects Walnut Street to the center plaza with direct access to the community space.

Among the topics we were asked to consider was a shift to a 4 story design. We presented this option at a Land Use Committee meeting, and the clear preference of the Committee members in attendance was an option that carefully mixed 4 and 5 stories to limit impact on Foster Street and other nearby neighbors.

**Concerns:**

The process does not favor consistency or predictability, and does not provide for a professional interface upon which both the Council and the developer may rely. Throughout this process, we have participated in every public meeting, dialogue, and outreach effort in good faith, believing that it would be possible to earn support for this strong project. We now believe that several intrinsic obstacles will be nearly impossible to overcome:

- **Lack of commitment to MU4 Zoning:** Despite the support MU-4 zoning received from the City Council when it was established (by a vote of 23 in favor with 1 absent), recent meetings of the Land Use Committee make it clear that many Councilors fundamentally question whether MU-4 zoned projects are right for Newton. Though the City has never been under any obligation to rezone this site, we entered this process believing that the site met all of the requirements for the MU-4 zoning, and would be given a fair hearing. Today, we recognize that several Councilors do not believe that MU-4 is a viable option in almost any location.
- **Constantly moving goal line:** We must commend the City's professional planning staff for their thoughtful engagement around urban design principles and project design. However, the balanced and nuanced conversations we frequently have with the professional staff are often neutralized by Council members who either want to reduce the size of the project to a level which is not economically viable, or are trying to squeeze an unsustainable amount of benefits from the project.
- **Increased requirement for City Council support:** Due to a recent ruling by the City Solicitor's office, this project now requires 18 out of 24 votes of the City Council (instead of the traditional 16). This is an extraordinarily high bar. The ruling acknowledges that the position set forth therein is contrary to the position taken in two prior instances, another unexpected factor. It also creates a dangerous precedent going forward by allowing one to circumvent the true intent of the Legislature by simply reconfiguring a project site.
- **Lack of engagement of the full City Council until the final vote:** The process does not provide for engagement with the entire Council on a major project. This has been a long process with many conversations and changes to the project based on community input and Land Use Committee suggestions. We have made every change that can be made and still have a financially viable project at this location. But it is hard for us to foresee a process by which the City Council does not ask for further compromise on affordability,

density, height, or community benefits incidental to a final vote. The full Council may not have the history to understand why such changes may not be possible or may, in fact, be in direct contradiction to changes we have been asked to make by the community.

To date, we have been extraordinarily respectful of the public process. But now we realize that the process is unlikely to move forward in a way that is productive. While we do not wish to cut off debate and dialogue on this project, we are concerned that requests for additional project changes are likely to be made, and that such changes are not likely to be viable.

**Next Steps:**

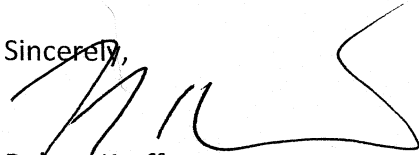
We remain confident that Washington Place is the right type of project for this location and that the current proposal offers an enormous opportunity to create a village commercial center of the future for Newton. Therefore, we do plan to move forward with an alternative proposal under the Commonwealth's Chapter 40B affordable housing law. Hopefully, the proposal would maintain many of the positive elements presented to date. However, to meet the state's affordability requirements, we most likely will be submitting the project at an increased height of six stories and greater density.

The certainty provided by state regulations, and a well-established review process, gives us confidence that the time will be well spent and that the revised project proposal would move forward.

In closing, I remain personally committed to a project on this site that positively impacts our community. Should a six story 40B project move forward, I anticipate including the same public benefits as currently proposed. As someone who cares enormously about my home city, I want to create a building on this site that is not only a high quality project, but one that meets Newton's stated goals.

I hope you can understand my decision and I look forward to continued transparency and dialogue as my team moves forward with a revised 40B proposal.

Sincerely,



Robert Korff

RK/st

cc: (see attached distribution list)

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