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**BY HAND**

**MEMORANDUM**

To: Members, Land Use Committee  
From: Stephen J. Buchbinder, Esquire  
Re: Amendment of Council Order #96-17/Washington Place  
Date: April 9, 2018

RECEIVED  
Newton City Clerk  
2018 APR -9 PM 12: 27  
David A. Olson, CMC  
Newton, MA 02459

On behalf of Mark Newtonville, LLC, I have filed on this date a special permit application and related plans and materials requesting an amendment to Council Order #96-17 (the "Council Order"). I thought that it would be helpful to provide you with some background information in connection with this matter.

As you know, the Washington Place project has been the subject of litigation since the Council approved the project in June of 2017. Recently, my client reached a settlement with the parties who brought the three separate appeals. As part of that settlement, my client has agreed to seek the City's approval for revised plans for the 140-unit option for the project, either by means of a consistency ruling or by an amendment to the special permit. Although Commissioner Lojek deemed the proposed changes to be consistent with the Council Order, my client prefers to seek an amendment to the same in order to formalize the changes.

As you may recall, the Council Order approved two alternative development schemes, one for 140 units and the other for 160 units. The proposed changes reflect a hybrid between the two previously approved options. A summary of the design changes by PCA dated March 12, 2018 is enclosed herewith. The most significant difference between the previously approved 140-unit scheme and the revised 140-unit scheme is the addition of fifth floor space in the middle building which fronts on Washington Street, and a commensurate reduction of massing at the rear of the east building along Walnut Street. The additional massing on the Washington Street facade reflects what was already approved for the 160-unit scheme. There is a slight increase (1,970 square feet) in the proposed square footage of the revised 140-unit plan over the previous 140-unit iteration due to design changes to accommodate the new layout. The overall proposed square footage is still substantially less than that approved for the 160-unit option (216,900 square feet vs. 231,475 square feet). The commercial square footage has increased by 170 square feet. The at-grade parking facility will lose two parking stalls which will be replaced in the underground garage, and the trash pick-up location now reflects what was approved for the 160-unit option.

To be clear, the petitioner is only seeking to amend Council Order #96-17 to revise the previously approved 140-unit option. The previously approved 160-unit option should remain in full force and effect, as per the terms of the settlement agreements. The settlement with the neighbors who appealed the zone change and special permit is



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predicated upon the city approving the design changes to the initially approved 140-unit option. If the city does not approve the revised 140-unit option, then the developer has reserved its right to proceed with the 160-unit option, subject to the pending litigation, which would continue. Likewise, if the city approves the revised 140-unit option, but a third party appeals that approval, then once again, the developer has reserved its right to proceed with the 160-unit option, subject again to the pending litigation. It is the hope of both the developer and the neighbors who appealed the zone change and the initial special permit that (1) the city will approve the revised 140-unit option, and (2) that there will be no further appeal of that approval by a third party, thus permitting the project to proceed with the revised 140-unit option.

The Land Court has continued the appeals to May 8, 2018 for a status report at that time respecting the revised plans.

Please let me know if any of you have any questions respecting this matter.

Distribution:

Land Use Committee

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Ms. Jennifer Caira, Chief Planner

(By First Class Mail, w/enclosure)  
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March 12, 2018

**Washington Place, Newton, MA**

**140 unit project compared to 160 unit project**

- Gross Square Footage
  - Approved 160: 231,475 SF
  - Approved 140: 214,930 SF
  - Revised 140: 216,900 SF
- Unit Mix – Same as approved 140 (unit locations adjusted while maintaining unit mix)
- At Grade Parking:
  - Approved 160: 108 Spaces
  - Approved 140: 101 Spaces
  - Revised 140: 99 Spaces –Board order minimum of 309 total spaces maintained by providing the balance in the garage.
- Ramp Location – Same as approved 140
- Commercial Loading – Same as approved 140
- Trash Location – Same as approved 160
- Commercial Square Footage:
  - Approved 160: 43,860 SF
  - Approved 140: 47,165 SF
  - Revised 140: 47,335 SF

Area changes as compared to approved 140 plans

- Garage Retail Space – Increase of 5 SF
- Ground Floor Plan – Increase of 305 SF
- Second Floor Plan – Increase of 200 SF
- Third Floor Plan – Reduction 3,100 SF at the rear of the east building
- Fourth Floor Plan – Reduction of approximately 4,895 SF at the rear of the east building. Setback of west building reduced by 10 feet to match the approved 160 unit plan
- Fifth Floor Plan – Increase of 9,455 SF by adding back the 5<sup>th</sup> floor of the middle building