

CITY OF NEWTON

CITY COUNCIL

July 10, 2017

RECEIVED
Newton City Clerk
2017 JUL 12 11 3:34
David A. Olson, CMC
Newton, MA 02459

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 to extend the existing nonconforming commercial business use of the property to allow the creation of a dwelling unit within an existing structure on the site, and exceptions to certain dimensional requirements for parking facilities of more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The site in the Multi-Residence 2 (MR2) district is an appropriate location for a single-family dwelling on the same lot as a commercial use given the existing mix of residential and commercial uses in the surrounding neighborhood (§7.3.3.C.1);
2. Allowing a single-family dwelling on the same lot as a commercial use will not adversely affect the neighborhood given the existing mix of residential and commercial uses in the surrounding neighborhood because the addition of a residential use is in conformity with the property's MR2 zoning district. (§7.3.3.C.2);
3. Allowing a single-family dwelling on the same lot as a commercial use will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
5. The proposed extension of the existing nonconforming commercial use to include a single-family dwelling will not be substantially more detrimental than the existing nonconforming use is to the surrounding neighborhood as the proposed residential use is in conformity with the property's MR2 zoning district (§7.8.2.C.2);
6. The proposed alterations to the existing nonconforming parking on the site will not be substantially more detrimental than the existing nonconforming parking is to the neighborhood as they will allow on-site parking to be limited to eight defined parking stalls (§7.8.2.C.2);
7. The requested exceptions from the requirements for parking facilities provided in §5.1 would be in the public interest and in the interest of protection of environmental

features as it would allow for a reduction in the extent of paved surfaces and the increase of open space on the property (§5.1.13).

PETITION NUMBER: #101-17

PETITIONER: Continuous Improvement Realty Trust
Brian McDonald, Trustee

LOCATION: 46 Farwell Street, also known as Section 21, Block 1, Lot 14,
containing approx. 8,529 square feet of land

OWNER: Continuous Improvement Realty Trust

ADDRESS OF OWNER: 462 Main St
Watertown, MA 02472

TO BE USED FOR: Office use and a dwelling unit

EXPLANATORY NOTES: §3.4.1; §7.8.2.C.2, to extend the existing nonconforming use to
allow a single dwelling unit on the property;
§5.1.13; §7.8.2.C.2, to waive certain requirements for parking
facilities with more than five stalls as necessary to permit the
parking configuration as shown on the approved plans .

ZONING: Multi-Residence 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located, constructed and operated consistent with:
 - a. A plan of the subject property entitled "Certified Plot Plan, Newton Massachusetts, Showing Existing Conditions at #46 Farwell Street," prepared by VTP Associates Inc., dated December 9, 2015, - stamped and signed by Joseph R. Porter, Professional Land Surveyor;
 - b. A plan entitled "Continuous Improvement Trust, 46 Farwell Street, Newton, MA 02460, Layout Plan (L1.2)," prepared by Pate Landscape Architecture, dated April 25, 2017;
 - c. A set of plans entitled "Continuous Improvement Trust, 46 Farwell Street, Newton, MA 02460," prepared by Pate Landscape Architecture, dated December 23, 2016 and cited in the below-referenced Massachusetts Department of Environmental Protection Order of Conditions #239-774:
 - i. Existing Conditions (EX.0);

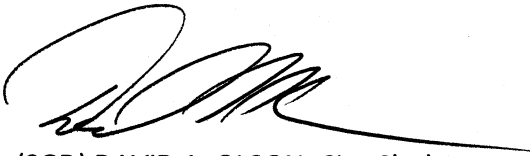
- ii. Site Preparation and Demolition Plan (L1.0);
 - iii. Materials and Planting Plan (L1.1);
 - iv. Site Details (LD.1);
 - v. Site Details (LD.2);
 - vi. Site Details (LD.3);
 - vii. Site Drainage (C.1).
- d. An architectural plan entitled "MOR- Rear Apartment Building, 46 Farwell Street, Newton, MA 02460- Existing Building Elevations (A2.1)," dated May 18, 2017.
 - e. A document entitled "Zoning Chart, 46 Farwell Street, Newton, Massachusetts," signed and stamped by William Doyle, Registered Civil Engineer;
 - f. Correspondence from McKay Architects to the City of Newton Inspectional Services Department dated November 27, 2016 related to existing Floor Area Calculations, signed and stamped by Michael McKay, Registered Architect.
2. All work on and occupation of the property pursuant to this Special Permit/Site Plan Approval shall be consistent with the provisions of Massachusetts Department of Environmental Protection Order of Conditions DEP #239-774.
 3. The single-family residential use allowed by this Special Permit/Site Plan Approval shall be limited to the structure shown and labeled as "2 STORY BRICK" and located in the rear left corner of the property on the plan cited in Condition #1.a (hereafter the "rear structure").
 4. The rear structure shall be used only as one dwelling unit and no commercial uses or additional dwelling units shall be permitted in the rear structure.
 5. Only one dwelling unit located in the rear structure shall be allowed on the property so long as any commercial use is present on the property.
 6. The property and the two structures located thereon shall not be submitted to the Condominium Act, G.L. c. 183.
 7. Vehicles may not be parked and/or stored on the property beyond the parking stall area shown in the plan cited in Condition #1.b.
 8. The rear structure may be modified, altered, or otherwise changed based on the requirements of the Newton Fire Department and/or the Inspectional Services Department, provided that such modifications, alterations, or changes are required in connection with the installation of fire and life-safety equipment and/or apparatus, or to meet building codes, including without limitation a second means of egress if required. Such modification, alterations, or changes to the rear structure may be done through building, electrical and/or plumbing permits, as applicable, issued by the Inspectional Services Department without the requirement of a consistency ruling or amendment to this Special Permit/Site Plan Approval.
 9. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:

- a) Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b) Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c) Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
10. No Final Inspection/Occupancy Permit for the use(s) covered by and/or pursuant to this Special Permit/Site Plan Approval shall be issued until the petitioner has:
- a) Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Newton Fire Department approving the subject property's fire detection and suppression system(s), as well as any other relevant requirements.
 - b) Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development, a statement by a registered architect or engineer certifying compliance with Condition #1.
 - c) Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site details, if required, have been constructed to the standards of the City of Newton Engineering Division.
11. Notwithstanding the provisions of Condition #10(c) above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed 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 landscaping to secure installation of such landscaping.
12. All landscaping approved under said Order of Conditions DEP #239-774 shall be maintained in good condition and shall be replaced with similar material as required under said Order.

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Councilor Lappin)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on July 12, 2017. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

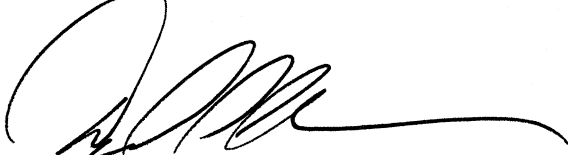
ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty Days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 7/12 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council