 **SCHLESINGER AND
BUCHBINDER, LLP**
ATTORNEYS AT LAW
1200 WALNUT STREET
NEWTON, MASSACHUSETTS 02461-1267

STEPHEN J. BUCHBINDER
ALAN J. SCHLESINGER
LEONARD M. DAVIDSON
A. MIRIAM JAFFE
SHERMAN H. STARR, JR.
JUDITH L. MELIDEO-PREBLE
BARBARA D. DALLIS
PAUL N. BELL
KATHERINE BRAUCHER ADAMS
FRANKLIN J. SCHWARZER
RACHAEL C. CARVER
ADAM M. SCHECTER

RECEIVED
Newton City Clerk
2018 MAR 19 PM 2:26
TELEPHONE (617) 965-3500
FACSIMILE (617) 965-6824
David A. Olson, City Clerk
OF COUNSEL
ROBIN GORENBERG
Newton, MA 02459

aschlesinger@sab-law.com

March 19, 2018

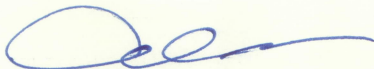
Mr. David A. Olson
City Clerk
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Re: Board Order #48-16/255-257 Newtonville Ave.

Dear David,

Enclosed please find a copy of the above-referenced Council Order which was filed with the Middlesex South Registry of Deeds on March 12, 2018 and recorded in Book 70725, Page 447.

Very Truly Yours,



Alan J. Schlesinger

AJS/jes
Enclosure

cc: John Lojek, Commissioner, Department of Inspectional Services
Barney Heath, Director, Department of Planning and Development
David Levenfeld

Middlesex South Registry of Deeds
Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

Document Number	: 33348
Document Type	: ORD
Recorded Date	: March 12, 2018
Recorded Time	: 01:54:51 PM
Recorded Book and Page	: 70725 / 447
Number of Pages(including cover sheet)	: 10
Receipt Number	: 2187114
Recording Fee	: \$75.00

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

RECEIVED
Newton City Clerk
2018 MAR 19 PM 2:26
David A. Olson, CMC
Newton, MA 02459

#48-16
255-257 Newtonville Ave.

CITY OF NEWTON

IN CITY COUNCIL

July 11, 2016

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 three-story, 112,201 square foot self-storage facility, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The site is an appropriate location for a building of three stories and 27 feet, 6 inches in height with a floor area ratio (FAR) of 1.5 as its sloping topography allows for a significant portion of the structure's mass and height to be concealed from neighboring properties and streets. (§4.3.2.B.3 and §7.3.3.C.1)
2. The site is an appropriate location for a building of greater than 20,000 square feet as the site is zoned Manufacturing and consists of approximately 76,000 square feet of land. Furthermore, its sloping topography allow for much of the structure's mass to be concealed from neighboring properties and streets. (§4.3.2.B.1 and §7.3.3.C.1)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the proposed low intensity, transitional use, based on the traffic surveys submitted, will have limited impact on the adjacent roadways that also serve the adjacent residential neighborhood. (§7.3.3.C.4)
4. The site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy. The proposed site plan has been reviewed and approved by the Newton Conservation Commission and the petitioners will be enhancing natural habitat areas with native plantings and improving the quality of runoff into Laundry Brook. Additionally, the project shall include a cistern system that allows for the collection and use of rainwater on-site for landscape irrigation purposes. (§7.3.3.C.5)

Title Reference:

Book 10402, Page 66; Book 11368, Page 265; Book 11270, Page 605

RECEIVED
Newton City Clerk
2016 JUL 13 PM 2:21
David A. Olson, CMC
Newton, MA 02459

RECEIVED
Newton City Clerk
2018 MAR 09 PM 2:27
David A. Olson, CMC
Newton, MA 02459

A True Copy
Attest
John P. Olson
City Clerk of Newton, Mass.

- 5. The requested exceptions related to the number of parking stalls, the number of handicapped accessible stalls, landscaping and lighting of the parking facility are appropriate because such exceptions would be in the public interest and provide for the protection of environmental features addressing the concerns of the Conservation Commission by reducing the amount of unnecessary paving on site as information pertaining to the parking demand generated by the proposed use at this site indicates that the number of stalls proposed will be sufficient to meet expected demand without spillover onto neighborhood streets. (§5.1.13).
- 6. Pursuant to the City's Tree Preservation Ordinance, Section 21-80 of the Revised Ordinances 2012, the City will receive a significant contribution towards the City's Tree Replacement Fund. The City understands that the City's Tree Warden has a policy that disbursements from the fund will result in substantial plantings of trees in the general vicinity of the project.

PETITION NUMBER: #48-16

PETITIONER: Storage Development Partners, LLC/Norcross Trust LLC

LOCATION: 255-257 Newtonville Avenue, Ward 2, Newtonville, on land known as Section 12 Block 16 Lot 8, containing approximately 75,634 square feet of land

OWNER: Norcross Trust LLC

ADDRESS OF OWNER: 25 Fisher Avenue, Newton, MA 02461

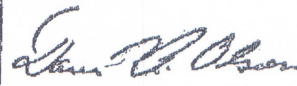
TO BE USED FOR: Three-story, 112,201 square foot self-storage facility

CONSTRUCTION: Masonry

EXPLANATORY NOTES: §4.3.2.B.1 to allow a building greater than 20,000 square feet; §4.3.2.B.3 and §4.3.3 to allow a building with three stories, up to 36 feet in height and a maximum FAR of 1.5; §5.1.4 and §5.1.13 to waive 36 parking stalls; §5.1.8.A.1 and §5.1.13 to allow parking in the side setback; §5.1.8.B.3, §5.1.8.B.4 and §5.1.13 to waive one accessible parking stall; §5.1.9.A.1 and §5.1.13 to waive landscape screening requirements; §5.1.10.A and §5.1.13 to waive lighting requirements.

ZONING: Manufacturing District

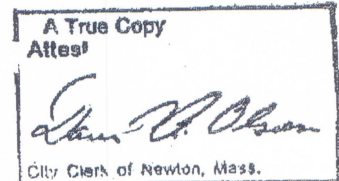
A True Copy
Attest



John P. Olson
City Clerk of Newton, Mass.

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Land Development Plans prepared by BL Companies, stamped and signed by Raymond B. Gradwell, Registered Professional Engineer, consisting of twenty-six (26) sheets, as follows:
 - i. Title Sheet; dated February 5, 2016, as revised through July 7, 2016;
 - ii. "Existing Conditions Survey," dated May 15, 2015, signed and stamped by Timothy R. Bennett, Registered Professional Land Surveyor;
 - iii. "General Notes," dated February 5, 2016, as revised through April 20, 2016, as revised through July 7, 2016 (GN-1);
 - iv. "Demolition Plan," dated February 5, 2016, as revised through July 7, 2016 (DM-1);
 - v. "Site Plan," dated February 5, 2016, as revised through July 7, 2016 (SP-1);
 - vi. "Grading and Drainage," Plan dated February 5, 2016, as revised through July 7, 2016 (GD-1);
 - vii. "Utility Plan," dated February 5, 2016, as revised through July 7, 2016 (SU-1);
 - viii. "Sedimentation and Erosion Control Plan- Phase 1," dated February 5, 2016, as revised through July 7, 2016 (EC-1A);
 - ix. "Sedimentation and Erosion Control Plan- Phase 2," dated February 5, 2016, as revised through July 7, 2016 (EC-1B);
 - x. "Sedimentation and Erosion Control Notes," dated February 5, 2016, as revised through July 7, 2016 (EC-2);
 - xi. "Landscape Plan," dated February 5, 2016, as revised through July 7, 2016 (LL-1);
 - xii. "Landscape Details," dated February 5, 2016, as revised through July 7, 2016 (LL-2);
 - xiii. "Site Lighting Plan," dated February 5, 2016, as revised through July 7, 2016 (LP-1);
 - xiv. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-1);
 - xv. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-2);
 - xvi. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-3);
 - xvii. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-4);
 - xviii. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-5);
 - xix. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-6);
 - xx. "Details," dated February 5, 2016, as revised through July 7, 2016 (DN-7);
 - xxi. "Massing Model Plan," dated February 5, 2016, as revised through July 7, 2016 (MA-1);
 - xxii. "Main Level Floor Plan," dated April 20, 2016, as revised through July 7, 2016 (A1.01);



- xxiii. "Second Level Floor Plan," dated April 20, 2016, as revised through July 7, 2016 (A1.02);
 - xxiv. "Third Level Floor Plan," dated April 20, 2016, as revised through July 7, 2016 (A1.03);
 - xxv. "Exterior Elevations," (South and East) dated April 20, 2016, as revised through July 7, 2016 (A5.01);
 - xxvi. "Exterior Elevations," (North and West) dated April 20, 2016, as revised through July 7, 2016 (A5.02).
2. Prior to the submission of an application for any building permit pursuant to this Order, the petitioner shall submit a Final Landscape Plan showing compliance with the City's Tree Preservation Ordinance and indicating all new trees and other plantings, including any to be provided off the property, for review and approval by the Director of Planning and Development. Petitioner shall ensure that said landscaping shall be maintained in good condition and any trees and plant material that become diseased or dies shall be replaced annually with similar material.
 3. Prior to the submission of an application for any occupancy permit pursuant to this Order, the petitioner shall seek all required permission from the Public Works Commissioner and the Parks and Recreation Commissioner to install any trees and/or other plantings to be located on City-owned property, i.e., at the intersection of Newtonville Avenue and Lewis Terrace and the Newtonville Avenue / East Side Parkway traffic island, as identified in the Final Landscaping Plan. The petitioner shall not be required to install the off-site plantings pursuant to this condition in the event the City refuses to grant permission for such plantings nor shall the petitioner be required to install the off-site plantings until after any modification of the intersection(s) is completed following the traffic study anticipated in Condition #5 of this Order.
 4. Prior to the submission of an application for any building permit pursuant to this Order, the petitioner shall seek all required action of the City Council authorizing the relocation of the City-owned sewer line that traverses the property as shown in the above-referenced plans.
 5. At the time of issuance of a building permit pursuant to this Order, the petitioner shall contribute \$10,000 towards the cost of conducting a traffic study of the area at East Side Parkway/Newtonville Avenue/Lewis Terrace or other neighborhood improvements and \$10,000 towards improvements to Cabot Park, subject to the approval of the Parks and Recreation Commissioner.
 6. The petitioner Storage Development Partners, LLC or its successors or assigns shall not oppose any prohibition or regulation of on-street parking within 50 feet of the property's boundaries.
 7. The petitioner shall, at its expense, repair or replace the sidewalks located along the perimeter of the property subject to the approval of the Commissioner of Public Works prior to the issuance of any occupancy permit and keep the same in good repair.

A True Copy
Attest



City Clerk of Newton, Mass.

8. The hours of operation of the facility shall be limited to 6:30 AM – 9:00 PM on weekdays, and 8:00 AM – 9:00 PM on weekends. The weekday opening time of 6:30 AM may be modified in accordance with the provisions of Condition #16 post-occupancy studies.
9. The petitioner shall comply with the City's Noise Control Ordinance, Sections 20-13 et seq of the Revised Ordinances 2012, at all times, which may require among other measures, the installation and maintenance of acoustical treatments of any and all Heating, Ventilation and Air Conditioning (HVAC) units to comply with the provisions of said Ordinance.
10. The petitioner shall install and maintain a cistern system of a capacity approved by the City Engineer as part of its storm water management review and sufficient to collect rainwater from a portion(s) of the facility's roof and to provide a significant and substantial portion of the irrigation required to support the landscaping required under this Order.
11. No auction(s) of any kind shall be permitted on-site unless such auction(s) is mandated by state or federal law or regulation.
12. The property shall not be used for the rental or sale of any vehicles.
13. The petitioner's Lease/Rental Agreement shall prohibit the storage of any explosives or any highly inflammable goods or Hazardous Materials, defined as any hazardous or toxic chemical, gas, liquid, substance, material or waste that is or becomes regulated under any applicable local, state or federal law or regulation. In addition, the petitioner shall not sell propane or sell or rent propane tanks or other inflammable goods and shall prohibit tenants from storing propane.
14. All utilities shall be located underground from the property line.
15. The petitioner shall comply with the City's Light Trespass Ordinance, Section 20-23 et seq of the Revised Ordinances 2012. No site lighting shall be controlled with motion-detection sensors and all site lighting on the Newtonville Avenue and Lewis Terrace sides of the building shall be of low intensity, appropriate for the residential character of the abutting properties, and subject to the review and approval of the Director of Planning and Development. The site lighting on Newtonville Avenue and Lewis Terrace may be modified in accordance with the provisions of Condition #16 post-occupancy studies.
16. As part of this special permit, the petitioner shall conduct two post-occupancy studies in the following areas: a) a study of the traffic coming to the site and on Newtonville Avenue and Lewis Terrace near the site between 6:00 AM and 7:00 AM on weekend mornings; b) sufficiency of parking and truck turning on site to prevent queuing or parking on Newtonville Avenue; c) compliance of the building's HVAC with the City's Noise Ordinance; and d) lighting along the Newtonville Avenue and Lewis Terrace sides of the building to determine whether the intensity of such lighting needs to be adjusted, or the lighting turned off.

The first post-occupancy study shall be conducted by the petitioner one (1) year after the building receives a certificate of occupancy, and the second post-occupancy study shall be conducted three (3) years after the building receives a certificate of

A True Copy
Attest

Sam H. Olson

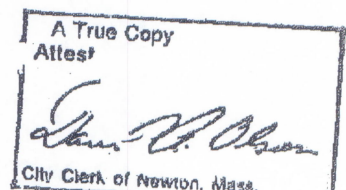
occupancy, at which point the building should be at or near full occupancy. The petitioner shall conduct either post-occupancy study earlier if so requested by the Director of Planning and Development. The petitioner shall be solely responsible for the costs of the post-occupancy studies. The petitioner shall provide the Director of Planning and Development with a proposed scope of work and methodology for the four areas to be studied for the Director's review and approval, provided that the lighting study may consist of an as-built plan showing the location of the lighting, the hours of operation, as well as information regarding the intensity of such lighting.

The Director of Planning and Development shall provide the Councilors from Wards 1 and 2 and the Chairman of the Land Use Committee with copies of the completed studies and request comments. Based upon the results of the completed studies and comments, the Director may require the petitioner to undertake remediation as follows:

- a. If the Director determines that traffic coming to the site at 6:30 AM on weekdays has a negative effect on traffic on Newtonville Avenue and/or Lewis Terrace which can be remediated by delaying the opening time to 7:00 AM, the Director shall direct the petitioner to delay the opening time until 7:00 AM on weekdays. Alternatively, if the Director determinates that traffic coming to the site at 6:30 AM has no negative effect or a negative effect can be remediated by an earlier opening time, the Director shall direct the petitioner to open no earlier than 6:00 AM.
- b. Work with the Director of Planning and Development to develop and implement strategies to improve parking and on-site circulation to prevent queuing or parking on Newtonville Avenue by tenants using the storage facility;
- c. Bring the HVAC system into compliance with the City's Noise Ordinance which may include the installation or maintenance of acoustical treatments; and
- d. Adjust or turn off the building's lighting along Newtonville Avenue and Lewis Terrace to minimize impact on the surrounding residential neighborhood.

The Director of Planning and Development shall advise the Commissioner of Inspectional Services and the Land Use Committee on the results of the studies and the remediation steps implemented.

17. Prior to the issuance of any Building Permit, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant, incorporated into the deeds, and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.



18. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
19. Prior to the issuance of any Building Permit, the petitioner shall submit a final Construction Management Plan (CMP) to the Commissioner of Inspectional Services, the Director of Urban Forestry, the Engineering Division of Public Works, the Director of the Department of Planning and Development, the Newton Fire Department and Newton Police Department, which plan should include at a minimum:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 3:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
 - c. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - d. A tree preservation plan to define the proposed method for protection of existing trees to remain on the site and on abutting properties during construction.
 - e. A plan for site access and traffic control.
 - f. A plan regulating the delivery of material to the site, including the staging and storage of construction vehicles.
 - g. A plan for rodent control during construction.
 - h. If blasting of on-site ledge is required, the petitioner shall obtain a Blasting Permit from the Newton Fire Department.
20. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Received final approval from the Director of Planning and Development for the Construction Management Plan.
 - b. 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.
 - c. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
 - e. Obtained a written statement from the Engineering Division of Public Works that confirms the receipt of a certified copy of the recorded O&M in accordance with Condition #17.

A True Copy
Attest

John V. Olson

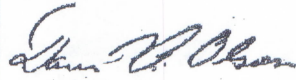
- f. Filed a final Landscape Plan to the Director of Planning and Development for review and approval.
21. No Final Inspection and/or Occupancy Permit for the buildings constructed pursuant to this Special Permit/Site Plan Approval shall be issued until the petitioner has:
- Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.
 - Filed with the Clerk of the Board, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.
 - Submitted to the Director of Planning and Development and Commissioner of Inspectional Services, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - Filed with the Conservation Commission, Department of Inspectional Services, and the Department of Planning and Development a statement by the City Engineer certifying that finished grades and final construction details of driveways, parking areas and drainage systems have been constructed to the standards of the City Engineering Department.
 - Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features and fencing.
22. Notwithstanding the provisions of Condition #21 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.

Under Suspension of Rules

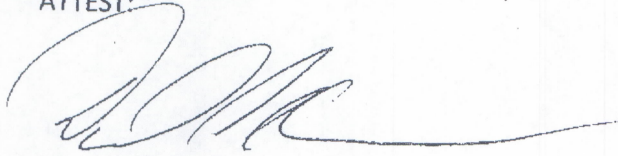
Readings Waived and Approved

22 yeas 1 nay (Councilor Harney) 1 absent (Councilor Baker)

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 13, 2016. 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.

A True Copy
Attest

City Clerk of Newton, Mass.

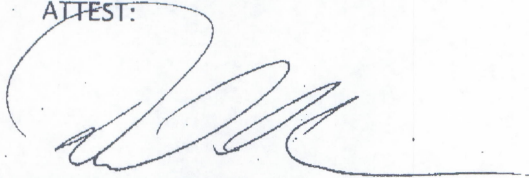
ATTEST:



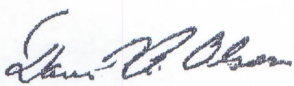
(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council

I, David A. Olson, as the City Clerk/Clerk of the City Council and keeper of its records and the official keeper of the records of the City of Newton, hereby certify that (1) an appeal of the foregoing decision of the City Council, which was filed pursuant to M.G.L c. 40A, sec. 9 and 17, on August 2, 2016, in the Commonwealth of Massachusetts Superior Court Department of the Trial Court (Case No. 1681CV02201), was dismissed by a motion to dismiss pursuant to Massachusetts Rule of Civil Procedure 12(b) filed on October 11, 2017; and (2) no other appeals from the foregoing decision have been filed, and the appeals period has expired.

ATTEST:



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

A True Copy
Attest

City Clerk of Newton, Mass.