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CITY OF NEWTON
IN BOARD OF ALDERMEN

April 21, 2015

RECEIVED
NEWTON CITY CLERK
2015 APR 27 PM 5:09
DAVID A. OLSON, CITY CLERK
NEWTON, MA 02459

ORDERED:

That the Board, 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 partially demolish two buildings and to construct additions to the front of each building, which will bring them closer to the street, to reconfigure the existing parking areas and reduce the parking requirement to 441 parking stalls in order to redevelop the site for a mix of office, restaurant, retail, and service uses, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

131-181 Needham Street, Newton, MA

1. The existing site is nonconforming with regards to both the building setbacks and the parking stalls located in the front and side setback and within five feet of the building. The proposed alterations to the existing buildings and the parking layout will not be substantially more detrimental than the existing nonconforming layout is to the neighborhood because there will be a reduction in size of the buildings and improvements to the parking lot. (§30-21(b))
2. The specific site is an appropriate location for a mixed use development with office, service, retail, and restaurant uses, as it is located in an active commercial corridor with similar uses. The proposed site plan and elevations will enliven and improve the pedestrian environment along Needham Street. (§30-24(d)(1))
3. The proposed use, as developed and operated, will not adversely affect the neighborhood. The site is located in a mixed-use area with active commercial uses, and has adequate on-site parking to meet the projected parking demand for the proposed uses. The proposed site plan includes a new publicly accessible pathway along South Meadow Brook that will allow for a future connection to the Newton Upper Falls Greenway. (§30-24(d)(2))
4. The proposed parking layout and directional signage within the site will allow for safe and efficient vehicle circulation and the curbed and/or painted walkways and traffic calming measures will create a safe environment for pedestrians. For these reasons the project will not result in serious hazards to pedestrians or vehicles. (§30-24(d)(3))
5. Access to the site is appropriate for the types and numbers of vehicles involved, as the site is located on a major commercial corridor with access to highways and public transportation, including the MBTA Green Line and Bus, and the proposed project will not significantly affect the levels of service at surrounding intersections. (§30-24(d)(4))

Return:
Crosspoint Associates, Inc.
300 Third Ave., Suite 2
Waltham, MA 02451

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- 6. The proposed construction will meet or exceed the building code as it relates to energy efficiency, will utilize efficient lighting, and will utilize recycled building materials to the extent practical. The proposed site plan will improve stormwater quality and groundwater recharge as required by the Department of Environmental Protection and the Department of Public Works and will be in conformance with the City's Stormwater policy. The removal of invasive species and planting of native vegetation will improve the riverfront area. For these reasons, the proposed project will contribute significantly to the efficient use and conservation of resources and energy. (§30-24(d)(5))
- 7. The reduction in the number of proposed parking stalls below the amount required by the Newton Zoning Ordinance is appropriate, as the peak operating hours for the proposed mix of uses will complement each other and the site has access to public transportation, such that the use of a shared parking model better reflects the project's parking demand. Limiting the number of parking stalls to meet the actual parking demand is in the public interest, as it preserves a greater amount of open space. (§30-19(m))
- 8. The Board finds that the petitioner's voluntary contribution of funding for improvements within the Newton Upper Falls Greenway rail trail are a public benefit to the City of Newton that will enhance the safety of pedestrian and vehicular movements for residents of the project and the surrounding neighborhood.

PETITION NUMBER: #19-15

PETITIONER: Newton Technology Park, LLC

LOCATION: 131-181 Needham Street, on land known as SBL 51, 28, 9A-15, containing approximately 11.06 acres of land
Deed Reference: Book 13229, Page 645

OWNER: Newton Technology Park, LLC

ADDRESS OF OWNER: 300 3rd Avenue
Waltham, MA 02451

TO BE USED FOR: Redevelopment of site for a mixed-use center including office, retail, service and restaurant uses.

EXPLANATORY NOTES: §30-13(b)(1), to allow retail use in the Mixed Use 1 District; §30-13(b)(4), to allow service use in the Mixed Use 1 District; §30-13(b)(5), to allow restaurant use in the Mixed Use 1 District; §30-13(b)(12), to allow bank, excluding drive-in use in the Mixed Use 1 District; §30-13(b)(16), to allow uses similar or accessory to those authorized by §30-13(b) in the Mixed Use 1 District; §30-19(d)(18) and §30-19(m), to allow for a one-third reduction in the required number of parking stalls; §30-19(h)(1), §30-19(m) and §30-21(b), to allow parking within required front and side setbacks

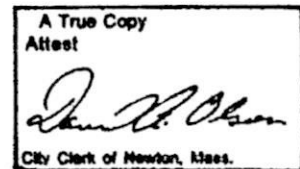
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John H. Olson
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and to allow parking within 5 feet of a building; §30-19(h)(3)(a), §30-19(m) and §30-21(b), to allow reduced aisle widths to be maintained; §30-19(h)(4)(b), §30-19(m) and §30-21(b), to allow a nonconforming driveway width exceeding allowed maximum; §30-19(i), §30-19(m) and §30-21(b), to allow nonconforming perimeter landscape screening; §30-19(j)(l), (m), to waive requirements for lighting; §30-20(1) comprehensive signage package exception; §30-23 site plan approval; §30-24 special permit.

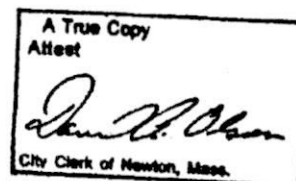
ZONING: Mixed Use 1 district

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 and constructed consistent with:
 - a. Civil Engineering Plans, prepared by Kelly Engineering, stamped and signed by Steven M. Horsfall or David Kelly, Professional Engineer; dated January 9, 2015 , consisting of the following ten (10) sheets.
 - i. Sheet 1 - Title Sheet, revised April 16, 2015;
 - ii. Sheet 2 – Vicinity Plans, revised March 30, 2015;
 - iii. Sheet 3 – Existing Conditions Plan, revised March 30, 2015;
 - iv. Sheet 4 – Layout and Zoning Plan, revised April 16, 2014;
 - v. Sheet 5 – Grading Plan, revised April 16, 2015;
 - vi. Sheet 6 – Sewage and Drainage Plan, revised April 16, 2015;
 - vii. Sheet 7 – Utility and Abandonment Plan, revised April 16, 2015;
 - viii. Sheet 8 - Detail Sheet, revised March 30, 2015;
 - ix. Sheet 9 – Detail Sheet, revised March 30, 2015;
 - x. Sheet 10 – Detail Sheet, revised April 16, 2015.
 - b. Floor Plans and Elevations, prepared, stamped and signed by Louis Allevato, Registered Architect, Allevato Architects, Inc., dated January 9, 2015, consisting of the following nine (9) sheets:
 - i. Sheet A1 – Floor Plans;
 - ii. Sheet A2 – Building N3 Exterior Elevations;
 - iii. Sheet A3 - Building N3 Exterior Elevations (signs);
 - iv. Sheet A4 - Building N2 Exterior Elevations;
 - v. Sheet A5 - Building N2 Exterior Elevations (signs);
 - vi. Sheet A6 - Building N1 Exterior Elevations;




- vii. Sheet A7 - Building N1 Exterior Elevations (signs);
 - viii. Sheet A8 - Site Signage; and
 - ix. Sheet A9 - Model Perspective Views.
- c. Comprehensive Signage Package, prepared by Allevato Architects, Inc., dated February 4, 2015 and revised on February 18, 2015 and February 24, 2015.
 - d. Lighting Plan, prepared by Boston Light Source, dated January 12, 2015
 - e. Snow Storage Plan, prepared by Kelly Engineering Group, Inc., dated March 30, 2015
 - f. Crosswalk Plan, plotted January 21, 2015, consisting of two sheets, preparer not identified on plan.
 - g. Landscape Plan, prepared by Shadley Associates, signed and stamped by James P. Shadley, dated January 9, 2015, consisting of three (3) sheets:
 - i. Sheet L1 - Site
 - ii. Sheet L2 - Courtyard
 - iii. Sheet L3 - Landscape details
 - h. Electrical Site Plan prepared by AVID Engineers, E-001, dated April 08, 2015.
2. Prior to the issuance of any building permit the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Board Order and shall include, but not be limited to, the following provisions:
- 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 7:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 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. The proposed schedule of the project, including the general phasing of the construction activities.
 - d. 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.
 - e. Proposed truck route(s) that minimize travel on local streets.
 - f. 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.
 - g. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. 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.

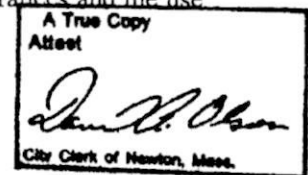


- h. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - i. A plan for rodent control during construction.
3. The petitioner shall maintain all landscaping associated with this Special Permit/Site Plan Approval in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
 4. The petitioner may operate a retail use consisting of a grocery store on the site, but such grocery store shall not exceed 25,000 square feet in size unless allowed through an amendment to this Special Permit/Site Plan Approval.
 5. The Comprehensive Signage Package submitted by the petitioner is hereby approved. The petitioner or its tenants shall submit sign permit applications to the Director of Planning and Development for a determination of consistency with the approved Comprehensive Sign Package. For modifications determined to be inconsistent with the Comprehensive Sign Package, petitioner shall seek an amendment to this Special Permit/Site Plan Approval.
 6. The petitioner shall apply for and use good faith efforts to obtain necessary federal, state and local permits and/or approvals, including but not limited to MassDOT's Access Permit, to construct the two crosswalks across Needham Street and the alterations to the site's access points, as shown in the site plans approved in Condition #1, prior to the issuance of a Certificate of Occupancy for the renovated buildings covered by this Special Permit/Site Plan Approval. The petitioner shall bear the sole cost of such improvements. The Petitioner shall use good faith efforts to consult with the Planning Department prior to any request for modification to the site plan as it relates to these improvements
 7. When new off-site sidewalks are provided at the two crosswalks across Needham Street with pedestrian features as approved by MassDOT, said pedestrian safety improvements related to the sidewalk connection to these crosswalks shall be constructed at the petitioner's sole expense to include pedestrian push buttons, wheelchair accessible ramps, and associated sign and pavement markings and subject to receipt of all necessary approvals.
 8. At its sole expense, the petitioner shall complete a post occupancy traffic study to document the actual traffic characteristics of the Project and to assess traffic volumes and operating conditions at the three access points to the site and at the intersection of Needham Street and Jaconnet Street. The traffic study, with a scope of work to be defined by the Planning and Development Department, shall be conducted by a qualified professional firm selected by the petitioner and approved by the Director of Planning and Development. The petitioner shall coordinate with the Planning and Development Department within three months after the site has reached full occupancy to determine the exact dates for conducting the traffic study. The results of the traffic study shall be provided to the Director of Planning and Development, the Director of the Transportation Division of Public Works and the MassDOT for review.


If the traffic study indicates that the project has created an unsafe environment or hazardous conditions for vehicles or pedestrians within the segment of Needham Street

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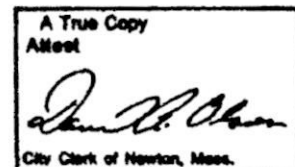
- adjacent to the project site, as determined by the City or the MassDOT, and including but not limited to the intersection of Jaconnet Street at Needham Street, the petitioner shall participate in discussions with the City and MassDOT to assess how the petitioner shall modify their site plan or mitigate such conditions within the segment of Needham Street adjacent to the project site, through modifications such as lane striping, the addition of medians, restrictions on turning movements through signage, or such other measures as the petitioner may agree to which can be made within the street layout. The petitioner shall bear sole responsibility for the cost of such mitigation.
9. At its sole expense, the petitioner shall conduct a Parking Utilization "After Study" during the first fall/winter peak shopping season after the site has reached full occupancy. The exact dates for the "After Study" shall be subject to approval by the Director of Planning and Development. The Parking Utilization "After Study" shall be conducted by a qualified professional firm selected by the petitioner and approved by the Director of Planning and Development. If the results of any Parking Utilization "After Study" indicate that the peak parking occupancy is less than 75%, the petitioner agrees to participate in discussions with the Director of Planning and Development to assess if the petitioner should modify its site plan with regards to the parking.
 10. The petitioner shall store snow at the site only within the locations identified in the snow storage plan, except to the extent snow removal is deemed by the petitioner to be operationally necessary during the peak parking periods.
 11. 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 approved plans listed in Condition #1. Consistency determinations shall be subject to review and approval by the Commissioner of Inspectional Services. When making a request for a consistency determination, the Petitioner shall submit a memorandum to the Commissioner of Inspectional Services demonstrating that such change(s) do not: (a) require further review by the Conservation Commission; (b) constitute a reallocation or reconfiguration of square footage among uses in the Project or otherwise allowed in the Mixed Use 1 District such that no increase in the parking waiver special permit approved hereunder is required; (c) 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); (d) reduce the useable open space as shown in the Special Permit Plan Set; and (e) modify any façade on the buildings covered by this Special Permit/Site Plan Approval in a way that deviates from the vibrancy of the mixed use development as specified in condition 15 below. 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 of Aldermen.
 12. The trash enclosures shall be maintained in a sanitary condition with the gate remaining closed at all times when not in use. The collection/emptying of such receptacles shall only occur on weekdays between 8:00 a.m. and 5:00 p.m.
 13. The petitioner shall use reasonable efforts to promote an enlivened streetscape along Needham Street, including but not limited to the installation of store entrances and the use



- of glazing, and to use glazing and attractive materials on all facades of the buildings covered by this Special Permit/Site Plan Approval to the extent practicable, and in harmony with the approved elevations and plans listed in Condition #1.
14. The petitioner shall construct and maintain an eight foot wide pathway along the South Meadow Brook over the former railroad bed, as shown on the approved plans listed in Condition #1, and as approved by the Conservation Commission. The pathway shall be constructed prior to the issuance of a Certificate of Occupancy for any of the buildings on the Project's site covered by this special permit.
 15. The petitioner shall enter into a license agreement with the City for the public use of the proposed pathway along the South Meadow Brook. Such license agreement shall be in a form acceptable to the City's Law Department.
 16. At the written request of the Director of Planning and Development, the petitioner shall submit funds in the amount of \$87,545.00 to be paid towards undergrounding of utilities along Needham Street at such time as either the City of Newton or the Commonwealth commences a project of undergrounding the utility lines with sufficient funding in place or committed from governmental or private sources to undertake the project for at least a distance of a quarter mile, inclusive of the section of Needham Street fronting the subject property at 131-181 Needham Street. This obligation shall run with the land for a period of 25 years from the date of this special permit. These funds shall be used by the City or the Commonwealth for the purpose of undergrounding utilities on Needham Street within the 25 year time period identified above. Any funds collected under this condition and not spent in accordance with this condition at the end of this time period shall be returned to the petitioner or its successors or assigns.
 17. The Petitioner shall underground utilities on the site in accordance with the approved plans listed in Condition #1 and shall use good faith efforts to underground any remaining above-ground utilities.
 18. The petitioner shall maintain public access for vehicles through the driveway entrance located along the side property line to the north.
 19. In furtherance of the City's proposed Newton Upper Falls Greenway (NUFG) rail trail behind the Property and as a public benefit to the City, the Petitioner agrees: (a) to participate in conjunction with the City of Newton, abutters and other stakeholders in reasonable efforts to promote development of the NUGF, which may include planning and design initiatives and (b) to provide a voluntary contribution of funding to the City in the amount of \$10,000.00 to be used by the City for the development of the NUGF, and (c) to remove invasive species along the boundary of its site with the NUGF, pursuant to a plan to be reviewed with the Engineering Department. These undertakings shall run with the land for a period of 25 years from the date of this special permit. Any funds collected under this condition and not spent in accordance with this condition at the end of this time period shall be returned to the petitioner or its successors and assigns.
 20. The petitioner shall, at its expense, install wayfinding signage at the beginning (southeast corner of the site) and end (southwest corner of the site) of the foot path indicated on the approved "Layout & Zoning Plan" listed in Condition #1. The petitioner shall work with

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- the City's Planning & Development Department, Public Works Department, and Parks and Recreation Department to review and approve the proposed wayfinding signage.
21. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
- Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - Filed final site plans for review and approval by the City Engineer. A copy of such written approval shall be filed with the Clerk of the Board, Director of the Department of Planning and Development, and the Commissioner of Inspectional Services.
 - Filed an approval from the Tree Warden
 - File a copy of the perimeter plan filed with the City Engineer with the Clerk of the Board and the Director of Planning and Development.
 - Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
 - Filed a copy of the Construction Management Plan required by Condition #2 with the Commissioner of Inspectional Services and the Director of Planning and Development.
22. No Certificate of Occupancy for the buildings and uses covered by 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 or surveyor certifying substantial compliance with Condition #1.
 - Submitted to the Department of Inspectional Services and the Department of Planning and Development a final as-built survey plan in digital format by a licensed surveyor.
 - 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 construction details have been constructed to the standards of the City of Newton Engineering Division.
 - Incorporated the approved Operations and Maintenance Plan for Stormwater Management on file with the City Clerk's Office into the Master Deed, which shall be recorded with the Registry of Deeds for the Southern District of Middlesex County in conjunction with the completion of the construction of such special permit, proof of which shall be submitted to the Engineering Division.
 - Filed with the Department of Planning and Development, a statement from the City's Conservation Agent stating that the petitioner has complied with all requirements of the Order of Conditions from the Conservation Commission.
 - Filed with the Department of Planning and Development, a statement from the City's Tree Warden stating that the petitioner has complied with all requirements of the City's Tree Preservation Ordinance.



- g. 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, fencing, signage and parking areas.
 - h. Filed a copy of the license agreement allowing public use of the proposed pathway with the Clerk of the Board and the Director of Planning and Development.
 - i. Constructed a pathway in accordance with Condition #14.
23. Notwithstanding the provisions of Condition #22g above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, signage and parking areas provided that 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 work to secure installation of such landscaping, fencing, signage and parking areas.

Under Suspension of Rules

Readings Waived and Approved

20 yeas 0 nays 4 absent (Aldermen Baker, Gentile, Hess-Mahan, and Laredo)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen 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 April 27, 2015. 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 Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen 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 Board of Aldermen in the Office of the City Clerk on 4/27 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



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

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