

CITY OF NEWTON

IN BOARD OF ALDERMEN

October 7, 2013

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action 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, hereby grants the following SPECIAL PERMIT and SITE PLAN to amend the current site plan, and prior special permits and site plan approvals granted by the Board permitting a hotel/motel use by: (1) adding a pool deck awning, reconfiguring the delivery and trash pickup at the front and side of the hotel, reconfiguring existing parking areas, reflecting existing and proposed signage, and reflecting existing wireless communications equipment; (2) extending a nonconforming structure by a) adding a pool deck awning and b) adding a delivery ramp on the easterly side of the building; (3) granting waivers from parking requirements including waivers to eliminate the requirement for fifty-five (55) parking stalls and to reduce the dimensional standards applicable to the remaining parking stalls; and (4) adding three new signs and legalizing two existing signs, all in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefore, through its Chairman, Alderman Ted Hess-Mahan:

The Board finds that:

1. The site is an appropriate location for the hotel use and structure.
2. The extension of the pool deck awning will not be substantially more detrimental to the neighborhood than the existing nonconforming hotel building.
3. The construction of the delivery ramp will not be substantially more detrimental to the neighborhood than the existing nonconforming hotel building.
4. Literal compliance with the number of parking stalls and the dimensional standards for parking facilities is impracticable and exceptions would be in the public interest and in the interest of environmental features by maintaining as much open space as possible.
5. The waiver allowing the elimination of 55 of the required parking stalls is appropriate as the site has operated without those 55 parking stalls for many years. A Parking Assessment and Parking Management Plan has been submitted and tested, and the valet parking can support the 55 parking space waiver if implemented with aggressive oversight by management.
6. Because of the location of the kitchen, it would be impractical to require that trash pick-up related to the kitchen be made on the side or rear of the Building.
7. It is determined that the nature of the use, the architecture of the building and its location with respect to the surrounding streets is such that permitting additional secondary signs, and allowing these signs to be larger than allowed by right, is in the public interest and

will help with way-finding to the site.

8. Existing wireless installations are appropriate at this site and will not adversely affect the neighborhood.
9. Reconfiguring the delivery and trash pickup and operations will be an improvement for the neighborhood and will improve traffic flow on Grove Street.

The Board also finds that, should the Station at Riverside exercise special permit #258-12(2), a special permit is granted (so-called "Phase 2") in order to: (1) authorize the conveyance of a portion of the Indigo lot to be used as the rear access/egress for the Station at Riverside; (2) authorize an FAR on the remaining portion of the Indigo lot, after the conveyance under (1) above, of greater than 1.0; (3) grant relief for the "extension" of the existing nonconforming lot coverage that will result on the remaining portion of the Indigo lot after the conveyance under (1), above; (4) grant relief as necessary for the existing nonconforming building to be maintained on the reduced Indigo lot remaining after the conveyance under (1), above; (5) grant a waiver allowing the elimination of twenty (20) additional parking stalls, in addition to the 55 parking stalls eliminated above, as a result of the conveyance under (1), above; and (6) amend the approved site plan to reflect the foregoing.

10. The reduction of the site by 15,440 square feet from 116,649 square feet to 101,209 square feet will not materially change how the hotel site operates. Neither the building nor the intensity of the hotel use will increase as a result of the reduction in lot size.
11. Literal compliance with the number of parking stalls and the dimensional standards for parking facilities is impracticable and exceptions would be in the public interest and in the interest of environmental features by preserving as much open space as possible.
12. The further reduction of 20 parking spaces for a total waiver of 75 stalls, while requiring a total of 204 parking stalls on-site, is appropriate. The petitioner submitted a Parking Study which indicates that on average fewer than 204 parking spaces are occupied. A Parking Management Plan has also been submitted and tested, and the valet parking can support the 55 parking space waiver (granted in Phase 1 of this special permit) if implemented with aggressive oversight by management. Upon completion of the Station at Riverside the petitioner will have access to additional parking opportunities at this adjacent site which will help support the additional 20 stall parking waiver.
13. Allowing an increase in FAR to 1.2 where 1.0 is the maximum allowed by right, is appropriate for this location and will not adversely affect the neighborhood.
14. Allowing an increase in the nonconforming lot coverage will not be substantially more detrimental to the neighborhood than the existing nonconforming lot coverage.

PETITION NUMBER: #272-12 and 272-12(3)

PETITIONER: BH Normandy LLC (owner), its successor(s) and assign(s)

LOCATION: 399 Grove Street, Auburndale on land known as SBL 42, 011, 04, containing 116,650 square feet of land

OWNER: BH Normandy LLC

ADDRESS OF OWNER: 99 Summer Street, Boston, MA 02110

TO BE USED FOR: Hotel with associated dining and recreational amenities and associated parking

CONSTRUCTION: Masonry building

EXPLANATORY NOTE: §30-21(b) to extend an existing nonconforming structure through a) the addition of a pool deck awning and b) the addition of a delivery ramp to the easterly side of the building; §30-19(d)(3), (d)(13) and §30-19(m) to waive 55 required parking stalls; §30-19(h), §30-19(h)(2), §30-19(h)(2)a, §30-19(h)(2)b, §30-19(h)(2)c, §30-19(h)(2)e, §30-19(h)(3), §30-19(h)(3)b, §30-19(h)(4), §30-19(h)(4)b, §30-19(i), §30-19(i)(1) and (i)(2), §30-19(j), §30-19(j)(1)a, §30-19(j)(2)e, §30-19(l), §30-19(k), and §30-19(m) to waive the required stall dimensions, maneuvering aisle width, end-stall maneuvering space, maximum entrance and exit driveway widths, to waive landscape screening, lighting, curbing, surfacing and maintenance, and bicycle parking requirements for a parking facility with greater than 20 stalls; §30-20(1) and §30-20(f)(9) for a freestanding sign, §30-20(f)(1) and (f)(2) for four secondary signs and to waive the size limit for two secondary signs; continuation of a hotel/motel use, §30-11(i)(5); §30-23, §30-24, and §30-26(a)(1).

Upon the conveyance of a portion of the Indigo lot as the rear access/egress for the Station at Riverside: §30-19(d)(3), (d)(13) and §30-19(m) to waive 20 additional parking spaces for a total of 75 required parking stalls; §30-15, Table 3 to allow and FAR of 1.2 where 1.0 is the maximum allowed by right; §30-15, Table 3 and §30-21(b) to allow an increase in the nonconforming lot coverage. (Phase 2)

ZONING: Business 5

This special permit supersedes all prior special permits, and consolidates and incorporates herein those conditions and provisions from such prior special permits that remain applicable, are still in full force and effect and are set forth in this special permit. Any conditions in such prior special permits not set forth in this special permit are null and void.

Approved for continued use as a hotel/motel, 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) Existing Conditions Plan consisting of two (2) sheets by Feldman Professional Land Surveyors dated April 24, 2012;
  - b) Area Plan (C-1) by Vanesse Hangen Brustlin, Inc. dated June 13, 2013;
  - c) Proposed Interim Site Plan (C-2) by Vanesse Hangen Brustlin, Inc. dated June 13, 2013;
  - d) Proposed Site Plan with Riverside Access/Egress (C-3) by Vanesse Hangen Brustlin, Inc. dated September 24, 2013;
  - e) Proposed Interim Parking Plan (C-4) by Vanesse Hangen Brustlin, Inc. dated June 13, 2013;
  - f) Proposed Parking Plan with Riverside Access/Egress (C-5) by Vanesse Hangen Brustlin, Inc. dated September 24, 2013;
  - g) Signage Plan (C-6) by Vanesse Hangen Brustlin, Inc. dated 6/13/2013;
  - h) Design drawing for south facing Hotel Indigo sign by ViewPoint, revised May 9, 2012;
  - i) Design drawings for Hotel Indigo portico sign by ViewPoint, consisting of two (2) sheets revised April 24, 2012;
  - j) Design drawings for BOKX 109 portico sign by ViewPoint, consisting of two(2) sheets revised April 24, 2012;
  - k) Design Drawing for north facing Hotel Indigo sign by ViewPoint, revised October 8, 2007;
  - l) Design Drawing for freestanding sign by ViewPoint, revised December 5, 2012;
  - m) Photometric Plan by Sam Zax Associates dated June 22, 2012;
  - n) Metro PCS Wireless Telecommunication Plans for Hotel Indigo consisting of eight (8) sheets by Hudson Design Group, LLC dated July 16, 2009.
2. All signage shall be installed and maintained consistent with plans listed in Condition #1, including one freestanding sign and four secondary signs.
3. All wireless equipment shall be maintained in good appearance and operating order at all times. If the equipment is not used for wireless communication purposes for more than 180 consecutive calendar days, the owner/operator of the equipment shall be responsible for removing the equipment by no later than the end of that 180-day period.

4. The petitioner shall restripe the existing parking facilities to provide a total of at least 224 parking spaces on-site, consistent with plans listed in Condition #1, and maintain the pavement markings for so long as this special permit is being exercised.
5. Upon completion of the new delivery ramp on the east side of the building and the reconfiguration of the existing loading area on the western side of the building, no loading or deliveries shall be made at the front of the building facing Grove Street except for trash and recycling pick-up. The new delivery ramp shall be completed and use commenced within one (1) year from the date of this board order.
6. Until such time as the delivery ramp on the east side of the building is completed, the petitioner shall implement procedures, and shall use all reasonable efforts to enforce such procedures, requiring that all deliveries to the site to be by single unit trucks (i.e. "box trucks") that shall park interior to the site.
7. The petitioner shall narrow the curb cut on Grove Street by approximately eight feet and add and maintain landscape screening consistent with plans listed in Condition #1. The trunks and roots of existing mature trees on Grove Street in front of Hotel Indigo shall be protected during construction with means approved by the Director of Planning and Development in consultation with the City's Tree Warden. Any such tree that fails to survive during the year immediately following construction along this frontage shall be replaced with like-type tree(s) with the capacity to achieve the stature of existing trees, and in no event shall be less than 5 caliper inches.
8. The petitioner will install and maintain modernized waste containers at the front of the hotel which will allow for quieter servicing.
9. The petitioner will add and maintain a solid panel fence and new trash enclosures at the front of the hotel.
10. The petitioner shall implement procedures requiring any trash or delivery truck exiting the site to re-enter Grove Street with proper forward alignment. Waste hauling and deliveries are permitted only between the hours of 9 A.M. and 4 P.M. Monday through Saturday.
11. The petitioner shall reconfigure and maintain an existing loading dock and construct a new ramp to the kitchen area from parking level P1 consistent with plans listed in Condition #1.
12. The owners of the hotel, shall strictly enforce compliance with the Parking Management Plan for the hotel, on file with the Planning and Development Department and Inspectional Services Department, and shall notify the Ward Aldermen and immediate abutters in advance of events that are likely to demand more parking than is available on-site. New hotel management shall be made familiar with the Parking Management Plan for the hotel.
13. The petitioner shall have valet parking for the restaurant use every evening the restaurant is open from 5 P.M. to 10 P.M. Sunday through Thursday and 5 P.M. to 11 P.M. on Fridays and Saturdays.
14. The petitioner shall properly maintain the new kitchen ventilation system, which includes a charcoal filtration system and was installed in the fall of 2012, so as to improve the smells exhausted into the neighborhood.
15. All site landscaping shall be maintained and any dead or diseased plant material shall be replaced annually.

16. Between the hours of 8:00 p.m. and 9:00 a.m., all buses shall unload passengers at the rear of the hotel.
17. The hotel management shall instruct all buses and trucks not to allow the engines of such vehicles to idle longer than 5 minutes.

Additional Conditions Applicable for Phase II Site Plan

18. The Phase 2 site plan portion of this special permit shall not be exercised until the special permit for the Station at Riverside has been exercised by construction under that special permit which requires the construction of the roundabout at the connector road (“Riverside Station Road”).
19. The petitioner shall use available parking at the Station at Riverside (i.e. the office building or MBTA garage) to accommodate overflow parking managed by valets.
20. The driveway connection to the Station at Riverside shall be made two-way in order to facilitate delivery and valet traffic, subject to MassDOT approval. The petitioner shall use all good faith efforts to obtain such necessary approval and shall come back to the Board for an amendment to this special permit if such approval cannot be obtained.
21. After the Phase 2 site plan portion of this special permit goes into effect, the petitioner shall implement procedures, and use reasonable efforts to enforce such procedures, that require all delivery trucks to access and exit the site to the rear of the hotel via the interior roadway servicing the Station at Riverside, and may allow deliveries to the site by trucks larger than single unit trucks provided that such larger trucks enter and exit the site via the interior roadway.
22. The petitioner shall restripe the parking area to provide a minimum of 204 parking spaces, consistent with plans listed in Condition #1.
23. No building permit shall be issued pursuant to “Phase 1” of this SPECIAL PERMIT/SITE PLAN APPROVAL until the petitioner has:
  - a. Recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL.
  - b. Filed a certified copy of such recorded notices with the Clerk of the Board, the Inspectional Services Department and the Department of Planning and Development.
  - c. Obtained a written statement from the Planning Department that confirms that any building permit plans are consistent with plans approved in Condition #1.
  - d. Submitted a construction management plan for review and approval by the Director of Planning and Development, the Commissioner of Inspectional Services and the City Engineer.
  - e. Submitted a final landscape plan for review and approval by the Director of Planning and Development and the City’s Tree Warden, which shows all existing trees, trees to be removed, and trees to be planted in order to maintain or replace what is existing.

24. No building permit shall be issued pursuant to “Phase 2” of this SPECIAL PERMIT/SITE PLAN APPROVAL until the petitioner has:
  - a. Obtained a written statement from the Planning Department that confirms that any building permit plans are consistent with plans approved in Condition #1.
  - b. Submitted a construction management plan for review and approval by the Director of Planning and Development, the Commissioner of Inspectional Services and the City Engineer.
  
25. No occupancy permit for the use of the improvements authorized by “Phase 1” of special permit/site plan approval shall be issued until the petitioners have:
  - a. Filed with the Clerk of the Board, 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.
  - b. Submitted to the City Engineer, Department of Inspectional Services, and the Department of Planning and Development final as-built plans in digital and paper format, with the latter sealed by a licensed surveyor.
  - c. 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 Board Order have been constructed to the standards of the City of Newton Engineering Department.
  - d. Filed with the Clerk of the Board and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final location, number and type of plant materials.
  
26. No occupancy permit for the use of the improvements authorized by “Phase 2” of special permit/site plan approval shall be issued until the petitioners have:
  - a. Filed with the Clerk of the Board, 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.
  - b. Submitted to the City Engineer, Department of Inspectional Services, and the Department of Planning and Development final as-built plans in digital and paper format, with the latter sealed by a licensed surveyor.
  - c. 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 Board Order have been constructed to the standards of the City of Newton Engineering Department.

- d. Filed with the Clerk of the Board and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final location, number and type of plant materials.
27. Notwithstanding the provisions of Conditions #25 and #26, above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the improvements prior to installation of final landscaping 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 landscaping to secure installation of such landscaping.

Under Suspension of Rules

Readings Waived and Approved

21 yeas 0 nays 2 absent (Aldermen Lappin and Sangiolo) 1 vacancy

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 \_\_\_\_\_. 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 \_\_\_\_\_ 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