

CITY OF NEWTON

IN BOARD OF ALDERMEN

August 11, 2014

RECEIVED
NEWTON CITY CLERK
2014 AUG 13 PM 2:22
DAVID A. OLSON,
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 allow a mix of uses, a waiver of the required number of parking stalls, the formalizing of off-site parking stalls, and waivers of certain design and dimensional controls of the parking facilities on the site, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The specific site is an appropriate location for the mixture of office, retail, service, and storage/warehouse uses, because these uses will contribute to the character and vitality of the community and the Needham Street Corridor and will not be detrimental to the public welfare. (§30-13(b)(1), (3), (4), and §30-24(d)(1))
2. The proposed uses can be operated so as not to adversely affect the neighborhood. (§30-13(b)(1), (3), (4), and §30-24(d)(2))
3. The requested use of off-site licensed parking facilities and the waiver of 18 additional parking stalls results in a total of 53 parking stalls waived for the site, for an aggregate parking demand cap of 200 parking stalls. Waivers to the dimensional and design controls for parking facilities will not result in the creation of a nuisance or hazard to vehicles or pedestrians on and off the site. (§30-19(f)(2), §30-19(c)(3), and §30-24(d)(3))
4. The site, given the waivers to the dimensional and design controls for parking facilities, has adequate access for the types and numbers of vehicles for the proposed mixture of uses. (§30-20(m) and §30-24(d)(4))
5. The constraints present on the property, specifically the significant grade and the unique shape of the lot, and the nature of the uses and development patterns of the site, makes waivers of the dimensional and design controls for parking facilities appropriate because literal compliance with these requirements is impracticable. (§30-19(m))

PETITION NUMBER: #424-13

PETITIONER: UBC Equity Partners, LLC/KS Retail Manage, LLC

48484-485

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

LOCATION: 19-33 Needham Street, Ward 5, on land known as SBL 51, 28, 25B, 25C, and 25D, containing approx. 109,396 sq. ft. of land

OWNER: UBC Equity Partners, LLC/KS Retail Manage, LLC

ADDRESS OF OWNER: 150 East 58th Street, Suite 2000
New York, NY 10155

TO BE USED FOR: Office, Retail, Service, and Storage/Warehouse Uses

EXPLANATORY NOTES: §30-13(b)(1) to allow retail uses; §30-13(b)(3) to allow storage/warehouse uses. §30-13(b)(4) to allow service uses. §30-19(f)(1) and (f)(2) to allow for the uses of off-site parking stalls AND/OR §30-19(c)(3) to waive parking stalls. §30-19(m) to allow exceptions to the provisions of Section 30-19(h).

ZONING: Mixed Use 1 District


This special permit supersedes, consolidates and incorporates prior special permits #141-91(2) and #153-81. 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 subject to the following conditions:

Conditions associated with this Special Permit/Site Plan Approval, Board Order #236-13:

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. Architectural Plans, prepared by Wright Interiors, dated 6/19/13, including:
 - i. First Floor Plan; and
 - ii. Second Floor Plan.
 - b. Existing Conditions Plan, entitled Site Detail Plan, prepared, stamped and signed by Michael Pustizzi, Land Surveyor for Precision Land Surveying, Inc., dated 6/5/2013.
 - c. Conceptual Site Improvement Pan, prepared by MDM Transportation Consultants, Inc., Planners & Engineers, dated 3/26/14 and revised on 5/22/14, 6/5/2014 and 7/22/2014.
 - d. Autoturn Analysis-Lumber Truck, prepared by MDM Transportation Consultants, Inc., dated 5/22/2014.
 - e. Landscape Plan, prepared by William Fleming Associates, Inc., Landscape Architecture and Planning, dated 5/28/2014.
2. The petitioner shall install wayfinding signage for the Newton Upper Falls Greenway and bicycle safety signage as shown on the Conceptual Site Improvement Plan.
3. If at some time in the future access through the property of the neighboring southerly abutter (now AvalonBay) can be arranged, the petitioner shall be allowed to utilize such access for

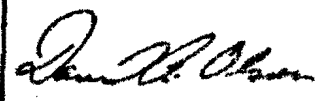
Access



Clerk of Newton, Mass.

ingress or egress to the property without further action of the Board, although such access may not reduce parking by more than six (6) parking stalls.

4. The storage of snow on the site shall be accommodated in locations reviewed and approved by the Department of Planning and Development and Public Works Department. The snow storage areas shall not adversely impact the Newton Upper Falls Greenway.
5. At such time in the future when the square footage or footprint of the existing buildings on the site are increased or enlarged, or if more than 25 percent of existing buildings on the site are demolished, the site shall comply with the parking requirements in effect at the time, and the waivers to the number of parking stalls and the dimensional and design controls of parking facilities granted by this special permit shall terminate.
6. The petitioner shall provide to the Director of Planning and Development copies of the License Agreement(s) and/or Use and Occupancy Agreement(s) currently in effect between the Massachusetts Bay Transportation Authority ("MBTA") and the entity(ies) with permission to use the property of the MBTA under said Agreement(s), which shall include all land owned by the MBTA that is used by the petitioner for parking at 19-33 Needham Street. If any such Agreement is terminated, and thereby reduces the number of parking stalls available to customers and employees, the petitioner shall present a request to the Director of Planning and Development within 60 days to amend the site plan and identify offsite parking stalls to replace the number of parking stalls lost.
7. 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 Board 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 Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed a final conceptual site improvement plan that is dated and stamped by the appropriate design professional with the Planning Department.
 - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
 - e. Offer to the City of Newton to execute and record with the Land Court Registry District for the Southern District of Middlesex County an easement with the City of Newton, at no cost to the City, for a pedestrian and bicycle access across a portion of the petitioner's property extending from the Massachusetts Bay Transportation Authority right-of-way to Easy Street a private right-of-way, provided that the petitioner shall only be responsible for a good faith effort to request that the City of Newton accept such easement.
8. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - a. 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.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.

A True Copy
Attest

City Clerk of Newton, Mass.

- c. Filed with the City Clerk and the Inspectional Services Department a statement by the Director of Planning and Development approving final location, number and type of plant materials, fencing and signage.
 - d. Obtained a statement from the Department of Planning and Development certifying that the bituminous parking area located within the southwest corner of the area leased from the Massachusetts Bay Transportation Authority has been removed and re-vegetated.
9. Notwithstanding the provisions of Condition #8c above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to the installation of final landscaping provided that the petitioner shall first have filed with the Director of Planning and development a bond, letter of credit, 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.

Conditions incorporated from Board Order #141-91(2):

10. The no automobile engine shall be kept running while the automobile is being repaired within any garage bay.
11. That the Petitioner shall not engage in the use of machinery, chemicals and tools which give off noxious fumes or orders to the adjoining areas or neighborhood.
12. That in no event shall the business operate in a manner which would project any sound to adjoining areas or neighborhood.
13. That employees shall park in an area designated at the rear of the site.
14. That there shall be no outside storage of used tires or other refuse materials, and that all such materials be disposed of in accordance with applicable laws.
15. That the location and screening of any new dumpster shall be reviewed and approved by the Director of Planning and Development.
16. That the free-standing sign and planter at the corner of Easy Street may be relocated for greater site distance for motorists and better visibility of the property.

Conditions incorporated from Board Order #153-81:

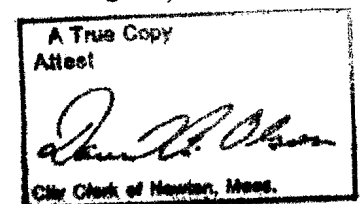
17. That the two free-standing signs shall be located, subject to the approval of the City Engineer, consistent with a plan entitled "Site Plan, Needham Street," dated February 4, 1981 by Signs O'Life, 178 Purchase Street, Boston, MA, submitted by the petitioner and filed herewith.
 18. That both free-standing signs shall be constructed in accordance with the details of a plan entitled "2 Signs Same, Entrance to #23 and #29," undated, by Signs O'Life, submitted by the petitioner and filed herewith.
-
19. That the landscaping in the brick planters shall be maintained in good order at all times.

Under Suspension of Rules

Readings Waived and Approved

19 yeas 0 nays 1 recused (Alderman Laredo) 3 absent (Aldermen Fuller, Harney, 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 August 13, 2014 . 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 8/13 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

