

SDSX SO. DIST. DEEDS

MENT:

11/22/13

#229-13

12:13pm

CITY OF NEWTON

IN BOARD OF ALDERMEN

October 21, 2013

RECEIVED
2013 OCT 21 PM 1:44
DAVID A. O'SHEA
CITY CLERK
NEWTON, MASS.

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 to extend a nonconforming structure, to construct a single-story commercial building for retail and restaurant uses, to allow for the reconstruction of a nonconforming structure, to waive the minimum aisle width requirement, to waive certain lighting requirements, to waive the requirement for a loading dock, and to waive any other dimensional, landscaping, fencing or other requirements with which plans do not comply, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

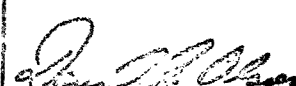
1. The proposed restaurant and retail uses are in harmony with the general purposes and intent of the Zoning Ordinance and will not be substantially more detrimental to the neighborhood than the existing use because the area is already characterized by these types of commercial uses.
2. The proposed structure and site plan is consistent with the 2007 Newton *Comprehensive Plan*, which encourages projects of this kind that provide commercial spaces with a high degree of quality in design that reflect concepts of place-making and supports improvements to the pedestrian environment and accommodates bicycles.
3. Access to parking is appropriate for the number of vehicles involved.
4. The waiver of certain lighting requirements, minimum aisle width requirements, other dimensional, landscaping, fencing or other requirements with which the proposed plan does not comply, is in the public interest or in the interest of public safety or protection of environmental features.

RECEIVED
2013 NOV 26 PM 1:14
DAVID A. O'SHEA
CITY CLERK
NEWTON, MASS. 02459

PETITION NUMBER: #229-13

PETITIONER: Needham Chestnut Realty, LLC

LOCATION: 170 Needham Street, Section 83, Block 28, Lot 2, containing approximately 27,179

A True Copy
Attest

City Clerk of Newton, Mass.

OWNERS: Needham Chestnut Realty, LLC

ADDRESS OF OWNERS: c/o Sanford Custom Builders, Inc.
310 Washington Street
Wellesley, MA 02481

TO BE USED FOR: Retail and restaurant space.

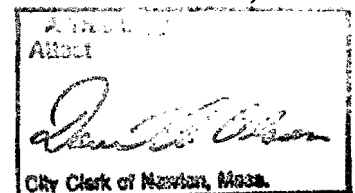
CONSTRUCTION: Single-story, multi-tenant, commercial building.

EXPLANATORY NOTES: Section 30-13(b)(1), to allow retail uses in an MU-1 District; Section 30-13(b)(5), to allow a restaurant use in an MU-1 District; Section 30-21(b), to allow for the reconstruction of a nonconforming structure; Section 30-19(h)(3), to waive the minimum aisle width requirement; Section 30-19(j)(1), to waive certain lighting requirements; Section 30-19(l), to waive the requirement for a loading dock; Section 30-19(m), to waive any other dimensional, landscaping, fencing or other requirements with which plans do not comply.

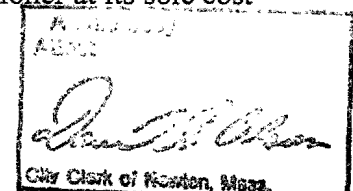
ZONING: Mixed Use 1 District

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) "Site Development Plans for 170 Needham Street, Newton, MA" dated June 26, 2013 with revisions through September 23, 2013, containing the following sheets:
 1. Sheet 2, Locus Plan, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
 2. Sheet 3, Existing Conditions, Stamped by Steven M. Horsfall, Professional Land Surveyor, on September 16, 2013
 3. Sheet 4, Layout Plan, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
 4. Sheet 5, Grading, Utility & Drainage Plan, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
 5. Sheet 6, Detail Sheet, Stamped by David Noel Kelly, Professional Engineer, on September 16, 2013
 6. Sheet L2, Lighting Plan, by Hawk Design, Inc. on August 16, 2013
 7. Sheet L1, Planting Plan, by Hawk Design, Inc. Stamped by Thomas E. Minor, Registered Landscape Architect on September 24, 2013.

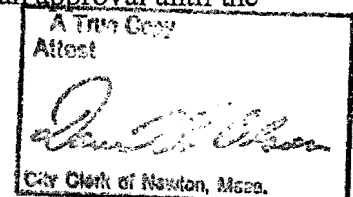


8. Sheet D1 & D2, Planting Details and Notes by Hawk Design Stamped by Thomas E. Minor on September 24, 2013
 9. Sheet A 1.0 Schematic Floor Plan by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 10. Sheet A 1.1 Needham Street Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 11. Sheet A 1.2 Jaconnet Street Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 12. Sheet A 1.3 Parking Lot Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 13. Sheet A 1.4 Side Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 14. Sheet S 1.0 Signage Diagram by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 15. Sheet S 1.1 Signage Diagram Needham Street Elevation and Jaconnet Street Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013
 16. Sheet S 1.2 Signage Diagram Side Elevation and Parking Lot Elevation by HDS Architecture stamped by Hans D. Strauch dated June 26, 2013.
2. 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.
 3. Rooftop mechanical equipment shall be centrally located so as to minimize the view from the street, as is practical and with approval by the Director of Planning and Development and the Commissioner of Inspectional Services.
 4. The trash enclosures shall be maintained in sanitary condition with the gate remaining closed at all times when not in use.
 5. The petitioner shall submit all proposed signage for review by staff and the Urban Design Commission.
 6. The petitioner shall adhere to the Order of Conditions approved by the City's Conservation Commission for this project, also referenced as Department of Environmental Protection #239-687, as it may be amended from time to time.
 7. The petitioner shall grant at no cost to the City of Newton an easement in favor of the City of Newton, which allows vehicular access across the Petitioner's property for maintenance vehicles to access the trash gate and inlet of the box culvert in South Meadow Brook lying between the Petitioner's property and the adjacent property at 180 Needham Street.
 8. The petitioner shall grant at no cost to the City of Newton an easement in favor of the City of Newton for location, maintenance, repair and replacement at sole cost of the City of Newton of a storm drainage line across the property in the location shown on the approved plans for the provision of storm drainage service from Jaconnet Street to South Meadow Brook. The Petitioner, at its sole cost, shall remove the existing 15" concrete pipe and replace such pipe in the manner and at the location shown on the approved plans. The petitioner at its sole cost



shall construct a water quality structure at the end of the new pipe where such pipe outflows into the South Meadow Brook.

9. At the written request of the Director of Planning and Development, the petitioner shall submit funds in the amount of \$7,140 (\$1 per square foot of building) 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 170 Needham Street. This obligation shall run with the land for a period of 11 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 11 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.
10. Prior to the issuance of a 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. This plan shall include at a minimum:
 - a. 24-hour contact information for the general contractor of the project.
 - b. The hours of construction; there shall be no construction 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.
11. No building permit shall be issued pursuant to this Special Permit/Site Plan approval until the petitioner has:



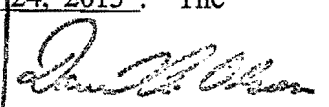
- a. Recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed final engineering plans for review and approval by the City Engineer. A copy of such written approval shall be filed with Clerk of the Board, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - d. Submitted a Construction Management Plan in accordance with Condition #10.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
12. No 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 Commissioner 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 Director of Department of Planning and Development, Commissioner of Inspectional Services and the City Engineer, a final as-built survey plan in digital format.
 - 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 construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
 - e. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Law Department confirming that the easements described in Conditions #7 and #8 have been provided to the City.
13. Notwithstanding the provisions of Condition #12d. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building 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

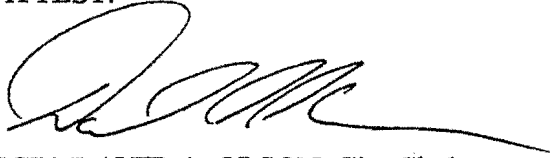
21 yeas 0 nays 2 absent (Aldermen Salvucci and Sangiolo) 1 vacancy

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 October 24, 2013. The


City Clerk of Newton, Mass.

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 1/4/34 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

