



Ruthanne Fuller
Mayor

CITY OF NEWTON, MASSACHUSETTS

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ZONING BOARD OF APPEALS

To: Zoning Board of Appeals Members
From: Adrianna Henriquez, Clerk
Date: September 17, 2021
Subject: Materials for **September 22, 2021** Public Hearing

Packet 2

Hello,

Please see the following supplemental materials for the upcoming hearing on September 22, 2021 Public Hearing. The following board members are scheduled to sit: *Brooke Lipsitt (Chair), Michael Quinn, Treff LaFleche, Michael Rossi, Stuart Snyder and Elizabeth Sweet (Alternate)*.

1. September 22, 2021 Revised Agenda
2. 15 Riverdale Avenue Insubstantial Change Request with Attached Plan

Thank you,

Adrianna Henriquez

ahenriquez@newtonma.gov | (617) 796 1133



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ZONING BOARD OF APPEALS
Adrianna Henriquez, Board Clerk

The Zoning Board of Appeals will hold this meeting as a virtual meeting on Wednesday, September 22, 2021 at 7:00 pm.

To view and participate in this meeting using Zoom, click this link: <https://us02web.zoom.us/j/84207051653> or call 1-646-558-8656 and use the Meeting ID 842 0705 1653.

AGENDA

Revised 9/17/2021

A public hearing of the Newton Zoning Board of Appeals will be held virtually via Zoom on Wednesday, September 22, 2021 at 7:00 p.m. on the following petitions:

- 1. #03-83(2) and #17-96(2)** Life Coleman Limited Partnership applying to the Zoning Board of Appeals, pursuant to Massachusetts General Laws Chapter 40B, to amend and make substantial changes to the Comprehensive Permits previously granted for construction of a two building, 146 unit project, collectively known as Coleman House, located at 677 Winchester Street, Newton Massachusetts. The applicant is seeking amendments to the prior Comprehensive Permits to permit the transfer of a 36,955 square foot portion of the Coleman House land, relocation of certain surface parking spaces, construction of a new building connector, and related dimensional relief in order to facilitate construction of a new development comprising 174 units of congregate housing.
- 2. #01-20** CPC Land Acquisition Company, LLC requesting to change the details of the Comprehensive Permit previously granted to the applicant on June 17, 2020, for a project located at 15 Riverdale Avenue in Newton, Massachusetts that consists of 51 affordable housing units. The applicant proposes to decrease the parking count by two stalls, replace the 53 undersized parking stalls with 51 larger parking spaces, expansion of two parking stalls, neighborhood and tenant amenity space relocation and alteration of the bicycle parking layout. Pursuant to 760 CMR 56.05(11), this item will be heard for the purpose of determining whether the proposed change is substantial or insubstantial.
- 3. #06-21** Marjorie S. Kern of 43 Philmore Road, Newton, Massachusetts, requesting to amend a previously granted variance (#12-02) to further exceed the maximum lot coverage required by Section 3.1.3 of the Newton Zoning Ordinance for the purpose of constructing a rear porch addition. The subject property consists of a 7,407 square foot lot located at 43 Philmore Road, Newton, Massachusetts within a Single-Residence 2 (SR-2) zoning district.
- 4. #05-21** Daniel L. Jackson and Martina T. Jackson of 115 Lowell Avenue, Newton, Massachusetts, pursuant to M.G.L. c. 40A, § 8, and 15, appealing the June 28, 2021 Notice of Violation issued by the Commissioner of Inspectional Services for a sign in violation of Section 5.2.6.7 of the Newton Zoning Ordinance at 115 Lowell Avenue, Newton, Massachusetts. The subject property consists of a 7,651 square foot lot located at 115 Lowell Avenue, Newton, Massachusetts within a Multi-Residence 1 (MR-1) zoning district.
- 5.** Review and approval of minutes for June 28, 2021 meeting.

The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

SCHLESINGER AND BUCHBINDER, LLP
ATTORNEYS AT LAW

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September 15, 2021

BY HAND

Ms. Brooke K. Lipsitt, Chairman
Zoning Board of Appeals
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Re: #01-20/Comprehensive Permit for CPC Land Acquisition Company/Request for Determination of Insubstantial Change

Dear Chairman Lipsitt,

On June 17, 2020 the Board of Appeals issued a Comprehensive Permit Decision (#01-20) (“the Decision”) to CPC Land Acquisition Company (“the Applicant”) granting approval for the construction of a mixed-use development known as “Residences on the Charles” containing three new buildings with 204 residential units and associated ancillary tenant and community space.

Plan Changes

The Applicant now seeks to make certain modifications to the Decision, and for those modifications to be determined to be insubstantial changes to the Decision in accordance with the factors set forth in 760 CMR 56.05(11) and 760 CMR 56.07(4).

In accordance with said request, the Applicant presents an updated architectural plan A-102 Overall Level 1 (the “revised plan”) prepared by ICON Architecture dated 9/15/2021 to replace plan sheet A -102 which was referenced in Schedule A of the Decision. The revised plan does not contain substantial changes, and thus we are seeking a determination from the Board of Appeals that these changes are insubstantial.

The minor changes, which are the result of progression of the schematic design documents into construction documents, are summarized below.

- 1. The overall parking count will decrease by 2 stalls; a new tandem stall and a hybrid loading stall are available to mitigate this reduction.**
 - a. Detailed design of structural elements for Building 1, including columns and shear walls to support the structural building loads, resulted in the loss of 2 stalls – one in Building 1A and one in Building 1B.
 - b. The Applicant notes the potential to designate 1 additional tandem (to be located in front of stall 50 in Building 1A) to offset this reduction.
 - c. The Applicant proposes to change the use of 1 loading stall on Riverdale Avenue to a shared visitor/loading space to mitigate the reduction. Loading activity can be limited to certain hours during the day, outside of which the space will be available for guests.

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Ms. Brooke K. Lipsitt, Chairman
September 15, 2021

Page 2

- 2. 53 undersized parking stalls have been replaced with 51 larger parking spaces.**
 - a. The changes to the parking layouts in Buildings 1 and 2 have resulted in modest increases to the size of 51 parking stalls (along with the above-noted loss of 2 parking stalls).
 - b. 51 garage stalls now measure at least 8.5' x 18', whereas 39 stalls on the approved plan were 8' x 18', 8 stalls were 8.5' x 16', and 6 stalls were 8' x 16'.

- 3. 2 stalls require an expansion of the waiver of minimum end aisle maneuvering space.**
 - a. Design changes to Buildings 1A and 1B result in 2 additional stalls (stall 50 in Building 1A and stall 49 in Building 1B) without end aisle maneuvering area pursuant to Section 5.1.8.C.1.
 - b. Both stalls are adjacent to garage doors.
 - c. If the additional tandem stall in Building 1A is approved, that stall would also require this relief.

- 4. Neighborhood and tenant amenity space has been reallocated.**
 - a. The layout of the sports court in Building 2 has been modified.
 - b. A community room to be used as a makerspace and/or art gallery has been added to Building 1B.
 - c. Public access to these areas remains the same.

- 5. Bicycle parking layout has been altered.**
 - a. The location of indoor and outdoor bicycle parking spaces has changed. However, we are providing a ratio of 1:1 indoor, secured, bicycle parking space per residential unit.

Insubstantial Change

The 40B regulations at 760 CMR 56.07(4) (b)-(d) provide commentary and examples to assist a Zoning Board as to what constitutes a substantial or insubstantial change to a comprehensive permit.

As set forth in 56.07(4)(c), the following matters generally constitute a substantial change:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

As set forth in 56.07(4)(d), the following matters generally will not constitute substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.

The Applicant hereby requests that the Board act on this request within twenty (20) days as is required pursuant to 760 CMR 56.05(11)(a). If it is determined that the above-described revisions to the Decision are insubstantial changes, or if notice is not provided to the Applicant to the contrary within twenty (20) days, the

SCHLESINGER AND BUCHBINDER, LLP

Ms. Brooke K. Lipsitt, Chairman
September 15, 2021

Page 3

Comprehensive Permit shall be deemed modified as requested. The above process does not require a public hearing. A public hearing would only be required if you determine that the requested changes are substantial changes, and if so, and pursuant to the referenced regulations, a public hearing would need to be held within thirty (30) days.

Thank you for your consideration of these requests.

Sincerely,

Stephen J. Buchbinder

Stephen J. Buchbinder

Enclosures

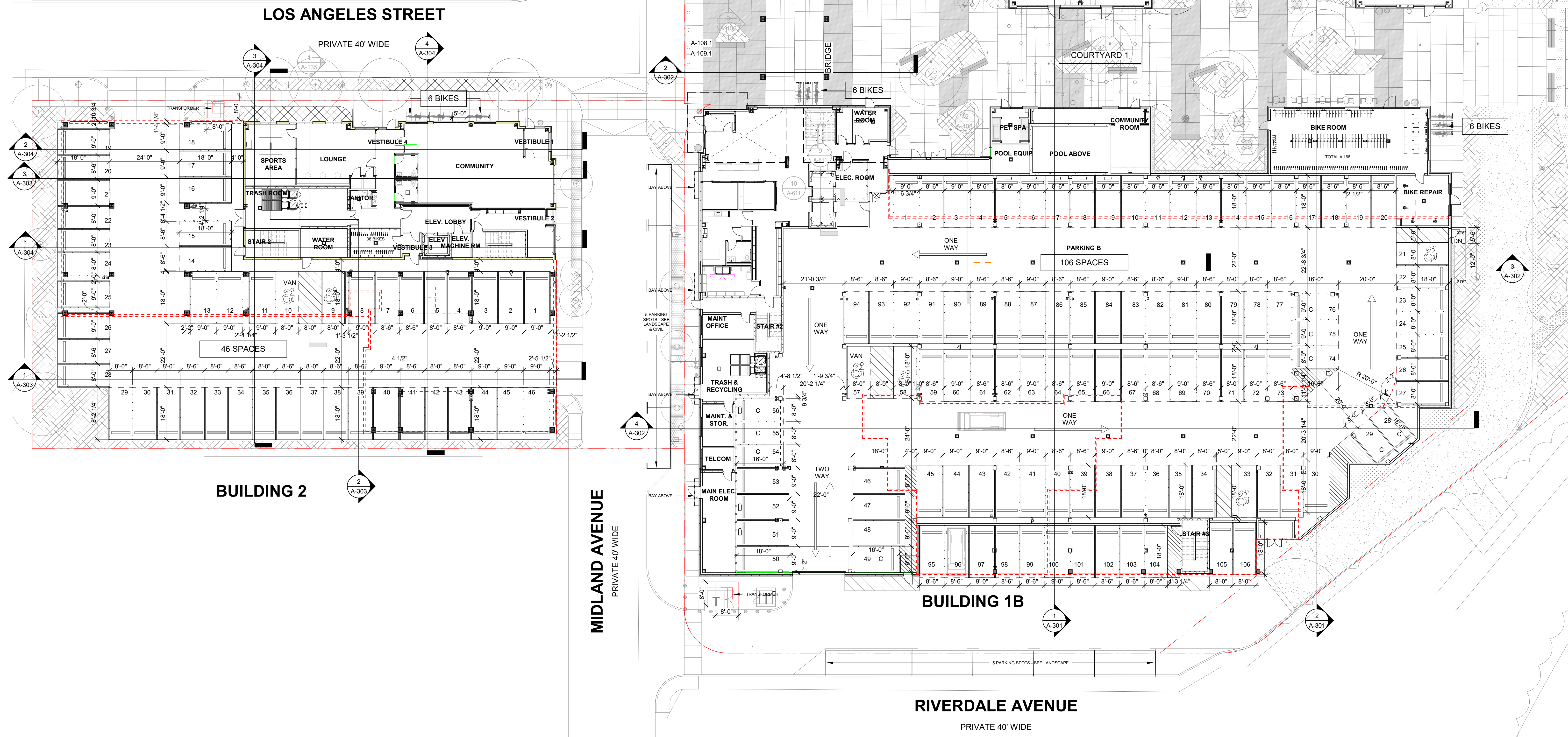
cc: (By Hand, w/enclosures)
Ms. Elizabeth Sweet
Mr. Michael Rossi
Mr. Stuart Snyder
Mr. Treff LaFleche
Mr. Michael J. Quinn

(By Email, w/enclosures)
Mr. Jack Englert

(By Hand and By Email, w/enclosures)
Ms. Adrianna Henriquez Olmsted
Jonah Temple, Esquire, Assistant City Solicitor
Ms. Jennifer Caira, Deputy Director of Planning and Development
Mr. Neil Cronin, Chief Planner, Planning and Development Department

PARKING SPACE DIMENSION	APPROVED PLANS *					CURRENT PLANS **					CHANGE FROM APPROVED PLANS TO CURRENT PLANS
	BUILDING 1A	BUILDING 1B	BUILDING 2	ON STREET	TOTAL	BUILDING 1A	BUILDING 1B	BUILDING 2	ON STREET	TOTAL	
PERPENDICULAR SPACES											
8.5' X 18' (MIN)	59	51	17	-	127	70	76	32	-	178	+51
8' X 18'	16	44	16	-	76	2	21	14	-	37	-39
8.5' X 16'	-	7	7	-	14	2	4	0	-	6	-8
8' X 16' (MIN)	-	5	6	-	11	-	5	0	-	5	-6
PARALLEL SPACES											
8' X 21' (MIN)	-	-	-	10*	10	-	-	-	10	10	-
TOTAL	75	107	46	10	238	74	106	46	10	235	-2

* 237 spaces for residents & visitors, plus one loading space
 ** 235 spaces for residents & visitors, plus one loading space



1 OVERALL - LEVEL 1
 1/16" = 1'-0"

THE RESIDENCES ON THE CHARLES

BUILDING 1: 2 LOS ANGELES ST.
 BUILDING 2: 4 LOS ANGELES ST.

NEWTON, MA 02458
 CPC LAND ACQUISITION COMPANY, LLC

ARCHITECT
E-ICON ARCHITECTURE
 101 SUMMER ST BOSTON MA 02110

CONSULTANT

STAMP

KEY PLAN

NO.	DATE	DESCRIPTION
3	09/03/2021	BULLETIN #3
	07/07/2021	CONFORMED SET
	TBD	PASSIVE HOUSE SET
	11/20/2020	100% CONSTRUCTION DOCUMENTS
	09/25/2020	PERMIT SET
	07/31/2020	DESIGN DEVELOPMENT

PROJECT NUMBER: 218007
 DRAWN BY: LF
 CHECKED BY: Checker

SHEET TITLE

OVERALL LEVEL 1

A-102