

#360-21  
50 Highland Avenue

CITY OF NEWTON

IN CITY COUNCIL

December 20, 2021

RECEIVED  
2021 DEC 22 AM 11:30  
CITY CLERK  
NEWTON, MA. 02459

**ORDERED:**

That the City Council, 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 four single-family attached dwellings in two structures, and a driveway within 10 feet of the side lot line as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site in a Multi-Residence 1 (MR1) district is an appropriate location for the proposed four single-family attached dwellings in two structures as designed given the mix of residential uses and the scale of structures in the surrounding area. (§7.3.3.C.1)
2. The proposed four single-family attached dwellings in two structures as designed will not adversely affect the neighborhood given the mix of residential uses and the scale of structures in the surrounding area. (§7.3.3.C.2)
3. The proposed four single-family attached dwellings in two structures as designed will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. Granting an exception to the provisions of Sec 6.2.3.B.2 requiring that no driveway be located within 10 feet of a side lot line is appropriate as literal compliance is impractical due to the shape of the lot and is in the public interest as an existing structure will be preserved in its existing location and the driveway shall remain in its current location.

PETITION NUMBER: #360-21

PETITIONER: 50 Highland Realty LLC

LOCATION: 50 Highland Avenue, Ward 2, on land known as Section 24, Block,11  
Lot 34, containing approximately 22,738 sq. ft. of land

OWNER: 50 Highland Realty LLC

ADDRESS OF OWNER: 727 Washington Street, Suite 3  
Newton, MA 02460

TO BE USED FOR: Four single-family attached dwellings in two structures

EXPLANATORY NOTES: Special permit per §7.3.3 to: allow four single-family attached dwellings (§3.4.1); and allow a driveway within 10 feet of a side lot line (§6.2.3.B.2)

ZONING: Multi-Residence 1 (MR1) 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. A set of engineering plans, entitled "50 Highland Avenue, Newton, Massachusetts," prepared by Verne T. Porter, Jr., PLS, dated September 9, 2021, as revised through November 23, 2021, signed and stamped by Verne T. Porter, Jr., Registered Land Surveyor, and Paul J. Tyrell, Registered Professional Engineer consisting of the following sheets:
    - i. Proposed Conditions Site Plan. (Sheet 2 of 5)
    - ii. Detail Sheet (Sheet 3 of 5)
    - iii. Detail Sheet (Sheet 4 of 5)
    - iv. Area Plan (Sheet 5 of 5)
  - b. A set of architectural drawings entitled "Sunset Development, 50 Highland Ave, Newton, MA 02460, Special Permit Submission (Revised), prepared by Vance Architect, dated November 30<sup>th</sup>, 2021, signed and stamped by Christopher Vance, Registered Architect, consisting of the following sheets:
    - i. Zoning Compliance- Building One (Z1)
    - ii. Zoning Compliance- Building Two (Z2)
    - iii. Proposed Floor Plans- Unit #1 and Unit #2 (A100)
    - iv. Proposed Floor Plans- Unit #1 and Unit #2 (A102)
    - v. Proposed Floor Plans- Unit #1 and Unit #2 (A103)
    - vi. Proposed Floor Plans- Unit #1 and Unit #2 (A104)
    - vii. Proposed Floor Plans- Unit #3 and Unit #4 (A105)
    - viii. Proposed Floor Plans- Unit #3 and Unit #4 (A106)
    - ix. Proposed Floor Plans- Unit #3 and Unit #4 (A107)

- x. Proposed Floor Plans- Unit #3 and Unit #4 (A108)
  - xi. Proposed Elevations- Unit #1 and Unit #2 (A301)
  - xii. Proposed Elevations- Unit #1 and Unit #2 (A302)
  - xiii. Proposed Elevations- Unit #3 and Unit #4 (A303)
  - xiv. Proposed Elevations- Unit #3 and Unit #4 (A304)
  - xv. Perspectives- Proposed (A306)
- c. A set of landscape plans, entitled "50 Highland Avenue, Newton, MA 02460), prepared by Michael d'Angelo Landscape Architecture LLC, signed and stamped by Michael d'Angelo, Registered Landscape Architect, dated November 29, 2021, consisting of the following sheets:
- i. Landscape Planting Plan (Sheet 1 of 2)
  - ii. Landscape Planting Details (Sheet 2 of 2)
- d. An exhibit entitled "50 Highland Planting Palette," prepared by Michael d'Angelo Landscape Architecture LLC, dated November 30, 2021
2. All lighting fixtures shall be residential in scale.
3. The petitioner shall comply with the Tree Preservation Ordinance.
4. The Petitioner shall do the following to remediate pest and rodent activity:
- a. Prior to issuance of any demolition or building permit, the petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
  - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copies of such approvals shall be provided to the Department of Planning and Development.
  - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
  - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site and neighborhood assessment.

- e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
5. Prior to the issuance of any building permit, the Petitioner shall submit a Construction Management Plan (CMP) 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 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 from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor or designee.
    - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
    - 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 construction and delivery vehicles, and location of any security fencing.
    - e. 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.
    - f. Proposed methods of noise, 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.
    - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
    - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
  6. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering

Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.


7. The petitioner shall incorporate the following strategies and shall provide applicable certifications from registered design professionals prior to the issuance of any building permit and prior to the issuance of any occupancy certificate, as requested by the Director of Planning and Development:
  - a. New plantings, except those used for screening along the rear boundary, shall be native species.
  - b. All walkways, patios, and surface parking stalls for units #2-4 shall be constructed of pervious pavers.
  - c. All garages shall be wired for "Level 2" electric vehicle charging.
  - d. All new construction shall feature a high-performance building envelope including but not limited to fully foamed foundations, exterior walls and roofing systems.
  - e. All heating, ventilation, and cooling systems shall be electric.
  - f. All lighting shall be light emitting diode (LED).
  - g. All metal components from the existing structure shall be recycled.
  - h. All paint, carpet, adhesives, engineering wood products and solid surfacing shall be specified as low volatile organic compounds.
  - i. All new exterior features shall be durable.
8. 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 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 Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Provided a final Site Plan for review and approval by the Department of Planning and Development, and the Engineering Division of Public Works.
  - d. Provided a Final Landscape Plan showing for review and approval by the Director of Planning and Development. Prior to submission, the petitioner shall seek input from abutters or their designated representatives on the plan. The petitioner is also required to seek input from abutters in the event there are any changes to the approved landscape plan prior to final inspection.
  - e. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
9. 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 and a professional land surveyor 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.
  - 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.
10. Notwithstanding the provisions of Condition #9 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided 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.
11. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.

Under Suspension of Rules  
Readings Waived and Approved  
23 yeas 0 nays 1 absent (Councilor Markiewicz)


The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council 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 December 22, 2021. 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) CAROL MOORE, City Clerk  
Clerk of the City Council

I, Carol Moore, as the Clerk of the City Council 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 Newton City Council in the Office of the City Clerk on December 22, 2021 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

  
(SGD) CAROL MOORE, City Clerk  
Clerk of the City Council