



City Council Actions

In City Council

Monday, June 5, 2017

Present: Councilors Auchincloss, Baker, Blazar, Brousal-Glaser, Cote, Crossley, Danberg, Fuller, Gentile, Hess-Mahan, Kalis, Lappin, Laredo, Lennon, Lipof, Rice, Sangiolo, Schwartz, and Yates.

Absent: Councilors Albright, Ciccone, Harney, Leary, and Norton.

The City Council discussed the following items on Second Call:

Referred to Land Use Committee

#63-17

Special Permit to allow six-unit multi-family at 16-26 Dalby Street

DALBY DEVELOPMENT, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct six dwelling units with shared underground parking by combining three lots at 16-26 Dalby Street, Ward 1, Newton, on land known as SBL 11007 0046, 11007 0045, 11007 0044, containing approximately 23,400 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 3.4.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Land Use Approved Subject to Second Call 7-0-1 (Laredo abstaining); Public Hearing Closed May 23, 2017

Motion to amend the Special Permit Council Order to add condition 10e. "The two 2-3 caliper inch trees located on the sidewalk berm at 16 – 26 Dalby Street shall be transplanted if feasible, and if not, shall be replaced with trees of equal size in caliper inches." was approved by Voice Vote.

Approved as amended 18 Yeas, 6 Absent (Councilors Albright, Brousal-Glaser, Ciccone, Harney, Leary, and Norton)

Clerk's Note: Councilor Laredo reported that this special permit is for three parcels where currently there are two two-family structures. The plan is to put them together into a six unit complex which would have a common driveway leading into garages. There would be one curb cut rather than potentially three or four. The property itself is located on Dalby Street in Ward 1. It is near California Street and abutted on several sides by commercial and some residential properties. The project initially came in with fairly large and imposing retaining walls along the driveway. After discussion with Land Use Committee, the walls were reduced fairly substantially so it is less obtrusive than initially conceived.

A short amendment to the Council Order was provided by the petitioner's attorney for consideration by the Council tonight. A constituent was concerned about trees being taken down in front of the property so the petitioner committed to add a condition to the Board Order. The amendment requires replacing, if necessary, the two to three caliper trees located in the sidewalk berm at 16-26 Dalby Street with trees of

equal size and caliper inches. Councilor Schwartz asked about a friendly amendment that the trees be transplanted, if possible, and in the absence of that they be replaced. Councilor Laredo suggested adjusting the proposed condition to read: "The two 2-3 caliper inch trees located on the sidewalk berm at 16 – 26 Dalby Street shall be transplanted if feasible, and if not, shall be replaced with trees of equal size in caliper inches." A motion to accept the amendment was approved.

Referred to Land Use Committee

#95-17 Change of Zone Petition for Washington Street

MARK NEWTONVILLE, LLC petition for a change of zone to Mixed Use 4 for (i) all of the land located at 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Terrace, 867 Washington Street, 857-859 Washington Street, 845-855 Washington Street and 245-261 Walnut Street, also identified as Section 21, Block 29, Lots 11, 12, 17, 18, 19A, 20 and 21, Ward 2, currently zoned Business 1 and Business 2, and (ii) a portion of the land located at 16-18 Washington Terrace, 869 Washington Street, 861-865 Washington Street, 241 Walnut Street, 22 Bailey Place, 14-18 Bailey Place, and a private way known as Bailey Place, also identified as Section 21, Block 29, Lots 10, 13, 14, 16, 19, and 22, Ward 2, currently zoned Business 1, Business 2, and Public Use, further described as follows:

Beginning at a point on the northerly line of Washington Street, thence

Along the northerly line of Washington Street, south 89 degrees - 04 minutes - 40 seconds west, a distance of 434.02 feet to a point; thence

Along the easterly line of Washington Terrace, north 01 degrees - 52 minutes - 35 seconds west, a distance of 188.53 feet to a point; thence

North 89 degrees - 04 minutes - 40 seconds east, a distance of 294.98 feet to a point; thence

North 05 degrees - 11 minutes - 33 seconds west, a distance of 52.46 feet to a point; thence

North 85 degrees - 43 minutes - 30 seconds east, a distance of 150 feet to a point on the westerly line of Walnut Street; thence

Along the westerly line of Walnut Street, south 04 degrees - 12 minutes - 48 seconds east, a distance of 231.99 feet to a point of curvature; thence

Along a curve to the right having a radius of 17.00 feet, a central angle of 93 degrees - 17 minutes - 28 seconds, an arc length of 27.68 feet, a chord bearing of south 42

degrees - 25 minutes - 56 seconds west, a chord length of 24.72 feet to the point and place of beginning.

Containing 92,907 square feet, or 2.13 acres, more or less.

Land Use Approved 6-1-1 (Harney Opposed, Cote abstaining); Public Hearing Closed May 30, 2017

Motion to postpone to a Date Certain of June 19, 2017 was Approved by Voice Vote.

Clerk's Note: This and the following item were discussed together. Please see discussion below.

Referred to Land Use Committee

#96-17

Special Permit Petition for Washington Street

MARK NEWTONVILLE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights not exceeding 60 feet and five stories, total gross floor area not exceeding 235,000 square feet incorporating not more than 160 residential units, not exceeding 46,000 square feet of commercial space, not exceeding 2,500 square feet of community space, not less than 350 onsite parking stalls outside at grade or within a below-grade garage, and related site improvements; to authorize uses including retail of more than 5,000 square feet, personal service of more than 5,000 square feet, restaurants over 50 seats, standalone ATMs, health club establishments at or above ground floor, animal services, and street level office; to allow FAR of not more than 2.50, lot area per dwelling unit of approximately 581 square feet, reduction of the overall non-residential parking requirement by 1/3, 1.25 parking stalls per residential unit, and free standing signs; to grant waivers of not more than 97 parking stalls and of the height setback and facade transparency and entrance requirements; to grant waivers of certain parking facility design standards including dimensional requirements for parking stalls, parking stall setback requirements, entrance and exit driveways, interior landscaping, interior planting area, tree plantings, bumper overhang, lighting of one foot candle, curbing and surfacing, wheel stops, guard rails, bollards, and maneuvering space for end stalls; and to grant waivers as to number, size, location, and height of signs and number and dimensions of required loading bays, at 22 Washington Terrace, 16-18 Washington Terrace, 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Street, 869 Washington Street, 867 Washington Street, 861-865 Washington Street, 857-859 Washington Street, 845-855 Washington Street, 245-261 Walnut Street, 241 Walnut Street, 22 Bailey Place, 14-18 Bailey Place, an unnumbered lot on Bailey Place, and the private way known as Bailey Place, also identified as Section 21, Block 29, Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 20, 21, 22, and 23, containing approximately 2.84 acres of land part of which is in a proposed Mixed Use 4 District and the remainder of which is in the existing Business 2 and Public Use zones. Ref.: Sections 4.2.2.A.2; 4.2.2.B.1; 4.2.3; 4.2.5.A.2; 4.2.5.A.3; 4.2.5.A.4.c; 4.2.5.A.6.a; 4.2.5.A.6.b; 4.2.5.A.6.c; 4.4.1; 5.1.4.A; 5.1.4.C; 5.1.8.A.1; 5.1.8.A.2; 5.1.8.B.2;

5.1.8.B.6; 5.1.8.D.2; 5.1.9.B.1; 5.1.9.B.2; 5.1.9.B.3; 5.1.9.B.4; 5.1.10.A.1; 5.1.10.B.5; 5.1.12; 5.1.13; 5.2.13.A; 7.3; and 7.4 of Chapter 30 of the City of Newton Revised Zoning Ordinances, 2015.

Action: **Land Use Approved 5-1-2 (Harney Opposed, Cote, Schwartz abstaining); Public Hearing Closed May 30, 2017 (90 days – 08/28/17)**

Motion to postpone to a Date Certain of June 19, 2017 was Approved by Voice Vote.

Clerk's Note: Councilor Laredo presented the Land Use Committee's discussion of both the special permit and the zone change for Washington Place. He noted that 16 votes are required for both the zone change and for the special permit. The special permit is in many ways very similar to what had been presented earlier in terms of the way the building looks, the design, the sidewalk improvements and the like. There were several things Councilor Laredo noted:

1. The petitioner committed to \$700,000 in improvements as part of this project. The committee debated about what those improvements would be. There were a wide variety of options, but at the behest of Councilors Auchincloss and Albright, and with the assistance of the Law Department, it was decided to delay where the \$700,000 is spent until after the project is complete, or nearly complete. The rationale being that there will be three million dollars of work in Newtonville in the next year to year and a half. The Austin Street project will also be coming along. We don't know as we sit here today where that money could be best used. Councilor Laredo urged Councilors in the next two weeks to pay particular attention to the language that the Law Department has come up with in terms of the flexibility it allows and noted that he will also will be taking another look at that to make sure he is comfortable and that it provides sufficient flexibility while at the same time the appropriate oversight by this Council as to where the money is spent. As part of this it is important to be aware that the intersection of Washington and Walnut streets, which the petitioner had committed to improving, is not part of that \$700,000. The petitioner has also committed to reconfiguring traffic lights and sidewalks on their side of the street, and doing other types of improvements which are all detailed in the Council Order.

2. One thing that is very significant and should be focused on is that this Council Order provides the petitioner with two options. Specifically, one is to construct a 160-unit building identical to what has been presented to us at numerous meetings. The petitioner has also asked for the option to construct a slightly smaller 140-unit building which would, if constructed, have some changes including: The entrance to the garage would shift from one side of the parcel to the other. There would be a different area for trash storage. There would be additional commercial space on the project if it went from 160-units to 140, but the height in the rear of the project along Walnut Street would be reduced somewhat and there would be fewer units there. The petitioner asked for this option because they are conducting ongoing negotiations with the neighbors and direct abutters. If those negotiations are successful and an agreement is reached, and there is no appeal, the petitioner will reduce the number of units to 140. That is a business decision the petitioner has made. Councilor Laredo noted that it was the consensus of the Land Use Committee that because there are two very clearly defined alternatives, 160-units and 140-units, that this was an appropriate level of discretion to give to the petitioner. The City still keeps complete control over the project, but avoids if they were to go to one forty, because

they reached an agreement, having to start the whole process all over again. The Land Use Committee was quite sensitive to the fact that time is money and if the Council is going to vote on the Special Permit, we should vote on it and let it get done. If Councilors have objections to the project at 160 or 140, of course, they are free to vote against it.

Councilor Laredo stated that those were the salient factors and urged his colleagues to take a look at the plans including how the project is laid out. The five story section is primarily concentrated on the Walnut/Washington Street side, then mostly four and then going down to three stories as the project goes further back. There is, of course, the community space and the wider sidewalks and the other things that have been talked about in the past.

Councilor Laredo then made a motion to postpone both items to a date certain of June 19th.

Councilor Sangiolo hoped that Councilor Laredo would give that summary again on the 19th when everyone is present. Councilor Laredo responded that he would be happy to give it again and that his intent tonight was for the Councilors present to have the opportunity to understand where the Land Use Committee made some decisions and to provide some context as you review the Council Order.

Councilor Sangiolo said she had asked questions during Land Use session and did not see any responses and asked if she could expect to see those before June 19th? One of the specific questions was about the flexibility of the Council Order. Councilor Sangiolo asked if this was something that had done before. President Lennon said he believed it was addressed at the Land Use Committee meeting that evening. The City had done something similar with Chestnut Hill Square. Councilor Laredo noted that to the extent that there were additional questions, it was the intent of the staff to get that back to us in the next week or so. Councilor Laredo asked Mr. Olson to speak with Ms. Khan and the appropriate staff people for two things:

1. To be sure we get the answers to Councilor Sangiolo's questions; and
2. To make sure that all members of the Council have the 160- and 140-unit alternates in the plans. He asked that those be provided in advance of the meeting.

Councilor Sangiolo stated that the on-line version of the Law Department's memo on the buffer strip was only two pages, but assumed it was a lot longer because everyone is talking about a really lengthy memorandum from Ouida Young. Councilor Laredo did not recall the length of the memo but suggested that Councilor Sangiolo email Ms. Young and ask her to send it. President Lennon made a request that the Clerk be sure to get the Law Department's Memo in its entirety to the entire Council.

Councilor Baker stated that part of the challenge of splitting the recommendation is that there may be Councilors who might support one but not the other. He felt that it creates a difficult situation to allow the developer a choice as opposed to saying the committee recommends A or the committee recommends B. He would like to at least have two Council Orders in front of the Council so that one can be substituted for the other. He does not remember ever having given two different options

where there are findings that are required by the Board which must meet the standards in our Zoning Ordinance and thinks that as a procedural matter, it is important to have two orders before the Council. If the developer says they want to move ahead with one, then the Council can hear that and make a decision. Councilor Baker is troubled about granting permission in the alternative where there are different qualities of the project and different results that people may be comfortable with.

Councilor Laredo stated that that the petitioner is not going to know for months, or maybe even longer, which option is going to be feasible for them. The Committee thought through this very carefully in the confines of a single Council Order. The differences between 140 and 160 are rather minor; units that go back in size, and a somewhat smaller building. Everything else stays exactly the same and the Committee, in its wisdom, felt it was an appropriate way to proceed in this instance. When this comes to the full Council, Councilor Laredo expects to have a full debate about it, but thinks it would be quite inappropriate to go with two Council Orders. If the Council Order was for just 160-units, and the 140-unit option could be done, all we would be doing is setting the process up to come back to us in 3, 4, 6 or 9 months.

Councilor Baker wanted to clarify that he certainly understands the desire of having something that does not require return to this Council. He stated that he was trying to understand how a Council Order with two different tracks in it would work and thinks it very important that those two tracks, and the impact, not just the plan, be understood exactly what we are asked to vote for in the alternative, and whether in fact it is supportable in the alternative. Councilor Laredo suggested that the Board Order be studied and if not clear, asked that Councilors communicate with him so he can communicate with Ms. Young. If there is not a lot of clarity in our draftsmanship, certainly we want to address it before it comes to the Full Council.

Councilor Baker said people who are not here tonight will be coming back and that there is a lot of public interest, and thinks there is a value in the Board having at least a second version presented in the packet that highlights the actual document; those specific things which are different. President Lennon said it was one of the reasons why he wanted to have some explanation tonight so that as people are looking at this the Council would be able to take a little bit of input to get things ready for the 19th. Councilor Laredo asked the Clerk to ask Ms. Young to highlight the 140-unit changes so that is very clear to colleagues what the differences are.

Councilor Schwartz asked to clarify the Chair's comments regarding the number of stories. He thought Councilor Laredo had inadvertently said it went from four to three stories in the 140-unit version and Councilor Schwartz clarified that it went from five to four stories. Councilor Laredo appreciated the clarification. Councilor Schwartz also noted that the plans that are attached to the draft Council Order do not show a change that was made by the developer in response to concerns about the plaza. There are two handicapped parking spaces that will not cut into the public plaza. Chairman Laredo noted that after a fair amount of discussion in the Land Use Committee, there was concern that the handicapped parking spaces in the 140-unit option were not well configured. The petitioner has agreed to relocate those down into the underground garage so the number of parking spaces stays the same.

Councilor Schwartz stated that in regards to Councilor Baker's comments he wanted to make it clear that the Land Use Committee voted for the 160-unit project, but that it was the sense of the committee that including a 140-unit option would provide direction to the developer that if it did turn out to be a smaller project the Committee wanted to give direction as to how that would look.

The Motion to postpone both items was Approved by Voice Vote.

The City Council voted without discussion 18 Yeas, 6 Absent (Councilors Albright, Brousal-Glaser, Ciccone, Harney, Leary, and Norton) to take the following actions:

Referred to Land Use Committee

- #114-17** **Request to amend Special Permit for the Atrium Wellness Center**
ATRIUM WELLNESS CENTER, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #2-15 to allow a 1/3 reduction in the number of required parking stalls or a waiver for 386 stalls, dimensional relief to allow conformance with the existing parking facility and waivers with regard to the number, size, location and/or height of signs at 300 Boylston Street, Ward 7, Chestnut Hill, on land known as Section 82, Block 002, Lot 0001, containing approximately 125,771 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: 7.3, 7.4, 5.1.4.A, 5.1.13, 5.1.4.C, 5.1.13, 5.2.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.
Land Use Approved 8-0; Public Hearing Closed May 23, 2017

Referred to Zoning & Planning Committee

Monday, May 22, 2017

- #116-17** **Submission of the FY18 Annual Action Plan To HUD**
HIS HONOR THE MAYOR requesting City Council authorization, pursuant to the 2017 Revised Citizen Participation Plan, to submit the FY18 Annual Action Plan to the US Department of Housing and Urban Development (HUD) for the City of Newton Community Development Block Grant (CDBG) and Emergency Solution Grant (ESG) funds and the WestMetro HOME Consortium. [04/26/17 @3:52 PM]
Zoning & Planning Approved 8-0
- #360-16(2)** **Zoning amendment to rezone 160 R Stanton Avenue**
DIRECTOR OF PLANNING AND DEVELOPMENT requesting to rezone land known as Section 43, Block 45, Lot 33 located at 160 R Stanton Avenue from PUBLIC USE to MULTI RESIDENCE 3 in order to prepare the site for multi-family affordable housing development. [03/23/17 @ 11:44 AM]
Zoning & Planning Approved 8-0

Zoning & Planning and Finance Committees

#89-17

Transfer of \$125,000 to create a citywide economic development strategy

HIS HONOR THE MAYOR requesting authorization to transfer the sum of seventy-five thousand dollars (\$75,000) from the Planning Department Full-time Salaries Account and fifty thousand dollars (\$50,000) from the Economic Development Full-time Salaries Account to a specific project account to be established for the purpose of funding the creation of a citywide economic development strategy. [03/27/17 @2:20 PM]

Finance Approved 5-0-1 (Blazar abstaining) on 5/22/17

Zoning & Planning Approved 6-0-2 (Baker and Kalis abstaining)

Referred to Public Facilities Committee

Monday, May 22, 2017

Referred to Public Facilities and Finance Committees

#144-17

Request to bond \$2.7 million for water main improvements

HIS HONOR THE MAYOR requesting authorization to appropriate the sum of two million seven hundred thousand dollars (\$2,700,000) from bonded indebtedness for the purpose of providing additional funding for the continuation of the implementation of the City's Water Main Improvement Plan. [05/08/17 @ 6:49 PM]

Finance Approved 6-0 on 05/22/17

Public Facilities Approved 5-0

Referred to Public Facilities and Finance Committees

#145-17

Request to bond \$2.6 million for repair of a portion of the Laundry Brook culvert

HIS HONOR THE MAYOR requesting authorization to appropriate the sum of two million six hundred thousand dollars (\$2,600,000) from bonded indebtedness for the purpose of funding the removal and replacement of the Laundry Brook culvert adjacent to the proposed Cabot School. [05/08/17 @ 6:49 PM]

Finance Approved 6-0 on 05/22/17

Public Facilities Approved 5-0

Referred to Finance Committee

Monday, May 22, 2017

#141-17

Claim Settlement for damage from snow clearing

HIS HONOR THE MAYOR requesting authorization to appropriate ten thousand five hundred forty-seven dollars and twenty-five cents (\$10,547.25) from the Law Department's Legal Claims/Settlements Account for full and final settlement of claim

against the City resulting from damage to a storefront during snow clearing operations.
[05/08/17 @ 6:50 PM]

Finance Approved 6-0

Referred to Public Facilities and Finance Committees

#144-17

Request to bond \$2.7 million for water main improvements

HIS HONOR THE MAYOR requesting authorization to appropriate the sum of two million seven hundred thousand dollars (\$2,700,000) from bonded indebtedness for the purpose of providing additional funding for the continuation of the implementation of the City's Water Main Improvement Plan. [05/08/17 @ 6:49 PM]

Public Facilities Approved 5-0 on 05/22/17

Finance Approved 6-0

Referred to Public Facilities and Finance Committees

#145-17

Request to bond \$2.6 million for repair of a portion of the Laundry Brook culvert

HIS HONOR THE MAYOR requesting authorization to appropriate the sum of two million six hundred thousand dollars (\$2,600,000) from bonded indebtedness for the purpose of funding the removal and replacement of the Laundry Brook culvert adjacent to the proposed Cabot School. [05/08/17 @ 6:49 PM]

Public Facilities Approved 5-0 on 05/22/17

Finance Approved 6-0

#143-17

Acceptance of a \$22,400 MEMA Grant

HIS HONOR THE MAYOR requesting authorization to accept and expend the sum of twenty-two thousand four hundred dollars (\$22,400) from a Massachusetts Emergency Management Grant for the purpose of purchasing equipment and related items for the new Emergency Operations Center. [05/08/17 @ 6:49 PM]

Finance Approved 6-0

Referred to Zoning & Planning and Finance Committees

#89-17

Transfer of \$125,000 to create a citywide economic development strategy

HIS HONOR THE MAYOR requesting authorization to transfer the sum of seventy-five thousand dollars (\$75,000) from the Planning Department Full-time Salaries Account and fifty thousand dollars (\$50,000) from the Economic Development Full-time Salaries Account to a specific project account to be established for the purpose of funding the creation of a citywide economic development strategy. [03/27/17 @ 2:20 PM]

Zoning & Planning Approved 6-0-2 (Baker and Kalis abstaining) on 05/22/17

Finance Approved 5-0-1 (Blazar abstaining)

Referred to Programs & Services, Public Facilities and Finance Committees

#387-16

Appropriate \$250,000 for renovation of 1st Floor of the Ed Center

HIS HONOR THE MAYOR requesting authorization to appropriate and expend two hundred fifty thousand dollars (\$250,000) from the Override Capital Stabilization Fund

for the purpose of renovating the space on the 1st floor of the Ed Center which has been vacated by the relocation of the Pre-K Program to the Aquinas site to house the Central High School Program, additional professional development meeting space, and general office space. [10/31/16 @ 2:05 PM]

Programs & Services Approved 4-0 on 11/09/16

Public Facilities Held on 11/09/16

Finance Voted No Action Necessary 6-0

A Motion to Suspend the Rules to allow the Chairs of the Programs & Services and Public Facilities Committees to poll their committees to make their reports consistent with the Finance Committee was Approved by Voice Vote

Programs and Services Voted No Action Necessary 6-0

Public Facilities Voted No Action Necessary 6-0

Motions were made and Voice Votes Approved to accept and refer to committees the following two late filed docket items:

Referred to Public Facilities Committee

#180-17

Alter the Homer Street right of way

HIS HONOR THE MAYOR requesting authorization to alter and widen portions of the Homer Street right of way in order to proceed with several safety improvements for pedestrians. The project includes curb extensions, rectangular rapid flashing beacons and crosswalk relocation. [06/02/17 @ 9:54 AM]

Referred to Public Safety & Transportation, Public Facilities, and Finance Committees

#182-17

Appropriate \$450,000 for additional costs for the Dedham/Nahanton St Project

HIS HONOR THE MAYOR requesting authorization to appropriate the sum of four hundred fifty thousand dollars (\$450,000) from bonded indebtedness for the purpose of funding additional costs for the Dedham/Nahanton/Brookline Streets Intersection Improvements Project including the relocation of utilities and the realigning of Carlson Avenue and Brookline Street. [06/02/17 @ 9:54 AM]

A Public Hearing was assigned for the following Docket Item:

Public hearing assigned for July 11, 2017

#146-17

Special Permit to amend Board Order #229-14 to allow for a swing set

MICHAEL AND DENA RASHES petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #229-14 to allow a swing set on Lot 40 at 93 Bellevue Street, Ward 1, Newton, on land known as Section 12, Block 021, Lots 0039 and 0040, containing approximately 94,410 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4 of the City of Newton Rev Zoning Ord, 2015.

Commendation Offered

A Commendation was offered by Councilor Crossley to the Rebecca Pomroy Foundation on the occasion of the 200th birthday of Rebecca Pomroy