

**DEPARTMENT OF PLANNING AND DEVELOPMENT**

**CITY OF NEWTON  
Massachusetts**

**INTER-OFFICE CORRESPONDENCE**

**DATE:** July 15, 2022

**TO:** All Members, City Council

**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning

**SUBJECT:** #373-22: Wells Avenue Deed Restriction Amendment  
120 Wells Avenue

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The subject property is located on Wells Avenue in the Limited Manufacturing (the “LMD”) district in Ward 8 and consists of approximately 49,999 square feet of land. The property is improved with a three-story commercial structure. The petitioner is seeking to locate a day care center use. The petitioner requires both an amendment to the Wells Avenue Deed Restriction (the “Restriction”) as well as Administrative Site Plan Review for the proposed day care use.

The Restriction governs all properties within the LMD district and prohibits any building or structure from being erected without the approval of the City Council. Additionally, the Restriction places dimensional control on all properties within the LMD district.

Under state law, the day care center use is considered a protected use and under the Newton Zoning Ordinance is subject to administrative site plan review. While the petitioner is seeking an amendment to the Restriction, they will also be required to pursue administrative site plan review for applicable zoning waivers. Administrative site plan review consists of a review by the Planning Department with a nonbinding recommendation to the Commissioner of Inspectional Services within 60 days after the applicant submits their administrative site plan review application.

The Planning Department held a preapplication meeting, also known as a “DRT”, on March 10, 2022 for an initial review of the plans. From a cursory review, no zoning relief was apparent, aside from the use. Once the petitioner applies for administrative site plan review and submits their proposed plans to the Planning Department, a more comprehensive review and analysis will be conducted by Planning Staff to identify zoning relief and make a nonbinding recommendation to the Commissioner of Inspectional Services for any identified waivers.

**Attachment A:** DRAFT Council Order #373-22

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the proposed amendment can be made without substantially derogating from the purpose for which the City of Newton was granted certain restrictions in a deed from the Trustees of the “Newton at 128 Realty Trust” to the City of Newton dated May 22, 1969 and recorded with the Middlesex South Registry of Deeds in Book 11669, Page 535, and as amended, the Council hereby agrees to further amend the aforesaid restriction as follows:

PETITION NUMBER: #373-22

PETITIONER: Hartford Properties, LLC

LOCATION: 120 Wells Avenue Section 84, Block 34A, Lot 6 containing approximately 49,999 square feet of land

OWNER: WILLOWBEND-ONE TWENTY WELLS AVE LLC

ADDRESS OF OWNER: 130 WILLOWBEND DR  
MASHPEE, MA 02649

TO BE USED FOR: Day Care Center

That the restriction adopted by the Board Order #276-68(3) as conveyed to the City of Newton by a Deed recorded with Middlesex South District Registry of Deeds in Book 11699, Page 535 as amended, be further amended for the sole purpose to allow a daycare use at 120 Wells Avenue.

1. The Council finds that granting the specific amendment to the deed restriction to allow for the expanded parking facility proposed for 180 Wells Avenue will not diminish the safeguards for which the restriction was implemented, including floodplain management and watershed protection.
2. Her Honor the Mayor be and hereby is authorized to execute on behalf of the City such recordable documents as may be usual, customary or necessary to give effect to this Order of the Council.

EXHIBIT A

To Board Order #373-22

**REQUESTED AMENDMENTS TO THE WELLS AVENUE DEED RESTRICTION FOR THE SOLE PURPOSE OF THE DEVELOPMENT OF 120 WELLS AVENUE AS PROPOSED TO ALLOW A DAYCARE CENTER USE**

That the restriction adopted by Board Order #276-68(3), dated November 18, 1968, and subsequent amendments be further amended to allow the following at 120 Wells Avenue as proposed and to be requested via Administrative Site Plan Review following the approval of this amendment.

- (1) To allow a day care center use