



Land Use Committee Report

City of Newton In City Council

Tuesday, October 25, 2022

Present: Councilors Lipof (Chair), Kelley, Bowman, Downs, Greenberg, Laredo, Lucas, and Markiewicz

Also Present: Councilors Albright, Gentile, Leary, Norton, and Wright

City Staff Present: Chief Planner Katie Whewell, Senior Planner Cat Kemmett, and Assistant City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at the following link <https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-1058>. Presentations for each project can be found at the end of this report.

#449-22 Request to amend Special Permit #234-10 to construct sport courts, warming hut and parking at 1897 Washington Street

WOODLAND GOLF CLUB OF AUBURNDALE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #234-10 to extend a nonconforming use; to allow the construction of sport courts, a warming hut and associated parking; to determine appropriate dimensional requirements; to determine appropriate setbacks relative to parking; to waive perimeter screening; to waive interior landscaping; to waive lighting and to waive bike parking facilities at 1897 Washington Street, Ward 4, Newton, on land known as Section 43 Block 46 Lot 11, containing approximately 2,291,142 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.2.A.3, 5.1.8.B.2, 5.1.13, 5.1.9.A, 5.1.9.B, 5.1.10.A, 5.1.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0-1 (Councilor Downs Abstained); Public Hearing Closed 10/25/22

Note: Attorney Robert Buckley of Riemer & Braunstein, LLP, with offices at 100 Cambridge Street, Boston was present to represent the petitioner.

Petition #449-22 was extensively presented, heard, and debated during the prior Land Use Committee meeting on October 18, 2022, however due to administrative setbacks, the petition could not be voted out of Committee that day. As a formality, Petition #449-22 was placed on the agenda for the Land Use Committee meeting on October 25, 2022, to be voted out of Committee.

Atty. Buckley's presentation from 10/18/22 where he presented an orientation of the property as well as the proposed plans, general site information and landscape plans can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92214>

The petitioner is proposing to upgrade the existing tennis and racquet facilities with the addition of four paddle courts, a multi-use court, a warming hut as well as associated parking facilities.

The City's Planning Department's presentation from 10/18/22 outlining the relief, criteria for consideration, land use, zoning and proposed plans can additionally be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92216>

Public Comment

As the petition was presented, heard, and debated during the previous Land Use Committee meeting, the Public Hearing was subsequently closed, and the Chair did not take public comment.

Committee Comments

Committee Members looked for additional clarity from the previous meeting that the service driveway would not be continually used as an egress/ingress route onto Washington Street, essentially creating a second entrance on Washington Street.

Chief Planner, Katie Whewell, noted that a condition could be added stating that extended usage of that driveway would require an amendment to the Special Permit.

Atty. Buckley reiterated that the petitioners have no intent to use that driveway for anything other than its current purpose. The driveway is currently used sporadically by maintenance vehicles.

Councilor Kelley motioned to close the Public Hearing which carried 8-0. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 7-0-1 (Councilor Downs abstained).

#455-22 Request to exceed FAR at 168-170 Warren Street

AMY SURMAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to enclose an existing screen porch, further exceeding nonconforming FAR at 168-170 Warren Street, Newton, Ward 6, on land known as Section 61 Block 40 Lot 04, containing approximately 5,742 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.2.3, 3.2.11, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0; Public Hearing Closed 10/25/22

Note: The petitioner, Amy Surman, was present. Ms. Surman stated that she did not have a presentation and would defer to the Planning Department's presentation of the petition.

Senior Planner Cat Kemmett presented an orientation of the property as well as the proposed plans, general site information and landscape plans as well as the requested relief, criteria for consideration, land use, zoning which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92715/638030719829812270>

The petitioner is proposing to enclose an existing 108-square foot screen porch at the northwest (front) corner of the dwelling, which would further increase nonconforming Floor Area Ratio (FAR). The proposed project would be visible from Warren Street.

Public Comment

MARYLEE BELLEVILLE, who did not provide an address, asked to go on record and voiced her support for the proposed project.

Committee Comments

Committee Members voiced their support for the project, citing the small scope of the project and moderate changes to the facade.

Councilor Bowman motioned to close the Public Hearing which carried 8-0. Councilor Bowman motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 8-0.

#456-22 Request to allow for-profit educational use at 49-51 Winchester Street

CLARE SULLIVAN, SULLIVAN SCHOOL OF IRISH DANCE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit education use at 49-51 Winchester Street, Ward 5, Newton, on land known as Section 51 Block 28 lot 30, containing approximately 79,500 sq. ft. in a district zoned MIXED USE 1. Ref: 7.3.3, 7.4, 4.4.1, 6.3.14.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

5.1.8.A.2, 5.1.8.B.6, 5.1.8.C, 5.1.8.D.1, 5.1.9, 5.1.10 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0; Public Hearing Closed 10/25/22

Note: The petitioner, Clare Sullivan, was present. Ms. Sullivan stated that she did not have a presentation and would defer to the Planning Department's presentation of the petition.

Senior Planner Cat Kemmett presented an orientation of the property as well as the proposed plans, general site information and landscape plans as well as the requested relief, criteria for consideration, land use, zoning which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92717/638030720437402470>

The petitioner is seeking approval to utilize space at 49-51 Winchester Street for-profit educational use. The petitioner is proposing to locate the Sullivan School of Irish Dance at the location. Students will be between the ages of 6-18, with an average class size of 8-10 students. Classes will be held on weekdays in the evenings and weekend classes will be scheduled for the mornings and afternoons.

Public Comment

The Chair opened for Public Comment. No member of the public wished to speak regarding this proposal.

Committee Comments

No Committee Members had questions or made comments of note regarding the petition.

Councilor Downs motioned to close the Public Hearing which carried 8-0. Councilor Downs motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 8-0.

#259-22 Request to Rezone 7 parcels to BU4

CRAFTS DEVELOPMENT, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone 7 parcels as follows: 34 Crafts Street (Section 23 Block 16 Lot 11), 36 Crafts Street (Section 23 Block 16 Lot 10), 38 Crafts Street Section 23 Block 16 Lot 09), 48 Crafts Street (Section 23 Block 16 Lot 08), and 50 Crafts Street (Section 23 Block 16 Lot 07) from MANUFACTURING TO BUSINESS 4; and 19 Court Street (Section 23 Block 16 Lot 12) and 21 Court Street (Section 23 Block 16 Lot 13) from MULTIRESIDENCE 1 TO BUSINESS 4.

#260-22 Petition to construct elderly housing with services at 34, 36, 38, 48, 50 Crafts Street, 19-21 Court Street

CRAFTS DEVELOPMENT, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow an Elder Housing with Services facility, to allow a development in excess of 20,000 sq. ft., to allow a seven-story building, to allow a building 84 feet in height, to allow parking within the side setback, to reduce the required parking stall width, to reduce the required parking stall depth, to reduce the required parking stall depth for accessible stalls, to allow a reduced drive aisle width for two-way traffic and to waive the lighting requirements at 34, 36, 38, 48, 50 Crafts Street, 19-21 Court Street, Ward 2, Newton, on land known as Section 23 Block 16 Lots 7, 8, 9, 10, 11, 12 and 13, containing approximately 115,818 sq. ft. of land in districts zoned MAN and MR1 (to be rezoned to BU4). Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.2.10, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 5.1.8.A.1, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.C, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 8-0; Public Hearing Closed 10/25/22

Note: Attorney Stephen Buchbinder of Schlesinger & Buchbinder, LLP, with offices at 1200 Walnut Street, Newton represented the petitioner and presented an update to the proposed plans, which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92727/638030727469052232>

Atty. Buchbinder was accompanied by other members of the petition team including, officers of Mark Development; Principal Damien Chaviano, Senior Vice-President of Development David Roache and Landscape Architect with Halvorson Design.

The petitioner was last before the Land Use Committee on 09/20/22 and provided an update to the project as well as answers to Committee Members' questions from the previous meeting.

Mr. Adams provided an update on the Beech tree located at the Court Street turn, which is not on the petitioner's property however, Mr. Adams noted that as good stewards Mark Development would be

working near the tree. Mr. Adams noted that arborists were contracted to assess the tree and the findings of that assessment are below:

- The Beech tree is under severe stress; over half the canopy is dead
- An invasive species, the Beech Leaf pest is sweeping through the Eastern US
- Prognosis: The Beech tree has a short life span

The full report by Bartlett Tree Experts can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92394/63802289871010000>

Mr. Roche briefed updates to the proposed drop-off and pick-up zone at the front of the location on Crafts Street. The proposed site is approximately 60 feet long and involves cutting into the sidewalk. Mr. Roche proposed a 6-month trial basis during which time if the city found the arrangement unfeasible or unsustainable, it could be removed.

Mr. Chaviano presented mitigation efforts by Mark Development. Mr. Chaviano noted that Mark Development last presented three or four concepts at the previous meetings, but ultimately settled on the one presented on 10/25/22. Mr. Chaviano also noted that the petitioner prioritized safety and aesthetics to improve the Washington Street/Crafts Street intersection.

The final concept includes bump-outs that would shorten crosswalks, installing new crosswalks and ramps, and adding aesthetic paving at the center of the intersection.

Chief Planner Katie Whewell presented the requested relief, criteria for consideration, land use and zoning which can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/92791/638031514556903644>

Ms. Whewell noted that City Staff require the petitioner to go to Traffic Council to get approval for their proposed drop-off and pick-up location.

Public Comment

DONG IL, who did not provide an address, questioned why it was not okay for a previous petitioner (#415-22) at 1221-1227 Centre Street to have a pick-up/drop-off location in the front of his business, but it is under consideration for the Crafts Street petitioner.

The Chair responded that the Crafts Street petitioner would be moving the sidewalk onto their property (which would require an easement) so that they could cut into the curb allowing for vehicles to pull off to the right and out of the street all of which were not considerations for 1221-1227 Centre Street.

Ms. Dong additionally cited Zoning Chapter 26 and asked how it was possible that a private company could take public land (the sidewalk). The Chair as well as Assistant City Solicitor Temple explained to Ms. Dong that this arrangement again requires an easement. By cutting into the sidewalk to make room for their drop-off zone, the petitioner will give the city a section of their land for the public sidewalk.

ADAM LUNIN of 24 Courts Street, Newton, stated he was overall in favor of the project, but still held many concerns. His concerns as well as the neighborhood's included:

- Will abutters get pre and post engineering assessments?
- Is there a point person for when issues arise that the abutters to reach out to?
 - Mr. Lunin stated his correspondence with Mark Development has gone unanswered.
- The abutting neighbors have yet to see a landscaping plan and lighting plan

Mr. Chaviano, in response to Mr. Lunin, noted that he would be the point of contact for the abutting neighbors. Mr. Chaviano also stated he was willing to memorialize the agreement.

ANNIE RAINES of 50 Court Street, read a statement and highlighted senior's safety, specifically regarding the current pandemic, in a facility this size. Ms. Raines also noted that the neighborhood trees and residents would lose a considerable amount sunrise light due to the height of the proposed project.

TERRY SAURO, of 44 Cooks Street, Newton, questioned if there was a restrictive time or a time limit as it pertained to the proposed drop-off/pick-up zone.

Mr. Roche responded his intent was that it would be a "No stopping and standing" zone, a 15-30 minute window. However, that determination, as well as signage would be made at Traffic Council.

SEAN ROACHE, of 42 Daniels Street, appreciated the bump-outs proposed at the Washington Street and Court Street intersection.

Mr. Roache also highlighted the urgent climate crisis we face regarding Newton getting denser and buildings getting taller to accommodate growing populations as well as future populations.

DIANE PRUENTI, of 305 Winchester Street, Newton stated her safety concern as it pertains to the pick-up and drop-off zone. Ms. Pruenti cited the age of many of the residents who may be using wheelchairs and walkers and may be prone to slips and falls. This vulnerable population will also likely need assistance getting in and out of vehicles creating a chaotic scene potentially in the winter.

Committee Comments

Councilors outside the Committee spoke to the landscaping plan that had been agreed upon by the petitioner in discussions with Ward Councilors on behalf of the abutting properties and questioned how it would be memorialized in the Council Order to ensure its compliance.

Mr. Chaviano stated he was comfortable putting an agreement in the Council Order or privately with individual abutting neighbors should they require it.

Citing statements made by Mr. Lunin regarding a point of contact with Mark Development, Councilors questioned whether a Liaison Committee for this project would be created.

Atty. Buchbinder as well as Mr. Chaviano answered in the affirmative and stated it would be memorialized in the Council Order.

Committee Members asked if there was a dedicated right turn lane being instituted on Crafts Street as its shown on the Site Plans, but Google Maps did not have it illustrated.

It was noted that a dedicated right turn lane is employed in the area now but lacks paint and signage.

Committee Members additionally noted the mitigation efforts by the petitioner and appreciated the attempts to make the Crafts Street and Washington Street intersection safer. Mr. Chaviano noted that the petitioner lacked sufficient time to design the intersection and that the current plan was conceptual but was committed to improving the plan and safety at the intersection.

Committee Members questioned the language of the draft Council Order and as it related to the petitioner completing the Passive House Feasibility studies and energy design and construction approach. Members asked if this compelled the petitioner to pursue certification.

Mr. Roche answered that the petitioner is highly incentivized to pursue and complete certification.

Councilor Laredo motioned to close the Public Hearing which carried 8-0. Councilor Laredo motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted in favor of approval 8-0.

The Committee adjourned at 9:59 p.m.

Respectfully Submitted,

Richard Lipof, Chair