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Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

#135-18
429 Cherry Street

CITY OF NEWTON

IN CITY COUNCIL

March 19, 2018

RECEIVED
Newton City Clerk
2018 MAR 21 AM 9:33
DANIEL A. OLSON, City Clerk
Newton, MA 02459

ORDERED:

That the Board, 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 amend Board Order #190-12(3) which allowed a three-story multi-family structure, to restructure conditions pertaining to inclusionary zoning, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the amendments to Board Order #190-12(3) because the site is governed by a special permit allowing the construction of a three-story building containing inclusionary zoning units. (§7.3.3.C.1)
2. The proposed amendments to Board Order #190-12(3) as developed and operated will not adversely affect the surrounding neighborhood. (§7.3.3.C.2)
3. The amendments to Board Order #190-12(3) 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)

PETITION NUMBER: #135-18

PETITIONER: 429 Cherry Street, LLC


LOCATION: 429 Cherry Street

OWNER: 429 Cherry Street, LLC

ADDRESS OF OWNER: 109 School Street, Newton, MA 02472

TITLE REF. Book 68936 Page 210 (Deed)
Book 68103 Page 520 (Decision)

A True Copy
Attest



CITY CLERK OF NEWTON, MASS.

Property Address: 429 Cherry Street, Newton

TO BE USED FOR: Three-story, multi-family building with 13 residential units, 904 square feet of office space and an 18-stall below-grade parking structure

CONSTRUCTION: Wood-frame structure with cement board and wood clapboard siding

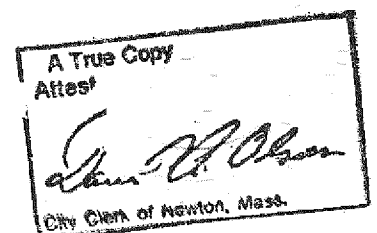
EXPLANATORY NOTES: §7.3.3 and §7.4 to amend Board Order #190-12(3) to restructure the conditions pertaining to inclusionary zoning

ZONING: Business 1 District


This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #135-18 are null and void.

Approved subject to the following conditions:

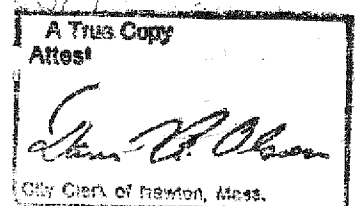
1. All buildings, parking areas, driveways, walkways, landscaping and other Site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
 - a. Site Plans Showing Proposed Conditions at 429 Cherry Street, Newton, MA" dated December 6, 2011 and last revised on October 11, 2013, signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Marc Besio, Civil Engineer, and consisting of four sheets including:
 - i. Proposed Conditions
 - ii. Detail Sheet 1
 - iii. Detail Sheet 2
 - iv. Detail Sheet 3
 - b. "Landscape Plan, 429 Cherry Street, Newton, MA", dated September 13, 2012, revised September 17, 2012 by James K. Emmanuel, Landscape Architects.
 - c. "429 Cherry Street for Young Construction", revised November 15, 2012, prepared by Perkins Eastman, containing the following sheets:
 - i. Sheet A 101, Garage and First Floor Plans
 - ii. Sheet A 102, Second and Third Floor Plans
 - iii. Sheet A 201, Proposed Elevations
 - iv. Sheet A 301, Proposed Building Sections
 - v. Sheet A 401, Proposed 3D views



2. The petitioner will comply with all applicable recommendations of the Engineering Division of the Department of Public Works, dated November 6, 2013, as well as the restrictions and specifications in the Construction Management Plan, dated November 16, 2012, as either may be amended and approved in accordance with Condition 11(f).
3. The petitioner reserves the right to modify the placement of windows on the north façade to minimize alignment of these windows with those on the Townhouses at West Newton Square, subject to an administrative review by the Commissioner of Inspectional Services.
4. Exterior lighting will consist only of residential-style fixtures and will not spill on to adjacent properties. There will be no electrical outlets or lighting fixtures provided on any of the balconies on the north side of the building.
5. In the event that this rental building is converted into condominiums, the petitioner shall incorporate language into the condominium documents that ensures the continued compliance with the requirements of the Inclusionary Housing Plan.
6. The petitioner shall submit, on an annual basis, an operations and management report to the City Engineer indicating that the drainage system and pumps are functioning properly and have been inspected on a regular basis. In the event that this rental building is converted into condominiums, the petitioner shall incorporate language into the condominium documents that ensures the continued compliance with the requirements of this condition.
7. The petitioner shall maintain all landscaping associated with this Special Permit/Site Plan approval in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
8. The petitioner shall underground all utilities from the street to the building.
9. The trash enclosure shall be maintained in sanitary condition with proper ventilation provided in the trash enclosure area to avoid a negative impact on adjacent properties. Trash pickup will only occur between the hours of 9 a.m. and 4 p.m. on weekdays, subject to revision based on an agreement between the petitioner and abutters.
10. If the demand for parking for the petitioner's uses routinely exceeds the supply as determined by the Transportation Director and the Director of Planning and Development, the petitioner shall submit a Parking Management Plan at the request of the Commissioner of Inspectional Services, subject to review and approval by the Director of Planning and Development in consultation with the City Engineer.
11. 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 Council Order, which includes the Operation and Maintenance plan for Stormwater Management as an attachment to the

A True Copy
Attest

City Clerk of Newton, Mass.

- approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
- b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - d. Received approval from Director of Planning and Development for the Inclusionary Housing Plan and Affirmative Fair Housing and Resident Selection Plan which shall be authorized by the Mayor and provided evidence of submission of the Local Action Unit Application to DHCD.
 - e. Conducted a pre-construction inspection of property at 437 Cherry Street and 56-66 Webster Street to document baseline conditions for structural integrity of the buildings and filed a copy of that inspection report with the Director of Planning and Development, the City Engineer, and the abutters at 437 Cherry Street and 56-66 Webster Street.
 - f. Submitted final engineered plans, an Operations and Maintenance plan for Stormwater Management, Construction Management Plan, and dewatering plans for review and approval by the City Engineer.
 - g. Complied with the recommendations in the Engineering Division's memo, as applicable, to the satisfaction of the City Engineer.
12. No temporary or final 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 or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development, and the Engineering Division, a final as-built survey plan in electronic and digital format.
 - c. Completed all landscaping in compliance with Condition #1
 - d. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Units has been completed to the Director of Planning and Development for review and approval.
 - e. Entered into a Regulatory Agreement and Declaration of Restrictive Covenants for each of the Inclusionary Units with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.



- f. Received a statement from the City Engineer that the storm water municipal tie in and public sidewalks have been built according to City standards.
- g. Conducted a post-construction inspection of 437 Cherry Street and 56-66 Webster Street to document changes, if any, to the structural integrity of the building, and submitted them to the City Engineer and to the abutters with return receipt submitted to the Director of Planning and Development and the Commissioner of Inspectional Services.
- h. Contributed \$3,500.00 towards the installation of a pedestrian count down signal at the intersection of Cherry Street and Washington Street.
- i. Constructed Inclusionary Units and made them available for occupancy coincident with market rate units. Three market rate units may receive occupancy permits corresponding with one Inclusionary Unit. The petitioner shall receive temporary occupancy for four market rate units and one Inclusionary Unit at one time provided the petitioner has already received temporary occupancy permits for two Inclusionary Units.
- j. Received approval from necessary city departments regarding Condition #12 and if landscaping required by Condition #12c has not been installed, filed with the Director of Planning and Development 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 site improvements to ensure their completion.

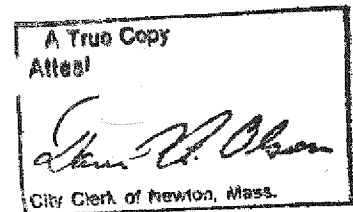
Under Suspension of Rules
Readings Waived and Approved
24 yeas 0 nays 0 absent

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 March 21, 2018. 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) DAVID A. OLSON, City Clerk
Clerk of the City Council



I, David A. Olson, 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 3/21 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Council

