

DEPARTMENT OF PLANNING AND DEVELOPMENT

**CITY OF NEWTON
Massachusetts**

INTER-OFFICE CORRESPONDENCE

DATE: December 9, 2022

TO: All Members, City Council

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

SUBJECT: #540-22: Wells Avenue Deed Restriction Amendment
7-57, 75-95, and 111 Wells Avenue

The subject properties are located on Wells Avenue in the Limited Manufacturing (the “LMD”) district in Ward 8. 7-57 Wells Avenue consists of approximately 339,770 square feet of land, 75-95 Wells Avenue consists of approximately 557,570 square feet of land, and 111 Wells Avenue consists of approximately 355,450 square feet of land. 7-57 Wells Avenue and 75-95 Wells Avenue are each improved with a three-story office building, and 111 Wells Avenue is improved with a surface parking lot. The petitioner requires an amendment to the Wells Avenue Deed Restriction (the “Restriction”) for proposed solar canopies over the existing surface parking areas for these three properties along Wells Avenue.

The applicant states that the canopies will consist of solar panels affixed to frames that will be connected to the ground through steel posts. The applicant points out that each canopy will provide shade to parking areas while servicing the adjacent buildings. The solar canopy at 85 Wells Avenue requires trenching but will be outside the 100’ wetland buffer. The applicant has reviewed the solar canopies with the city’s environmental planner and anticipates minimal disturbance, if any and no impacts to adjacent wetlands. A portion of the installation for the solar canopy at 111 Wells Avenue is within the Rivers Protection Act Area and the applicant is working with the Conservation office on appropriate sediment and erosion control devices for this project.

No zoning relief is required for the proposed solar arrays, but the Restriction directs amendments to the City Council for approval. 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 controls on all properties within the LMD district.

The Planning Department held a preapplication meeting, also known as a “DRT”, on August 17, 2022 for an initial review of the plans. Because the site contains land in a FEMA flood zone, City Floodplain District, Wetland Buffer Area, and Rivers Protection Act Area, at that meeting Planning staff indicated that the petitioner should continue to work with conservation staff. Should this deed restriction be approved, relevant city departments will review the building permit application for the solar canopies.

Attachment A: Amendment to the Deed Restriction #540-22

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: #540-22

PETITIONER: TCD 234 MA Wells Property LLC

LOCATION: 7-57 Wells Avenue Section 84, Block 34, Lot 2B containing approximately 7.8+ acres of land,
75-95 Wells Avenue Section 84, Block 34, Lot 2C containing approximately 12.84 acres of land, and
111 Wells Avenue Section 84, Block 34, Lot 2D containing approximately 8.56+ acres of land

OWNER: TCD 234 MA Wells Property LLC

ADDRESS OF OWNER: 2 International Place Suite 2710
Boston MA 02110

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 solar canopies at 7-57, 75-95 and 111 Wells Avenue.

1. The Council finds that granting the specific amendment to the Deed Restriction to allow the solar canopies at 7-57, 75-95 and 111 Wells Avenue is consistent with the dimensional standards set forth in the Deed Restriction and does not diminish the safeguards for which the restriction was implemented.

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 #540-22

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 7 7-57, 75-95 and 111 Wells Avenue.as proposed.

- (1) To allow solar canopies over existing parking lots at 7-57, 75-95 and 111 Wells Avenue.