



Land Use Committee Report

City of Newton In City Council

Tuesday, December 6, 2022

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

Also Present: Councilors Baker, Crossley, Malakie, and Wright

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

All Special Permit Plans, Designs, Plan Memoranda and Application Materials can be found at the following link [NewGov - City of Newton Land Use Committee Special Permit Search](#).

The full video of the December 6, 2022 Land Use Meeting can be found at [NewTv Land Use Committee Meeting 12-6-2022](#)

#254-22 Petition to allow marijuana retailer at 1185 Chestnut Street

NUESTRA, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a retail marijuana establishment, to allow parking within the side setback, to waive perimeter screening requirements, to waive lighting requirements, to waive the 500 ft. buffer for an existing kindergarten, and to waive the 25% façade transparency requirement at 1185 Chestnut Street, Ward 5, Newton, on land known as Section 51 Block 45 Lot 09, containing approximately 17,091 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.1, 5.1.8.A.1, 5.1.13, 5.1.9.A, 5.1.13, 5.1.10, 6.10.3.F.1, 6.10.3.F.15 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 8-0; Public Hearing Closed 9/13/22**

Note: With no discussion, the petition was approved and sent to the full City Council for approval by its previous vote of 8 Yeas and 0 Nays.

Public Comment

The Public Hearing was closed on 9/13/22.

Committee Comments

No Committee Members made any comments of note pertaining to this petition

#505-22 Request to extend a nonconforming two-family dwelling use, a nonconforming third story, to increase nonconforming height, to further reduce nonconforming open space, to allow an oversized dormer, to exceed FAR and to allow a retaining wall of four feet or more in a setback at 71-73 West Pine Street

JUSTIN AND LORENNNA BUCK petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an attached garage addition, dormer to the front elevation, and to reconfigure the roofline of the ell at 71-73 West Pine Street, Newton, Ward 4, on land known as Section 41 Block 31 Lot 35, containing approximately 8,997 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.3, 3.1.9, 1.5.4.G.2.B, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0 (Councilor Laredo not voting); Public Hearing Closed 12/6/22

Note: Steve Meyers, the architect for the project, represented the petitioners. Mr. Meyers did not have a multimedia presentation and deferred to the Planning Department's presentation.

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

[Planning Presentation - 71-73 West Pine Street](#)

The property is in the Single Residence 3 (SR3) zoning district and is improved with a legal nonconforming two-family dwelling.

The petitioner is proposing to construct an attached garage addition as well as reconfiguring the roofline in the rear ell, requiring a Special Permit per sections 3.4.1 and 7.8.2.C.2 to extend a nonconforming two-family dwelling use in an SR3 district.

Public Comment

KEVIN COURTNEY of 68 West Pine Street, Newton, stated that he was looking forward to the proposed changes, but did have questions pertaining to the garage and landscaping.

Mr. Courtney's questioned if the garage would be attached and if it was not going to be attached, would there be a small walkway in between the dwelling and the garage. Mr. Courtney additionally asked if there would be any change or modifications to trees on the opposing side of the driveway

Mr. Meyers responded that the garage would in fact be attached. Mr. Meyers also noted that the tree on the rear corner of the garage that is in jeopardy and that its root system may be disrupted by the proposed changes.

Committee Comments

Committee Members expressed support for the petition citing a site visit with the petitioner and a neighbor that took place prior to the Committee Meeting.

Councilor Markiewicz motioned to close the Public Hearing which carried 7-0. Councilor Markiewicz motioned to approve the petition. Committee Members reviewed the draft findings and conditions as is shown in the attached presentation. The Committee voted in favor of approval 7-0.

#392-22 Request to allow four single-family attached dwellings in two buildings and a waiver of two parking stalls at 120 Norwood Avenue

120 NORWOOD REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and construct four single-family attached dwellings in two separate structures, to allow three stories, to waive two parking stalls and to allow a driveway within 10 feet of the side lot line at 120 Norwood Avenue, Ward 2, Newton, on land known as Section 22 Block 09 Lot 05, containing approximately 24,897 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 5.1.4, 5.1.13, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-1 (Councilor Laredo Opposed); Public Hearing Closed 12/6/22

Note: Attorney Terrence Morris of the Law Office of Terrence Morris, LLC, with offices at 57 Elm Road, Newton, represented the petitioner and presented a brief update on the petition since it was last before the Committee on 9/20/22. Atty. Morris did not utilize a multimedia presentation, but rather referenced petition/site material located at the following link:

[Record SP-22-138 - ViewPoint Cloud](#)

Atty. Morris' update a reorientation of the townhomes to be angled toward the northern property line, so they aren't directly facing the abutting neighbors' rear yards. As a result, distance between buildings is reduced from approximately 20 feet to 6.3 feet.

The revised plan additionally minimized the driveway and impervious area by approximately 2,366 square feet. This is 732 square feet more than the existing conditions. Additional landscaping is also proposed along the eastern property line.

The petitioner is proposing to raze the existing two-family dwelling and construct four single-family attached dwellings in two separate structures.

Per section 3.4.1, a Special Permit is required to construct attached dwellings in the Multi Residence 1 (MR1) district.

Chief Planner Katie Whewell presented an updated orientation of the property as well as the proposed plans, and general site information in addition to the requested relief, criteria for consideration, land use, and zoning which can be found at the following link:

[Planning Presentation - 120 Norwood Avenue](#)

Public Comment

SUSAN KORGEN, of 10 Clarendon Street, Newton, voiced her opposition to the project. Ms. Korgen is a direct abutter to the project and believes the project is too large for the site. Ms. Korgen also noted that on occasion she has witnessed emergency vehicles have difficulty navigating the proposed site.

CASEY LINDSTROM, of 112 Norwood Avenue, Newton, noted his opposition to the project and shared similar comments and concerns with to Ms. Korgen and noted the density issue of the area as his primary concern.

ALICE NICHOLS, of 14 Clarendon Street, Newton, voiced her opposition to the project as well. Ms. Nichols objected not to the development of the property, but rather the size and the scope of the project.

MARION BURKE, of 61 Bridges Avenue, Newton, shared the density concerns with her neighbors in connection to this project.

JULIE LINDSTROM, of 112 Norwood Avenue, Newton, echoed similar comments and concerns regarding 120 Norwood Avenue.

Committee Comments

Committee Members questioned the height of the fence that abuts neighbors on Clarendon Street. It was affirmed that the height of the fence would be six feet.

Mariana Dagatti, the architect for the project stated that the six-foot fence was a specific request from an abutting neighbor.

Members noted that they appreciated the developer taking heed to comments and concerns from the previous Land Use meeting and additionally appreciated the changes and reorientation made to the proposed plans.

Additionally, Members noted that they preferred to see four units on the site as opposed to two larger single-family units on the site, which would be allowed to the petitioner by right and not requiring a Special Permit.

Some Members of the Committee did openly voice opposition to the project, though noted the changes were an improvement from what was previously presented. Members noted that they had issue with the proposed parking plan.

Discussion ensued regarding parking at the site. Tandem parking, visitor parking, and parking on the street were both areas discussed.

Councilor Lucas motioned to close the Public Hearing which carried 8-0. Councilor Lucas motioned to approve the petition. Committee Members reviewed the draft findings and conditions as is shown in the attached presentation. The Committee voted in favor of approval 7-1.

#394-22 Request to Rezone 2 parcels to MR2

WALKER CENTER FOR ECUMENICAL EXCHANGE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone parts of the following 2 parcels: 136-144 Hancock Street (Section 43 Block 31 Lot 01) and 169 Grove Street (Section 43 Block 31 Lot 16) from SINGLE RESIDENCE 3 TO MULTI RESIDENCE 2.

Action: Land Use Approved 8-0; Public Hearing Closed 12/6/22

#395-22 Special Permit Petition to allow single- and multi-family development at 136-144 Hancock Street and 169 Grove Street

WALKER CENTER FOR ECUMENICAL EXCHANGE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow multi-family dwellings, to allow single-family attached dwellings, to allow a reduced rear setback, to allow reduced lot area per unit, to alter and extend a nonconforming side setback, to waive parking stalls, to waive perimeter screening requirements and to waive lighting requirements at 136-144 Hancock Street and 169 Grove Street Ward 4, Newton, on land known as Section 43 Block 31 Lots 01 and 16 containing approximately 58,492 sq. ft. of land in a district zoned SINGLE RESIDENCE 3 (rezone to MULTI RESIDENCE 2 proposed). Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.13, 5.1.9.A.1.ii, 5.1.10.A of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0-1 (Councilor Lucas Abstained); Public Hearing Closed 12/6/22

Note: Attorney Terrence Morris of the Law Office of Terrence Morris, LLC, with offices at 57 Elm Road, Newton, represented the petitioner and presented a brief update on the petition since it was last before the Committee on 9/20/22. The appropriate materials for this petition can be viewed at the following link:

[NewGov - 136 -144 Hancock St \(Walker Ctr\)](#)

Atty. Morris did not have a multimedia presentation and deferred to the City Planning Department's presentation.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use and zoning which can be found at the following links:

[Planning Presentation - 1314 Washington St \(10/6/22\)](#)

[Planning Presentation - 1314 Washington St \(11/22/22\)](#)

The petitioner is proposing to convert the two existing Walker Center buildings into multi-family dwellings with twelve residential units total. Additionally, the petitioner seeks to construct a total of four single-family attached dwellings in two buildings along the Grove Street frontage, for a total of 16.

Per section 3.4.1, multi-family dwellings and single-family attached dwellings require special permits.

Public Comment

AMY HOCHUM, of 242-244 Grove Street, Newton, voiced her opposition to the project. Ms. Hochum cited her history with the Walker Center and noted that it was unfair that City Hall always gets what they want and doesn't believe you can fight City Hall.

SEAN ROCHE, of 42 Daniels Street, Newton, stated that it was unfortunate for a project of this size and complexity that more hasn't been done to increase the number of units on site.

TOM GAGEN, of 32 Fern Street, Newton, immediately voiced his support for the project. Mr. Gagen stated that the project did a great job preserving the spirit of the neighborhood as well as the historical significance of the Walker Center.

IRAIDA ALVAREZ, of 210 Grove Street, Newton, noted there are neighbors on Grove Street that are concerned about the project. Ms. Alvarez did not voice support for or opposition to the project, but just wanted to be on record and noted that there were concerns about what was being proposed amongst the neighborhood.

EWAN CAMERON, of 248 Grove Street, Newton, raised concerns regarding the number of vehicles in the neighborhood and their rate of travel. Mr. Cameron advocated for the I&I money to alleviate traffic in the neighborhood and promote public safety.

MARYLEE BELLEVILLE, of 136 Warren Street, Newton, struggled with the prospect of a city subsidized ride-share service when other alternatives existed such as Lyft and Uber. Ms. Belleville noted that the city could use these mitigation funds in other areas.

Committee Comments

The City Engineer has calculated the I&I fee at \$237,262.00 and recommended that 25% (\$59,316) be used for the design and construction of upcoming sewer improvements and 75% (\$177,946) be abated and directed to mitigation purposes that benefit the health and wellness of the public and is reasonably in the best interest of the city.

Various consultations have indicated a preference for the I&I fee be distributed between the Newton Affordable Housing Trust (\$88,972), Newton in Motion (NewMo) the city's shuttle service (\$44,487), and toward pedestrian and safety improvements in the immediate vicinity of the project.

Committee Members held extensive conversations and debate related to the Infiltration and Inflow (I&I) fee.

Conversations centered on if it was appropriate to continue to subsidize NewMo and the amount going to NewMo. Through discussion and debate, the recommended funds for NewMo would now be allocated for public safety.

Councilor Markiewicz motioned to close the Public Hearing which carried 8-0. Councilor Lucas motioned to approve the petition. Committee Members reviewed the draft findings and conditions as is shown in the attached presentation. The Committee voted in favor of approval 7-0-1.

#504-22 Request to allow six single-family attached dwellings at 71 Commonwealth Avenue and 15 Algonquin Road

71 COMMONWEALTH, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-story dwelling at 15 Algonquin Rd and construct five single-family attached dwellings with reduced setbacks, which exceeds the maximum lot coverage, a retaining wall greater than 4 feet in height within a setback and to allow parking dimensional relief at 71 Commonwealth Ave, Newton, Ward 7, on land known as Section 63 Block 01 Lots 13 and 13A, containing approximately 32,980 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.1, 5.1.8.B.6, 5.1.13, 5.1.8.D.1, 6.2.3.B.2, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 8-0; Public Hearing Remains Open

Note: Attorney Terrence Morris of the Law Office of Terrence Morris, LLC, with offices at 57 Elm Road, Newton, represented the petitioner. Due to the lateness of the hour, Atty. Morris did not present and deferred to the Planning Department's presentation.

The subject site is comprised of two parcels totaling 32,980 square feet in the Multi Residence 1 (MR1) district, each improved with a single-family dwelling.

The petitioner is proposing to raze the dwelling at 15 Algonquin Road, combine the two lots, and construct five single-family attached dwellings in three separate buildings connected to the dwelling on Commonwealth Avenue with a 15-car underground garage in the Multi Residence 1 zoning district. The single-family dwelling at 71 Commonwealth Avenue will remain.

Per section 3.4.1, a special permit is required to allow six single-family attached dwellings in the MR1 district.

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

[Planning Presentation - 71 Commonwealth Avenue](#)

Public Comment

LIZBETH BERMAN HOWE, of 53 Commonwealth Avenue, Newton, provided a brief history of this section of Commonwealth Avenue and noted she has lived in her family home since 1942. Ms. Howe questioned mitigation efforts regarding damage runoff and stormwater. She voiced neither support nor opposition to the project.

MISHRAH (Last Name Inaudible), of 85 Commonwealth Avenue, Newton, asked the Committee to reflect on what this proposal conforms to. Mr. Mishrah noted the amount of relief that the petitioner was requesting and asked the rhetorical question of "What does it conform to by way of existing guidelines set by the city?"

Mr. Mishrah also noted that he was there on behalf of two of his other neighbors who could not be in attendance that evening:

MARYANNE LEV of 14 Waban Hill Road, Newton and AMY AND MARK NICHOLS, of 19 Waban Hill Road, Newton.

Mr. Mishrah lastly asked, “what are the guidelines there for if you can just get a waiver?”

Committee Comments

No Committee Members made any comments of note pertaining to this petition due to the lateness of the hour.

Councilor Laredo motioned to hold the petition. The Committee voted in favor of approval 8-0. The Public Hearing remains open.

The Committee adjourned at 11:00 p.m.

Respectfully Submitted,

Richard Lipof, Chair