



Land Use Committee Report

City of Newton In City Council

Tuesday, February 28, 2023

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

Also Present: Councilors Albright, Leary, Malakie, Norton, Oliver, and Wright

City Staff Present: Senior Planner Cat Kemmett, Senior Planner Michael Gleba, Chief Planner Katie Whewell, Deputy Chief Planner Alyssa Sandoval, and Assistant City Solicitors Jonah Temple and Andrew Lee

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 February 28, 2023 Land Use Meeting can be found at the following link: [02-28-2023 NewTV Land Use Committee Meeting](#)

#68-23 Request to authorize partial release of the Declaration of Affordable Housing Covenants

HER HONOR THE MAYOR requesting to authorize the partial release of the Declaration of Affordable Housing Covenants encumbering the property located at 677 Winchester Street, Newton, MA, commonly referred to as Coleman House operated by 2Life Communities.

Action: Land Use Approved 7-0 (Councilor Downs not voting)

Note: Attorney Alan Schlesinger, of Schlesinger & Buchbinder, LLP with offices at 1200 Walnut Street, was present to represent the petition. Atty. Schlesinger provided a brief oral overview of the petition and the request.

2Life is seeking the release of approximately 36,911 square feet of undeveloped land at Coleman House from the Declaration of Affordable Housing Covenants for the purposes of transferring the parcel to Opus Newton for the construction of a “connector” between the Coleman House and Opus projects.

The Declaration was granted to the City as a condition of the grant of Community Preservation Act funds for the rehabilitation and restoration of the existing Coleman House building on the property.

The City Council had previously approved the construction of the “connector” between Coleman House and the Opus project as part of the Opus Special Permit.

Assistant City Solicitor Lee characterized the petition as a “housekeeping matter” noting the approval of the Land Use Committee was perfunctory and procedural.

Committee Comments

No Committee Members made any comments of note regarding this petition.

Councilor Bowman motioned to approve the request. The Committee voted in favor of approval by a voice vote of 7-0 with Councilor Downs not voting.

#23-23(3) Request to amend Special Permit #289-18 at 697 Washington Street
697 WASHINGTON STREET REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #289-18 to update signage at 697 Washington Street, Newton, Ward 2, on land known as Section 23 Block 19 Lot 1B, containing approximately 16,678 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 5.2.13.A, 5.2.13.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0-1 (Councilor Downs Abstained)

Note: Attorney Michael Ross of Prince Lobel Tye, LLP, with offices at 1 International Place, Boston was present to represent the petitioner. The Documents pertaining to the overall petition can be found at the following link:

[697 Washington St - Petition Documents](#)

The Committee last held a public hearing on this petition on February 7, 2023 where the Committee decided to trifurcate the petition and vote on each part separately rather than the petition as a whole.

The Committee voted to approve a text change to bring the Special Permit language into alignment with State standards for marijuana sales, and to allow up to four employees to park on site. The proposed changes to the sign plan included in the petition were not approved at that time and were subsequently remanded back to committee.

A sign plan has been referenced in the Special Permit since it was first approved, even though all the signs were considered as of right/complied with the standards set forth for signs in the Ordinance. This led to some confusion within the City as the petitioner received approval for two wall-mounted signs from the Urban Design Commission (UDC). At that time the petitioner also received a permit from Inspectional Services to install the signs. Regarding sign applications, Section 5.2.4 of the Zoning Ordinance requires applicants to submit an application and supporting materials to the Commissioner of Inspectional Services, who then notifies the UDC and Director of Planning and Development within two weeks of the filing. The Director of Planning then is required to submit an advisory report including recommendations to the UDC within three weeks of the application filing date.

With this revision, the petitioner proposes to remove the word "cannabis" from the exterior sign mounted on the side of the building facing the parking facility on Court Street. As proposed, the sign on the Court Street elevation will read "garden remedies medical & adult-use," replacing the current sign which reads "garden remedies cannabis." The size of the sign would remain the same as the one in place now, at eight feet wide by three feet tall.

Changes are also proposed for the sign on the Washington Street frontage. The sign proposed at the February 7, 2023, Committee meeting more prominently features the word “cannabis,” while the version included in the revised plan minimizes the prominence and font size of “cannabis.” The size of the sign itself will remain the same, though a sign indicating free parking will be added beneath it. These changes would help address concerns raised by neighboring community members who expressed concern at the public hearing about prominently advertising cannabis sales.

Senior Planner Cat Kemmett presented and update on the revisions which can be found at the following link:

[Planning Presentation - 697 Washington St \(Garden Remedies Sign\)](#)

Committee Comments

Committee Members noted that the revised sign was much more appealing and applauded the petitioner for taking the community’s comments from the previous hearing into consideration.

Councilors not on the Committee associated their comments with those made previously by Committee Members and stated that it was best to put this matter behind the Council and that they would be more comfortable moving forward with the City Council not playing such a robust role in marijuana dispensary signage.

Councilor Lucas motioned to approve the petition. The petition passed by a vote of 7-0-1 with Councilor Downs abstaining.

The following petitions are internal discussion items for the Committee and City Staff to streamline processes and efficiency in the future.

#124-22 **Request for amendment to Section 7.3 Special Permit Review of the Zoning Code**
COUNCILORS LAREDO, LIPOF, DANBERG, GROSSMAN, LUCAS, MALAKIE, MARKIEWICZ,
AND WRIGHT

requesting an amendment to Section 7.3 Special Permit Review of the Zoning Code to require the submission of designs for the placement of underground utility service lines for projects above a certain size.

Action: **Land Use Held 8-0**

Note: Chief of Planning Katie Whewell outlined the petition as well as the challenges facing City staff as it pertains to undergrounding utilities. Some of these challenges included the coordination with utility companies, time-consuming and cost effective.

Also the cost and ability to underground also varies depending upon the utilities along the frontage and the length of the project’s frontage. For these reasons the City Staff recommend an additional discussion and analysis on the feasibility prior to determining a threshold for requiring the undergrounding of utilities.

City Staff are looking for direction and guidance from the Committee as to when this conditions 8 and 13 should be included in Special Permit projects.

Committee Comments

Committee Members understood that each Special Permit would be viewed wholistically and be judged on a case by case basis. The following guidance was given to City Staff in regard to when the above referenced conditions should be triggered and applies to residential and commercial properties:

- When construction includes six (6) or more units
- For any new builds that require a Special Permit
- For any Special Permit that requires substantial reconstruction

Councilor Lucas motioned to hold this petition. The Committee voted in favor to hold by a vote of 8-0.

#36-22 Review and analysis with city departments regarding standard language and special permit council orders

COUNCILORS LAREDO, DOWNS, MALAKIE, LIPOF, ALBRIGHT, BOWMAN, WRIGHT, OLIVER, GREENBERG, KELLEY, MARKIEWICZ, NORTON, BAKER, LEARY, LUCAS AND DANBERG requesting a review and analysis with Planning, Inspectional Services and Law Departments regarding standard language and special permit council orders for the purpose of improving the language used in such orders including provisions regarding undergrounding utilities, bicycle storage, construction hours and other construction rules, vibrations, rodent control, electrification, landscaping and other similar provisions.

Action: **Land Use Held 8-0**

Note: Chief of Planning Katie Whewell outlined the petition as well as the challenges facing City staff as it pertains to the numerous provisions of the petition.

Committee Comments

There is currently no standard condition on bicycle storage, however the practice of the Planning Department is to encourage bicycle storage and that the bicycle storage be secure and sheltered in the early stages of the project. Committee Members agreed with Ms. Whewell's request and recommended making it a standard condition.

In regard to the amount of bicycle parking that is needed on certain projects, Councilors noted that a more comprehensive study to the utilization of bicycles in Newton was needed.

For Construction Hours and Construction Rules the Committee agreed that the current standard conditions were sufficient and that any additional changes can be made on a case by case basis.

The Construction Management Plan (Condition 6), Construction Hours (Condition 7) and Additional Construction Conditions (Conditions, 9, 10 and 11) were largely left intact.

Condition 44 of the Special Permit recommends that all appliances and utilities for the building shall be all-electric, including heating and cooling.

Committee Members also noted that the Committee moving forward should be asking for more electronic vehicle (EV) parking/charging stations for new developments. Currently the City Ordinance requires 10% of parking spaces be electric vehicle charging for projects over 20,000 square feet.

The Committee ultimately noted that the current Standard Conditions for electric vehicles was sufficient and that any future Special Permits involving EVs and EV parking capacity would be reviewed on a case by case basis.

For the Standard Condition pertaining to vibrations, City staff were looking for guidance on the threshold to trigger a mitigation fund.

Currently the threshold for a mitigation fund is 50 units or more, but the Chair cautioned that these are just guidelines and should be reviewed on a case by case basis.

The Chair noted there could be a 50-unit redevelopment that is keeping the basement intact and wouldn't need a mitigation fund. Additionally, there could be a 25-unit development that is doing blasting.

The Committee noted that a 25–30-unit range would be more appropriate.

The Standard Condition for rodent control was left largely untouched, however Committee members would like to the threshold for condition 5 dropped from 50 units to 20 units.

Councilors discussed limiting one specific type of rodent control as it has been linked to the deaths of numerous species of birds around the Commonwealth that eat the rodents.

Councilor Laredo motioned to hold this petition. The Committee voted in favor to hold by a vote of 8-0.

#7-23 Request for discussion with City Staff regarding the process for creating and enforcing landscape plans pertaining to Special Permits

COUNCILORS LAREDO, ALBRIGHT, LEARY, MARKIEWICZ, MALAKIE, NORTON, OLIVER, GREENBERG, AND WRIGHT, requesting discussion with the Planning Department, the Inspectional Services Department, and the Tree Warden regarding the process for creating and enforcing landscape plans (including, but not limited to, trees) in the special permit process and enforcing the zoning code and the tree ordinance in connection with by right projects.

Action: Land Use Held 8-0

Note: Chief of Planning Katie Whewell outlined the petition as well as the challenges facing City staff as it pertains to landscape plans. Some of these challenges included how compliance with landscape plans is difficult without a landscape architect on staff.

The Tree Ordinance governs the Tree Warden's review. The Tree Warden is an arborist, allowing them to weigh in on the compliance of the Tree Ordinance, the caliper inch analysis and determining whether a replacement tree is suitable for a previously designated tree type.

Without an Ordinance or codified guidance of best practices, it is primarily the responsibility of the project's landscape architect to ensure plantings are appropriate for the region and the site.

As a solution to move forward, the Planning Department has added the Tree Warden to the Special Permit process in the NewGov online management system. When a project requires a landscape plan, the Tree Warden's review will be required for approval.

Committee Comments

Committee Members raised the prospect of the Planning Department hiring a full-time or part-time arborist within the department to ensure compliance.

Staffing issues is a concern that would be revisited during budget season. Councilors not on the Committee noted that it is challenging to do follow-up and enforcement without proper staffing levels.

Another option that was broached to ensure compliance with landscaping plans was a sampling review. Where a small portion of Special Permits holders with landscaping conditions are audited.

Councilor Laredo motioned to hold this petition. The Committee voted in favor to hold by a vote of 8-0.

The Committee adjourned at 9:58 p.m.

Respectfully Submitted,

Richard Lipof, Chair