



## Land Use Committee Report

City of Newton

In City Council

**November 1, 2016**

**#180-16      Petition to rezone the Orr block to Mixed Use 4**

MARK NEWTONVILLE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL for a change of zone to MIXED USE 4 for a portion of land located at Walnut Street, Washington Street, Washington Terrace, also identified as Lots 10, 11, 12, 13, 14, 16, 19, 20, 21, 22, Block 29, Map 201 currently zoned Business 1 and Business 2.

**Public Hearing Opened on June 7, 2016 and continued to July 12, 2016, and September 13, 2016.**

**Land Use Approved Withdrawal Without Prejudice 5-0 (Schwartz, Auchincloss not voting)**

**Note:** After reading the item into the record and an introduction of Councilors, the Chair noted that the Committee would first review the petitioner's request to withdraw without prejudice the request to rezone the Orr Block. Deputy City Solicitor Ouida Young stated that the withdrawal and refiling of the Rezoning petition is in response to questions raised about technical issues with the legal notice in combination to concerns about the Planning and Development Board's availability for Land Use Committee public hearings. She noted that while the petitioner does not accept the validity of the protest, to eliminate any question; the petitioner has decided to withdraw and refile. Attorney for the petitioner, Steve Buchbinder reiterated the petitioner's request to withdraw the petition. Attorney Buchbinder requested that with respect to the matter, all oral and written testimony may be carried forward to the new filing and added as part of the new record. The Chair of the Committee accepted that the testimony be carried forward and Councilor Lipof motioned to approve the request to withdraw the item without prejudice. The Committee voted 5-0 in favor of the motion.

It was announced that the Planning and Development Board would be opening the public hearing for the rezoning petition on December 5, 2016 at 7:30 pm.

**#179-16      Special Permit Petition for Orr Building at Walnut St. and Washington St.**

MARK NEWTONVILLE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed use, transit oriented development in excess of 20,000 sq. ft. consisting of three interconnected buildings with building heights of 60 feet and five stories, total gross floor area of 238,075 sq. ft., incorporating 171 residential units, approximately 39,745 sq. ft. of commercial space to permit office use, medical use, retail and personal establishment of more than 5,000 sq. ft., eating and drinking establishments of more than 5,000 sq. ft. retail banking and financial services and health club establishments, and approximately 2,030 sq. ft., of office/community space; 346 on-site parking stalls within a below-grade garage and surface parking, and to allow an FAR of 1.92; waive the setback and façade transparency, waiver of 97 parking stalls and dimensional requirements for parking stalls, interior landscaping, lighting, curbing, wheel stops, guard rails and bollards, waive entrance and end stall maneuvering space

requirements, waive number of signs and allow for free-standing signs and loading bay at 241-261 Walnut Street, 845-875 Washington Street, 0-22 Bailey Place, 6-22 Washington Terrace, Ward 2, Newtonville, on land known as SBL 21029 0010, 21029 0011, 21029 0012, 21029 0017, 21029 0016, 21029 0018, 21029 0019, 21029 0019A, 21029 0013, 21029 0014, 21029 0015, 21029 0020, 21029 0021, 21029 0022, 21029 0023, containing approximately 123,956 sq. ft. of land in a district zoned BUSINESS USE 1 and BUSINESS USE 2. Ref:7.3.3, 7.4, 4.2.3, 4.2.5.A.2, 4.2.5.A.4.c, 4.2.5.A.4, 4.2.5.A.6.a, 4.2.5.A.6, 4.2.5.A.6.b, 4.2.5.A.6, 4.4.1, 5.1.4.A, 5.1.4.C, 5.1.4, 5.1.13, 5.1.8.A.2, 5.1.8.B.1, 5.1.8.B.2, 5.1.10.B.3, 5.1.8.B.6, 5.1.9.B, 5.1.10.A.1, 5.1.10.B.5, 5.1.12, 5.2.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Public Hearing Opened on June 7, 2016 and continued to July 12, September 13, October 6, 2016 and November 1, 2016.**

**Action: Land Use Held 7-0.**

**Note:** Attorney Buchbinder stated the intent to review design changes, transportation issues, sustainability questions and the appropriateness of a zone change at the site. On November 29, 2016, where the public hearing for the item is scheduled to continue, the petitioner intends to review benefits of the project, mitigation measures and design enhancements.

Randy Hart, VHD Traffic Consultant for the petitioner provided a brief overview of proposed enhancements at the site which will include; improvements to the traffic signalization, an additional Southbound lane on Walnut Street, sidewalk bump outs resulting in decreased pedestrian crossing time and the consolidation of existing access points from six to two.

Mr. Hart commented on feedback provided from “Neighbors for a Better Newtonville”. It was suggested that the traffic analysis was based on an automatic traffic count on one day. Mr. Hart noted that the data collected was on one day, as Mass Department of Transportation requires and is consistent in comparable traffic studies. He stated that in addition to the automatic traffic count, pedestrian movements and manual turning movements were counted at all 9 intersections. The traffic analysis included the traffic impacts from the Austin Street development. Where “Neighbors for a Better Newtonville” stated that the proposed bump outs in traffic will slow traffic, Mr. Hart noted that the bump outs will not be influencing the lane width on Washington Street, but that they would be taking over underutilized sidewalk space. Councilors questioned whether the petitioner has considered collecting data for additional days. Mr. Hart noted that one day is the typical industry standard for traffic analysis and while sometimes there are exceptions, the day that was selected met the required guidelines in addition to being taken during a higher than average month (November). Mr. Hart added that the phrase that has been used in reference to the traffic study; “no usable data”, is not actually found in the study but can be found in an early review of the study.

When evaluating the site’s appropriateness for MU4, Mr. Hart noted that during the operational analysis, no transit credit was taken, but that the site does have good access and opportunities for transportation. He noted that the traffic simulation shown demonstrated the positive impacts including a reduction in delay of approximately 30 seconds at the intersection of Walnut Street

and Washington Street. The Chair questioned whether the development is transit oriented and if the Planning Department could provide guidance and clearer terms for transit oriented development for November 29, 2016.

Lauren Baumann, Vice President of New Ecology, a company which helps create community based sustainable development has been hired to review and design sustainability features for the development. Ms. Baumann stated that New Ecology will work with the petitioner to obtain LEED certification at the gold level. New Ecology works with developers from conception to occupancy; helping to design the development and creating long term plans. New Ecology focuses on Sustainable design, Construction and Sustainable Operations.

**Sustainable design:** New Ecology will work with developer on site design. Ensuring that the development is pedestrian and transit oriented, on building construction including ensuring there is: low air infiltration, a low energy load, individually metered units, appropriate mechanicals, accessibility of solar roof options and healthy systems in place. Councilors questioned if solar was going to be incorporated into the project. Ms. Baumann confirmed that the building would be built to be solar ready, but that energy load reduction would be the primary function. New Ecology's intends to map the out the rood to determine where there may be available space for solar.

**Construction:** Ensuring the design concepts are applied during construction. This includes setting and evaluating performance standards for air filtration, educating contractors on execution and inspections on the high performance durability of the building.

**Sustainable operations:** New Ecology will be work with the developer and team to make sure operations are successful by training building staff and developing a "Resident Green Guide" for occupants. (This Green Guide will help teach them how to understand their responsibilities, how to adapt to greener living and how to utilize the features of the building. Staff and residents will be retrained periodically to address turnover).

Councilors expressed excitement about the Sustainability features presented by Ms. Baumann, but also requested that Planning, the Law Department and the petitioner consider how the representations will be effectuated immediately and long term. Sample conditions for a Council Order would be helpful when considering the sustainability features. Councilors also expressed a desire to review and evaluate any planned programming or features on the roof.

Attorney Buchbinder provided some historical context for the Orr Block, noting that until 1976, a 6-story building may have been allowed at the site. He stated that as developments have evolved, the demand for smaller and even "micro" units has evolved. He suggested that people will compromise space for affordability. Attorney Buchbinder noted that MU4 was created specifically for village centers and by the Boards approval. Chief Planner Alexandra Ananth clarified for Councilors that the total lot size divided by 1200 (sq. ft.) generates the total number of allowable units. Councilors noted that the developer could build larger units if there were fewer.

The Chair requested that the Planning and Law Department present information relating to the differences between BU1, BU2 and MU4 considering; what is allowable, total number of units, if commercial or office space was feasible at the site.

Damien Chaviano, partner for the development reviewed differences between a by right option and the petition before the Council, so the public could understand the context of the filing. He noted that the proposal is below what would be allowed by special permit in regard to FAR, square footage and GFA. The petitioner has revised the original proposal so the Council can consider two additional options.

In option A, the density remains on Washington Street, varying the height of the building between 4 and 5 stories. "Option B" reduces the height to 4 stories but extends to the rear of the development along Washington Terrace adjacent to the parking lot. This additional space is connected to building and "bumped out" on stilts. The bump outs are 34' and 76'. This option reduces parking by two spaces. Mr. Chaviano presented photos of the difference scenarios from different vantage points. His presentation and renderings can be found at:

[http://www.newtonma.gov/gov/aldermen/special\\_permits/special\\_permits\\_2016.asp](http://www.newtonma.gov/gov/aldermen/special_permits/special_permits_2016.asp)

Mr. Chaviano noted that the petitioner prefers option A because the massing on Washington Street would be more appropriate than to the rear of the property. In response to a request to show the existing conditions for the Foster Street neighbors, Mr. Chaviano presented renderings including the existing conditions, an option A rendering with proposed landscaping as proposed and after three years and an option B rendering with proposed landscaping as proposed and after 3 years. Ward 2 Councilors agreed that they would seek input from the Foster Street neighbors.

The Public Hearing was Opened.

Alan Starr, 49 Charles Street, Owns Boston Showcase, thinks that the development will promote growth and vitality in an area that has been neglected.

Jim Purdy, 943 Chestnut Street, is an Urban Planner. He thinks that additional development could give the City more leverage in demanding enhanced transportation options. He also thinks the development will help generate more activity and make Newtonville a better place.

Susan Davidoff, 24 Bridge Street read a letter from the residents at 53 Taft Street in support of the Washington Place project and the potential for additional affordable housing options.

Hidajeta Skelic, 274 Newtonville Avenue, thinks that the retail and residential space will be improved. She feels that the development will be revitalizing for the community.

Tamara Bliss, 9 Lewis Street, is concerned about the shortage of housing options and noted that some people including the growing, aging, population want simplified, affordable options and the ability to remain in Newton.

Doris Ann Sweet, 281 Lexington Street, is very excited about the proposal and how it is evolving. She thinks that the diversity of housing options in addition to the retail, office and emphasis on health will be beneficial in the community.

Phillip Herr, 20 Marlboro Street, thinks that mixed use development is progressive and that this proposal could be an admirable asset to the City.

Mary Enant, Hammond Pond Pkwy, stated that the City is committed to improving the availability of diverse, affordable housing options.

Simon O'Leary, 73 Auburn Street, has a relative living in his home because they could not find an alternative affordable option. He is excited to see the development and anxious to see it continued westward.

John Barkan, 14 Lockwood Road, is a developer and maintains properties in the City. He feels that the project will make a significant improvement in the area. He thinks that the diverse housing options will help contribute to an increasing demand and thinks that the developer's vision meets community needs.

Elaine Rush Arruda, 1921 Commonwealth Avenue, has concerns that the development and its corresponding traffic will begin to spread to West Newton.

Ellen Serino, 12 Hamlin Road, thinks that the development is too large and would be disproportionate in the neighborhood.

John Martin, 12 Simpson Terrace, feels that the project is appropriate given its access to public transportation and feels that it is well designed and aesthetically pleasing.

Susan Reisler, 11 Claflin Place, feels that the petitioner can reduce the proposal significantly and feels that the petition should be denied. She stated that in transit oriented developments, the transportation demand is met whereas in Newtonville the transit capacity is very low.

Kathleen Kouril Griser, 258 Mill Street, is confident the petitioner can still reduce the mass and incorporate additional affordable housing so the development counts on the SHI. The conditions will be worsened for the Foster Street neighbors.

Paul Zarchan, 24 Frederick Street, suggested that to test the impacts of the project, the City reduce traffic temporarily.

Stephanie Desantis, 58 Puritan Rd., Watertown, MA, strongly supports the petition and feels that the project as a whole will be a positive addition to the City. She stated that the developer feels strongly about this project and is a Newton resident who wants to make the City better.

Ellen Fitzpatrick, 20 Foster Street, noted that she has not seen any mention about the proposed development abutting the historic district which has been disconcerting.

The Newtonville Area Council prepared a presentation for the Committee. Thomas Kraus, President for the Newtonville Area Council noted that they have been following the proposal and discussion and were involved early on in community engagement and providing feedback. At this time they have opted not to take an opinion but acknowledge that something will be built at the site. Mr. Kraus noted that they hope to help positively impact whatever development is approved at the site.

Mr. Wayne Koch reiterated the intention to focus on how the project could be made great. The Newtonville Area Council feels that the project can add vitality, but that it should reflect and complement its surroundings. Mr. Koch stated that the open space retail is appealing and he suggested that the tenants are critical to enhancing the activity at the site. In addition, the area council supports the architectural variations at the roofline and at the ground level. Mr. Koch noted that while the design and setbacks are designed to improve the pedestrian experience, they should be maximized. He additionally suggested that the same, high quality material be used to face each side of the structure as opposed to just on Washington Street.

When reviewing the transportation, the Newtonville Area Council feels that the addition of bike lanes on Walnut might not be the best use of space. They feel that the shortened pedestrian crossings will be beneficial in connecting the North and South sides of Newtonville. The area council feels that areas for improvement include; the Lowell Ave intersection, the shadow studies, parking solutions (additional underground parking) on Washington Street.

Mark Kaufman spoke to proposed community benefits at the site, noting the link the development will act as for Newtonville, and the sustainability features. Mr. Kaufman questioned whether a community room is an appropriate use of 2000 sq. ft. The Newtonville Area Council believes that amidst concurrent projects including on Walnut Street, Austin Street and Washington Street; there should be design coordination led by the landscape architect for Washington Place. Mr. Kaufman suggested that in response to the demands for accessibility at the train station, the petitioner study the feasibility of creating an alternative entrance on Washington Street across from Verizon. He noted that where it is significantly lower, it may not be as cost prohibitive as rehabilitating the current entrances.

Councilors were thankful for the thoughtful commentary provided by the Newtonville Area Council and noted that the presentation provided unique perspective. Councilors were in agreement

that roof activity should be reviewed as soon as available and that the varying roofline is important to the design of the structure.

While Committee members felt that Option A was the more appropriate, some Councilors felt that the petitioner can still reduce the density of the development. Consideration was given to whether there should be additional commercial use at the site to promote a more mixed development. Councilors agreed that the developer should review additional details including programming and roof details. Councilors requested that the Planning Department and DPW provide commentary on the proposed bike lanes, the possibility of train station enhancements, the development's proximity to the historic district and the corresponding impacts and the redesign of Newtonville.

With the public hearing to continue on November 29, 2016 at 7:00 pm, the Committee adjourned at 10:00 pm.

**Respectfully submitted,**  
**Marc C. Laredo, Chair**