



## **Land Use Committee Report**

### **City of Newton** **In City Council**

**Tuesday, May 2, 2017**

**Present:** Councilors Laredo (Chair), Crossley, Cote, Harney, Auchincloss, Lipof

**Also Present:** Councilors Baker, Norton, Albright,

**Planning & Development Board Members:** Peter Doeringer (Vice Chair), Megan Meirav, Sonia Parisca, Jonathan Yeo

**City Staff:** Deputy City Solicitor Ouida Young, Associate City Solicitor Bob Waddick, Director of Planning & Development Barney Heath

**#43-17      Special Permit to extend non-conforming two-family use at 893 Watertown Street**

JAMES AND CAROL HOOPES petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a single-story rear addition extending the existing non-conforming two-family use at 893 Watertown Street, Ward 3, West Newton, on land known as SBL 31014 0005, containing approximately 19,560 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 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Postponed to June 6, 2017 4-0 (Lipof, Harney not Voting)**

**#38-17      Special Permit to exceed FAR at 1016 Centre Street**

CLAUDINE GROSSMAN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing garage, structure and deck and to construct an attached two-car garage and indoor sport court, exceeding the maximum allowable FAR to .38 where .33 is allowed and .31 exists at 1016 Centre Street, Ward 7, Newton Centre, on land known as SBL 73049 0010, containing approximately 19,878 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9.A.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:**      **Land Use Postponed to June 6, 2017 4-0 (Lipof, Harney not Voting)**

**#95-17      Change of Zone Petition for Washington Street**

MARK NEWTONVILLE, LLC petition for a change of zone to Mixed Use 4 for (i) all of the land located at 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Terrace, 867 Washington Street, 857-859 Washington Street, 845-855 Washington Street and 245-261 Walnut Street, also identified as Section 21, Block 29, Lots 11, 12, 17, 18, 19A, 20 and 21, Ward 2, currently zoned Business 1 and Business 2, and (ii) a portion of the land located at 16-18 Washington Terrace, 869 Washington Street, 861-865 Washington Street, 241 Walnut Street, 22 Bailey Place, 14-18 Bailey Place, and a private way known as Bailey Place, also identified as Section 21, Block 29, Lots 10, 13, 14, 16, 19, and 22,

Ward 2, currently zoned Business 1, Business 2, and Public Use, further described as follows:

Beginning at a point on the northerly line of Washington Street, thence

Along the northerly line of Washington Street, south 89 degrees - 04 minutes - 40 seconds west, a distance of 434.02 feet to a point; thence

Along the easterly line of Washington Terrace, north 01 degrees - 52 minutes - 35 seconds west, a distance of 188.53 feet to a point; thence

North 89 degrees - 04 minutes - 40 seconds east, a distance of 294.98 feet to a point; thence

North 05 degrees - 11 minutes - 33 seconds west, a distance of 52.46 feet to a point; thence

North 85 degrees - 43 minutes - 30 seconds east, a distance of 150 feet to a point on the westerly line of Walnut Street; thence

Along the westerly line of Walnut Street, south 04 degrees - 12 minutes - 48 seconds east, a distance of 231.99 feet to a point of curvature; thence

Along a curve to the right having a radius of 17.00 feet, a central angle of 93 degrees - 17 minutes - 28 seconds, an arc length of 27.68 feet, a chord bearing of south 42 degrees - 25 minutes - 56 seconds west, a chord length of 24.72 feet to the point and place of beginning.

Containing 92,907 square feet, or 2.13 acres, more or less.

**Action:**

**Land Use Held 6-0**

**#96-17**

**Special Permit Petition for Washington Street**

MARK NEWTONVILLE, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights not exceeding 60 feet and five stories, total gross floor area not exceeding 235,000 square feet incorporating not more than 160 residential units, not exceeding 46,000 square feet of commercial space, not exceeding 2,500 square feet of community space, not less than 350 onsite parking stalls outside at grade or within a below-grade garage, and related site improvements; to authorize uses including retail of more than 5,000 square feet, personal service of more than 5,000 square feet, restaurants over 50 seats, standalone ATMs, health club establishments at or

above ground floor, animal services, and street level office; to allow FAR of not more than 2.50, lot area per dwelling unit of approximately 581 square feet, reduction of the overall non-residential parking requirement by 1/3, 1.25 parking stalls per residential unit, and free standing signs; to grant waivers of not more than 97 parking stalls and of the height setback and facade transparency and entrance requirements; to grant waivers of certain parking facility design standards including dimensional requirements for parking stalls, parking stall setback requirements, entrance and exit driveways, interior landscaping, interior planting area, tree plantings, bumper overhang, lighting of one foot candle, curbing and surfacing, wheel stops, guard rails, bollards, and maneuvering space for end stalls; and to grant waivers as to number, size, location, and height of signs and number and dimensions of required loading bays, at 22 Washington Terrace, 16-18 Washington Terrace, 10-12 Washington Terrace, 6-8 Washington Terrace, 875 Washington Street, 869 Washington Street, 867 Washington Street, 861-865 Washington Street, 857-859 Washington Street, 845-855 Washington Street, 245-261 Walnut Street, 241 Walnut Street, 22 Bailey Place, 14-18 Bailey Place, an unnumbered lot on Bailey Place, and the private way known as Bailey Place, also identified as Section 21, Block 29, Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 20, 21, 22, and 23, containing approximately 2.84 acres of land part of which is in a proposed Mixed Use 4 District and the remainder of which is in the existing Business 2 and Public Use zones. Ref.: Sections 4.2.2.A.2; 4.2.2.B.1; 4.2.3; 4.2.5.A.2; 4.2.5.A.3; 4.2.5.A.4.c; 4.2.5.A.6.a; 4.2.5.A.6.b; 4.2.5.A.6.c; 4.4.1; 5.1.4.A; 5.1.4.C; 5.1.8.A.1; 5.1.8.A.2; 5.1.8.B.2; 5.1.8.B.6; 5.1.8.D.2; 5.1.9.B.1; 5.1.9.B.2; 5.1.9.B.3; 5.1.9.B.4; 5.1.10.A.1; 5.1.10.B.5; 5.1.12; 5.1.13; 5.2.13.A; 7.3; and 7.4 of Chapter 30 of the City of Newton Revised Zoning Ordinances, 2015.

**Action: Land Use Held 6-0**

**Note:** After introductions of the Land Use Committee Council members, Planning & Development Board members and City Staff, the Chair of the Land Use Committee acknowledged Chief Planner for Current Planning Alexandra Ananth. Ms. Ananth will be relocating and vacating her position with the City. Councilors, Planning Board members commended her for the high quality of work produced during her tenure and applauded her efforts.

The Chair of the Land Use Committee reviewed background and protocol for the public hearing for the Special Permit Petition and petition to rezone the Orr Block. The Chair noted that the petitions were previously before the Land Use Committee and the petitioner requested withdrawal without prejudice of both petitions. The withdrawals were approved by the Council and two new petitions filed. The plans for the special permit have not changed from the plans

that were withdrawn. The request to rezone the site has been modified. As such, the Chair reminded Councilors, Planning Board members and members of the public of the extent of work, testimony and discussion related to the project that has already occurred. The Chair confirmed that any and all testimony submitted as part of #179-16/#180-16 will be incorporated, by reference, as part of the current petitions #95-17/#96-17.

The Chair noted that the presentation from the petitioner would follow with continued discussed and work related to the draft Council Order. A Councilor expressed concern that no public comment would be taken prior to discussing the draft Council Order. The Chair reiterated that an extensive amount of public comment has been heard and emphasized the importance of allowing the Committee adequate time to deliberate and craft a Council Order. He confirmed that the public hearing will be continued until May 30, 2017 and that there would be additional time for public comment. Members of the public were urged to submit written commentary prior to the May 30, 2017 continued public hearing.

Attorney Stephen Buchbinder, with offices at 1200 Walnut Street, presented the request on behalf of petitioner Mark Newtonville, LLC., reiterating that the proposed development is identical to the initial petition #179-16/#180-16. Washington Place, which would be located in Newtonville at the intersection of Washington Street and Walnut Street, consisting of three buildings, up to five stories in some locations and a large outdoor plaza. The petitioner proposes to include 17,000 sq. ft. of outdoor dedicated space. The plans include 351 parking stalls and bicycle storage. The development would include 15% of affordable units in accordance with the City's Inclusionary Zoning Ordinance and the petitioner has proposed an additional 10% to be allocated for middle income or "workforce housing" units. 32,000 sq. ft. in the development would be reserved for commercial space and an additional 2,030 sq. ft. on the second floor would be reserved for community space or an arts program.

The petitioner has been discussing the option with abutters to relocate the entrance of the garage to the western portion of the site. If Committee members are supportive of this change, revised plans can be submitted to Planning and incorporated in the Council Order draft on May 30.

Attorney Buchbinder stated that the request to rezone the site to MU4 submitted in 2016 (#180-16) required the rezoning of the entire site (123,000 sq. ft.) where the new request to rezone the site only requires rezoning of the front portion (93,000 sq. ft.). The rezoning of the front portion of the site would create a buffer zone between the development and the abutters. This revised request to rezone the site was created in response to the Law Department's interpretation that the requirements of the protest petition filed under MGL Chapter 40 Section 5 were met. The law states that if a protest petition is filed by more than 20% of the owners immediately adjacent within 300', the petition must be approved by a  $\frac{3}{4}$  vote (18 Councilors) as opposed to  $\frac{2}{3}$  (16 Councilors). Attorney Buchbinder's office does not believe that there is Massachusetts case law governing precedence for interpretation and believes that the City's Law Department may have interpreted the MGL differently in prior



situations. Attorney Buchbinder noted that the Law Department does acknowledge the landowner's right to create a buffer zone between the area to be rezoned and the abutters. The revised proposal to rezone the site with the buffer zone would effectively eliminate the legal standing of the abutters that file a protest petition.

Attorney Buchbinder confirmed that the portions of the site not being rezoned are zoned BU1, BU2 and public use. The BU1 and BU2 portions would remain in their existing zoning and the private way, public use on Bailey Place would be discontinued. Some Councilors expressed concern about the creation of the buffer zone and its impact on those abutters impacted. Deputy City Solicitor Ouida Young confirmed that the language "immediately adjacent" is key when interpreting the statute and when calculating the distance for the abutters' protest.

As dimensional calculations only factor the portion of the site to be rezoned, the modification of the rezoned area results in changes to the FAR and lot area per unit. Although the boundaries of the proposed development do not change, the FAR increases to 2.49 from the previously proposed 1.9 and the lot area per unit decreases to 581 sq. ft. from 750 sq. ft. Attorney Buchbinder noted that by special permit the lot area per unit can be waived to 0 and FAR up to 2.5 is allowable.

Attorney Buchbinder reviewed project benefits. Improvements to Washington Street/Walnut Street intersection would include upgraded signalization, decreasing the width of the street and increasing the sidewalk width. The proposed development would be LEED Gold Certified and the petitioner would contribute \$782,000 for inflow and infiltration. The petitioner has additionally proposed to mitigate the impact of the development with additional benefits with costs not to exceed \$1 million dollars. As part of the additional mitigation funds, the petitioner proposes the implementation of a transit subsidy pilot program (\$300,000), that would incentivize residents to use public transportation and reduce the number of cars at the site. The remaining \$700,000 could be used for additional bike lanes, a bike sharing station, streetscape improvements across from the site on Walnut Street or buried utility lines in the south side of Washington Street. It was noted that the utility poles on Washington Terrace and at the project site will be undergrounded as part of the project at the petitioner's expense. Attorney Buchbinder noted that the City's Planning Department is supportive of the project.

With a motion from Peter Doeringer to adjourn the public hearing for the Planning Board, the Planning Board adjourned. Some members of the Planning Board remained to hear public comment, and noted that their public hearing would continue on May 30, 2017. The Land Use Committee resumed review of the Council Order Schedules.

#### **Schedule A**

Lists the total relief for the building. Ms. Ananth noted that two dimensional standards (FAR and lot area per unit) need to be updated. It was noted that the Planning Department has reviewed and confirmed all of the relief listed.

#### **Schedule B**

Lists final plans. Ms. Ananth noted that if the below grade garage is relocated, the plans will need to be updated.

#### **Schedule C**

Attaches the Engineering Department's Analysis which details the I & I contribution calculations.

#### **Schedule D**

Lists possible improvements that the \$700,000 mitigation funds could fund:

- Bike facilities on both side of Walnut Street (est. \$50-\$100,000)
- Bike sharing station (est. up to \$120,000)
- Streetscape improvements on east side of Walnut Street to match west side of Walnut Street – - It was noted that this work should be completed by a common contractor for consistency in design (est. \$150-\$200,000)
- Burying of utility lines from Washington Terrace to Walnut Street (est. \$250,000). It was confirmed that only Eversource and the City has equipment on these poles.

It was noted that the petitioner would also make a lump sum payment of \$700,000 to the City in order to do the work. A Councilor suggested that the \$700,000 could be the beginning of a fund for train station improvements.

A Committee member noted that the list of improvements does not align with the priority list submitted by the Newtonville Area Council. Committee members requested that the Planning Department provide accurate cost estimates and recommendations for what should be prioritized in advance of the May 30 meeting.

#### **Schedule E**

Details the Transportation Demand Management Subsidy Program. This schedule explains how the \$300,000 will be prioritized amongst tenants. The program provides a greater subsidy for fewer cars. Affordable units receive the subsidy at a higher percentage.

Councilors discussed whether a durational (approximately 3 year) transportation subsidy is an appropriate use of \$300,000 or if the funds should be directed to other improvements. Councilors agreed that while the program is durational now, it might be impactful in promoting transportation behavioral changes for residents in the long term. It was noted that the City's Director of Transportation Nicole Freedman is supportive of the subsidy program. A Committee member requested that Ms. Freedman compare the benefit with the subsidy program with a \$300,000 budget for bike lane improvements.

#### **Schedule F**

Details the Transportation Demand Management Plan. The plan details how the petitioner proposes to encourage reduced dependency on cars. It was noted that the petitioner will post information about transit services and schedules, provide bicycle accommodations (above ground and in the garage). The TDM includes a monitoring and reporting plan to provide feedback on the transit subsidy program to the Planning Department biannually. Councilors discussed limitations with regard to enforcement of the TDM plan and who is responsible for ensuring that monitoring and reporting conditions are being met. Director of Planning and Development Barney Heath noted that the petitioner could certify each year that the TDM conditions are being met. Councilors agreed that while enforcement is important, learning from the program can be beneficial. It was noted that having adequate signage about is important for the complaint driven system to be successful. Committee members also agreed that the City's Director of Transportation should provide an assessment of the program with suggestions related to implementation and reporting.

Attorney Buchbinder confirmed that additional electric vehicle charging stations can be added, if there is a demand for them.

#### **Schedule G**

Details the streetscape improvements to be made at the Walnut Street and Washington Street intersection at the expense of the petitioner as part of the project. Attorney young stated that this schedule needs additional detail and will specify how the completion of improvements at the intersection will coincide with completion of the project. She noted that the petitioner should work with City departments through each design phase and the work should be coordinated with the Walnut Streetscape Enhancement project.

#### **Schedule H**

Details the Inclusionary Housing Plan which includes 15% in accordance with the City's ordinances in addition to 10% for workforce/middle income housing. Councilors deliberated whether workforce housing is necessary and if it would be more beneficial to have additional inclusionary units. A Councilor noted that people aged 25-40 are leaving the City and emphasized the importance of retaining these individuals. Some Councilors felt that the subsidies should go to those most in need and where there is the highest demand (50% AMI). It was noted that there is need for housing at all levels. Some Committee members were in agreement that there are important social benefits as a result of having a mix of housing opportunities. The Committee resolved to keep the workforce housing units.

#### **Schedule I**

Includes a document submitted from the petitioner detailing how the project is meeting the fifth special permit criteria. Ms. Ananth noted that including the document includes information about the standards that the petitioner intends to meet. Committee members agreed that Condiiton 19 specifies the standards that the petitioner is expected to meet and that Schedule I is not necessary.

#### **Public Comment**

Kathleen Kouril Grieser, 258 Mill Street, noted that as elected officials, Councilors have an obligation to protect the rights of those abutters who petitioned against the request to rezone. (Comments attached).

Julia Malakie, noted that the MGL is supposed to protect abutters. She stated that the buffer zone is meaningless if it eliminates the rights of the abutters.

Peter Harrington, 157 Lowell Avenue, speaking on behalf of Neighbors for a Better Newtonville, submitted an independent shadow study (attached). He noted that a 60' building will cast a shadow 1/3 of the year. He questioned whether the developer's plans take into consideration the Planning Department's intention to narrow the streets in Newtonville. Mr. Harrington noted that the developer overpaid for the property. He does not believe that the Council should consider what could go at the site if the project is not approved and does not believe MU4 is appropriate in the neighborhood. He stated that he believes a court would find it against public policy to allow for the creation of the "buffer zone".

Rick Heym, 28 Baldwin, believes that the number of units will create additional opportunities for Newtonville residents.

Robert Smith, 20 Foster Street, noted that another protest will be filed. He noted that rather than presenting a scaled down project, the petitioner proposed the same project with a technical line. He noted that abutters are questioning whether the buffer zone is effective and believes that Councilors should consider whether the tactic justifies the change of zone.

Ellen Sheehy, 1253 Commonwealth Avenue, supports the project and believes it will make the City more livable and lively. She noted that the existing conditions in the area need improving.

Ed Daly, 67 Maplewood Avenue, noted that affordable housing is an issue and urged Committee members to adopt the middle income housing component. He stated that the inclusionary and affordable housing options are a good trade-off for the development.

Tarik Lucas, 36 Central Avenue, believes that the new proposal is an attempt to circumvent the law. He noted that the intent of the law was to protect abutters and that the petitioner has obvious disrespect for the law.

Adel Foz, Page Road, noted that even with a lower density project, there can still be affordable housing. He stated that density is the problem that impacts the environment and shadows. He noted that 3,000 people in the City remain opposed to the project.

Lynne Leblanc, 43 Brookdale Road, is opposed to the project. She read excerpts from a poem to exemplify how the petitioner is mocking residents in Newtonville.

Dana D'Agostino, 359 Cabot Street, noted that the SAC number is underestimated and that the net benefit to the City is only \$160,000/yr. She questioned why the Council cannot consider the number of school children when deliberating project benefits.

Gerard Slattery, 227 Walnut Street, expressed appreciation for Council members and submitted the attached letters. He remains concerned about the project impacts. He conducted an independent shadow study and noted that there will be substantial harm to his property 3 months each year. He questioned the effectiveness of the buffer zone.

Kenneth Roberts, 252 Cabot Street, Vice President and General Manager of Newtonville Camera, urged Newtonville residents to remain respectful of each other. He noted that the Council's decision should be made based on evidence, not slander. He reiterated that the MU4 zone was created in a near unanimous decision by the full Council and that the Orr Block was identified as one of the top locations for development.

Kathleen Hobson, 128 Dorset Road, representing Livable Newton, noted that because members of the public were told that there would be no public comment, they were not present. She stated that Livable Newton fully supports the project and feels that it is consistent with the City's Comprehensive plan.

Tamara Bliss, 9 Lewis Street, supports the need for single floor living. She noted that there are various transportation options including; Uber/Lyft, the MBTA and that having rewards for not having cars is a creative way to encourage alternate methods of transportation. She noted that workforce housing can provide incentives for residents at lower income levels to move up. She stated that there is a desperate need for housing and a lot of creativity in the project.

Kevin McCormick, 52 Madison Avenue, supports the project. He believes the development in collaboration with the Austin Street development will add a lot of vitality to the neighborhood and supply additional housing.

Anisha, 23 Murphy Court, supports the project and the affordable housing components.

The committee continued the public hearing to May 30, 2017 and adjourned at 9:30 pm.

**Respectfully submitted,**

**Marc C. Laredo, Chair**

**Nadia Khan**

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**From:** David A. Olson  
**Sent:** Tuesday, May 02, 2017 3:51 PM  
**To:** citycouncil  
**Cc:** Nadia Khan  
**Subject:** FW: Please forward today to all City Councilors. #95-17 & #96-17 Washington Place Re-Submission of Rezoning and SP requests  
**Attachments:** Kouril Grieser & Kavanagh Earlier Letters Re Korff Proposal.pdf; Kouril Grieser\_ Orr block rezoning a bad idea - News - Newton TAB - Newton, MA.pdf

**From:** Kathleen Kouril Grieser  
**Sent:** Tuesday, May 02, 2017 3:15 PM  
**To:** David A. Olson  
**Subject:** Please forward today to all City Councilors. #95-17 & #96-17 Washington Place Re-Submission of Rezoning and SP requests

Dear Mr. Olson,

I would be very grateful if you would kindly forward today the letter below and the attachments to all members of the City Council, and also make this letter and the attachments part of the official record on this matter, including posting to the City's website. Thank you so much.

Yours truly,  
 Kathleen Kouril Grieser

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Dear City Councilors,

As elected officials you each took an oath of office in which you swore to uphold the laws of the Commonwealth, an oath which included the following words:

*I, (your name), do solemnly swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent upon me as a member of the City Council of the City of Newton, agreeably to the rules and regulations of the constitution and laws of this commonwealth. So help me God.*

One of those laws is Chapter 40a Section 5 of the Massachusetts General Laws, which allows abutters to protest a proposed zoning change and secure a higher threshold of votes (18, rather than 16, in the case of Newton's City Council) needed to approve that proposed change. The abutters to Mr. Korff's proposed project followed the law, submitted a successful petition, and deserve the protection Massachusetts law affords them. You are sworn to uphold that law. It should be inconceivable to each and every one of you to even consider renegeing on your oath of office and casting aside the law you have sworn to uphold, the law we elected you to uphold.

Even those of you who would have supported this overreaching proposal, despite its negative impacts on Newton's commercial tax base, fiscal health, debt and quality of life for your constituents, surely cannot support Mr. Korff's cynical attempt to circumvent the law you have sworn to uphold. There is nothing to do but vote

NO to the rezoning and NO to the Special Permit. To reward Mr. Korff for his Machiavellian scheming will ensure years of litigation, more inflating of housing prices by incentivizing property speculation, more "devil strip" proposals from other greedy property speculators, a more dysfunctional municipality and a more distressed citizenry. Mr. Korff simply must return to the negotiating table with neighbors and come up with a project, within the existing zoning, that works for him, for the neighbors, for Newtonville, and in fiscal terms for Newton as a whole.

Moreover, your constituents elected you to safeguard our interests and our community from bad planning, predatory property speculators and disastrous fiscal imbalances. You have a fiduciary responsibility to reject a spot rezoning that will convert some of Newton's small and precious commercial tax base to a primarily residential use. In a community facing more than \$1 billion dollars in debt - and for which all three of your colleagues who are running for mayor have said, publicly, that more overrides are needed to cover capital projects, debt service and operating expenses - how could you in good conscience vote for a project that will push Newton further into debt?

Additional residential developments cost more in city services than they yield in tax revenue. The higher the density, the worse the fiscal impact. Approving this project is evidence of a kind of fiscal magical thinking, insanity or worse. MU4 may have been a well-intentioned mistake, but it was a mistake nonetheless. I urge you to repeal it before it cannibalizes what little remains of our insufficient commercial tax base. Newton's spending habits are unsustainable. This project is fiscally unsustainable. It is not rational, practical or ethical to approve the rezoning or the Special Permit for those reasons, and all the other reasons residents have articulated over the course of the past two years.

There are a number of aspects of this proposal that are, or remain, particularly egregious:

1. That despite reducing the amount of his property for which he is requesting MU4 rezoning, Mr. Korff hasn't reduced the number of units. That means a dramatic increase in the FAR from 1.92 to 2.49, and a dramatic reduction in the lot area per unit from 725 square feet to 581, where 1000 is required under MU4. He is thumbing his nose in your faces.

2. None of the concessions offered by Mr. Korff to the abutters or to the City Council survive in this re-submitted devil strip petition.

- Why not 140 units?
- What happened to meeting DHCD levels of affordability such that 100% of project units count on the SHI?
- What about getting rid of the extremely problematic "workforce housing" units?

**3. The failure to meet DHCD levels of affordability such that 100% of total project units count on the SHI should be a deal breaker for any elected official who understands economics and the necessity of retaining local control over local land use planning and decision-making.**

4. This proposal should be rejected on the basis of the rezoning request and the attempt to circumvent state law protecting abutters' rights, and should never even get to the stage of Special Permit consideration, but if it does, the following Special Permit criteria are certainly not met by this proposal, and it would be comical (if it were not so damaging and wrong) to pretend that they are:

- The proposed project as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3.)

- The proposed structures are compatible in visual scale to their surroundings, do not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of the Mixed Use 4 District. (§4.2.5.A.2.)
- The proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in the vicinity, and better achieves the purposes of this district than strict compliance with these standards. (§4.2.5.A.3.)
- The proposed plan can better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of the Mixed Use 4 district than strict compliance with the setback requirements. (§4.2.5.A.4.)

Mr. Korff has been disingenuous from the start. He has wasted the time of all of you, of the Planning & Development Board, the neighbors, and residents generally. He's made "concessions" he hasn't meant. He's threatened a 40B he knows he can't get. He's coerced, cajoled and bullied, and now he has trampled on the law, all because he wants the precedent of MU4 so he can do MU4 monstrosities all over Newton. MU4 is the one thing you should never give him, or anyone else. Creating MU4 was a terrible mistake. I ask you, respectfully, to vote NO and NO. I believe every single one of you will do the right thing and honor your oath of office and uphold the law by rejecting this rezoning request and the Special Permit application that rests on it.

Thank you for considering my views.

Yours truly,

Kathleen Kouril Grieser

Mill Street, Newtonville

P.S. - I have attached a PDF of all of my previous letters (and one from Bob Kavanagh) and a TAB column I wrote about this project for your convenience.



Shadow length:

4.80

You may also calculate the shadow growth during the whole day using the calculator below:

## Daily shadow growth

ⓂⓂ (<http://planetcalc.com/1876/?license=1>)

Object height:

60

Date:

Wed, 15

Novembe

2017

Time Zone:

5

Latitude:

42 °

20 '

0 °

● N

● S

Longitude:

71 °

10 '

0 °

● E

● W

Calculation precision:

0.12345678901234567890

Time	Shadow length
7:30	1015.26
8:00	420.30
8:30	269.09
9:00	200.56
9:30	162.12
10:00	139.97
10:30	124.37
11:00	114.56
11:30	109.13
12:00	107.39
12:30	109.16
13:00	114.62
13:30	124.47
14:00	140.12
14:30	164.52
15:00	204.04
15:30	275.05
16:00	434.32
16:30	1097.85



Shadow length:

4.80

You may also calculate the shadow growth during the whole day using the calculator below:

### Daily shadow growth

①② (<http://planetcalc.com/1876/?license=1>)

Object height:

60

Date:

Fri, 15

Decembe

2017

Time Zone:

5

Latitude:

42 °

20 ' 0 "

N S

Longitude:

71 °

10 ' 0 "

E W

Calculation precision:

0.12345678901234567890

Time	Shadow length
8:00	1228.65
8:30	477.31
9:00	303.41
9:30	227.13
10:00	186.47
10:30	161.04
11:00	145.40
11:30	136.38
12:00	132.51
12:30	133.21
13:00	138.60
13:30	149.46
14:00	167.70
14:30	197.34
15:00	247.74
15:30	345.08
16:00	598.61
16:30	2738.23



Shadow length:

4.80

You may also calculate the shadow growth during the whole day using the calculator below:

## Daily shadow growth

Ⓢ (<http://planetcalc.com/1876/?license=1>)

Object height:

60

Date:

Sun, 15

January

2017

Time Zone:

5

Latitude:

42 °

20 °

0 °

☉ N ☿ S

Longitude:

71 °

10 °

0 °

☉ E ☿ W

Calculation precision:

0.12345678901234567890

Time	Shadow length
8:00	1730.75
8:30	520.91
9:00	313.35
9:30	228.19
10:00	181.41
10:30	154.33
11:00	137.33
11:30	126.94
12:00	121.47
12:30	120.18
13:00	122.91
13:30	130.02
14:00	142.51
14:30	162.56
15:00	194.76
15:30	249.99
16:00	360.46
16:30	678.80
17:00	9613.28



Shadow length:

4.80

You may also calculate the shadow growth during the whole day using the calculator below:

## Daily shadow growth

ⓈⓈ (<http://planetcalc.com/1876/?license=1>)

Object height:

60

Date:

Wed, 11 February 2017

Time Zone:

5

Latitude:

42° 20' 0" N S

Longitude:

71° 10' 0" E W

Calculation precision:

0.12345678901234567890

Time	Shadow length
7:30	1657.81
8:00	475.03
8:30	279.74
9:00	199.56
9:30	156.18
10:00	127.66
10:30	110.38
11:00	98.79
11:30	91.29
12:00	87.07
12:30	85.74
13:00	87.18
13:30	91.51
14:00	99.13
14:30	110.89
15:00	128.43
15:30	155.05
16:00	198.13
16:30	277.60
17:00	470.29
17:30	1613.86

March 28, 2017

Dear Councilors of The City of Newton,

My name is Patrick Slattery, I would like to speak to you about the proposed development at the Orr Black referred to as Washington Place.

I own 227 Walnut Street in Newtonville. I am a direct abutter to the project.

1. I ask you to close the exit and street that is proposed right next to my property at 227 Walnut Street. I ask you to open up the original exit that was on the original plan. This second exit on Washington Street should have a traffic light to better accommodate traffic in the area and on the project. If this change is not made it will be a severe and real danger to the health, welfare and safety of my tenants. This danger is so great that it may even cause the LOSS OF LIFE! I will explain this danger in detail in point 2.
2. I have a responsibility to my tenants to protect their health, welfare and safety to the best of my ability. I take this responsibility very seriously.

The proposed building will only be 45 feet from my property. My carriage house an existing dwelling. This poor design will create a man made valley that will trap all exhaust fumes from vehicles and will prevent fresh air from circulating. This will put my tenants at my carriage house in real danger of CARBON MONOXIDE POISONING. This will a severe danger and possible harm to my tenants health and even their lives. This will be a constant danger to my tenants 24 hours a day 365 days a year. The same danger exists for my property at 227 Walnut Street.

The exhaust fumes will enter any open window during the spring, summer and fall months. This means that my tenants will never be able to open their windows or risk being poisoned. The danger in the winter is even worse. The intake duct for the heating system is on the south side of my carriage house. If the proposed project is built as proposed it will mean that the intake duct for the heating system will be venting CARBON MONOXIDE into the Carriage House instead of fresh air. The will cause serious harm to the health of my tenants. It may even cause DEATH! The same danger exists for my property at 227 Walnut Street.

I have done my best to protect my tenants. If you allow this project to be built as proposed then the responsibility and the liability for this matter and the is on the developer and the City Council.

3. All of the issues that I have raised in point 2 will further exacerbated by the

underground garage facing my Carriage House. These dangers also exist for my property at 227 Walnut Street. The noise of vehicles entering and exiting and the noise of the steel gate opening and closing will be a problem and disturbance for my tenants 24 hours a day, seven days a week. The lights and alarms

4. Mr. Korff has proposed putting up a screen next to my property. This is not a solution. It will only make the vent problem for my carriage house worse.
5. When I look out the windows of my carriage house or my property at 227 Walnut street; if the proposed building is build. I will only be looking up a huge 5 story brick building, with the constant stink and toxic fumes of vehicles endangering the the health, welfare and safety of my tenants.
6. The roof deck right next to my carriage house and my property at 227 Walnut Street is unjust and should moved to another location. It is not just that my tenant will have to put up with a party deck towering 5 stories over them. They will not be able to sleep or enjoy themselves without a constant annoyance from this party deck.
7. We have grave concerns regarding the Loading zones proposed on the project, especially on the Walnut Street side. I spoke to Mr. Korff he told me that no deliveries will happen before 10 AM. He said that no deliveries will be delivered late at night. So what in fact are the times of delivery? Is this a case of De Facto versus De Jure?  
It seems hard to believe that a truck with a 40 foot trailer(around 60 feet in total) will be able  
to turn from Washington onto Walnut Street onto the property without a major traffic impact.  
So will we in fact as abutters have to endure loud and noisy deliveries at all hours of the  
night? Did the traffic study take this information into account? If it did I would like to see this  
information. Is it in the traffic Study animation?  
We are also concerned about deliveries that will take place in the "Drop Off Zone" on Walnut  
Street. It seems obvious that delivery truck will block the vision and line of sight of people  
trying to enter and exit from the Walnut Street entrance. Was this negative impact shown in  
the traffic study? Will truck with 40 foot trailers be parking in this "drop off area"? This  
would be a total block to traffic until the truck moved?



I ask this Council to make the following changes to this proposal.

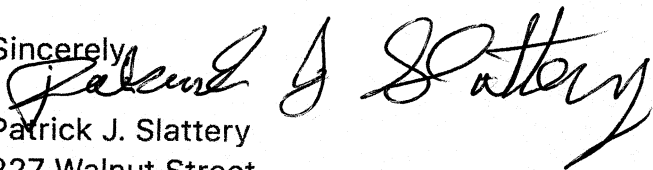
1. Close and Move the entrance on Walnut Street to a safer location.
2. The current 2 hour on street parking in front of my property is to be preserved.
3. There will be no signage next to my property at 227 Walnut Street.
4. I should get the same 90 foot set back as the other abutters on Foster Street.
5. The garage entrance must be moved from facing my carriage house and property at 227 Walnut Street. This garage should not be next to my residence,
6. My fence which is my property and in good condition shall not be removed. The existing fence is PVC and in good condition. We request that a steel fence be erected at least 5 feet away from my fence to protect my fence during construction.
7. The shadow study done by Mr. Korff shows serious shadows will be cast on my property by the proposed project. We have had our own shadow study done. Our study confirms this finding. The law says that no shadow may be cast on an abutting property as of 2017.

I have presented my position to Mr. Korff repeatedly. He has never given me any answer to my requests. I would like a definite answer from Mr. Korff so I can know what further steps I will need to take to protect my rights and my property.

I would like this Council to know that I am only asking for what is right and just for myself my tenants and my property. I hope that you will ask Mr. Korff to make the changes to his project that I am asking for, in the best interest of the whole of the City of Newton.

Thank you,

Sincerely,

  
Patrick J. Slattery  
227 Walnut Street