

CITY OF NEWTON

IN CITY COUNCIL

December 4, 2017

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 21,899 square foot, 20-unit multi-family structure of three stories and 34.41 feet in height, reduce the parking requirement from two to 1.25 stalls per unit, allow parking within the side setback, allow waivers to the requirements of parking facilities containing more than five stalls, and the extension of a nonconforming side setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

- 1) The site is an appropriate location for the building as designed, given the neighborhood's mix of residential and commercial land uses and structures of varying scales and heights, as a transitional use along Langley Road from Route 9 as well as the commercial uses to the south and the residential uses to the north. (§4.3.2.B.1; §4.3.3 and §7.3.3.C.1)
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood as the petitioner submitted studies indicating the project will not affect vehicular traffic in the area and the petitioner has agreed to implement measures to encourage alternative modes of transportation not only for residents of the site, but also throughout the corridor. (§7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians as the main entrance to the development will not increase the number of access points to the site and the sidewalks along the frontage of the property will be widened, thereby improving the pedestrian experience. (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's proximity to Route 9 and Newton Centre. (§7.3.3.C.4)
- 5) The site planning, building design, construction, maintenance and long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy. The petitioner has committed to designing a building envelope in

excess of the State Building Code requirements, and landscaped with drought tolerant plantings. In addition, the petitioner has committed to studying the feasibility and return on investment of a number of other sustainability initiatives which will be reviewed by the Director of Planning and Development and Co-Director of Sustainability prior to the issuance of a building permit. (§7.3.3.C.5)

- 6) Exceptions to the parking requirements, including reducing the number of stalls from two per unit to 1.25 per unit, to locate parking within a setback, to waive the screening, interior landscaping, and lighting as well as surfacing requirements, and the dimensional and design controls for parking facilities containing more than five stalls are in the public interest or in the interest of safety, or protection of environmental features for the following reasons:
- a. The unit mix of studio, one-bedroom, and two-bedroom apartments along with the approximately 772 square foot average size of the units will likely attract tenants who have only one automobile per unit and or use alternative methods of transportation, making a parking waiver appropriate at this site. Covered bicycle parking will also be provided to encourage bike use.
 - b. The location of parking within property boundary setbacks makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
 - c. Existing fencing will be replaced and complemented with landscaping to screen the surface parking facility from abutting properties. Additionally, lighting will be minimized to not trespass onto neighboring properties while still lighting the facility to ensure safety.
 - d. Literal compliance with the dimensional parking requirements is impracticable due to the existing conditions and the development patterns on the subject property.

PETITION NUMBER: #285-17

PETITIONER: Langley Montrose LLC and Langley Farlow LLC

ADDRESS OF PETITIONER: 159 Cambridge Street
Allston, MA 02134

LOCATION: 392-396, 400, and 402-404 Langley Road

OWNER: Langley Montrose LLC and Langley Farlow LLC

ADDRESS OF OWNER: 159 Cambridge Street
Allston, MA 02134

TO BE USED FOR:	A Multi-Family Development consisting of a new 20-unit multi-family building, an existing 16-unit multi-family building and an existing 30-unit multi-family building with associated parking and site amenities, hereinafter the "Project."
EXPLANATORY NOTES:	Special permits per §7.3.3: To allow a 20-unit multi-family structure (§3.4.1); To allow a development in excess of 20,000 square feet of gross floor area (§4.1.2.B.1); To legalize a nonconforming side setback per MGL 40A § 7 (§3.4.1 and §7.8.2.C.2); To reduce the parking requirement to 1.25 stalls per unit (§5.1.4 and §5.1.13); To allow parking in the side setback (§5.1.8.A and §5.1.13); To waive the parking stall dimensional requirements (§5.1.8.B.1, §5.1.8.B.2, and §5.1.13); To waive the requirement for end parking stalls (§5.1.8.B.6 and §5.1.13); To waive the minimum aisle width (§5.1.8.C.2 and §5.1.13); To waive the perimeter screening requirements of parking facilities containing more than five stalls (§5.1.9.A and §5.1.13); To waive the interior landscaping requirements of parking facilities containing more than five stalls (§5.1.9.B and §5.1.13); To waive the lighting and surfacing requirements of parking facilities containing more than five stalls (§5.1.10 and §5.1.13).
ZONING:	Multi-Residence 3

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by VTP Associates, , signed and stamped by Joseph R. Porter, Professional Land Surveyor, consisting of the following six (6) sheets:
 - Topographic Site Plan, dated October 19, 2017, revised November 1, 2017 and November 13, 2017
 - Parking Plan, dated September 22, 2017, revised October 5, 2017, October 19, 2017, November 1, 2017, and November 13, 2017
 - Vehicle Path Plan, dated November 1, 2017, revised November 13, 2017
 - Grading, Drainage, and Utility Plan, dated September 21, 2017, revised October 5, 2017, October 19, 2017, November 1, 2017, and November 13, 2017
 - Detail-1, dated September 22, 2017, revised November 1, 2017

- Detail-2, dated September 22, 2017
 - b. Architectural Plans entitled, “Langley Terrace 392-404 Langley Road Newton Massachusetts, prepared by Perkins Eastman, consisting of the following six (6) sheets:
 - I. AD-10: 402-404 Garage Plan, dated November 10, 2017
 - II. A-00 Langley Terrace Garage Plan, dated November 10, 2017
 - III. A-01 First Floor Plan, dated September 8, 2017
 - IV. A-02 Second Floor Plan, dated September 8, 2017
 - V. A-03 Third Floor Plan, dated September 8, 2017
 - VI. A-04 Roof Plan, dated September 8, 2017
 - c. Landscape Plans entitled, “Langley Terrace 392-404 Langley Road Newton, Massachusetts, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, consisting of three (3) sheets:
 - i. L-000 Tree Removal Plan, dated October 30, 2017
 - ii. L-100 Landscape Plan, dated September 8, 2017 revised October 30, 2017
 - iii. L-101 Planting Plan, dated September 8, 2017 revised October 30, 2017
2. In accordance with the City’s Inclusionary Zoning Ordinance (§5.11.4), four (4) of the residential units in the new multi-family structure shall be made available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA. As proposed in the Preliminary Inclusionary Housing Plan, two (2) of these units shall be made available to households earning at or below 80% AMI, and two (2) of these units shall be made available to households earning at or below 50% AMI. Monthly housing costs (inclusive of heat, hot water, electricity, domestic water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery 70% of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).
 3. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State’s Subsidized Housing Inventory (SHI) as Local Action Units through DHCD’s Local Initiative Program. Prior to the issuance of any building permits for the construction of the Project, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
 4. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD’s guidelines for Affirmative Fair

Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. . In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.

5. The petitioner shall comply with the City's Tree Preservation Ordinance.
6. The petitioner shall meet with appropriate local as well as State officials regarding efforts to participate in the "Safe Routes to School Program" for the Bowen Elementary School.
7. Prior to the issuance of a building permit, the petitioner shall provide a final plan signed and stamped by an professional land surveyor or professional engineer detailing the width of the sidewalks along the Project's frontage after consultation with the Director of Planning and Development and Commissioner of Public Works. Prior to the issuance of any certificate of occupancy, he petitioner shall grant the City of Newton a public access easement for use of that portion of the widened sidewalk on the petitioner's property for all purposes permitted on public sidewalks. The City's Law Department shall review and approve the form of the easement prior to its execution and the petitioner shall be responsible at its sole cost of preparing and recording the easement. Such easement agreement may require the petitioner to be responsible for construction and maintenance of the widened sidewalk.
8. The petitioner shall contribute \$5,000 a year for a period of ten years (for a total payment of \$50,000) for the initiation and ongoing operations of a shuttle serving the project site. Said payments to the City shall commence on the date any building permit is issued for the Project and annually thereafter but the petitioner may prepaid in whole or in part at any time. In the event the City determines that a shuttle is infeasible, the funds may be used at any time by the City for any transportation measures in the area which are deemed to affect the Project.
9. Prior to the issuance of any building permit for the Project, the petitioner shall pay the sum of \$12,000 to the City for the cost and installation by the City of two speed feedback display signs on Langley Road. The petitioner shall have no obligation regarding the ongoing maintenance or repair of said speed feedback display signs.
10. Prior to the issuance of any building permit for the Project, the petitioner shall pay for not more than three public bicycle racks, at a cost of \$600 each, which bicycle racks shall be installed and maintained by the City. One of the bicycle racks shall be located on the Langley Road frontage of the Project at a location acceptable to the petitioner and the Director of Transportation.
11. Prior to the issuance of any building permit for the Project, the petitioner shall provide an Approval Not Required ("ANR") plan combining the three lots into one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the Middlesex Registry of Deeds. A certified copy of the ANR plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.
12. The petitioner has submitted a memorandum dated November 30, 2017 prepared by its architects, Perkins Eastman, addressing the issue of sustainability for the Project, a copy of which is on file with the City Clerk's office. Paragraph A of the memorandum sets forth

a series of sustainable strategies which the petitioner has agreed to incorporate into the Project. Paragraph B sets forth a list of other sustainable strategies which the petitioner has committed to analyze in order to determine their feasibility and the possible return on investment if they were to be implemented. The latter will be reviewed by and discussed with the Director of Planning and Development and the co-Director of Sustainability prior to the issuance of any building permit for the Project. The petitioner is not committing to implement any of the items noted in Paragraph B.

13. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the new units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
14. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance
15. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
16. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works.
17. At the Petitioner's sole expense, the petitioner shall use best efforts to locate all utility service lines on site underground, including any utility service lines along the Project's frontage on Langley Road, subject to necessary approvals from the utility companies. In the event undergrounding utilities is infeasible, the petitioner shall contribute \$25,000 to the City for any streetscape improvements in the area from which the Project may benefit. The City will consult with the petitioner regarding the streetscape improvements, but the City shall have the sole authority to decide on the specific improvements to be installed.. Said funds may also be used for improvements associated with the Safe Routes to School Program for the Bowen Elementary School.
18. Prior to the issuance of any building permit for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioners at the Middlesex South District Registry of Deeds and implemented. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
19. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.

20. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
- a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity relating to the nearby public school in determining hours and routes for construction vehicles.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
21. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
22. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:

- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
 - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a final plan of land, recorded at the Middlesex Registry of Deeds, to the Engineering Division of Public Works in accordance with Condition #11.
 - g. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
 - h. Entered into a Regulatory Agreement and Declaration of Restrictive Covenants for each of the Inclusionary Units with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
 - i. Make the payments to the city required under Conditions #8, #9, and #10..
 - j. Submitted the final design and construction documents and memorandum outlining how the Project will contribute significantly to the efficient use and conservation of energy and natural resources to the Director of Planning and Development and Co-Director of Sustainability as required by Condition #12.
23. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City

Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.

24. No final occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - e. Provided evidence satisfactory to the Law Department that the Regulatory Agreement and Declaration of Restrictive Covenants for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds and/or Southern Middlesex Land Court, as appropriate.
 - f. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units such that no more than three market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
 - g. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.

CITY OF NEWTON

IN CITY COUNCIL

December 4, 2017

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 21,899 square foot, 20-unit multi-family structure of three stories and 34.41 feet in height, reduce the parking requirement from two to 1.25 stalls per unit, allow parking within the side setback, allow waivers to the requirements of parking facilities containing more than five stalls, and the extension of a nonconforming side setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

- 1) The site is an appropriate location for the building as designed, given the neighborhood's mix of residential and commercial land uses and structures of varying scales and heights, as a transitional use along Langley Road from Route 9 as well as the commercial uses to the south and the residential uses to the north. (§4.3.2.B.1; §4.3.3 and §7.3.3.C.1)
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood as the petitioner submitted studies indicating the project will not affect vehicular traffic in the area and the petitioner has agreed to implement measures to encourage alternative modes of transportation not only for residents of the site, but also throughout the corridor. ~~too~~ (§7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians as the main entrance to the development will not increase the number of access points to the site and the sidewalks along the frontage of the property will be widened, thereby improving the pedestrian experience. (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's proximity to Route 9 and Newton Centre. (§7.3.3.C.4)
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envelope in excess of the State Building Code requirements, and landscaped with~~complemented with~~ drought tolerant planting species. In addition, the petitioner has committed to studying the feasibility and return on investment of a number of other sustainability initiatives which will be ~~provided~~reviewed to~~by~~ the Director of Planning and Development and Co-Director of Sustainability prior to the issuance of a building permit. (§7.3.3.C.5)

- 6) Exceptions to the parking requirements, including reducing the number of stalls from two per unit to 1.25 per unit, to locate parking within a setback, to waive the screening, interior landscaping, and lighting as well as surfacing requirements, and the dimensional and design controls for parking facilities containing more than five stalls are in the public interest or in the interest of safety, or protection of environmental features for the following reasons:
- a. The unit mix of studio, one-bedroom, and two-bedroom apartments along with the approximately 772 square foot average size of the units will likely attract tenants who have only one automobile per unit and or use alternative methods of transportation, making a parking waiver appropriate at this site. Covered bicycle parking will also be provided to encourage bike use.
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TO BE USED FOR:	<u>A Multi-Family Development consisting of a new 20-unit multi-family building, an existing 16-unit multi-family building and an existing 30-unit multi-family building with associated parking and site amenities, hereinafter the "Project."</u>
EXPLANATORY NOTES:	Special permits per §7.3.3: To allow a 20-unit multi-family structure (§3.4.1); To allow a development in excess of 20,000 square feet of gross floor area (§4.1.2.B.1); To legalize a nonconforming side setback per MGL 40A § 7 (§3.4.1 and §7.8.2.C.2); To reduce the parking requirement to 1.25 stalls per unit (§5.1.4 and §5.1.13); To allow parking in the side setback (§5.1.8.A and §5.1.13); To waive the parking stall dimensional requirements (§5.1.8.B.1, §5.1.8.B.2, and §5.1.13); To waive the requirement for end parking stalls (§5.1.8.B.6 and §5.1.13); To waive the minimum aisle width (§5.1.8.C.2 and §5.1.13); To waive the perimeter screening requirements of parking facilities containing more than five stalls (§5.1.9.A and §5.1.13); To waive the interior landscaping requirements of parking facilities containing more than five stalls (§5.1.9.B and §5.1.13); To waive the lighting and surfacing requirements of parking facilities containing more than five stalls (§5.1.10 and §5.1.13).
ZONING:	Multi-Residence 3

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3. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any building permits for the construction of the Project, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
4. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident

Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. ~~The Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan should treat the units the same with respect to Affirmative Marketing and advancing Fair Housing in Newton.~~ In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.

5. The petitioner shall comply with the City's Tree Preservation Ordinance.
6. The petitioner shall meet with ~~local~~appropriate local as well as State ~~representatives~~officials regarding efforts to participate in the "Safe Routes to School Program" for the Bowen Elementary School.
7. Prior to the issuance of a ~~B~~building ~~P~~permit, the petitioner shall provide a final plan signed and stamped by an professional land surveyor or professional engineer detailing the width of the sidewalks along the Project's frontage after consultation with the Director of Planning and Development and Commissioner of Public Works. Prior to the issuance of any certificate of occupancy, if necessary, the petitioner shall grant the City of Newton a public access easement for use of that portion of the widened sidewalk on the petitioner's property for all purposes permitted on public sidewalks. The City's Law Department shall review and approve the form of the easement prior to its execution and the petitioner shall be responsible at its sole cost of preparing and recording the easement. Such easement agreement may require the petitioner to be responsible for construction and maintenance of the widened sidewalk.~~enter into an agreement with the City, under the purview of the Law Department, regarding the future maintenance of said sidewalks.~~
8. ~~Prior to the issuance of a building permit, t~~The petitioner shall ~~contribute~~commit to providing \$5,000 a year for a period of ~~not more than~~ ten years (for a total payment of \$50,000) for the initiation and ongoing operations of a shuttle serving the project site. Said payments to the City shall commence on the date any building permit is issued for the Project and annually thereafter~~be made on or before February 1st of each year, commencing February 1, 2018,~~ but the petitioner may be prepaid in whole or in part ~~by the petitioner~~ at any time. In the event the City determines that a shuttle is infeasible, the funds may be used at any time by the City for any transportation measures in the area which are deemed to affect the Project.
9. Prior to the issuance of any building permit for the Project, the petitioner shall pay the sum of \$12,000 to the City for the cost and installation by the City of two speed feedback display signs on Langley Road. The petitioner shall have no obligation regarding the ongoing maintenance or repair of said speed feedback display signs.
10. Prior to the issuance of any building permit for the Project, the petitioner shall pay for not more than three public bicycle racks, at a cost of \$600 each, which bicycle racks shall be installed and maintained by the City. One of the bicycle racks shall be located on the Langley Road frontage of the ~~p~~Project at a location acceptable to the petitioner and the Director of Transportation.

11. Prior to the issuance of any ~~B~~building ~~P~~permit for the Project, the petitioner shall provide an Approval Not Required ("ANR") final plan showing the combination of combining the three lots into one lot to the ~~City Engineer~~Engineering Division of Public Works for review and approval. Once approved, the ~~Plan~~ANR plan must be recorded at the Middlesex Registry of Deeds. A certified copy of the ~~ANR P~~plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.
12. The petitioner has submitted a memorandum dated November 30, 2017 prepared by its architects, Perkins Eastman, addressing the issue of sustainability for the Project, a copy of which is on file with the City Clerk's office. Paragraph A of the memorandum sets forth a series of sustainable strategies which the petitioner has agreed to incorporate into the Project. Paragraph B sets forth a list of other sustainable strategies which the petitioner has committed to analyze in order to determine their feasibility and the possible return on investment if they were to be implemented. The latter will be reviewed by and discussed with the Director of Planning and Development and the co-Director of Sustainability prior to the issuance of any building permit for the Project. The petitioner is not committing to implement any of the items noted in Paragraph B.~~Prior to the issuance of any building permit, the petitioner shall submit final design and construction documents and a memorandum outlining how the Project will contribute significantly to the efficient use and conservation of energy and natural resources for review and approval to the Director of Planning and Development and Co-Director of Sustainability.~~
13. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the new units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
14. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
15. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
16. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works.
17. At the Petitioner's sole expense, the ~~P~~petitioner shall use best efforts to locate all utility service lines on site underground, including any utility service lines along the Project's frontage on Langley Road, subject to necessary approvals from the utility companies. In the event undergrounding utilities is infeasible, the petitioner shall contribute \$25,000 to the City for any streetscape improvements ~~consult with the Director of Planning and Development, Director of Transportation, and City Solicitor to determine the level of funding for any streetscape improvements~~ in the area from which the Project may

benefit. The City will consult with the petitioner regarding the streetscape improvements, but the City shall have the sole authority to decide on the specific improvements to be installed, but which in no event shall exceed \$25,000. Said funds may also be used ~~eligible~~ for ~~an~~ improvements associated with the Safe Routes to School Program for the Bowen Elementary School.

18. Prior to the issuance of any ~~B~~building ~~P~~permit for the Project~~pursuant to this Special Permit/Site Plan Approval~~, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be ~~adopted by applicant and~~ recorded by the petitioners at the Middlesex South District Registry of Deeds and implemented herewith. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
19. Prior to the issuance of any ~~B~~building ~~P~~permit for the Project~~pursuant to this Special Permit/Site Plan Approval~~, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
20. Prior to the issuance of any building permit for the Project~~pursuant to this Special Permit/Site Plan Approval~~ the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity relating to the nearby public school in determining hours and routes for construction vehicles.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize

off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.

- g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
21. The ~~Ppetitioner~~petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
22. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
 - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a final plan of land, recorded at the Middlesex Registry of Deeds, to the Engineering Division of Public Works in accordance with Condition #116.
 - g. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
 - h. Entered into a Regulatory Agreement and Declaration of Restrictive Covenants for

each of the Inclusionary Units with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.

- i. Make the payments to the city required under Conditions #8, #9, and #10, ~~and #9~~.
 - j. Submitted the final design and construction documents and memorandum outlining how the Project will contribute significantly to the efficient use and conservation of energy and natural resources to the Director of Planning and Development and Co-Director of Sustainability as required by Condition #12, ~~#11~~.
23. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
24. No final occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - e. Provided evidence satisfactory to the Law Department that the Regulatory Agreement and Declaration of Restrictive Covenants for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds and/or Southern Middlesex Land Court, as appropriate.
 - f. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units such that no more than three market rate units may receive occupancy permits until the corresponding affordable unit has received its

occupancy permit.

- g. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.