

CITY OF NEWTON
IN CITY COUNCIL

May 21, 2018

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #96-17, which allowed a four and five-story, mixed-use structure, incorporating residential units and commercial space, by modifying the approved plans with regard to the 140-unit option only and modifying the conditions pertaining to inclusionary zoning with regard only to when the draft and final Regulatory and Declaration of Restrictive Covenants need to be submitted for approval, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz.

1. The revised plans for the 140 unit option (the "Revised 140 Unit Option") is a hybrid of the approved 140 unit option and the approved 160 unit option, with some of the massing of the approved 140 unit option being relocated from the Walnut Street building such that the revised massing of the middle building of the Revised 140 Unit Option on Washington Street is consistent with and reflects the massing of that building in the approved 160 unit option.
2. The modification to Condition 24(i) in Council Order #96-17 pertaining to when the draft and final Regulatory Agreement and Declaration of Restrictive Covenants need to be submitted for local and state approval reflects recommendations of the Department of Housing and Community Development for such timing. No other change of any kind is made with regard to the inclusionary and income restricted units.
3. The modifications made by this amendment to Council Order #97-17 are minor in nature, are not material or substantive, reflect the findings and approvals granted by the City Council in Council Order #97-17, and support the following with regard to this amendment:

- a. The specific site is an appropriate location for the amendments to Council Order #96-17 because the site is governed by a special permit allowing the construction of mixed use development of four and five stories. (§7.3.3.C.1)
- b. The amendment to Council Order #96-17 as developed and operated will not adversely affect the surrounding neighborhood. (§7.3.3.C.2)
- c. The amendment to Council Order #96-17 will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- d. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- e. The site plan approval criteria are satisfied. (§7.4.5.B.1-7)

PETITION NUMBER: #216-18

PETITIONER: Mark Newtonville, LLC

LOCATION: 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 (a/k/a 835-843 Washington Street), 241 Walnut Street, Bailey Place, 22 Bailey Place, 14-18 Bailey Place, and an unnumbered lot on 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, Ward 2, currently zoned Business 1, Business 2, and Public Use (the Project Site)

OWNER: Mark Newtonville, LLC

ADDRESS OF OWNER: 57 River Street, Suite 106, Wellesley, MA 02481

TO BE USED FOR: A mixed use development in excess of 20,000 square feet consisting of three interconnected buildings with building heights of not more than 60 feet and five stories, total gross floor area not exceeding 236,000 square feet incorporating up to 160 residential units, not exceeding 48,000 square feet of commercial space, not less than

2,000 square feet of community space, not less than 309 on-site 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 service, and street level medical office

CONSTRUCTION: Masonry structure over a structural steel and concrete base

EXPLANATORY NOTES: Amendment to Council Order #96-17 to reconfigure the massing of the 140 unit option by removing massing of the east building and creating a fifth floor on the middle building on Washington Street; also to amend the landscape plan and photometric plan; to modify the timing for approval of the Regulatory Agreements and Declaration of Restrictive Covenants

ZONING: Mixed Use 4

Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #96-17 by modifying the approved 140 unit option to reconfigure the massing of the buildings and to amend the landscaping and photometric plans, and to delete Condition 24(i) regarding the timing for approval of the Regulatory Agreements and Declaration of Restrictive Covenants pertaining to inclusionary zoning for either the Approved 140 Unit Option or the approved 160 unit option. All other conditions of Council Order #96-17 remain in full force and effect.

1. Schedule B of Council Order #97-17 is amended by replacing the "140 Unit Plans" with the revised 140 Unit Plans attached hereto and which are hereby incorporated by reference.
2. 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 Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative 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.

3. Condition 24(i) of Council Order #97-17 is deleted in its entirety.
4. Prior to issuance of any Building Permits for the vertical construction of the Project the Petitioner shall record a certified copy of this Council Order and Council Order #96-17 with the Registry of Deeds for the Southern District of Middlesex County and file a copy of such recorded Council Orders with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
5. No temporary certificate of occupancy for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
 - a. Provided evidence confirming the marketing, lottery, and resident selection for the Deed Restricted Units has been completed to the Director of Planning and Development.
 - b. Submitted to the Law Department copies of fully-executed Regulatory Agreements and Affordable Housing Restrictions for all Deed Restricted Units, as described in Conditions 9 through 12 of Council Order #96-17.
 - c. 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 Deed Restricted Unit has received its occupancy permit.