77 Paul Street/1400 Centre Street

#332-19

CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019

ORDERED:

That the City 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #650-86(2) to allow alteration to an existing structure, extending the existing nonconforming use by constructing an addition for an elevator and an addition for a stairwell, to reduce the nonconforming lot coverage and to further extend the nonconforming parking in the front setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the amendment to Special Permit #650-86 that creates an additional curb cut and other site changes, including the removal of an unsafe ramp. (§7.3.3.C.1)
2. The proposed amendment to Special Permit #650-86 that creates an additional curb cut and other site changes will not adversely affect the neighborhood as the loss of trees will be minimized while allowing for adequate site distances from the new ramp. (§7.3.3. C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians by the proposed amendment to Special Permit #650-86 (2) that creates an additional curb cut and other site changes because the parking is utilized by tenants and employees and will have limited turnover. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the parking accessed by the new ramp will primarily be tenant and employee parking, which has low turnover, and the ramp allows for the removal of an unsafe ramp. (§7.3.3.C.4)
5. The proposed alterations of the nonconforming structure and use are not substantially more detrimental than the existing nonconforming structure because the additions total less than 200 square feet. (§3.4.1, §7.8.2.C.2)
6. The extension of the nonconforming parking in the front setback is not substantially more detrimental than the existing nonconforming parking facility because there is existing parking in the front setback. (§4.2.3, §7.8.2.C.2)
7. The increase in the nonconforming lot coverage is not substantially more detrimental than the existing nonconformity because the lot coverage is increasing minimally from 44.3% to 44.7%. (§3.2.2.A.3, §7.8.2.C.2)

PETITION NUMBER: #332-19

PETITIONER: Mark F. Donato, Paul at Centre Street Realty Trust

LOCATION: 1400 Centre St./77 Paul St., Section 62, Block 13, Lot 9, containing approximately 30,026 square feet

OWNERS: Mark F. Donato, Paul at Centre Street Realty Trust

ADDRESS OF OWNERS: 1211 Washington Street

Newton, MA 02465

TO BE USED FOR: Office Building and Parking Facility

CONSTRUCTION: Masonry

EXPLANATORY NOTES:To amend Board Order 650-86 (2), allow alteration to an existing structure, extend the existing nonconforming use by constructing an addition for an elevator and an addition for a stairwell, to reduce the nonconforming lot coverage and to further extend the nonconforming parking in the front setback §7.3.3, §7.4, §3.4.1, §7.8.2.C.2, § 3.2.2.A.3, § 4.2.3

ZONING: Multi Residential 3

The prior Board Order for this property is as follows: Board Order #650-86 (2), which allowed for the construction of the commercial building and parking on the basis of the building being in a residential area adjacent to commercial uses as well as allowing the parking garage in order to manage the parking demand of the site due to the site’s isolation from accessible public parking facilities, and the subsequent extension of time to exercise the Order. The conditions set forth in Board Order #650-86 (2) remain in full force and effect.

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:
   1. Existing Conditions at 1400 Centre St/77 Paul Street, signed and stamped by Joseph R. Porter, dated April 26, 2019
   2. Topographic Site Plan Showing Proposed Conditions at 1400 Centre Street/77 Paul Street, signed and stamped by Joseph R. Porter dated June 28, 2019
   3. Parking Plan – Level 1 Showing Proposed Conditions at 1400 Centre Street/77 Paul Street, signed and stamped by Joseph R. Porter dated June 28, 2019
   4. Parking Plan – Level 2 Showing Proposed Conditions at 1400 Centre Street/77 Paul Street, signed and stamped by Joseph R. Porter dated June 28, 2019
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
3. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
4. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
5. Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
6. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
7. No Certificate of Occupancy/Final Inspection for the buildings and uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
8. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or surveyor certifying substantial compliance with Condition #1.
9. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
10. 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.
11. 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.
12. Notwithstanding the provisions of Condition #3 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.
13. The Petitioner shall comply with the City’s Tree Preservation Ordinance.
14. The Petitioner shall make every effort to minimize the removal of trees while working to achieve an adequate Clear Sight Distance Triangle. Should any trees be removed it should be phased in consultation of the Tree Warden and the Commissioner of Public Works with approval by the Director of Planning and Development. The petitioner shall also work with the Tree Warden, and the Planning Department and Transportation Department to replant as many trees as possible on site, should any be removed. Prior to the issuance of a building permit the petitioner shall provide a landscape plan to the Planning Department for review and approval and shall work with the Planning and the Transportation Department in determining which trees should be removed.

Under Suspension of Rules

Readings Waived and Approved

23 Yeas 1 Nay (Councilor Downs)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on December 4, 2019. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

(SGD) DAVID A. OLSON, City Clerk

Clerk of the City Council

I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on December 4, 2019 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

(SGD) DAVID A. OLSON, City Clerk

Clerk of the Council