

CITY OF NEWTON

IN CITY COUNCIL

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 allow six single-family attached dwellings with a reduced rear setback, restricted end stalls, driveway and parking within 10' and 20' of lot lines respectively, and a retaining wall greater than 4 feet in height within a setback as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for six single-family attached dwellings with reduced front & rear setbacks, restricted end stalls, driveway and parking within 10' and 20' of lot lines respectively, and a retaining wall greater than 4 feet in height within a setback due to its location in the MR-1 zoning district and the project exceeds the amount of open space required. (§7.3.3.C.1)
2. The proposed six single-family attached dwellings with reduced front & rear setbacks, restricted end stalls, driveway and parking within 10' and 20' of lot lines respectively, and a retaining wall greater than 4 feet in height within a setback affect the neighborhood because the neighborhood has a variety of housing types and uses. (§7.3.3.C.2)
3. The proposed six single-family attached dwellings as designed will not create a nuisance or serious hazard to vehicles or pedestrians because the proposed design locates most of the parking underground. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. Literal compliance with the provisions of §6.2.3.B.2 to allow to allow a driveway within 10 feet of the rear lot line, parking within 20 feet of the front and rear lot lines, and restricted end stalls is in the public interest as the site is designed to reduce impervious paving and relocation of these features may result in increased paving. (§6.2.3.B.2)
6. Literal compliance with the provisions of §3.2.4 to allow to a reduced rear setback is in the public interest as the site design maximizes allows for a larger internal

courtyard and the rear setback exceeds 20 feet. (§3.2.4)

PETITION NUMBER: #504-22

PETITIONER: 71 Commonwealth, LLC

LOCATION: 71 Commonwealth Avenue, on land known as Section 63 Block 01 Lot 13 and 13A, containing approximately 32,980 sq. ft. of land

OWNER: 71 Commonwealth, LLC

ADDRESS OF OWNER: 12 Morse Lane
Natick, MA 01760

TO BE USED FOR: 6 single-family attached dwellings

CONSTRUCTION: Wood Frame

EXPLANATORY NOTE: Special permit to allow six single-family attached dwellings with reduced rear setbacks, restricted end stalls, driveway and parking within 10' and 20' of lot lines respectively, and a retaining wall greater than 4 feet in height within a setback (§3.4.1, §3.2, §3.2.34, §6.2.3.B.1, §5.1.8.B.6, §5.1.3 §5.1.8.D.1, §6.2.3.B.2 §5.4.2)

ZONING: Multi-Residence 1

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. A site plan entitled "Proposed plot plan", prepared by Spruhan Engineering, signed and stamped by Peter J. Nolan, Professional Land Surveyor, dated March 3, 2023 consisting of two (2) sheets
 - b. A set of architectural plans prepared by Union Studio, architects, unsigned and unstamped, dated February 2, 2023 consisting of five (5) sheets:
 - i. Unit 2 floor plans
 - ii. Unit 3 floor plans
 - iii. Unit 4 floor plans

- iv. Unit 5 floor plans
 - v. Unit 6 floor plans
- c. A set of architectural plans prepared by Union Studio, architects, dated 5/6/2022 unsigned and unstamped, dated February 2, 2023 consisting of twelve (12) sheets:
- i. Proposed elevations (Commonwealth Avenue streetscape)
 - ii. Proposed elevations (Algonquin Road streetscape)
 - iii. Unit 2 elevations
 - iv. Unit 2 elevations
 - v. Unit 3 elevations
 - vi. Unit 3 elevations
 - vii. Unit 4 elevations
 - viii. Unit 4 elevations
 - ix. Unit 5 elevations
 - x. Unit 5 elevations
 - xi. Unit 6 elevations
 - xii. Unit 6 elevations
- d. Planting Plan prepared by Ryan Associates, signed and stamped by Thomas R. Ryan, Registered Landscape Architect, dated April 14 2022 and updated January 20, 2023, L-1.0
2. Prior to the issuance of any building permit for the Project, the petitioner shall provide an Approval Not Required (“ANR”) plan combining the # of lots into one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the Middlesex South Registry of Deeds. A recorded copy of the ANR plan shall be submitted to the Engineering Division of Public Works and submitted with the building permit application.
 3. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, Department of Engineering, and Department of Inspectional Services.
 4. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the “O&M Plan”) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.
 5. The Petitioner shall underground all lateral utility connections from the right of way to the structure(s).
 6. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for

- pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
- b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment and neighborhood.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
7. The Petitioner shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment associated with demolition or ledge/rock removal:
- a. Prior to the issuance of any demolition, foundation, or building permit, the Applicant shall conduct a pre-construction survey of all buildings and structures within 250 feet of the Project (as measured from the Project's property lines) for which the owner of the building or structure has granted approval at no charge to the owners. The survey must include photos taken both inside and outside prior to construction to set a baseline of existing conditions. Copies of the survey and photos shall be provided to owners.
 - b. The Applicant shall engage a qualified professional to develop and prepare a vibration control plan demonstrating the following:
 - i. Measurements of static ground vibration prior to construction.
 - ii. Vibration level limits for demolition and construction activities based on building conditions and soil conditions. The limit should be determined using industry standards, provided that vibration level limits shall not exceed .50 peak particle velocity (PPV) at the property line of the Project.

- c. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.
 - d. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
 - e. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.
 - f. The Applicant shall submit the vibration control plan to the Commissioner of Inspectional Services for review and approval prior to the issuance of any demolition, foundation, or building permit.
 - g. The Applicant shall implement the approved vibration control plan. Vibration levels shall be regularly monitored during demolition and construction. The Applicant shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
 - h. All work shall be performed within the vibration level limits established by the vibration control plan. If the vibration limit is exceeded, the construction activity causing the vibration shall cease and not resume until mitigation measures are implemented and notice is provided to the Commissioner of Inspectional Services.
 - i. The Applicant shall provide written notice to all property owners within 250 feet of the Project 48 hours prior to vibration-related activity that includes an explanation of the proposed activity, address of the site, date and time of the work, and contact information of the contractor overseeing the work.
 - j. Following construction, the Applicant shall with approval of the owners, re-inspect all homes, subject to the pre-construction survey to determine any damages caused by vibration. The Applicant shall maintain records of all complaints it receives for vibration-related damages.
8. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with 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.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. 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 materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy

- 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 Revised Ordinances, §20-13. 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(s) for protection of any existing trees to remain on site.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
9. The Petitioner shall make payments in the aggregate amount of \$30,189 to the City for infrastructure improvements for infiltration and inflow (I&I). Payments shall be made as follows:
- a. \$15,094.50 at the issuance of any Building Permit for the Project.
 - b. \$15,094.50 at the first dwelling unit certificate of occupancy (temporary or final) in the Project.
10. The Petitioner shall make payments in the aggregate amount of \$90,568 to the City for off-site transportation, pedestrian, or safety improvements or mitigation in the vicinity of the Project. The Petitioner's payments shall be made to a municipal account dedicated for such mitigation and improvements as follows:
- a. \$45,284 at the issuance of any Building Permit for the Project.
 - b. \$45,284 at the first dwelling unit certificate of occupancy (temporary or final) in the Project.
- Funds from the account in which these payments will be held shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. The Director of Planning and Development, after consultation with the Commissioner of Public Works, shall recommend improvements for funding to the City Council.
11. All parking spaces, with the exception of the two surface parking spaces, must be electric vehicle charging station ready, meaning the electrical systems and conduit are prepared to expand the number of charging stations as demand increases.
12. All appliances and utilities for the building shall be all-electric, including heating and cooling.
13. No building permit (other than a demolition permit) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:

- a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - b. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
 - c. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
 - d. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
14. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Filed with the building permit application statements by a registered architect and a professional land surveyor certifying compliance with Condition #1.
 - b. Submitted final as-built survey plans in digital format.
 - c. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested 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, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
15. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.