

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

November 28, 2022

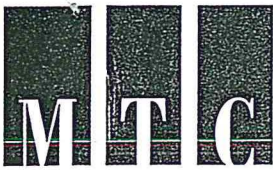
Be it ordained by the City Council of the City of Newburyport as follows:

THAT the City Council of the City of Newburyport hereby approves and authorizes the acceptance of a Tree Maintenance Access Easement between the City (Grantee) and Leavitt Court, LLC (Grantor) for the property located at 21-25 and 27 Street, Newburyport. Said Easement to be substantially in the form submitted to this Council at its meeting on November 28, 2022; and

Further, that the Mayor of the City of Newburyport is hereby authorized to sign the subject Non-Exclusive Use Easement ("UE") and to act on behalf of the City and enter into any and all instruments, including acceptance of said UE in accordance herewith, and to take any other actions necessary to execute this acceptance and the associated UE accordingly.

Said UE is attached hereto and incorporated herewith and marked Attachment 'A'.

Councillor Mark R. Wright



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

November 10, 2022

Sean Reardon
Mayor
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

Heather Shand, President
City Council
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2022 NOV 10 PM 12:08

RECEIVED

NOV 10 2022

Newburyport Planning Dept.

Christine A. Jones
11/10/22

Re: Easement for Tree Maintenance from 21-25 and 27 Hancock Street, Newburyport

Dear Mayor Reardon and Clerk Jones,

Reference is made to the above-captioned matter. In that connection, I am attaching an easement hereto for acceptance by the City. We represent the current owners of 21-25 and 27 Hancock Street, Leavitt Court, LLC, who have been permitted by the City to construct two family structures on the lots of 21-25 and 27 Hancock Street respectively. They are required by conditions of Special Permits for this project that were issued by the Newburyport Planning Board on May 19, 2021, to grant "an easement to allow the Department of Public Services to access and maintain the proposed trees along Hancock Street since they will not be placed in the existing public right-of-way".

Now, I have attached a proposed easement from Leavitt Court, LLC. I believe it to be consistent with the conditions in the aforementioned Special Permits. Attached as exhibits are a plan showing the Tree Easement areas on the properties and the Planning Board's Special Permit decisions, recorded at Book 40882, Page 408 and 415, respectively, that included a condition of the easement for tree maintenance. I am informed that the location of the trees have been staked on the properties in accordance with the plan and that the current owner intends to plant the trees at these locations soon.

I hope that the foregoing explains the situation clearly, and please do not hesitate to contact me with questions. On behalf of the owner, I would request you place this matter on the City Council agenda for appropriate action and let us know when the subcommittee meeting to discuss same is held.

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone/Fax 508.376.8400

New Bedford Office

227 Union Street, Suite 606
New Bedford, MA 02740

Please confirm these dates with us once they are scheduled.

Respectfully submitted,

lhm by BWY

Lisa L. Mead, Esquire

cc: Richard Jones, City Clerk
Andy Port, Planning Director



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

November 21, 2022

Sean Reardon
Mayor
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

Heather Shand, President
City Council
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

RECEIVED

NOV 21 2022

Newburyport Planning Dept.

Re: Updates to Easement for Tree Maintenance from 21-25 and 27 Hancock Street,
Newburyport

Dear Mayor Reardon and Clerk Jones,

Reference is made to the above-captioned matter and my letter of November 10, 2022. In that connection, I am attaching hereto an updated version of the easement previously submitted for acceptance by the City.

Based upon the comments by the Planning Director regarding the prior version of the document, we provide the following updates.

- Changes to Paragraph 3 regarding City Maintenance Obligations. To address the Planning Director’s apparent issue with the prior language in the easement placing responsibility upon the City to maintain the trees that are subject to the easement, the language of Paragraph 3 of the Easement has been changed to “Grantee [the City] may have the non-exclusive right to maintain the trees planted in the Easement Area in a manner consistent with the way street trees are maintained in the City of Newburyport.” The words “may” and “non-exclusive” indicate that the City has the option to utilize the easement to maintain the trees as if they were City Street Trees, but are not required to do so. The prior version was, based upon review of the minutes and permits, consistent therewith. However, my client has no issue with the proposed revisions.
- The Planning Director wanted verification that the City’s current insurance policy satisfied the insurance obligations required by Paragraph 4 of the proposed Easement. The Applicant has confirmed that the City’s existing policy covers the insurance requirements of Paragraph 4 with the Finance Director/City Auditor who informs the applicant the City’s carrier MIAA verified same.

To the extent that more context has not been previously provided to the City

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054

Phone/Fax 508.376.8400

New Bedford Office

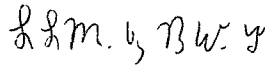
227 Union Street, Suite 606
New Bedford, MA 02740

Council about this situation, the Applicant worked closely with the City Rail Trail Project Manager and Tree Commission in March of 2021 to find a way to provide Street Trees for this project. Hancock Street and its sidewalks were too narrow for the Applicant to install Street Trees so it was proposed to and approved by the Planning Board in its Decision that Street Trees would be installed along Hancock Street on the applicant's private property where there is space to accommodate them. In order for the City to have the same maintenance rights to the trees as they would with Street Trees on public property, this easement is required. This is a specific condition of the Planning Board's written Decision that the Applicant is attempting to satisfy.

On behalf of the owner, I would request these updates are brought to the City Council's attention for appropriate action. Please let us know when the subcommittee meeting to discuss same is held. The Applicant understands that Councilor Wright will sponsor this matter.

Please confirm these dates with us once they are scheduled.

Respectfully submitted,



Lisa L. Mead, Esquire

cc: Richard Jones, City Clerk
Andy Port, Planning Director
Mark R. Wright, City Counselman

Exhibit A

Updated Draft Easement

DRAFT DOCUMENT SUBJECT TO CHANGE

Property Address: 21-25 Hancock Street and 27 Hancock Street, Newburyport, Massachusetts 01950

(SPACE ABOVE RESERVED FOR REGISTRY OF DEEDS)

PUBLIC ACCESS EASEMENT

This Public Access Easement (the “Easement”) is granted this ___ day of _____, 2022 by Leavitt Court, LLC, a Massachusetts Limited Liability Company with its principal office at 24 Graf Road, Newburyport, Essex County, Commonwealth of Massachusetts (“Grantor”) (together with its successors and assigns, “Grantor”), to the City of Newburyport, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts and located in Essex County, Massachusetts, located at 60 Pleasant Street, Newburyport, Massachusetts, 01950 (together with its successors and assigns, “Grantee”).

WHEREAS, the Grantor is the owner of the property located at 21-25 Hancock Street, Newburyport, Essex County, Massachusetts by deed dated September 21, 2021, and recorded with the Essex South District Registry of Deeds (the “Deeds”) at Book 40309, Page 216 (the “21 Hancock”);

WHEREAS, the Grantor is the owner of the property located at 27 Hancock Street, Newburyport, Essex County, Massachusetts by deed dated September 21, 2021, and recorded with the Essex South District Registry of Deeds (the “Deeds”) at Book 40309, Page 218 (the “27 Hancock”);

WHEREAS, 21 Hancock and 27 Hancock are hereinafter collectively referred to as the “Property”);

WHEREAS, Grantor obtained a special permit for 21 Hancock from the City of Newburyport Planning Board dated May 19, 2021, and recorded in said Deeds at Book 40882, Page 415 (the “21 Hancock Special Permit”);

WHEREAS, Grantor obtained a special permit for 27 Hancock from the City of Newburyport Planning Board dated May 19, 2021, and recorded in said Deeds at Book 40882, Page 408 (the “27 Hancock Special Permit”);

WHEREAS, 21 Hancock Special Permit and 27 Hancock Special Permit are hereinafter collectively referred to as the “Special Permit”;

WHEREAS, the Special Permit required the permission to access and maintain the proposed trees to be located on the Property along Hancock Street.

NOW THEREFORE, for the sum of \$1.00 paid, the receipt and sufficiency of which are hereby acknowledged and for the promises set forth below, Grantor does hereby grant to Grantee the following rights and easement:

1. Grant of Public Access Easement. Grantor does hereby grant to Grantee the following Public Access Easement:

(a) The non-exclusive right for the City of Newburyport, by and through its Department of Public Works, or alternative appropriate City department, to use the “Tree Easement” Areas shown on a plan entitled “Plan of Land, 21 & 27 Hancock Street”, prepared by Winter GEC, LLC, dated March 21, 2021, and revised on April 20, 2021, and September 7, 2021, and included as “Sheet No. S2” in the set of plans recorded in the Essex South District Registry of Deeds on September 24, 2021 in Book 40309, Page 201 and attached hereto as Exhibit A. Such Public Access Easement shall be for the purpose of accessing and maintaining the proposed trees along Hancock Street on the Property, in a manner consistent with public tree maintenance in the City of Newburyport. The Public Access Easement and conditions provided herein shall be perpetual and irrevocable and shall be deemed to be covenants running with the land and shall inure to the benefit of and be binding upon the Grantee and the Grantor and their respective successors and assigns.

2. Limitations and Restrictions. The rights and easements granted in Section 1 hereof shall be limited to use of the Easement Area as an area for the planting of trees and the subsequent maintenance thereof. The rights and easements granted herein shall not include (a) any right to construct or install any other improvements not associated with the operation of the Easement Area as an area for the planting of trees and the subsequent maintenance thereof. No pattern of use by Grantee shall expand or be deemed to expand upon the rights expressly granted herein.

3. Maintenance.

(a) Maintenance of the Public Access Easement. Grantee may have the non-exclusive right to maintain the trees planted in the Easement Area in a manner consistent with the way street trees are maintained in the City of Newburyport.

4. Insurance. Prior to exercising any rights under this Agreement, Grantee shall obtain, and thereafter shall maintain in effect, a policy of public liability insurance insuring against claims on account of loss of life, bodily injury or property damage that may arise from, or be occasioned by, the use and/or exercise of rights and/or obligations under this Agreement, including but not limited to use and maintenance of the trees along Hancock Street on the Property. Such insurance policy shall name Grantor (and following notice, any holders of mortgages of the Property), as an additional insured. Said insurance shall be carried by a financially responsible insurance company or companies qualified to do business in the Commonwealth of Massachusetts and having a single limit

for loss of life or bodily injury and for property damage of not less than \$3,000,000. Grantee shall furnish to Grantor a certificate of insurance evidencing the existence of the insurance required to be carried pursuant hereto. Such policy shall contain a provision that it shall not be cancelled or terminated without at least thirty (30) days advance written notice to each insured (ten (10) days in the event of cancellation for non-payment of premium).

5. Indemnification. To the extent permitted by law, the Grantee shall indemnify, defend and save harmless the Grantor, the Grantor's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the use of the Public Access Easement by any of the invitees, guests or employees and/or work being performed or to be performed, or out of any act or omission by the Grantee, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

6. Public Park Status: The Grantor does not assume any responsibility to the Grantee, the general public, or anyone else in connection with its or their use of this Public Access Easement which use shall be at its and their discretion and risk. As set forth in General Laws, Chapter 21, Section 17C, neither the Grantor nor the Grantee shall be liable to members of the general public who use this Public Access Easement as permitted herein.

7. No Representations or Warranties. Grantor makes no representation or warranty, either express or implied, with respect to the condition of any portion of the Property or the improvements now or hereafter constructed thereon.

8. Compliance with Law. In the performance of its obligations hereunder, Grantee shall comply promptly with all laws, regulations and governmental permits and approvals and matters of record existing prior to the recording of this Agreement.

9. Amendment. Except as otherwise expressly set forth in this Agreement, no amendments or modifications of this Agreement shall be effective without the prior written consent of each party at the time of such amendment or modification.

10. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be declared to be invalid or unenforceable, then the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. Governing Law. This Agreement shall be construed and interpreted under the laws of the Commonwealth of Massachusetts.

12. Notices. Unless otherwise specified herein, any notice to be given hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand, or (b) when mailed

by registered or certified mail return receipt requested, or (c) when sent by overnight delivery (such as FedEx), or (d) when sent by daytime courier, addressed as follows:

If to Grantor: Jay Caswell, Manager
John C. Reppucci, Jr., Manager
Leavitt Court, LLC
24 Graf Road
Newburyport, MA 01950

If to Grantee: City of Newburyport
Mayor
City Hall
60 Pleasant Street
Newburyport, MA 01950

Each party's notice address may change upon twenty (20) days prior written notice to the other party. Notices shall be deemed delivered on the date received or rejected or on the date noted that the addressee has refused delivery, or on the date that the notice is returned to sender due to the inability of the postal authorities to deliver.

13. Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of or a restriction or covenant upon any part of the remaining portion of the Property, for the benefit of the general public, or for any public purpose whatsoever.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

EXECUTED as a sealed instrument on the date first written above.

GRANTOR:

Leavitt Court, LLC

By: _____
Jay Caswell, Its Manager

By: _____
John C. Reppucci, Jr., Its Manager

COMMONWEALTH OF MASSACHUSETTS

Essex County, ss.

On this ____ day of _____, 2022, before me, the undersigned Notary Public, personally appeared the above-named Jay Caswell, as Manager of Leavitt Court, LLC, proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose, on behalf of Leavitt Court, LLC.

(Print Name of Notary Public): _____
My commission expires: _____
Qualified in the Commonwealth of Massachusetts

COMMONWEALTH OF MASSACHUSETTS

Essex County, ss.

On this ____ day of _____, 2022, before me, the undersigned Notary Public, personally appeared the above-named John C. Reppucci, Jr., as Manager of Leavitt Court, LLC, proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own

personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose, on behalf of Leavitt Court, LLC.

(Print Name of Notary Public): _____
My commission expires: _____
Qualified in the Commonwealth of Massachusetts

GRANTEE: CITY OF NEWBURYPORT

By: _____
Sean Reardon, Mayor

COMMONWEALTH OF MASSACHUSETTS

Essex County, ss.

On this _____ day of _____, 2022, before me, the undersigned Notary Public, personally appeared the above-named Sean Reardon, Mayor of the City of Newburyport, proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose, on behalf of the City of Newburyport.

(Print Name of Notary Public): _____
My commission expires: _____
Qualified in the Commonwealth of Massachusetts

Exhibit A

Plan Showing Tree Easements

143 of 201 (3 plans)

SALES ON ORDER 2-21
#213 9/24/2021
14309-201

RECORDED FOR REGISTER USE ONLY

NOTES
THE PURPOSE OF THIS PLAN IS TO DEPOSIT PARCELS AS SHOWN ON PLAN RECORDED IN BOOK 2312 PAGE 600. LEAVITT COURT AS SHOWN ON SAID PLAN IS A CONVEYANCE OF INTEREST IN SAID PARCELS AS SHOWN ON SAID PLAN ON THE ORIGINAL INSTRUMENT DATED OCTOBER 15, 2020 AND MARCH 30, 2021.

THE PURPOSE OF THIS PLAN IS TO DEPOSIT PARCELS AS SHOWN ON PLAN RECORDED IN BOOK 2312 PAGE 600. LEAVITT COURT AS SHOWN ON SAID PLAN IS A CONVEYANCE OF INTEREST IN SAID PARCELS AS SHOWN ON SAID PLAN ON THE ORIGINAL INSTRUMENT DATED OCTOBER 15, 2020 AND MARCH 30, 2021.



P.L.S. EVERETT J. CHOULER, P.L.S., MASS. REGISTRATION NO. 41783
DATE 9/17/21

LOCAL TITLE INFORMATION

OWNER: CAS WASHINGTONS REALTY TRUST
BOOK 3184 PAGE 272
ASSESSOR: MAP 25 PARCEL 42
PLAN REF: LOTS 1, 2, 3, 4, 7 & LEAVITT COURT AS SHOWN ON PLAN RECORDED IN BOOK 2312 PAGE 600
OWNER: WILIAM F. & JOYCE L. COLBY
BOOK 2320 PAGE 301
ASSESSOR: MAP 23 PARCEL 43
PLAN REF: LOTS 2, 4, 6 & 8 AS SHOWN ON PLAN RECORDED IN BOOK 2312 PAGE 600

CITY OF NEWBURYPORT
OFFICE OF THE CITY CLERK
I, JOYCE L. COLBY, CLERK OF THE CITY OF NEWBURYPORT, DO HEREBY CERTIFY THAT THIS PLAN HAS BEEN FILED AND RECORDED IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 266A, SECTION 10B OF THE MASSACHUSETTS GENERAL LAWS.

9/16/21
DATE

PLANES NO. 2022-21-27 HANCOCK
DATE: MAR. 30, 2021
SHEET NO. S2

PLAN OF LAND IN
NEWBURYPORT, MA
SURVEYED FOR
CASWELL DEVELOPMENT, LLC

PLAN OF LAND
21 & 27 HANCOCK STREET

FIELD: EC
DICES: EC
CHECKER: EC
APPROVED: EC

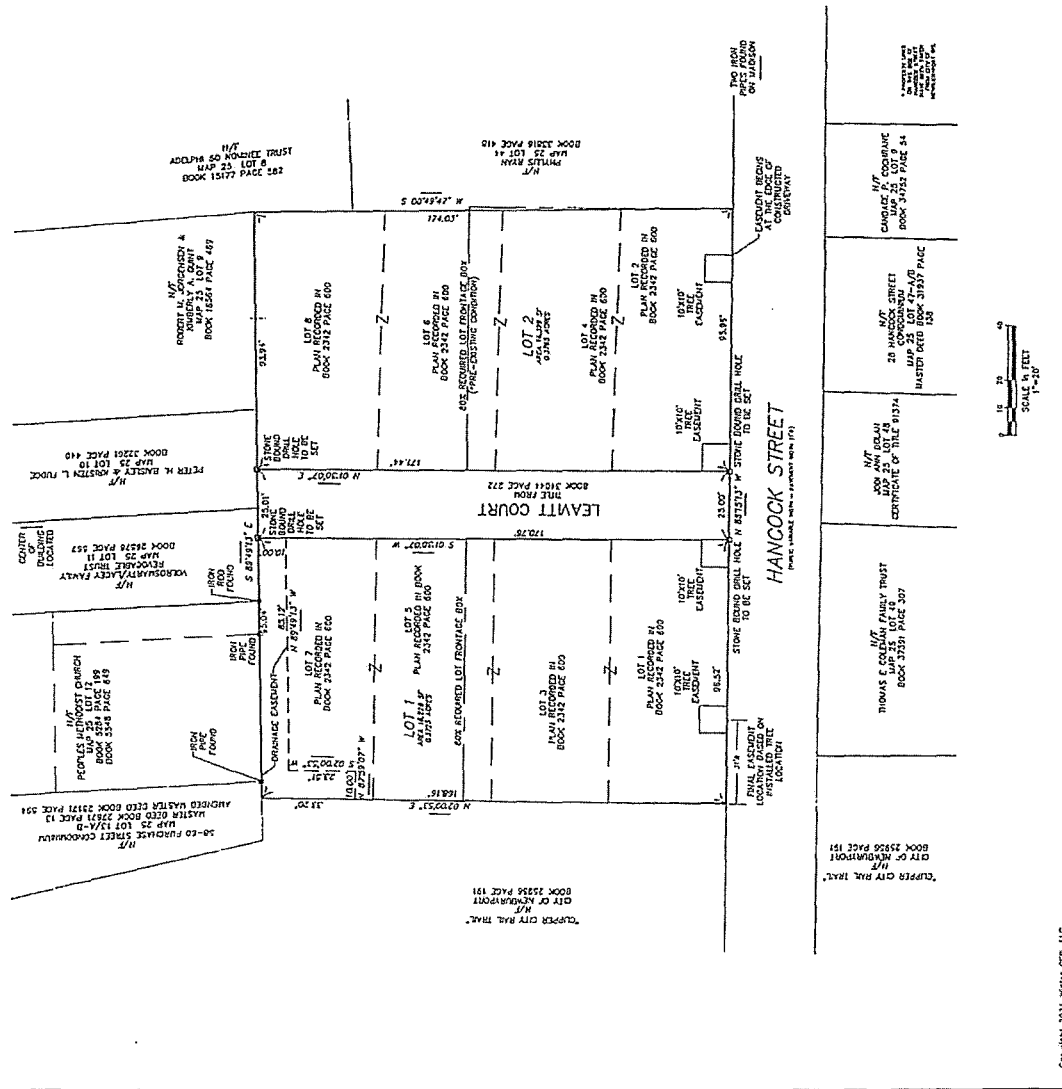
SCALE: HORIZ. 1" = 20'
VERT. 1" = 10'

SCALE: HORIZ. 1" = 20'
VERT. 1" = 10'

SCALE: HORIZ. 1" = 20'
VERT. 1" = 10'

SCALE: HORIZ. 1" = 20'
VERT. 1" = 10'

SCALE: HORIZ. 1" = 20'
VERT. 1" = 10'



Winter GEC, LLC
14 HANCOCK STREET
NEWBURYPORT, MA 01960
508-270-2222

Exhibit B

Planning Board Special Permit Decisions with Conditions to Grant Easement for Tree Maintenance



RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2021 JUN -7 AM 10:09



CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400
WWW.CITYOFNEWBURYPORT.COM

RECORD OF PROCEEDINGS AND
SPECIAL PERMIT DECISION

APPLICANT: Caswell Development LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC
30 Green Street
Newburyport, MA 01950

PROPERTY OWNER: Robert Doughty and Sharon Doughty, Trustees, G&S Massachusetts RT

FILE No.: 2021-SP-01

PROPERTY ADDRESS: **21-25 Hancock Street**

DECISION DATE: 5/19/2021

MAP/PARCEL(S): 25-42

BOOK/PAGE: 34044-272

ZONING DISTRICT: R2/DCOD

PROCEDURAL HISTORY:

An application for a Special Permit pursuant to Section XXIII Courts and Lanes of the City of Newburyport's Zoning Ordinance was made by the above-referenced owner and filed with the Planning Board on 02/17/21 for the following request: *formalize Leavitt Court as a court/lane*

Notice of the public hearing was published on 03/22/21 and 03/29/21 in the Newburyport Daily News. The public hearing was held on 04/07/21 and continued to 4/21/21, 5/5/21, and 5/19/21.

At the close of the public hearing, upon a motion to approve made by Beth DeLisle and seconded by MJ Verde, the Planning Board voted as follows:

Bonnie Sontag, Chair	<u>Yes</u>	Don Walters	<u>Yes</u>	Leah McGavern	<u>Yes</u>
Anne Gardner	<u>Yes</u>	MJ Verde	<u>Yes</u>	Tania Hartford	<u>Yes</u>
Rick Taintor	<u>Absent</u>	Elisabeth DeLisle	<u>Yes</u>	Alden Clark	<u>Recused</u>

Having received the necessary two-thirds super majority vote of the Planning Board, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore APPROVED.

PLANS AND DOCUMENTS:

This Special Permit application was accompanied and augmented by the following plans, drawings, documents, and submittals, which are hereby incorporated into this decision:

- “Complete Plan Set, Courts and Lanes Special Permit, 21-27 Hancock Street, Leavitt Court Improvements, Newburyport, MA” prepared by Design Consultants, Inc. and dated February 17, 2021 consisting of the individual drawing sheets listed below:
 - Sheet T1: Title Sheet (most recent revision date: 5/17/21);
 - Sheet S1: Existing Conditions Plan (most recent revision date: 3/30/21);
 - Sheet S2: Plan of Land (most recent revision date: 3/30/21);
 - Sheet C1: Site Layout & Utilities Plan (most recent revision date: 5/17/21);
 - Sheet C2: Grading & Drainage Plan (most recent revision date: 5/17/21);
 - Sheet C3: Profile Plan (most recent revision date: 5/12/21);
 - Sheet D1: Construction Details (most recent revision date: 5/12/21);
 - Sheet D2: Construction Details (most recent revision date: 5/12/21);
 - Sheet D3: Erosion Control Lan (most recent revision date: 5/6/21);
 - Sheet L1: Landscape Plan (most recent revision date: 5/4/21); and
- “Zoning Plan, 21 & 27 Hancock Street, Newburyport, MA” prepared by Winter GEC, LLC, Inc. and dated January 20, 2021 and most recently revised on April 29, 2021; and
- “Stormwater Management Report for 21-27 Hancock Street” prepared by Design Consultants, Inc. and dated February 2021 and most recently revised on May 12, 2021; and
- 21-27 Hancock Street Closure Reports dated April 20, 2021.

A peer review of engineering and stormwater design was conducted by Christiansen & Sergi, Inc., on behalf of the Planning Board. Additional City Department comments were received on the draft plans which were subsequently revised to address outstanding issues. A full copy of this documentation is on file with the City of Newburyport Office of Planning & Development, 60 Pleasant Street, Newburyport, Ma 01950; and

Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, as made at the public hearing.

FINDINGS:

The Board must make section specific Special Permit findings in accordance with Section XXIII. These criteria and potential project specific findings for each are provided in draft form here:

1. A court or lane shall not be used to satisfy zoning frontage requirements except as provided by an approved definitive subdivision plan.

The applicant is applying simultaneously for a subdivision approval to create this Lane.

2. A Court shall serve no more than two (2) dwelling units/lots. A lane shall serve no more than four (4) dwelling units/lots.

The applicant is creating a Lane. Leavitt Court will service three (3) of the four (4) dwelling units.

3. The Court or Lane shall access the property over the frontage of at least one of the lots being served by the driveway.

The access is provided over the frontage of 21-25 Hancock Street.

4. The owners of the properties to be accessed by the court or lane must provide evidence to the zoning administrator that they have rights, either by deed or easement, to the court or lane. If access is by easement, the easement shall be recorded by the Essex County Registry of Deeds within ninety (90) days of endorsement by the planning board or within seven (7) days prior to commencement of construction. The recorded easement shall include the following:
 - a. That unless approved within a definitive subdivision plan, the court or lane shall not be used to satisfy frontage requirements under the zoning ordinance. A subdivision has been requested.
 - b. That the City of Newburyport shall not assume any responsibility for the court or lane, nor bear any liability for same. The applicant shall maintain Leavitt Court as part of the joint condominium association responsibilities.
 - c. That a lot and/or unit owner provided access by the court or lane and having an exclusive right of access or usage of any portion thereof, such as a spur accessing one lot and/or unit alone, shall be individually responsible for repair, maintenance and upkeep of such portion. The applicant shall maintain Leavitt Court as part of the joint condominium association responsibilities. Both 21-25 and 27 Hancock Street currently have deeded rights to Leavitt Court and have had same since 1917.
 - d. That all lot and/or unit owners provided access by the court or lane shall be jointly and severally responsible and liable for the repair, maintenance and upkeep of all shared portions of the court or lane. The applicant shall maintain Leavitt Court as part of the joint condominium association responsibilities. Both 21-25 and 27 Hancock Street currently have deeded rights to Leavitt Court and have had same since 1917. This will continue through the easement and the condominium documents.
5. The court or lane shall not become a public or private way maintained by the city. Further, the City of Newburyport shall not be required to provide city services including but not limited to: construction, reconstruction, maintenance, snowplowing, school bus pickup, trash collection or police patrols along a court or lane. The owners shall have joint private responsibility for Leavitt Court.
6. A covenant shall be entered into between the owner or developer and the city in a form acceptable to the Planning Board prohibiting the issuance of an occupancy permit until such time as the court or lane has been constructed in accordance with the approved plan. The applicant shall comply with this requirement.

The Board must also make the general Special Permit findings which are listed below pursuant to Section X-H (7). These criteria and potential project specific findings for each are provided in draft form here:

1. The use requested is listed in the table of use regulations or elsewhere in the ordinances requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.

The Property is located in the R2 zoning district where a court or lane may be created by Special Permit.

2. The requested use is essential and/or desirable to the public convenience or welfare.

The NZO provides that a court or lane is allowed by Special Permit in the R2 zoning district and therefore, by its very nature, has been determined by the City to be desirable.

3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The formalization of Leavitt Court is expected to have negligible impacts on existing traffic patterns and will improve the pedestrian experience.

4. The requested use will not overload any public water, drainage, sewer system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety, or the general welfare.

The requested use is compatible with the surrounding area. The requested use will not overload any public water, drainage or sewer system or any other municipal system.

5. Any special regulations for the use, set forth in the special permit table are fulfilled.

There are no special regulations for the use set forth in the special permit table.

6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.

The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. There are several existing two-family structures in the neighborhood as well as a mix of other uses.

7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

The proposed new use and formalization of Leavitt Court will not cause an excess of that particular use that could be detrimental to the character of said neighborhood.

8. The proposed use is in harmony with the purpose and intent of this ordinance.

The proposed formalization of Leavitt Court is consistent with the purposes and intent of the NZO and will allow for improvements to be made to the site.

9. The proposed use shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard, noise, vibration, smoke, dust, odor, or other form of environmental pollution.

As is demonstrated in the application for Special Permit, the construction of Leavitt Court shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

STANDARD CONDITIONS:

In view of the foregoing findings, the Planning Board hereby grants a Special Permit approval pursuant to Section XXIII Courts and Lanes subject to the terms and conditions stated below:

1. Recording of Decision and Approved Plans: The applicant shall file this decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number)

shall be included with the application for any related Building Permits. To ensure compliance with this decision, site/construction plans issued to any contractors shall make clear reference to this written decision and conditions of approval contained herein.

2. Permit Lapse: This permit is valid for two years from the date of approval. The approval shall no longer be valid if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause, within this period. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.
3. Provision of Construction Documents: The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Water, Sewer, and Engineering Divisions of the City's Department of Public Services (DPS).
4. Curb Cuts: Any new driveway curb cuts that have egress to the public right of way must be approved by the Director of Public Services or Designee in advance of construction.
5. Fire Department Review and Approval: The applicant, owner, successors, or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval. The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Newburyport Fire Department (NFD).
6. Stormwater Management Permit: If the project involves more than 10,000 square feet of land disturbance, the applicant, owner, his successors or assigns, shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services prior to beginning any site work, including tree clearing and/or regrading.
7. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the above referenced and approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Planning Board and Office of Planning and Development (OPD) of the proposed modifications in writing and obtain approval from the Planning Board (or OPD as specified herein) for such modifications prior to making any changes in the field. The OPD shall determine whether such modifications are minor or major (material) in nature. The Planning Board shall schedule a public hearing for review and approval of any changes deemed major or material in nature to the permit originally issued. Any major or material alterations or changes to the above referenced plans shall require prior approval by the Planning Board. Minor changes may be approved in writing by the OPD without further review by the Planning Board. The determination as to whether an alteration or change in plans is material and therefore subject to Planning Board review shall be made at the discretion of the OPD.
8. Site Lighting: All lighting fixtures, including but not limited to, signage, building, parking lot, site, decorative, and security, shall feature cut off fixtures so that the lights are pointed downward reducing light pollution and glare onto abutting properties.
9. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday.

10. Permit Compliance Contact Form: No site work or construction related to this permit shall begin until a Permit Compliance Contact Form is completed and submitted to the Office of Planning and Development.
11. Submission of As-Built Plans: One hard copy and one .pdf copy of foundation as-built plan shall be provided to the Office of Planning and Development and Building Department upon foundation completion. One hard copy and one .pdf copy of as-built site plan stamped by a professional engineer shall be submitted to the Office of Planning and Development at the completion of the construction. Certification shall be provided to the Office of Planning and Development that the as-built plans match approved plans.
12. Code & Permit Compliance Affidavit Requirement: The proposed exterior building demolition shall be limited to the scope of work shown in the above referenced and approved plans, and shall remain at all times in compliance with the Demolition Control Overlay District (DCOD) zoning provisions. Any changes that exceed the above scope (including but not limited to the removal of existing exterior wall wood framing) shall require that such modification be submitted to, and approved in writing by, the Zoning Administrator or the Planning Board prior to such additional demolition. A Code & Permit Compliance Affidavit shall be completed, signed, and submitted to the Building Department and Zoning Administrator prior to the issuance of any demolition/building permit(s) for the proposed project.
13. Conformance with Conditions of the Definitive Subdivision Approval: Unless otherwise specified in this decision, the applicant, owner, and/or developer shall comply with all of the conditions listed in the Definitive Subdivision Approval, especially those listed as 'Special Conditions'.
14. Construction Management Plan: A detailed Construction Management Plan (CMP) shall be submitted to the Office of Planning & Development and a copy shall be posted on the property during construction. The plan shall be used to coordinate contractors and provide a primary point-of-contact, manage on- and off-street parking for the general- and sub-contractors, any sidewalk closures, construction sequencing, and ensure the hours of operations for construction adhere to all applicable city ordinances. The CMP and written notification for a Pre-Construction Meeting shall be provided to the abutting property owners (on both side of the street) at least ten (10) business days prior to the meeting. The applicant, owner, and/or developer shall contact the Office of Planning & Development to begin the process of scheduling this meeting.

SPECIAL CONDITIONS

In addition to the foregoing standard conditions, the Planning Board hereby grants approval subject to the special conditions stated below:

1. Easement for Tree Maintenance along Hancock Street: Consistent with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance, the Applicant shall include in the condominium documents for both parcels of land, an easement to allow the Department of Public Services to access and maintain the proposed trees along Hancock Street since they will not be placed in the existing public right-of-way. Said provision shall be reviewed and approved by the Director of Planning and Development, and proof of proper recording shall be provided to the Zoning Administrator prior to the issuance of any Certificate of Occupancy.

CONCLUSION AND DECISION:

For all of the reasons stated herein, the petition for a Special Permit is therefore APPROVED.

APPEALS:

Appeals shall be made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17.

SIGNATURE OF THE BOARD:

Electronic signatures appearing on this decision are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

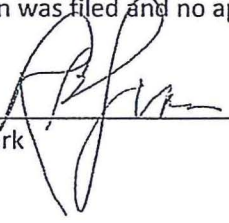
Bonnie Sontag
Bonnie Sontag, Chair

06/07/21
Date

CITY CLERK CERTIFICATION:

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Special Permit decision for the property known as 21-25 Hancock Street was filed in the Office of the City Clerk on June 7, 2021. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.

City Clerk



Date

7/14/2021



RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

JUN -7 AM 10:09



CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400
WWW.CITYOFNEWBURYPORT.COM

RECORD OF PROCEEDINGS AND
SPECIAL PERMIT DECISION

APPLICANT: Caswell Development LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC
30 Green Street
Newburyport, MA 01950

PROPERTY OWNER: William Colby

FILE No.: 2021-SP-02

PROPERTY ADDRESS: **27 Hancock Street**

DECISION DATE: 5/19/2021

MAP/PARCEL(S): 25-43

BOOK/PAGE: 7229-301

ZONING DISTRICT: R2/DCOD

PROCEDURAL HISTORY:

An application for a Special Permit pursuant to Section XXIII Courts and Lanes of the City of Newburyport's Zoning Ordinance was made by the above-referenced owner and filed with the Planning Board on 02/17/21 for the following request: *formalize Leavitt Court as a court/lane*

Notice of the public hearing was published on 03/22/21 and 03/29/21 in the Newburyport Daily News. The public hearing was held on 04/07/21 and continued to 4/21/21, 5/5/21, 5/19/21.

At the close of the public hearing, upon a motion to approve made by Beth DeLisle and seconded by Alden Clark, the Planning Board voted as follows:

Bonnie Sontag, Chair	<u>Yes</u>	Don Walters	<u>Yes</u>	Leah McGavern	<u>Yes</u>
Anne Gardner	<u>Yes</u>	MJ Verde	<u>Yes</u>	Tania Hartford	<u>Yes</u>
Rick Taintor	<u>Absent</u>	Elisabeth DeLisle	<u>Yes</u>	Alden Clark	<u>Recused</u>

Having received the necessary two-thirds super majority vote of the Planning Board, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore APPROVED.

PLANS AND DOCUMENTS:

This Special Permit application was accompanied and augmented by the following plans, drawings, documents, and submittals, which are hereby incorporated into this decision:

- “Complete Plan Set, Courts and Lanes Special Permit, 21-27 Hancock Street, Leavitt Court Improvements, Newburyport, MA” prepared by Design Consultants, Inc. and dated February 17, 2021 consisting of the individual drawing sheets listed below:
 - Sheet T1: Title Sheet (most recent revision date: 5/17/21);
 - Sheet S1: Existing Conditions Plan (most recent revision date: 3/30/21);
 - Sheet S2: Plan of Land (most recent revision date: 3/30/21);
 - Sheet C1: Site Layout & Utilities Plan (most recent revision date: 5/17/21);
 - Sheet C2: Grading & Drainage Plan (most recent revision date: 5/17/21);
 - Sheet C3: Profile Plan (most recent revision date: 5/12/21);
 - Sheet D1: Construction Details (most recent revision date: 5/12/21);
 - Sheet D2: Construction Details (most recent revision date: 5/12/21);
 - Sheet D3: Erosion Control Lan (most recent revision date: 5/6/21);
 - Sheet L1: Landscape Plan (most recent revision date: 5/4/21); and
- “Zoning Plan, 21 & 27 Hancock Street, Newburyport, MA” prepared by Winter GEC, LLC, Inc. and dated January 20, 2021 and most recently revised on April 29, 2021; and
- “Stormwater Management Report for 21-27 Hancock Street” prepared by Design Consultants, Inc. and dated February 2021 and most recently revised on May 12, 2021; and
- 21-27 Hancock Street Closure Reports dated April 20, 2021.

A peer review of engineering and stormwater design was conducted by Christiansen & Sergi, Inc., on behalf of the Planning Board. Additional City Department comments were received on the draft plans which were subsequently revised to address outstanding issues. A full copy of this documentation is on file with the City of Newburyport Office of Planning & Development, 60 Pleasant Street, Newburyport, Ma 01950; and

Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, as made at the public hearing.

FINDINGS:

The Board must make section specific Special Permit findings in accordance with Section XXIII. These criteria and potential project specific findings for each are provided in draft form here:

1. A court or lane shall not be used to satisfy zoning frontage requirements except as provided by an approved definitive subdivision plan.

The applicant is applying simultaneously for a subdivision approval to create this Lane.

2. A Court shall serve no more than two (2) dwelling units/lots. A lane shall serve no more than four (4) dwelling units/lots.

The applicant is creating a Lane. Leavitt Court will service three (3) of the four (4) dwelling units.

3. The Court or Lane shall access the property over the frontage of at least one of the lots being served by the driveway.

The access is provided over the frontage of 21-25 Hancock Street.

4. The owners of the properties to be accessed by the court or lane must provide evidence to the zoning administrator that they have rights, either by deed or easement, to the court or lane. If access is by easement, the easement shall be recorded by the Essex County Registry of Deeds within ninety (90) days of endorsement by the planning board or within seven (7) days prior to commencement of construction. The recorded easement shall include the following:
 - a. That unless approved within a definitive subdivision plan, the court or lane shall not be used to satisfy frontage requirements under the zoning ordinance. A subdivision has been requested.
 - b. That the City of Newburyport shall not assume any responsibility for the court or lane, nor bear any liability for same. The applicant shall maintain Leavitt Court as part of the joint condominium association responsibilities.
 - c. That a lot and/or unit owner provided access by the court or lane and having an exclusive right of access or usage of any portion thereof, such as a spur accessing one lot and/or unit alone, shall be individually responsible for repair, maintenance and upkeep of such portion. The applicant shall maintain Leavitt Court as part of the joint condominium association responsibilities. Both 21-25 and 27 Hancock Street currently have deeded rights to Leavitt Court and have had same since 1917.
 - d. That all lot and/or unit owners provided access by the court or lane shall be jointly and severally responsible and liable for the repair, maintenance and upkeep of all shared portions of the court or lane. The applicant shall maintain Leavitt Court as part of the joint condominium association responsibilities. Both 21-25 and 27 Hancock Street currently have deeded rights to Leavitt Court and have had same since 1917. This will continue through the easement and the condominium documents.
5. The court or lane shall not become a public or private way maintained by the city. Further, the City of Newburyport shall not be required to provide city services including but not limited to: construction, reconstruction, maintenance, snowplowing, school bus pickup, trash collection or police patrols along a court or lane. The owners shall have joint private responsibility for Leavitt Court.
6. A covenant shall be entered into between the owner or developer and the city in a form acceptable to the Planning Board prohibiting the issuance of an occupancy permit until such time as the court or lane has been constructed in accordance with the approved plan. The applicant shall comply with this requirement.

The Board must also make the general Special Permit findings which are listed below pursuant to Section X-H (7). These criteria and potential project specific findings for each are provided in draft form here:

1. The use requested is listed in the table of use regulations or elsewhere in the ordinances requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.

The Property is located in the R2 zoning district where a court or lane may be created by Special Permit.

2. The requested use is essential and/or desirable to the public convenience or welfare.

The NZO provides that a court or lane is allowed by Special Permit in the R2 zoning district and therefore, by its very nature, has been determined by the City to be desirable.

3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The formalization of Leavitt Court is expected to have negligible impacts on existing traffic patterns and will improve the pedestrian experience.

4. The requested use will not overload any public water, drainage, sewer system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety, or the general welfare.

The requested use is compatible with the surrounding area. The requested use will not overload any public water, drainage or sewer system or any other municipal system.

5. Any special regulations for the use, set forth in the special permit table are fulfilled.

There are no special regulations for the use set forth in the special permit table.

6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.

The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. There are several existing two-family structures in the neighborhood as well as a mix of other uses.

7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

The proposed new use and formalization of Leavitt Court will not cause an excess of that particular use that could be detrimental to the character of said neighborhood.

8. The proposed use is in harmony with the purpose and intent of this ordinance.

The proposed formalization of Leavitt Court is consistent with the purposes and intent of the NZO and will allow for improvements to be made to the site.

9. The proposed use shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard, noise, vibration, smoke, dust, odor, or other form of environmental pollution.

As is demonstrated in the application for Special Permit, the construction of Leavitt Court shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

STANDARD CONDITIONS:

In view of the foregoing findings, the Planning Board hereby grants a Special Permit approval pursuant to Section XXIII Courts and Lanes subject to the terms and conditions stated below:

1. Recording of Decision and Approved Plans: The applicant shall file this decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number)

shall be included with the application for any related Building Permits. To ensure compliance with this decision, site/construction plans issued to any contractors shall make clear reference to this written decision and conditions of approval contained herein.

2. Permit Lapse: This permit is valid for two years from the date of approval. The approval shall no longer be valid if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause, within this period. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.
3. Provision of Construction Documents: The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Water, Sewer, and Engineering Divisions of the City's Department of Public Services (DPS).
4. Curb Cuts: Any new driveway curb cuts that have egress to the public right of way must be approved by the Director of Public Services or Designee in advance of construction.
5. Fire Department Review and Approval: The applicant, owner, successors, or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval. The applicant shall provide documentation to the Building Commissioner and Zoning Administrator with the application for any related Building Permits illustrating that the proposed work has been reviewed and approved by the Newburyport Fire Department (NFD).
6. Stormwater Management Permit: If the project involves more than 10,000 square feet of land disturbance, the applicant, owner, his successors or assigns, shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services prior to beginning any site work, including tree clearing and/or regrading.
7. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the above referenced and approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Planning Board and Office of Planning and Development (OPD) of the proposed modifications in writing and obtain approval from the Planning Board (or OPD as specified herein) for such modifications prior to making any changes in the field. The OPD shall determine whether such modifications are minor or major (material) in nature. The Planning Board shall schedule a public hearing for review and approval of any changes deemed major or material in nature to the permit originally issued. Any major or material alterations or changes to the above referenced plans shall require prior approval by the Planning Board. Minor changes may be approved in writing by the OPD without further review by the Planning Board. The determination as to whether an alteration or change in plans is material and therefore subject to Planning Board review shall be made at the discretion of the OPD.
8. Site Lighting: All lighting fixtures, including but not limited to, signage, building, parking lot, site, decorative, and security, shall feature cut off fixtures so that the lights are pointed downward reducing light pollution and glare onto abutting properties.
9. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday.

10. Permit Compliance Contact Form: No site work or construction related to this permit shall begin until a Permit Compliance Contact Form is completed and submitted to the Office of Planning and Development.
11. Submission of As-Built Plans: One hard copy and one .pdf copy of foundation as-built plan shall be provided to the Office of Planning and Development and Building Department upon foundation completion. One hard copy and one .pdf copy of as-built site plan stamped by a professional engineer shall be submitted to the Office of Planning and Development at the completion of the construction. Certification shall be provided to the Office of Planning and Development that the as-built plans match approved plans.
12. Code & Permit Compliance Affidavit Requirement: The proposed exterior building demolition shall be limited to the scope of work shown in the above referenced and approved plans, and shall remain at all times in compliance with the Demolition Control Overlay District (DCOD) zoning provisions. Any changes that exceed the above scope (including but not limited to the removal of existing exterior wall wood framing) shall require that such modification be submitted to, and approved in writing by, the Zoning Administrator or the Planning Board prior to such additional demolition. A Code & Permit Compliance Affidavit shall be completed, signed, and submitted to the Building Department and Zoning Administrator prior to the issuance of any demolition/building permit(s) for the proposed project.
13. Conformance with Conditions of the Definitive Subdivision Approval: Unless otherwise specified in this decision, the applicant, owner, and/or developer shall comply with all of the conditions listed in the Definitive Subdivision Approval, especially those listed as 'Special Conditions'.
14. Construction Management Plan: A detailed Construction Management Plan (CMP) shall be submitted to the Office of Planning & Development and a copy shall be posted on the property during construction. The plan shall be used to coordinate contractors and provide a primary point-of-contact, manage on- and off-street parking for the general- and sub-contractors, any sidewalk closures, construction sequencing, and ensure the hours of operations for construction adhere to all applicable city ordinances. The CMP and written notification for a Pre-Construction Meeting shall be provided to the abutting property owners (on both side of the street) at least ten (10) business days prior to the meeting. The applicant, owner, and/or developer shall contact the Office of Planning & Development to begin the process of scheduling this meeting.

SPECIAL CONDITIONS

In addition to the foregoing standard conditions, the Planning Board hereby grants approval subject to the special conditions stated below:

1. Easement for Tree Maintenance along Hancock Street: Consistent with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance, the Applicant shall include in the condominium documents for both parcels of land, an easement to allow the Department of Public Services to access and maintain the proposed trees along Hancock Street since they will not be placed in the existing public right-of-way. Said provision shall be reviewed and approved by the Director of Planning and Development, and proof of proper recording shall be provided to the Zoning Administrator prior to the issuance of any Certificate of Occupancy.

CONCLUSION AND DECISION:

For all of the reasons stated herein, the petition for a Special Permit is therefore APPROVED.

APPEALS:

Appeals shall be made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17.

SIGNATURE OF THE BOARD:

Electronic signatures appearing on this decision are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

Bonnie Sontag
Bonnie Sontag, Chair

06/07/21
Date

CITY CLERK CERTIFICATION:

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Special Permit decision for the property known as 27 Hancock Street was filed in the Office of the City Clerk on June 7, 2021. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.

Richard Jones
City Clerk

7/14/21
Date