

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE & REAL PROPERTY REUSE COMMITTEES
JOINT MEETING REPORT

TUESDAY, MARCH 6, 2007

Present from Land Use: Ald. Fischman (Vice Chairman), Ald. Albright, Hess-Mahan, Mansfield, Merrill, Samuelson, and Vance; absent: Ald. Harney

Present from Real Property Reuse: Ald. Lipof (Chairman), Ald. Baker, Danberg, Gentile, Salvucci, Samuelson, and Weisbuch; absent Ald. Johnson

City staff: John Daghlian (Associate City Engineer), Linda Finucane (Chief Committee Clerk), and Nancy Radzevich (Chief Planner)

Note: Like the meeting, of March 6, Vice Chairman Fischman chaired the Land Use portion of this meeting.

ITEM REFERRED TO REAL PROPERTY REUSE COMMITTEE

#346-06

COMMISSIONER OF PUBLIC WORKS declaring surplus a parcel of land containing approximately 1,065 sf of land known as Section 63, Block 33, Lot 21, located in Chestnut Hill, that contains a city-owned footpath that connects Middlesex Road with the Chestnut Hill MBTA Green Line Station for which the Brimmer & May School proposes swapping an in-kind portion of land and improving it with a new sidewalk.

ACTION: REAL PROPERTY REUSE APPROVED 7-0

NOTE: This item was the subject of a public hearing on November 28, 2006 at which there was no public comment. The proposed land swap is part of Brimmer & May School's plan to alter and expand its existing parking facility to provide additional on-site parking. For financial reasons, the school needs to complete the work in two phases. Phase I is the acquisition of land from Longwood Covered Courts, swapping that parcel for the surplus city-owned parcel and relocating the existing footpath from Middlesex Road to the Chestnut Hill T Station currently located on the city-owned parcel to the land acquired from Longwood Covered Courts. The improved footpath will be concrete, with landscaping and lighting. Unlike the existing footpath, it will be handicapped accessible. A proposed reconfigured crossing includes a new crosswalk and handicapped curb cuts. Phase II is the actual parking lot expansion. Several Committee members wished to move approval of the item on November 28. However, Alderman Baker, a member of the Committee as well as the Ward Alderman, had several concerns, relating more to the special permit than the land swap, e.g., additional landscaping along the footpath and if the location of the reconfigured crossing would result in the loss of parking for the post office. He also wished for assurance that Brimmer & May had communicated with its neighbors. Consequently, the committee held the item pending the filing and hearings of the changes of zone and special permit petitions in the Land Use Committee.

At tonight's meeting, after Alderman Baker stated his satisfaction with the proposal, Alderman Gentile moved approval. Alderman Weisbuch questioned the benefit to the city, but after further discussion in Committee was convinced the improved handicapped accessible footpath with new lighting and landscaping and the raised crosswalk as well as the addition of 11 parking spaces on the Brimmer & May site, removing cars and lessening congested on Middlesex Road, are all beneficial to the City.

The Real Property Reuse Committee voted 7-0 to authorize the Mayor to swap the surplus city-owned parcel with Brimmer & May School for the parcel it will acquire from Longwood Covered Courts.

ITEMS REFERRED TO LAND USE COMMITTEE

#465-06 CITY OF NEWTON/LONGWOOD COVERED COURTS TRUST/BRIMMER & MAY SCHOOL petition for a change of zone from Public Use to Single Residence 1 for a city-owned surplus parcel of land (known as Section 63, Block 33, Lot 21) located in Chestnut Hill that contains a footpath connecting Middlesex Road with the Chestnut Hill MBTA Green Line Station and for which the Brimmer & May School proposes swapping after acquisition from Longwood Covered Courts an in-kind portion of land (known as Section 99, Block 99, Lot 96) on which a new footpath will be located and for which a change of zone from Single Residence 1 to Public Use is sought. (Sec 30-28 and 30-6 of the City of Newton Rev Zoning Ord, 2001)

ACTION: APPROVED 7-0

#465-06(2) BRIMMER & MAY SCHOOL/LONGWOOD COVERED COURTS TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and an EXTENSION OF NON CONFORMING USE/LOT/STRUCTURE to expand a nonconforming parking facility; increase the lot coverage for an existing tennis building; allow decreased setbacks; and locate a club in a Single Residence Zone 1 and to extend non conforming elements of the parking lot including waivers from setbacks, dimensions and aisle widths, stacked spaces, lighting and landscaping at 28 and 50 MIDDLESEX ROAD, Ward 7, CHESTNUT HILL, on land known as Sec 63, Blk 33, Lots 21 and 22, containing 35,301 and 143,374 sf of land respectively in a district zoned Single Residence 1. (Ref: Sec 30-24, 30-23, 30-21(a)(2), (b), 30-19(h)(1), (2)a, b, c), 30-19(h)(3), (5)a, (c)(4), (i)(1)a(i), and (ii), (i)(2)a)c), (j)(1)a), b), 30-19(m) and 30-15(a), 30-15 Table 2, and 30-8(b)(5) of the City of Newton Rev Zoning Ord, 2001, and special permit #458-86)

ACTION: APPROVED 7-0

NOTE: The Land Use Committee had an extensive discussion of these items at its February 13 meeting (report attached) at which they were held pending receipt of revised landscaping and grading utilities plans, and the pedestrian survey performed by Tetra Tech Rizzo in January 2004.

The Committee reviewed the revised landscaping, grading utilities plan, and surveys.

Raised Crosswalk

Ms. Radzevich reported that after further discussion with Assistant Fire Chief Bruce Proia, City Traffic Engineer Clint Schuckel, and Associate City Engineer John Daghlian, the raised crosswalk proposed at the intersection of Middlesex and Dunster Roads should be 3 to 4 inches high, maximum, with final review by the Fire Department, and Traffic and City Engineers.

Footpath

Lighting and landscaping: 10-foot poles located on the school property, similar to the 15-foot poles in the proposed parking lot, will overhang the footpath. The Committee suggested the footpath lighted dusk to dawn, since the T starts running early in the morning.

In addition to the three existing trees, four additional trees are proposed on the Longwood Covered Courts property (Red Sunset Maples, 2.5 - 3.0 caliper). Deciduous hedges are proposed along the school property. Alderman Mansfield asked about Phase II landscaping within the proposed parking lot because there is only one interior island proposed. One new tree is proposed; three existing trees will be maintained. Alderman Baker was concerned the proposed footpath would remain icy, since it is more northerly and gets less sun than the existing footpath. Brimmer & May has indicated that it does not want to be responsible for snow removal. Frank Stearns, attorney for the petitioners, said the school plows its parking lot. Usually, snow is stored on site, but if there is a lot of snow, a hired contractor removes it. The school also clears the sidewalks on Middlesex Road. Mr. Stearns is concerned about the liability involved in clearing the footpath. What about when school is closed? Alderman Samuelson said the footpath is no different from a public sidewalk and there is no liability to the school just like there is no liability to a business or occupant complying with the existing provisions of Section 26-8 that sidewalks be cleared of snow by businesses in specific districts. Discussion ensued about whether a special permit could condition a division of specific maintenance responsibilities between Brimmer & May and Longwood Covered Courts. Brimmer & May will be responsible for maintaining the landscaping and lighting. Longwood Covered Courts will be responsible for maintaining the trees on their property. The Committee agreed to a condition to require Brimmer & May to clear the snow from the footpath.

Pedestrian Survey

Results of the pedestrian survey were reported verbally by Mr. Bryant of Tetra Tech Rizzo at the February 13 Committee meeting. The Committee requested a copy of the survey. Tonight, the Committee reviewed the following three surveys attached to the Planning Department Working Session Memorandum.

Pedestrian data for the existing pathway connecting the Chestnut Hill T station with Middlesex Road collected Tuesday, January 16, 2007 from 4:30 to 5:30 PM

Speed data for Middlesex Road collected Thursday, February 5, 2004

Parking data for Middlesex Road collected Thursday, January 8, 2004. The figures illustrate existing parking regulations and observed parking demands by 15-minute increments from 2:00 PM to 4:00 PM.

Revised Grading Utilities Plan

The plan contains a note re the utility pole on the Longwood Covered Courts property. Either it will be relocated off the property or the overhead wires will be placed underground in Phase II. Phase I improvements to the sidewalk on Middlesex Road include the replacement of five to six panels on each side and the installation of catch basins to contain runoff.

The Committee discussed how to ensure completion of the public improvements portion of the project (Phase I) prior to commencement of Phase II. It concluded that the existing footpath should not be demolished until the new footpath is completed. The Law Department has determined that Brimmer & May probably will not perform the work because of the public bidding process; however, Brimmer & May can provide funding and the City can do the construction, but timing is sensitive. It would be unfair to hold up Brimmer & May from Phase II. Separate Construction Management plans will be developed for each phase.

Alderman Vance moved approval of the changes of zone, contingent on the exercise of the special permit, and of the special permit finding the public benefits include

- improved circulation and queuing on the Brimmer & May campus;
- a new city footpath with lighting, landscaping, handicapped access, and a raised crosswalk providing safe access to Chestnut Hill T station and slowing traffic;
- the addition of 11 spaces on the Brimmer & May campus will move cars off the street and facilitate queuing on-site for drop off and pick up, removing source of traffic conflict from Middlesex Road;
- snow will be cleared from the footpath and sidewalk along Middlesex Road, not currently cleared by the City;
- improved drainage on parking lot and footpath is designed to the 100-year storm event;
- petitioners will work with the Department of Public Works to ensure appropriate phasing;
- completion of Phase I including crosswalks @Middlesex/Dunster Roads for safe access will be completed prior to beginning phase II;
- Brimmer & May is committed to manage pick up and drop off per the Tetra Tech Tetra Tech Rizzo memo to City Traffic Engineer Clint Schuckel dated 1-30-07.
- The proposed expansion of the parking lot is not substantially more detrimental than the existing parking lot because the number of existing non-conformities in the parking lot will be reduced
- No adverse impact on neighborhood
- Longwood Covered Courts extension/alteration of non-conforming building lot coverage is not substantially more detrimental than existing building;
- Longwood Covered Courts special permit for continued use of a club in a Single Residence district will legalize an existing non-conforming use in existence since 1913; there is no increase to the existing structure;
- Longwood Covered Courts reduction of side yard setback resulting from the sale of a portion of property is not substantially more detrimental than the existing setback because it allows expansion of Brimmer & May School parking.

The Committee adopted the conditions in the draft board order prepared by the Planning Department, with the addition of the following: the petitioners are responsible for snow removal on footpath; final review of the raised crosswalk height and location by the Fire Department, City Engineer and City Traffic Engineer, reference Tetra Tech Rizzo Study re Brimmer & May management of pick up and drop off; footpath will be lighted dusk to dawn; City Arborist to review location of four trees in relation to damage to sidewalk; the existing footpath to be demolished only after completion of new footpath.

The Planning & Development Board voted on January 9, 2007 to approve the changes of zone in #465-06.

The Committee voted 7-0 to approve #465-06, the changes of zone, and #465-06(2), the special permit and extensions of non-conformities re Brimmer & May School and Longwood Covered Courts.

The meeting was adjourned at approximately 10:00 PM.

Respectfully submitted,

Mitchell L Fischman, Vice Chairman