



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

**#205-23**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov  
Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** July 28, 2023

**TO:** Councilor Deborah Crossley, Chair, Zoning and Planning Committee  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning  
Joe Iadonisi, Planning Associate

**SUBJECT:** **Petition #205-23** for a change of zone to MIXED USE 1 for land located at 126-132 Charles St. Street. 126 Charles St. (Section 41 Block 06 Lot 26) is currently zoned Manufacturing (MAN), 132 Charles St. (Section 41 Block 06 Lot 14) is currently zoned MAN for what was formerly Section 41 Block 06 Lot 11, Multi-Residence 2 (MR2) for what was formerly Section 41 Block 06 Lot 12, and Multi-Residence 1 (MR1) for what was formerly Section 41 Block 06 Lot 14.

**MEETING:** July 31, 2023

**CC:** City Council  
Planning and Development Board

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At the July 24, 2024 Zoning and Planning Committee (ZAP) meeting, a public hearing was held and closed on the subject item above. ZAP voted to hold the item with the request for two additional pieces of information:

1. *An explanation from the petitioner why the property is seeking this rezoning, given that rezonings similar to this typically happen in parallel to a development proposal.*

The petitioner has provided a narrative explanation (Attachement A).

2. *A comparison of the allowed development and uses between the current zones (MR1, MR2, and MAN) and the proposed zone (MU1).*

The comparison zoning dimensional and use tables are provided here.

Zoning Dimensional Requirements:

	Current Zoning			Proposed Zoning
	MR1 (new lot)	MR2 (new lot)	MAN	MU1
Min. lot size	10,000 sqft	10,000 sqft	10,000 sqft	40,000 sqft
Height	36' sloped 30' flat	36' sloped 30' flat	2 stories/ 24' by right 3 stories/ 36' by special permit	3 stories/ 36' by-right 4 stories/ 48' by special permit
Floor Area Ratio	0.38-0.58 (see Ch.30 sec. 3.2.11)	0.38-0.58 (see Ch.30 sec. 3.2.11)	1.00 for 2 stories or less, 1.50 for 3 stories	1.50 for 3 stories or less, 2.00 for 4 stories
Front Setback	30'	25'	Greater of 15' or 1/2 building height or average	1 Story: 15' 2 or more stories: Equal to Building Height
Side Setback	10'	10'	Abutting res/pub.: greater of ½ bldg. height or 20' Other: 1/2 building height	Abutting res/pub: greater of ½ bldg. height or 20' Other: 7.5'
Rear Setback	15'	15'	Abutting res/pub.: greater of ½ bldg. height or 20' Other: 1/2 building height	Abutting res/pub: greater of ½ bldg. height or 20' Other: 7.5'

While the above table demonstrates that the zoning dimensional requirements of the Mixed Use 1 zone are designed to accommodate buildings with a large footprint on a large parcel, there are limited options for developing or expanding beyond the current use. Options for expanding the current buildings or building new, larger, structures are limited by the zoning dimensional standards and site plan review for additions beyond 2,000 square feet and a special permit for any development beyond 20,000 square feet. There are no listed standards for lot coverage and open space with the MU1 zone. Setback requirements set forth for the MU1 zone would limit expansion westward as well as expansion eastward given the building at 132 Charles St. currently sits on the eastern lot line and the site is predominantly surrounding by residential and public zoning districts which require greater setbacks. Given 132 Charles St., currently has a building area of 19,361 square feet, any larger potential structures or additions proposed would require site plan review. Any dimensional nonconformities would be allowed to be extended via special permit.

Use Allowances:

The table illustrates that a rezoning to MU1 would expand allowed residential and commercial uses, while

further limiting restricted and industrial uses compared to MAN.

Use	MR1	MR2	MAN	MU1
<u>Residential Uses</u>				
Single-Family, detached	P	P		
Two-Family, detached	P	P		
Single-Family, attached	SP	SP		
Multi-family dwelling		SP		
Residential use, above ground floor				SP
Residential use, ground floor				SP
Live/work space				P
Lodging House, above ground floor				SP
Lodging House	SP	SP		
Associations of persons in a common dwelling	SP	SP		
Congregate living facility	SP	SP		
Dormitory (5-20 persons)	SP	SP		
Dormitory (20+ persons)	L	L		
Cluster development for open space preservation	SP	SP		
Residential care facility	SP	SP		

Use	MR1	MR2	MAN	MU1
<u>Civic/Institutional Uses</u>				
Cemetery, private	SP	SP	SP	SP
Club, clubhouse	SP	SP		
Community use space			P	P
Family child care home, large family child care home, day care center	L	L	L	L
Heliport				SP
Hospital	SP	SP		
Library, museum or similar institution	SP	SP		
Nonprofit Institution	SP	SP		
Public use	L	L	L	L
Rail/bus station			P	P
Religious institution	L	L	L	L
Sanitarium, convalescent or rest home, other like institution	SP	SP		
School or other educational purposes, non-profit	L	L		
School or other educational purposes, for-profit	SP	SP		
Scientific research and development activities, accessory	SP	SP		

Use	MR1	MR2	MAN	MU1
<b>Commercial Uses</b>				
Animal service, excluding overnight boarding				SP
ATM, standalone			SP	SP
Bank, up to 5,000 square feet				SP
Bank, over 5,000 square feet				SP
Bed & Breakfast	SP	SP		
Business incubator				P
Business services				SP
Car-sharing service, car rental, bike rental, electric car-charging station			P	P
Car wash			SP	
Dry cleaning or laundry, retail				SP
Fuel establishment			SP	SP
Funeral home		SP		
Health club, above or below ground floor			P	P
Health club, ground floor			P	SP
Job printing, up to 3,000 square feet (area used for work and storage)			P	
Job printing, over 3,000 square feet (area used for work and storage)			P	
Kennel			P	
Microfulfillment Center			L	L
Office			P	P
Parking facility, accessory, single level			P	P
Parking facility, non-accessory, single level			SP	SP
Parking facility, accessory, multi-level			SP	SP
Parking facility, non-accessory, multi-level			SP	SP
Radio or television broadcasting studio			L	
Radio, or television transmission station	SP	SP	SP	SP
Restaurant				SP
Retail sales, over 5,000 square feet				SP
Service establishment, up to 5,000 sq. feet				SP
Service establishment, over 5,000 sq. feet				SP
Vehicle repair shop, minor			SP	SP
Vehicle repair shop, major			SP	SP
Vehicles sales and service facility, indoor			SP	SP
Vehicles sales and service facility, outdoor			SP	SP
Veterinary hospital			P	SP
<b>Industrial Uses</b>				
Assembly or fabrication of materials manufactured off premise			P	P
Bakery, wholesale			SP	
Boat building, storage and repair			L	
Bottling works (except for alcoholic beverages)			P	

Use	MR1	MR2	MAN	MU1
<b>Industrial Uses (cont.)</b>				
Building materials sales yard and storage building			SP	
Contractor's yard			P	
Feed and seed store			SP	
Food processing, wholesale			P	
Laboratory, research and development			P	P
Laundry, cleaning & dyeing establishment			P	
Manufacturing			P	
Manufacturing, molding, shaping or assembly from prepared materials (including repairs)			P	
Paint store			SP	
Printing, publishing and reproduction establishment			P	
Sign painting shop			P	
Telecommunications and data storage facility			SP	SP
Vehicle storage			SP	
Wholesale business or storage facility				SP
Wireless communication equipment	P/L/SP	P/L/SP	P/L/SP	P/L/SP
Manufacturing, uses not allowed by right			SP	

Use	MR1	MR2	MAN	MU1
<b>Open Space Uses</b>				
Agriculture, on a parcel of 5 or more acres	P	P	P	P
Agriculture, on a parcel under 5 acres	SP	SP	SP	SP
Resource extraction	SP	SP	SP	SP
Riding school, stock farm	SP	SP		

Use	MR1	MR2	MAN	MU1
<b>Restricted Uses</b>				
Keno				SP
Medical Marijuana Treatment Center				SP
Craft Marijuana Cooperative			SP	
Independent Testing Laboratory			SP	
Marijuana Courier			L	
Marijuana Cultivator			SP	
Marijuana Delivery Operator			L	
Marijuana Product Manufacturing			SP	
Marijuana Research Facility			SP	
Marijuana Retailer				SP
Marijuana Transporter			SP	
Microbusiness			SP	
Firearm Business			SP	
Firing Range			SP	
Gunsmith			SP	

### **Next Steps**

With the additional information provided, the Planning Department continues to recommend that ZAP vote to approve this zoning change to MU1.

### **Attachments and Links**

Attachment A      Explanation for rezoning request from petitioner  
Link                      [January 24, 2023 ZAP Memo](#)

*From the Law Office of Terrence P. Morris, Esq.*

Memorandum

To: Zachery LeMel, Chief of Long-Range Planning  
From: Terrence P. Morris, Esquire  
Cc: Zoning & Planning Committee; Client  
Date: July 26, 2023  
Re: 126-132 Charles Street

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***Background***

This memo will explain the circumstances leading up to the petitioner's request for a rezoning of the subject properties, which the company had acquired on 12/9/2021 (#132) and 9/21/2022 (#126).

In November 2022, prior to obtaining legal counsel, the owner/petitioner was contemplating improvements to the existing commercial property (#132) that had been constructed in 1927. As part of its due diligence, the owner was referred to the city's Chief Zoning Code Official (CZO), Jane Santosuosso, for advice. The matter was complicated due to the patchwork of zoning classifications, as shown in the attached Existing Zoning Plan, which had a small part of the commercial building at the rear located within the multi-residence 1 (MR1) district, while the bulk of the building was in the manufacturing (MAN) district.

When the owners filed the application for a building permit with ISD, it was informed that the permit could not be issued because the building was located in 2 zoning districts, one of which was residential. The matter was ultimately resolved with the intervention of the CZO. The building permit was issued on January 4, 2023, to renovate the first floor to accommodate new lab equipment, upgrade the front entry and rear egress to facilitate handicap accessibility.

Even so, the CZO advised the owner to seek a comprehensive rezoning to avoid future complications for both properties. Needless to say, the whole experience left the owner with considerable uncertainty about the investment it had made in Newton. As a result, the owner sought legal counsel as to the most appropriate zoning district into which the property should be placed to accommodate its current operation and future needs. Among the immediate future needs is the use of the property at # 126 for office space in conjunction with laboratory use on the entire property. In doing so the owner sought predictability and flexibility in finding future tenants without the need for zoning relief upon every change in tenancy.

Attachment: Existing Zoning Plan

**PREPARED FOR:**  
 OWNER OF RECORD:  
 428 MADUE STREET  
 BOSTON, MA 02118

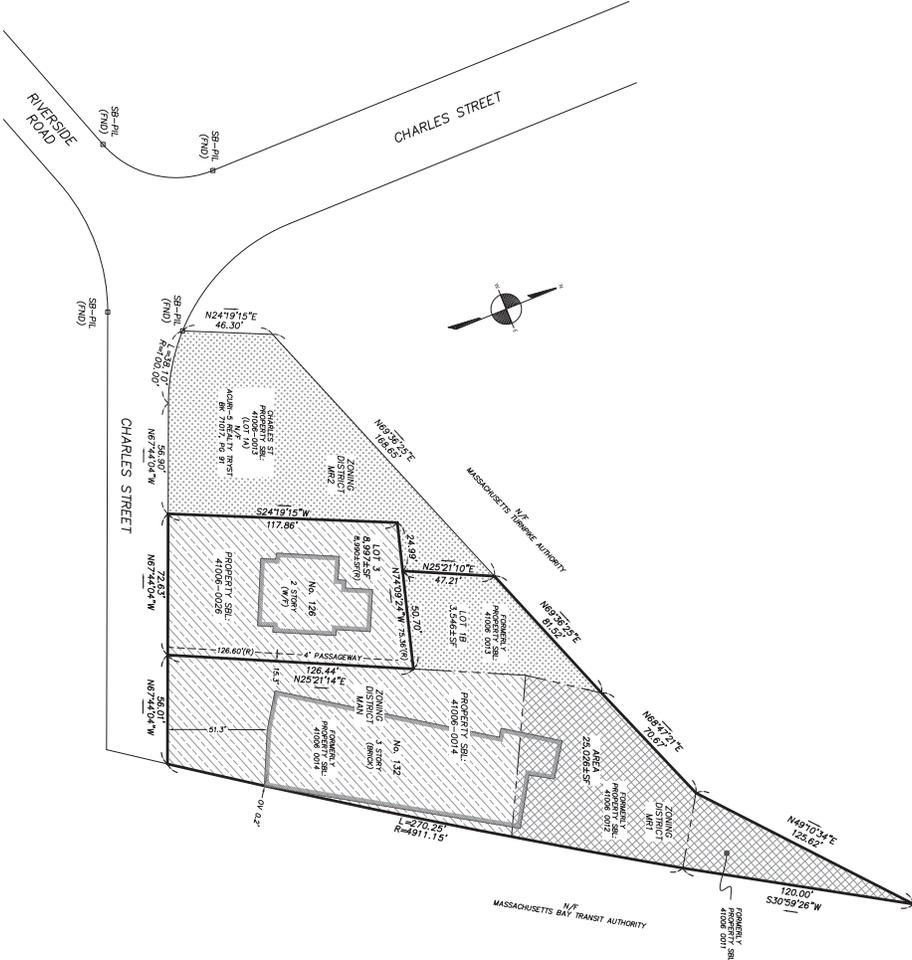
**REFERENCES:**  
 DEED: R-1300 P102  
 R-1301 P102  
 R-1302 P102  
 R-1304 P102  
 R-1304 P102  
 R-1305 P102  
 R-1305 P102

**PLANS:**  
 R-1300 P104  
 R-1301 P104  
 R-1302 P102  
 R-1304 P102  
 R-1305 P102

#131 CHARLES STREET  
 #132 CHARLES STREET

**SITE PLAN OF LAND**  
 SHOWING THE EXISTING ZONING  
 AT 126 - 132 CHARLES STREET  
 NEWTON, MA

DATE: MARCH 26, 2025 SCALE: 1/8" = 1'-0" (VERTICAL) 1" = 30' (HORIZONTAL)



**LEGEND**

**ZONING DISTRICTS**

	M1C - MULTI RESIDENCE 1
	M1A - MULTI RESIDENCE 1
	M2 - MULTI RESIDENCE 2
	M2C - MULTI RESIDENCE 2

I CERTIFY THAT THIS PLAN WAS MADE FROM AN ORIGINAL SURVEY OF THE PROPERTY AND THE DATE OF JULY 31, 2025 AND ALL STRUCTURES ARE LOCATED AS SHOWN HEREON.

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD HAZARD MAPS, THE PROPERTY IS NOT IN AN AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA.

COMMUNITY PANEL: 25070334E  
 EFFECTIVE DATE: 06/04/2010

FIELD:	JH
DRAWN:	JH, G.C., P.A.
CHECK:	G.C.
DATE:	03/26/25
TOR #:	15-05206

