

#### **Land Use Committee Report**

#### City of Newton In City Council

#### Tuesday, November 14, 2023

**Present:** Councilors Lipof (Chair), Kelley, Bowman, Downs, Greenberg, Lucas, and Markiewicz; absent: Laredo

Also Present: Councilors Malakie and Wright

**City Staff Present:** Deputy Chief Planner Alyssa Sandoval, Chief Planner Katie Whewell, Senior Planner Cat Kemmett, Planning Associate Joseph Iadonisi, and Assistant City Solicitor Jonah Temple

All Special Permit Plans, Designs, Plan Memoranda and Application Materials, both past and present, can be found at the following link: NewGov - City of Newton Land Use Committee Special Permit Search.

The full video of the November 14, 2023, Land Use Meeting can be found at the following link: <u>11-14-23</u> <u>Land Use Meeting</u>

#328-23 Request to amend Special Permit #67-20 to allow a Medical Marijuana Treatment

**Center at 1089 Washington Street** 

GREEN RE WEST NEWTON LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #67-20 to allow a medical marijuana treatment center (formerly known as Registered Marijuana Dispensary or "RMD") at 1089 Washington Street, Ward 3, West Newton, on land known as Section 31 Block 09 Lot 07, containing approximately 25,122 sq. ft. of land in a district zoned BUSINESS2. Ref: Sec. 7.3.3, 6.10.3.D, 4.4.1 of

Chapter 30 of the City of Newton Rev Zoning Ord, 2017. Land Use Held 7-0; Public Hearing Opened on 10/24/23

Action: Land Use Approved Withdrawal without Prejudice 7-0

**Note:** The documents for 1089 Washington Street can be viewed at the following link: <a href="https://newtonma.viewpointcloud.com/records/804543">https://newtonma.viewpointcloud.com/records/804543</a>.

A councilor noted the petitioner had submitted a request for withdrawal without prejudice. The committee voted unanimously to accept the withdrawal without prejudice.

#333-23 Request to extend a nonconforming two-family dwelling use at 27-29 Kilburn Road

<u>LINDA FINGUERRA</u> petition for <u>SPECIAL PERMIT/SITE PLAN APPROVAL</u> to enclose two open porches, further extending the nonconforming use at 27-29 Kilburn Road, Ward 3, West Newton, on land known as Section 33 Block 32 Lot 24, containing approximately 8,551 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 3.4.1,

7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 7-0; Public Hearing Closed 7-0

Note: Senior Planner Cat Kemmett presented the attached request for a special permit at 27-29 Kilburn Road. The request is to enclose two open porches, further extending the nonconforming use. The presentation is attached, and additional back-up can be found at the following link: <a href="https://newtonma.viewpointcloud.com/records/804864">https://newtonma.viewpointcloud.com/records/804864</a>. The two rear porches will be enclosed for livable space, and the existing footprint will not change. Current setbacks, building height, lot coverage, open space, and number of stories will remain the same. A total of 162 square feet will be added to the floor area.

The public hearing was opened. No member of the public spoke on the item.

The public hearing was closed.

The Committee discussed the draft Council Order, and Councilor Kelley motioned to approve which passed unanimously.

### #336-23 Request to further extend a nonconforming front setback and nonconforming lot coverage at 62 Maple Street (Newton Corner)

JOHN LEDOYT petition for <u>SPECIAL PERMIT/SITE PLAN APPROVAL</u> to construct a covered farmer's porch at the front entry, further extending the nonconforming front setback and lot coverage at 62 Maple Street, Ward 1, Newton, on land known as Section 71 Block 10 Lot 02, containing approximately 4,765 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 3.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: <u>Land Use Approved 7-0; Public Hearing Closed 7-0</u>

**Note:** Senior Planner Cat Kemmett presented the attached request for a special permit at 62 Maple Street (Newton Corner). The request is to construct a covered farmer's porch at the front entry, further extending the nonconforming front setback and lot coverage. The presentation is attached, and additional back-up can be found at the following link: <a href="https://newtonma.viewpointcloud.com/records/806900">https://newtonma.viewpointcloud.com/records/806900</a>. There is an existing sidewalk that will be extended to the front of the porch.

Joseph Luna, Luna Design Group, architect, on behalf of the petitioner noted that the petitioner is visually impaired, and this is being done for safety. Noted the petitioner has done outreach to his abutters and submitted 14 letters of support.

The public hearing was opened. No member of the public spoke on the item.

The public hearing was closed.

The Committee discussed the draft Council Order, and Councilor Greenberg motioned to approve which passed unanimously.

#### #337-23 Request to decrease nonconforming open space at 35-37 William Street

TRAOLACH CAHILLANE petition for <u>SPECIAL PERMIT/SITE PLAN APPROVAL</u> to legalize paving at the rear of the property, resulting in a reduction in the site's open space at 35-37 William Street, Ward 1, Newton, on land known as Section 71 Block 08 Lot 13,

containing approximately 3,906 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 3.4.3.A.1, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: <u>Land Use Approved 7-0; Public Hearing Closed 7-0</u>

**Note:** Senior Planner Cat Kemmett presented the attached request for a special permit at 35-37 William Street. The request is to legalize paving at the rear of the property, resulting in a reduction in the site's open space. The presentation is attached, and additional back-up can be found at the following link: <a href="https://newtonma.viewpointcloud.com/records/800940">https://newtonma.viewpointcloud.com/records/800940</a>. The site was purchased in 2018, and the current owners repaved at the rear of the property. The owners received a citation from Inspectional Services for failing to meet the minimum open space of 50%, with their open space being at 20.3%. It was determined that some of this spot was paved before and they were repaving over it.

Franklin Schwarzer, Schlesinger and Buchbinder LLP, on behalf of the petitioner, noted if their engineer had pulled the permit before paving they would not have been in this place, as it would have been realized that the lot previously did not meet the open space requirement. His client would contribute \$2000 to the tree fund, and they would be adding crushed stone to help with drainage.

A Councilor asked if they had paved the exact area that was paved before.

Mr. Schwarzer noted it was difficult to tell due to grass buildup, but they believe so.

The public hearing was opened. No member of the public spoke on the item.

The public hearing was closed.

A councilor noted support and would appreciate the gravel being added to the property.

A councilor noted the crushed stone for drainage, and the \$2000 contribution to the tree fund will have to be added to the council order.

The Committee discussed the draft Council Order, and Councilor Greenberg motioned to approve which passed unanimously.

Request to allow for-profit educational use, non-profit educational uses requiring a parking waiver, agricultural use and to waive 12 parking stalls at 297 Lowell Avenue SAINT JOHN'S EPISCOPAL CHURCH petition for SPECIAL PERMIT/SITE PLAN APPROVAL to legitimize the current uses on site, to allow for proposed for-profit and non-profit educational tenants, to allow for farm-share distribution use, and to waive required parking stalls at 297 Lowell Avenue, Ward 2, Newtonville, on land known as Section 24 Block 14 Lot 01, containing approximately 44,854 sq. ft. of land in a district zoned SINGLE RESIDENCE 32. Ref: Sec. 7.3.3, 4.4.1, 6.3.14.B.1.b, 6.3.14.B.2, 3.4.1, 5.1.4, 5.1.13, 7.8.2.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: <u>Land Use Approved 7-0; Public Hearing Closed 7-0</u>

**Note:** Senior Planner Cat Kemmett presented the attached request for a special permit at 297 Lowell Avenue. The request is to legitimize the current uses on site, to allow for proposed for-profit and non-profit educational tenants, to allow for farm-share distribution use, and waive required parking

stalls. The presentation is attached, and additional back-up can be found at the following link: <a href="https://newtonma.viewpointcloud.com/records/806275">https://newtonma.viewpointcloud.com/records/806275</a>. Noted both the church and nursery use has been present for many years. There is no parking on site, and it is close to public transit options in Newtonville. The petitioner is seeking to legitimize the current uses, and create flexibility for future tenant uses.

A councilor asked if this was to legitimize the current uses of the church.

Ms. Kemmett noted that was correct, and this it would create flexibility for future uses.

Tim Strayer, 80 Adena Road, on behalf of the petitioner noted the many ways the church serves the community including Daisey Scouts, and a distribution point for a local farm co-op.

Councilors noted support for the project, and that is was a good use for the church.

The public hearing was opened. No member of the public spoke on the item.

The public hearing was closed.

The Committee discussed the draft Council Order, and Councilor Lucas motioned to approve which passed unanimously.

### #240-23 Request to allow ground floor residential use, to exceed by right height and stories, and a parking waiver at 290 Watertown Street

<u>290 WATERTOWN ST LLC</u> petition for <u>SPECIAL PERMIT/SITE PLAN APPROVAL</u> to demolish the existing dwelling and detached garage and construct five residential dwelling units in three buildings with dimensional waivers and allow for a waiver from the required number of parking stalls at 290 Watertown Street, Ward 1, Newton, on land known as Section 11 Block 14 Lot 03, containing approximately 11,473 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 4.4.1, 4.1.2.B.3, 4.1.3, 5.1.4, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Land Use Held 5-0; Public Hearing Opened on 08/08/23

Action: Land Use Approved 7-0; Public Hearing Closed 7-0

**Note:** Deputy Chief Planner Alyssa Sandoval presented the attached request for a special permit at 290 Watertown Street. The request is to allow ground floor residential use-, and to exceed by right height and stories. The presentation is attached, and additional back-up can be found at the following link: <a href="https://newtonma.viewpointcloud.com/records/794101">https://newtonma.viewpointcloud.com/records/794101</a>. The project has been revised since the August 23<sup>rd</sup> meeting with it going from 5 units to 4 units, and the addition of a car port with a green roof on top of it. There is a proposed landscaping plan around the property. Planning suggest that the pedestrian walkway is delineated from the driveway.

Laurance Lee, Rosenberg, Freedman & Lee LLP, on behalf of the petitioner, noted that it is a mixed-use neighborhood, and this is in a Business 1 district. After talking to neighbors, they reduced the units from 5 to 4 units, and addressed drainage, screening, the bulk of the building, and shadows. They addressed the parking, so they do not have to ask for a parking waiver. Noted the front façade of the proposed building is similar to the current façade. Stated they reduces the size of the building since the first

submission. Highlighted that they added larger trees and a privacy fence in an agreement with their neighbors. It is a green and all electric building. Noted there have been three abutters that have sent an email in support of the project.

The public hearing was opened.

Peter Harrington, on behalf of the Christina Cardoza, 286 Watertown Street and Tatiana Karen, 82 Watertown Street, noted concern about the shadows the building will create, and expressed appreciation for the changes made to screening and stormwater drainage. Expressed concern with councilors speaking with petitioners and abutters outside of the meeting and shared the board order 267-23 (3) as guidelines. Noted this is a business use district, and expressed concern this project uses commercial density standards to establish residential use. Feels there is not enough working-class housing and feels this is not going to provide it. Stated that there is never a discussion around profit of the developers. Stated that the developer should have asked for a change of zone.

A councilor noted that it was not in the committee's purview to look at the profit of the developer.

A councilor asked which councilors should recuse themselves.

Mr. Harrington noted that he is not accusing any particular councilor of wrongdoing.

The architect for an abutter noted that he has been working with the petitioner during the process. Wished there would have been smaller units and would like it to be only two floors.

Terry Sauro, 44 Cook Street, noted she does not support this project as she feels it is too large.

A councilor asked about the size of the units going up when the number of units went down.

Mr. Lee said they went slightly up but stated the FAR of .95 is smaller than what could be built by right.

A councilor noted that is because of this being in a commercial zone Asked what the FAR is of the abutter next door. Asked where the bedrooms are.

Mr. Lee noted that the FAR would be as high as .5, but it is a sliding scale. Noted the bedrooms are on the second and third floors.

A councilor noted that building a residential building in a commercial zone is a loophole that is often taken advantage of.

A councilor noted support for the project, and that the petitioner has worked hard with the neighbors over the course of the last several months. Feels that projects like this are about compromise and feels a lot of concerns were addressed. Noted the desire to have more units, but understands some abutters wanted less units, and likes the design and the buildings being green.

A councilor noted that earlier this year a project was approved next door that was larger than this one. Feels the petitioner worked hard to address abutters concerns. Asked if the large tree in the front would be removed.

Mr. Lee noted at first they were planning to remove the tree, but they were denied the petition by the tree warden, and the tree will not be removed.

Christina Cardoza, 286 Watertown Street, expressed concern about the shadows this would create on the new home she just built. Feels this is too large for the neighborhood.

The Committee discussed the draft Council Order, and Councilor Greenberg motioned to approve which passed unanimously.

#287-23(B) Request to amend Condition #3 of Special Permit #179-19 at 839-853 Washington Street

<u>WASHINGTON PLACE OWNER LLC</u> petition for <u>SPECIAL PERMIT/SITE PLAN APPROVAL</u> to modify the definition of "formula business" as it relates to Condition #3 at 839-853 Washington Street, Ward 2, Newtonville, on land known as Section 21 Block 29 Lot 10, containing approximately 123,628 sq. ft. of land in a district zoned MIXED USE 4. Ref: 7.3.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Land Use Held 8-0; Public Hearing Opened 8-0 on 09/19/23

Action: <u>Land Use Approved 7-0; Public Hearing Closed 7-0</u>

**Note:** Deputy Chief Planner Alyssa Sandoval presented the attached request for a special permit at 839-853 Washington Street. The request is to amend condition #3 of Special Permit 179-19. The presentation is attached, and additional back-up can be found at the following link:

https://newtonma.viewpointcloud.com/records/797959. Noted the committee held it previously out of concern that the requested change would attract large national chains. Due to this concern the petitioner made a change from 24 locations in Massachusetts to 24 worldwide. The existing condition is 9 businesses or more worldwide. Noted the petitioner is seeking this to add greater flexibility in the future to attract candidates.

A councilor clarified that businesses would have to have 24 or less locations worldwide to be able to be a tenant. A councilor asked if Chipotle was in the building.

Damien Chaviano, on behalf of the petitioner noted that they do have Chipotle in the building. Feels 24 locations or more worldwide will give them flexibility. Noted that that out of the 40,000 square feet, 10,000 square feet has to be reserved for these requirements. Stated the Chipotle fits in the 30,000 square foot bucket that does not have to fit under this requirement.

Catherine Adams, Schlesinger and Buchbinder LLP, clarified that the 10,000 square feet is set aside for the formulaic business, and everything else can be non-formulaic businesses.

Meg Ward, Newton Resident feels this was a prior commitment by the developer and feels it should not be changed. Expressed displeasure with the developer.

A councilor noted that often due to changes in the economy developers come in to ask for changes with their special permit.

MaryLee Belleville, asked what the 10,000 square feet represents in total area. Asked if there are any local retailers at Trio.

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Mr. Chaviano, noted it represents 25%. Noted Mida and Cookie Monster both would fall under independent local.

A councilor noted concern with the planning departments review of projects. Feels this change would ensure chains and national businesses would not come as a result of this. Asked if Clover Food Lab would be closing. Asked how much of the 10,000 square feet that falls under this definition is leased

Mr. Chaviano noted he is unsure, but believes this is one of their better performing Clover stores. Noted 100% of the space is leased, and this change is for planning purposes.

The Committee discussed the draft Council Order, and Councilor Lucas motioned to approve which passed unanimously.

The Committee adjourned at 09:10 pm.

Respectfully Submitted,

Richard Lipof, Chair



October 25, 2023

#### Via Electronic Mail

Newton City Council Land Use Committee City of Newton 1000 Commonwealth Avenue Newton, MA 02459

Re: Special Permit Application (SP-23-72)

Property or Premises: 1089 Washington Street, Newton, MA 02465

Company: Ascend Mass LLC

Dear Honorable Chair and Members of the Land Use Committee:

This firm represents Ascend Mass LLC (the "Applicant") with its request to amend Special Permit #67-20 to include a Medical Marijuana Treatment Center (MTC) to its existing Marijuana Retailer operation at 1089 Washington Street. Following the Public Hearing held by the Land Use Committee on October 24, 2023, the Applicant hereby withdraws its Special Permit Application (SP-23-72) without prejudice to address the issues raised during the hearing.

Sincerely,

Michael P. Ross, Esq. Direct: 617-456-8149

Email: mross@princelobel.com

**Enclosures:** 

cc: Matthew McKenna

mmckenna@awholdings.com

Prince Lobel Tye LLP
One International Place
Suite 3700

Boston, MA 02110

TEL: 617 456 8000 FAX: 617 456 8100

# City of Newton Planning and Development

Petition: #333-23

#### **Special Permit/Site Plan Approval**

to enclose two open porches, further extending the nonconforming use

November 14, 2023



27-29 Kilburn Road

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# **Zoning Relief**

Zoning Relief Required		
Ordinance		Action Required
§3.4.1	Request to alter and extend a nonconforming two-family	S.P. per §7.3.3
§7.8.2.C.2	dwelling use	

## **Criteria to Consider**

When reviewing this request, the Council should consider:

- The site in SR-3 is an appropriate location for the addition that will alter and extend the nonconforming two-family use (§7.3.3.C.1)
- The proposed addition that will alter and extend the nonconforming two-family use will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed addition that will alter and extend the nonconforming two-family use will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed extension of the nonconforming two-family dwelling use will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood (§3.4.1, §7.8.2.C.2)

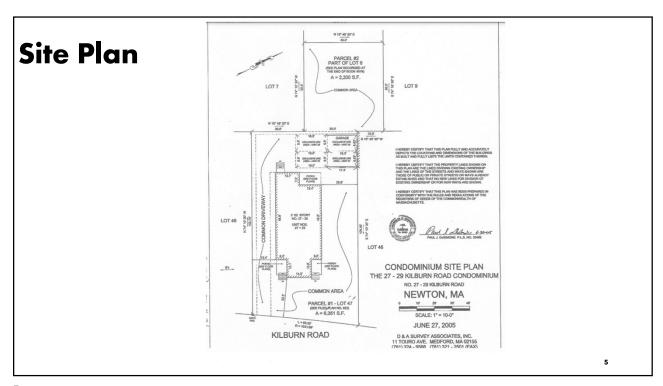
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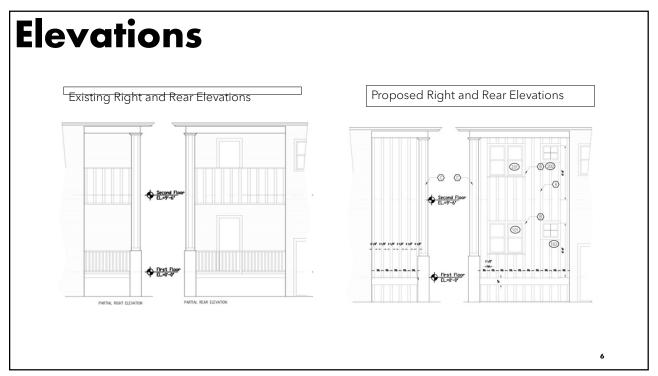
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#### **Aerial Map**



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# **Findings**

- 1. The proposed additions that will alter and extend the nonconforming two-family use will not be substantially more detrimental than the existing nonconforming two-family use is to the neighborhood because the work proposed will be limited to the existing footprint of the building. (§7.8.2.C.2).
- 2. The site is an appropriate location for the additions that will alter and extend the nonconforming two-family use because there are other nonconforming two-family dwellings in the neighborhood of comparable size and massing. (§7.3.3.C.1)
- 3. The proposed additions that will alter and extend the nonconforming two-family use will not adversely affect the neighborhood because the additional living space added is less than 200 square feet and will not be visible from the street. (§7.3.3.C.2)
- 4. There will be no nuisance or serious hazard to vehicles or pedestrians because all parking will be provided on site and the access to the site is not changing. (§7.3.3.C.3)
- 5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

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## **Conditions**

- 1. Plan referencing
- 2. Standard building permit conditions
- 3. Standard occupancy conditions

# City of Newton Planning and Development

Petition: #336-23

#### **Special Permit/Site Plan Approval**

to construct a covered farmer's porch at the front entry, further extending the nonconforming front setback and lot coverage

November 14, 2023



**62 Maple Street** 

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# **Zoning Relief**

Zoning Relief Required		
Ordinance		Action Required
§3.2.3	To extend the nonconforming front setback	S.P. per §7.3.3
§7.8.2.C.2		
§3.2.3	To extend the nonconforming lot coverage	S.P. per §7.3.3
§7.8.2.C.2		

## **Criteria to Consider**

When reviewing this request, the Council should consider:

- The site is an appropriate location for the proposed addition that will further extend the nonconforming front setback and lot coverage (7.3.3.C.1)
- The proposed addition will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed addition will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed addition which will further extend the nonconforming front setback and lot coverage will be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§7.8.2.C.2)

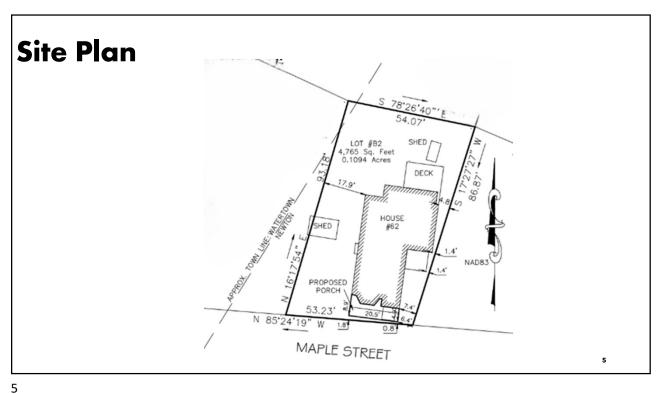
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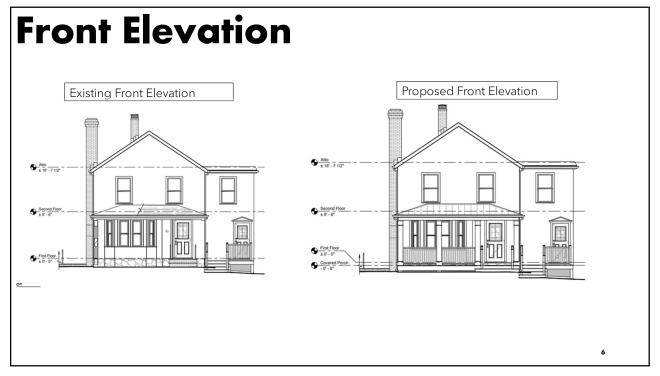
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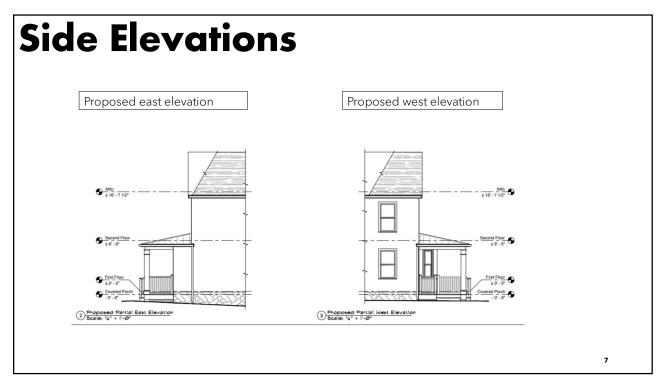
#### **Aerial Map**



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# **Analysis**

- Planning Department is not concerned with proposed petition
- Dwelling was constructed in 1915, predating the required 25-foot front setback
- Proposed porch is modest in size and unlikely to have negative impact

# **Findings**

- 1. The proposed addition that will further extend the nonconforming front setback and lot coverage is an appropriate location because it is located at the front of the dwelling and away from the wetland and wetland buffer area on the site. Additionally, the existing dwelling was constructed in 1915, predating the required 25-foot front setback(§7.3.3.C.1)
- 2. The proposed addition that will further extend the nonconforming front setback and lot coverage will not adversely affect the neighborhood because it is small and in a similar scale to other nearby residences. (§7.3.3.C.2)
- 3. The proposed addition that will further extend the nonconforming front setback and lot coverage will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location and orientation is being maintained. (§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. The proposed alterations of the nonconforming structure are not substantially more detrimental than the existing nonconforming structure because the addition totals less than 100 square feet. (§7.8.2.C.2)

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## **Conditions**

- 1. Plan referencing
- 2. Standard building permit conditions
- 3. Standard occupancy conditions

# City of Newton Planning and Development

Petition: #337-23

#### **Special Permit/Site Plan Approval**

to legalize paving at the rear of the property, resulting in a reduction in the site's open space

November 14, 2023



35-37 William Street

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# **Zoning Relief**

Zoning Relief Required		
Ordinance		Action Required
§3.4.3.A.1	Request to legalize reduced open space	S.P. per §7.3.3
§7.8.2.C.2		

## **Criteria to Consider**

When reviewing this request, the Council should consider:

- The specific site is an appropriate location for the proposed project with reduced open space (7.3.3.C.1)
- The proposed project that requires relief to allow reduced open space will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed project that requires relief to allow reduced open space will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

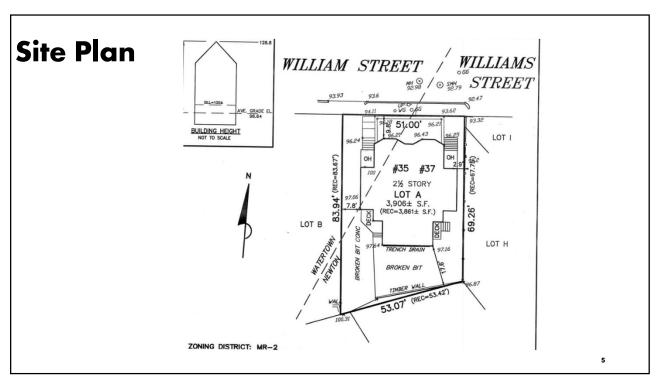
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#### **Aerial Map**



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### **Analysis**

- Site is undersized and constrained
- Open space on site was already nonconforming prior to repaving
- · No changes proposed in this petition- if approved, the existing condition will be legitimized
- No additional impervious surface will be added

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## **Findings**

- 1. The site is an appropriate location for the proposed project with reduced open space because most of the paving is located at the rear of the dwelling and has a minimal impact from the street. (§7.3.3.C.1)
- 2. The proposed project that requires relief to allow reduced open space will not adversely affect the neighborhood because no additional impervious space will be added beyond what currently exists on the site. Also, in replacing the broken asphalt that was previously on the site, the repaved area is an improvement in terms of safety and visual impact to neighbors. (§7.3.3.C.2)
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians because all parking will be provided on site and the access to the site is not changing. (§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)

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## **Conditions**

- 1. Plan referencing
- 2. Standard building permit conditions
- 3. Standard occupancy conditions
- 4. Add crushed stone
- 5. Add tree fund contribution

# City of Newton Planning and Development

Petition: #335-23

#### **Special Permit/Site Plan Approval**

to legitimize the current uses on site, to allow for proposed for-profit and non-profit educational tenants, to allow for farm-share distribution use, and to waive required parking stalls

November 14, 2023



297 Lowell Avenue

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# **Zoning Relief**

Zoning Relief Required			
Ordinance	Required Relief	Action Required	
§4.4.1	Request to allow non-profit educational uses requiring a	S.P. per §7.3.3	
§6.3.14.B.1.b	parking waiver and for-profit educational uses		
§6.3.14.B.2			
§3.4.1	Request to allow an agriculture use on less than three	S.P. per §7.3.3	
	acres		
§5.1.4	Request to further extend nonconforming parking by	S.P. per §7.3.3	
§5.1.13	waiving 12 additional required parking stalls		
§7.8.2.2			

### **Criteria to Consider**

When reviewing this request, the Council should consider:

- The site in SR-2 is an appropriate location for the proposed for-profit and nonprofit educational uses, agricultural use on less than three acres, and waiver of 12 parking stalls (§7.3.3.C.1)
- The requested parking waivers will not adversely affect the neighborhood (7.3.3.C.2)
- The requested parking waivers will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the required amount of parking is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13)

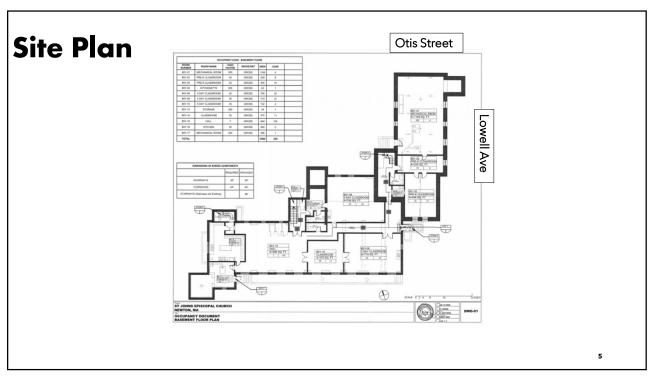
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#### **Aerial Map**



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#### **Current Uses**

- St. John's Episcopal Church
- Bowen Cooperative Nursery School
- Newton Theater Company
- Meditation classes
- Support groupCreation Station summer camps
- Creative Connections Pediatrics
- Red Fire Farms community farm co-op
- Daisy Scouts

#### **Parking Requirement**

- No on-site parking available
- Parking requirement for religious + nursery uses is 87 stalls
- Parking required for other uses requires waiver of 12 stalls

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## **Analysis**

- Planning Department is not concerned with the proposed uses and parking waiver of 12 stalls
- Existing uses seem to cohabitate well
- Different tenants use the space at different times
- Public transit & street parking is available to mitigate parking demand

## **Findings**

- 1. The site is an appropriate location for the proposed educational uses, agricultural use, and 12-stall parking waiver because the site has historically accommodated a mix of complementary uses without on-site parking. The uses proposed mostly operate out of the site at different times, thus resulting in a lesser parking demand than the Ordinance requires. (§7.8.2.C.1)
- 2. The proposed educational uses, agricultural use, and parking waiver will not adversely affect the neighborhood because peak traffic demand will not be negatively affected. (7.3.3.C.2)
- 3. There will not be a nuisance to vehicles or pedestrians because the existing conditions of the site will be maintained. (§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. A waiver of 12 parking stalls is in the public interest because constructing additional parking stalls would require an increase in impervious paving on the site and street parking is available. (§5.1.13)

9

9

## **Conditions**

- 1. Plan referencing
- 2. Standard building permit conditions
- 3. Standard occupancy conditions

# City of Newton Planning and Development

#### **Petition #240-23**

Special Permit/Site Plan Approval Request to allow ground floor residential use, to exceed by right height and stories, and a parking waiver

November 14, 2023



290 Watertown Street

1

# **Zoning Relief**

	•	
	Zanina Baliaf Banaina	
	Zoning Relief Required	
Ordinance	Requested Relief	Action Required
§4.4.1	To allow ground floor residential	S.P. per §7.3.3
§4.1.2.B.3	To allow three stories	S.P. per §7.3.3
§4.1.3	To allow buildings greater than 24 feet in height	S.P. per §7.3.3

#### **Background:**

- Petition was held from August 2023 hearing
- Project has been revised to reduce size of development from 5 units to 4 units and include a car port with green roof

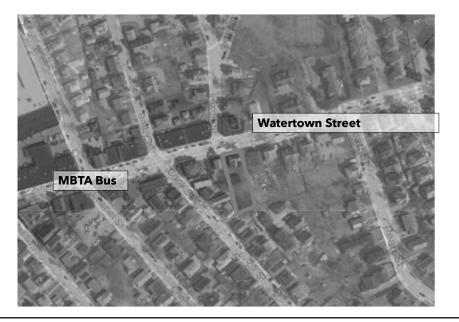
## **Criteria to Consider**

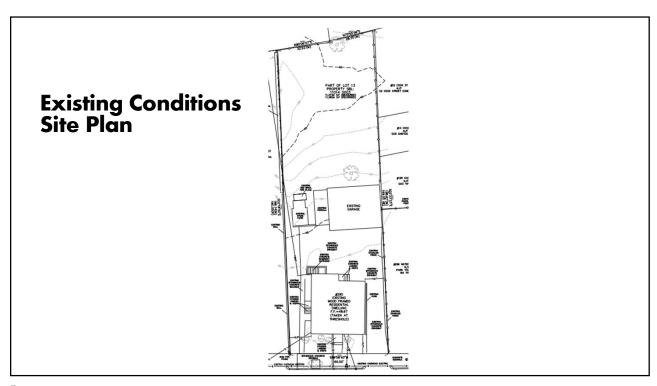
When reviewing this request, the Council should consider whether:

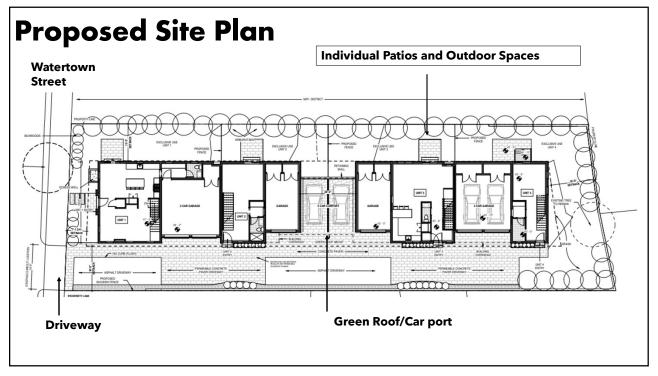
- The site is an appropriate location for the proposed 4-unit, three-story residential development with ground level parking. (§7.3.3.1)
- The proposed 4-unit, three-story residential development with ground floor residential will not adversely affect the neighborhood. (§7.3.3.2)
- There will not be a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.3)
- Access to the site is appropriate for the types and numbers of vehicles involved. (§7.3.3.4)

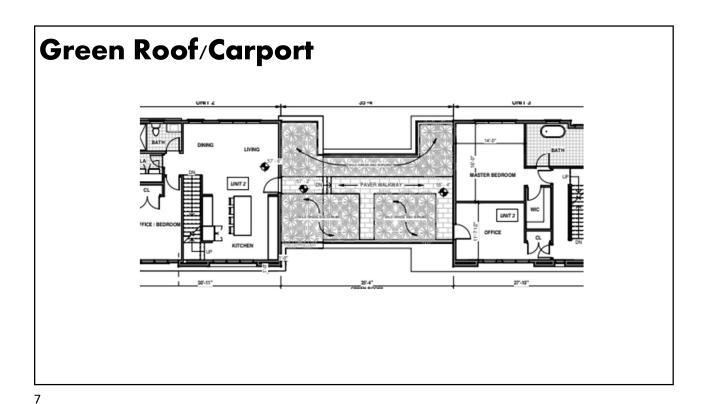
3

#### **Aerial Map**









Proposed Elevations

Front Elevation - Watertown Street

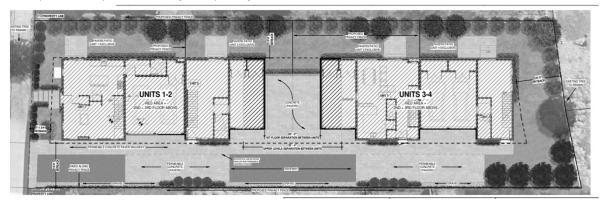






## **Landscape Plan**

Screening along frontage; left property line and rear; permeable paver driveway, and privacy fence



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#### **Photos**

Existing House: Two-family Residential



#### **Photos**

Neighboring Residential



Neighboring Commercial (across street)



13

#### **Interdepartmental Review**

- Newton Historical Commission: Not preferably preserved determination
- **Tree Warden:** Tree planning recommendations on height of trees at planting no taller than 8 to 10 feet tall to be manageable
- **Urban Design Commission**: Reviewed at January 12, 2023 meeting and provided feedback to petitioner
- Engineering Review:
  - Driveway Turning template plan (provided)
  - Snow storage plan & Construction Management Plan

#### **Planning Analysis**

- Located in mixed-use area of Village of Nonantum and on MBTA Bus
- Does not maximize allowable FAR at .95 compared to 1.5 FAR max
- Visually delineating pedestrian walkway to entrances is recommended
- Long-term maintenance of landscaping and roof garden is recommended

15

#### **Findings**

- 1. The specific site is an appropriate location for the proposed four-unit residential development, which includes ground level residential and three stories in a BU-1 district. The scale and design of the proposed development is appropriate for the location, and surrounding neighborhood, which has a mix of businesses and residences, including restaurants, stores, personal service businesses, multi-family residential developments, and two-story homes. (§4.1.3, §4.4.1, §7.3.3.C.1)
- 2. The proposed four units in a three-story building will not adversely affect the neighborhood because the maximum height of the building is similar to what currently exists on the site. The building includes varying heights and a second story green roof, which helps to reduce the overall visual mass of the structure. (§4.1.3, §4.4.1, §7.3.3.C.2)
- 3. The proposed four units in one building located in a walkable neighborhood will not create a nuisance or serious hazard to vehicles or pedestrians. (§4.1.3, §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)

#### **Conditions**

- + Standard Plan Condition
- + Standard Building Permit Condition
- + Standard Pest Control
- + Sustainability Features solar panel ready; EV ready; and bicycle storage; all electric
- + Construction Management Plan
- + Private Waste Disposal
- + Landscape maintenance including green roof
- + Standard Final Inspection/Certificate of Occupancy Condition



## General Information



**BU-1 Zoning District** 



11,473 SF of land (measured)



Existing 2-Family House (Per Newton Assessor's Database)

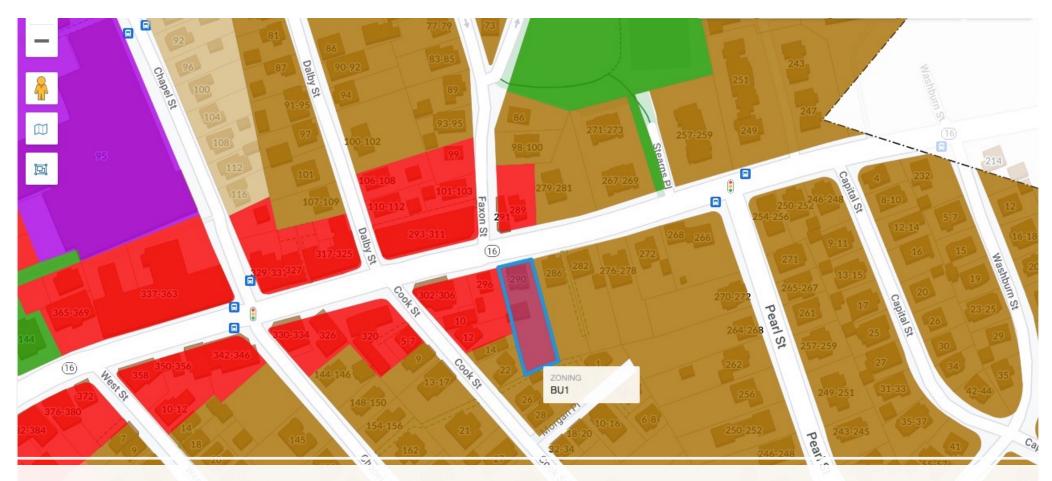




# Proposal



- Four Residential Dwelling Units (Reduced from Five)
- Eight Parking Spaces (No parking waiver required)
- Green Roof over two parking spaces
- Only three waivers required:
  - Residential Use on Ground Floor
  - Three Story Building
  - Building Greater than 24 feet in Height (Just Under 32 feet Proposed)
- Unit Sizes: 2,441 SF; 2196 SF; 2,193 SF;
   2,249 SF (w/o garages)



Zoning Map (Source: Newton Assessor's Website)





Google Earth Image of Site & Neighborhood

# Street Views – Watertown Street

(Source: Google Maps)







ATERTOWN STREET



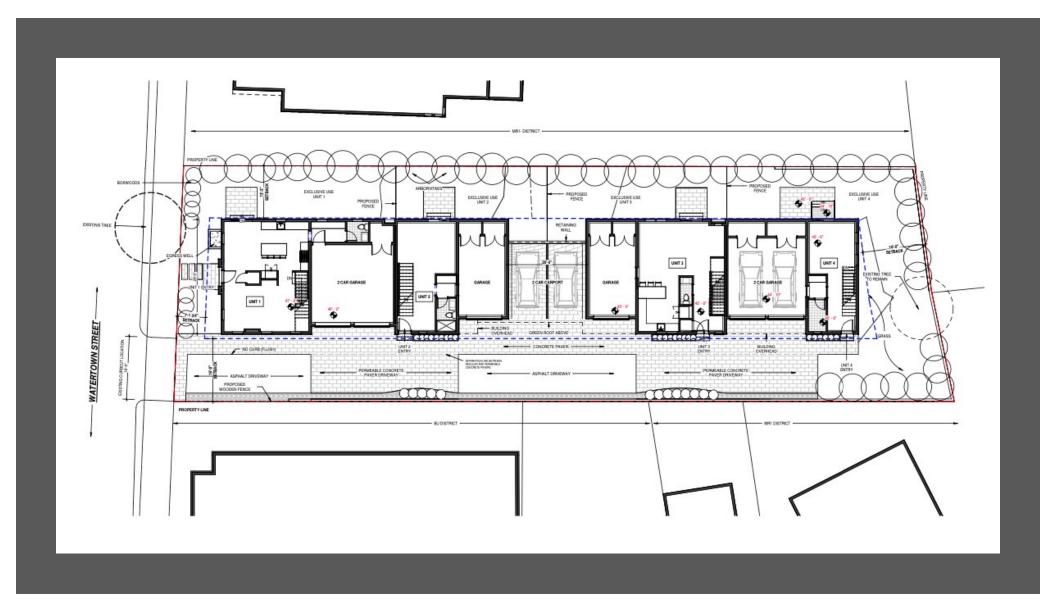


## Rendering of Proposed Project

(Note: this is a computer-generated image for informational purposes only; actual colors and materials may vary)



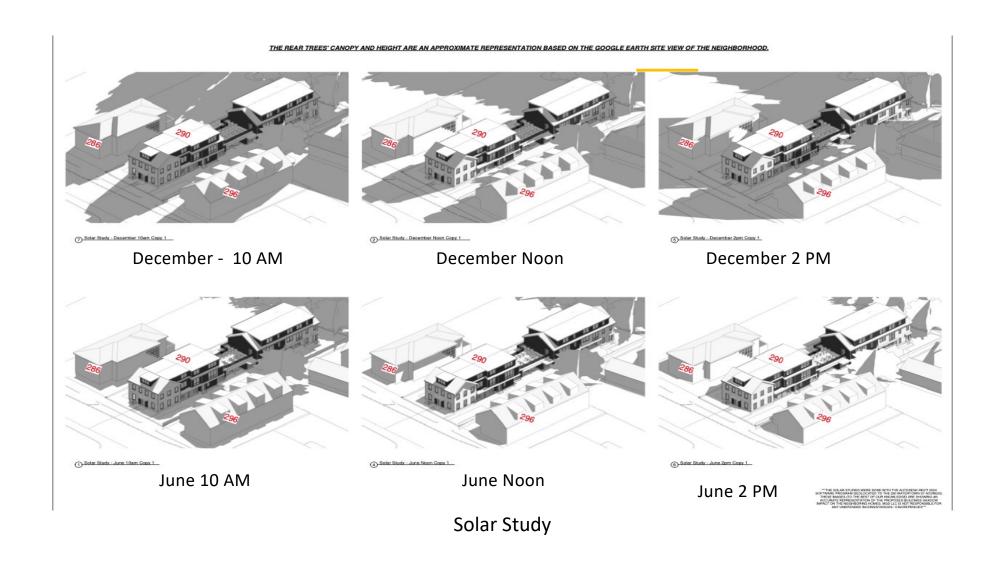






# Proposed Landscape Plan





### SUSTAINABILITY ELEMENTS

#### EV HOME CHARGERS



ALL GARAGE SPACES TO BE EV READY. CONTRACTOR WILL THEN INSTALL FULL EV CHARGER WITH THE SPECIFIC BRAND THE HOME BUYER IS LOOKING FOR

#### ALL ELECTRIC



ALL ELECTRIC HOME AND APPLIANCES TO REDUCE THE USE OF FOSSIL FUELS

#### TRANSPORTATION



INSTALLING BIKE STORAGE SPACE WITHIN ALL THE UNITS GARAGES. THE PROJECT SITE ALSO SITS RIGHT NEAR THE WATERTOWN ST & PEARL ST BUS STATION, HELPING PROVIDE VARIOUS MEANS OF TRANSPORTATION TO AND FROM THE SITE.

#### SOLAR



ALL BUILDINGS WILL BE SOLAR READY. OWNERS MAY ELECT TO PURCHASE AND INSTALL SOLAR PANELS OF THEIR CHOOSING

#### GREEN ROOF



INSTALLING A GREEN ROOF THAT HELPS REDUCE SOLAR HEAT, PROMOTES LOCAL WILDLIFE (BEES, BIRDS, SPIDERS) AND REDUCES STORMWATER RUNOFF

# City of Newton Planning and Development

**Petition #287-23** Special Permit/Site Plan Approval Request to amend Condition #3 of Special Permit #179-19 at 839-853 Washington Street

November 14, 2023



839-853 Washington Street

1

# **Zoning Relief**

Zoning Relief Required		
Ordinance	Required Relief	Action Required
	Amend Special Permit #179-19	
	Amend Special Permits #96-17 and 216-18	
§4.4.1	Request to allow non-accessory parking	S.P. per §7.3.3
§5.1.4	Request to waive an additional 75 parking stalls for a total	S.P. per §7.3.3
§5.1.13	waiver of 172 stalls	
§5.1.3.E	Request to allow assigned parking	S.P. per §7.3.3
§5.1.13		

#### **Background:**

- Land Use Committee heard the petition on September 19, 2023, and voted to recommend increasing the parking waiver and to allow non-accessory parking in the underutilized parking garage at Trio, amending Special Permit #96-17.
- Formula retail definition to amend Special Permit #179-19 was held for further discussion/work.

2

## **Criteria to Consider**

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the amendment to Council Order #179-19.
- The site, due to the amendments to Council Order # #179-19, as developed and operated will not adversely affect the neighborhood.
- There will be no nuisance or serious hazard to vehicles or pedestrians because of the amendments to Council Order #179-19.
- Access to the site over streets is appropriate for the types and numbers of vehicles involved.

3

## **Use Change**

- Modify the definition of "formula business" as it relates to Condition #3 to allow for greater flexibility in leasing commercial space (retail, restaurant, or personal service) to local chains.
- Adjust the definition of formula businesses to having 24 businesses or more worldwide
  - Change of definition from 9 businesses or more worldwide
- Planning believes this addresses concern regarding allowing businesses that are large national chains but may have fewer locations in MA.
- Adds flexibility for commercial property owner in order to fill vacancies
- Planning supports change in definition as it still is supportive of providing for vibrant Newtonville center

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## **Findings**

- 1. The specific site is an appropriate location for the amendment to Council Order #179-19 allowing a greater number of business types to locate at Trio given the site is located within a Village Center containing a variety of uses. (§7.3.3.C.1)
- 2. The amendment to Council Order #179-19 will not adversely affect the surrounding neighborhood and will help to foster a vibrant commercial center with appropriately-scaled businesses. (§7.3.3.C.2)
- 3. The amendment to Council Order #179-19 will not create a nuisance or serious hazard to vehicles or pedestrians. (§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. The dedication of 10,000 square feet within the ground floor of the development to non-formula retail, restaurant, or personal service uses helps to create a more vibrant, diversified mix of businesses. Allowing small chain businesses with fewer than 24 locations worldwide within the ground floor will provide more flexibility to lease these spaces and create a dynamic mix of businesses, helping to provide for an active streetscape. The Council finds that dedicating space to such uses will support the village atmosphere of Newtonville.

5

## **Conditions**

- 1. Defines formula business as 24 or more locations worldwide
- 2. Standard council order recording condition