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PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: December 8, 2023
MEETING DATE: December 12, 2023
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
CC: Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

PETITION #339-23(B)

283 Melrose Street

Petition #339-23(B) for SPECIAL PERMIT/SITE PLAN APPROVAL to amend the site plans associated with special permits #480-14(4) and #327-21 to reflect the construction thus far, as well as changes to the configurations of the buildings and paved areas and to waive certain associated parking and screening dimensional requirements at 283 Melrose Street, Ward 4, Auburndale, on land known as Section 41 Block 14 Lot 10, containing approximately 43,773 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 5.1.8.A.2, 5.1.13, 5.1.8.B.2, 5.1.8.D.1, 5.1.8.D.2, 5.1.9.A, 5.1.11 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The Land Use Committee (the "Committee") held a public hearing on November 21, 2023, on this petition. This memo reflects additional information addressed to the Planning Department as of December 8, 2023.

BACKGROUND

The property located at 283 Melrose Street consists of a 43,773 square corner foot lot within the Multi

Residence 1 (MR-1) zoning district. The site is located at the corner of Melrose and Ash Streets in Auburndale and operated as a theatre company with office space for more than 30 years before closing in 2013. The petitioner obtained a special permit in 2016 (Special Permit #480-14(4)) to change from one nonconforming use to another in the MR-1 zone. The extension of the nonconformity approved the plan to retain the existing theatre building, add onto it and construct a second building consisting of 16 residential units. The special permit was amended in 2021 (Special Permit #327-21), which granted additional relief that reflected a change in the garage floor plan of the residential building as well as an amendment to Condition 27 of the 2016 order to allow changes to unit sizes.

Since the approval of the special permit, modular construction has taken place on site without the appropriate permits and approvals from the Inspectional Services Department. The petitioner must continue to work with the Inspectional Services Department to correct all outstanding issues and violations in order to bring the project into compliance with the building code to ensure the safety and structural soundness of the buildings. Law and ISD are working closely together regarding the structural issues and course of action to remedy these violations. Ultimately, code compliance issues related to structural problems do not fall within the purview of this special permit amendment.

At the November 21 Land Use Committee hearing, the petition was split into two items. Petition #339-23(A) granted the relief to: amend Council Orders #480-14(4) and #327-21; to waive the minimum parking stall depth (§5.1.8.B.2, §5.1.13), to allow a two-way driveway less than 20 feet (§5.1.8.D.1, §5.1.13), and to reduce perimeter screening along Ash Street (§5.1.9.A).

The relief that was held or not granted at the November hearing includes: to allow a driveway entrance exceeding 25 feet in width (35 feet) (§5.1.8.D.2) , a waiver of the bicycle parking requirements (§5.1.11), and to allow parking within five feet of a building containing residential dwelling units (§5.1.8.A.2).

UPDATE

Regarding the pending zoning relief that had not been granted in the November hearing, the petitioner submitted a revised site plan reflecting the directives of the Committee. A comparison of the initially submitted plan and revised site plan is attached (**Attachment A**).

Allow a driveway entrance exceeding 25 feet in width (§5.1.8.D.2)

This relief applied to the southernmost driveway entrance along Ash Street. The petitioner originally stated that they were complying with the directives of the Newton Fire Department. After conferring with Deputy Chief Melendez, he encouraged the petitioner to apply for Commercial Tier I Plan Review, and the petitioner stated they have begun the process of submittal. Ultimately, the Fire Department does not dictate access to the building via the curb cut thus the petitioner was able to reduce the curb cut. The petitioner has since reduced the width of the driveway entrance to 25 feet, no longer necessitating relief. The petitioner should withdraw the requested relief.

Waiver of the bicycle parking requirements (§5.1.11)

The petitioner has included bicycle parking on the revised site plan which will be reviewed again at building permit. The petitioner should withdraw the requested relief.

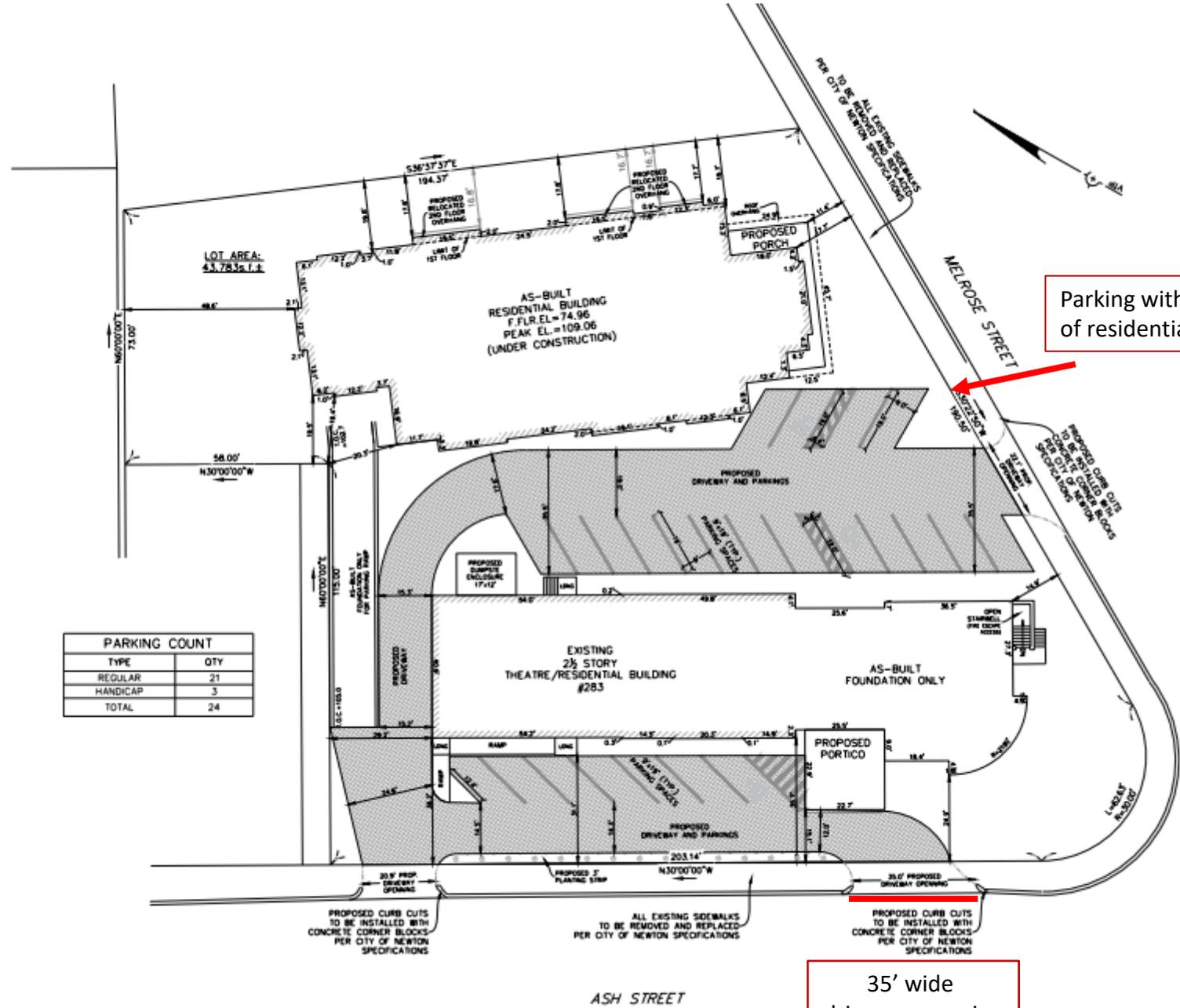
Allow parking within five feet of a building containing residential dwelling units (§5.1.8.A.2)

The initially submitted plan showed four parking stalls closest to the residential building located within five feet of a building with residential units. When the petitioner tried to relocate the set of four stalls out of that area, it triggered relief for parking within five feet of a street, which required additional relief. Ultimately, the petitioner was able to relocate one of the four parking stalls to the next row of parking, along the eastern side of the theater building. This achieves the directive of moving the parking away from the residential building to comply with the requirement and avoids additional relief. To achieve this, it appears as though the petitioner reduced the size of the dumpster enclosure. While not subject to zoning, the petitioner should confirm the refuse operations and dumpster within the site. The petitioner should withdraw the requested relief for the parking within five feet of a residential building.

A draft Council Order is provided which updates the approved plan set from 339-23 (A) to reflect the 25-foot-wide driveway entrance and relocated parking and resulting configuration. In order to ensure final disposition of this petition by the end of the City Council term, the petition must be approved, withdrawn or denied by a vote at the final City Council meeting of this term.

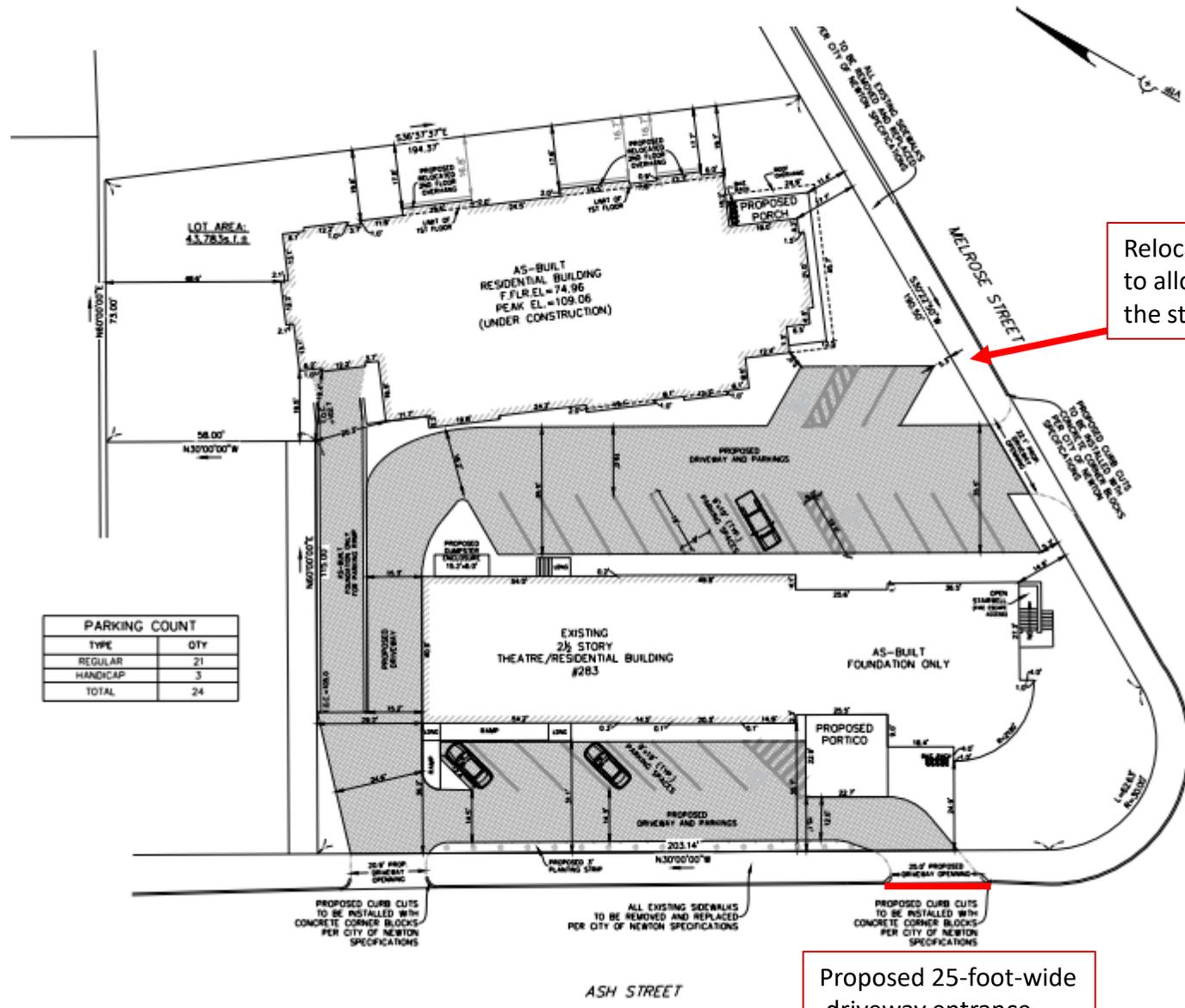
ATTACHMENT(S)

Attachment A	Comparison of Plans
Attachment B	DRAFT Council Order



Parking within 5 feet of residential building

35' wide driveway opening



Relocation of 1 parking stall to allow for 5-foot buffer for both the street and residential building

PARKING COUNT	
TYPE	QTY
REGULAR	21
HANDICAP	3
TOTAL	24

Proposed 25-foot-wide driveway entrance

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, will be in harmony with the conditions, safeguards, and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend the site plans associated with special permits #480-14(4), #327-21, and 339-23(A) as recommended by the Land Use Committee and the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the amendments to the site plan because the changes to the site plan reflect a relatively minor shift in the building locations and remove previously requested relief to bring the site into further compliance with the zoning. (§7.3.3.C.1)
2. The amendment to the prior special permits will not adversely affect the surrounding neighborhood because they reflect a relatively minor shift in the building locations and reflect the previously approved conditions of the project in 2016. (§7.3.3.C.2)
3. The amendment to the prior special permits 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)

PETITION NUMBER: #339-23 (B)

PETITIONER: Turtle Lane LLC

LOCATION: 283 Melrose Street known as Section 41, Block 14, Lot 10

OWNER: Turtle Lane LLC

ADDRESS OF OWNER: 77 Oldham Road, Newton, MA 02465

TO BE USED FOR: Amendment to Special Permits #480-14(4) and #327-21 to reflect changes to the configurations of the buildings and paved areas

RELIEF GRANTED: Special permit per §7.3.3 to amend Council Orders #480-14(4) and #327-21

ZONING: Multi Residence 1

Approved subject to the following Conditions:

This Special Permit/Site Plan Approval amends the site plans approved by Council Orders #480-14(4), #327-21, and #339-23(B). All other conditions of Council Orders #480-14(4), #327-21, and #339-23 (B) remain in full force and effect except as modified below.

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by VTP Associates, signed and stamped by Joseph Porter, Professional Land Surveyor, consisting of the following (1) sheet:
 1. Proposed Conditions at 283 Melrose Street dated July 27, 2023, revised December 1, 2023
2. No building permit shall be issued pursuant to this Special Permit/Site Plan approval until the petitioner has:
 - a. Recorded a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - d. Complied with all conditions required prior to the issuance of a building permit in Council Orders #480-14(4) and #327-21.