



Land Use Committee Report

City of Newton **In City Council**

Tuesday, September 24, 2019

Present: Councilors Schwartz (Chair), Laredo, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Lipof, Albright, Baker, Downs, Rice

City Staff Present: Associate City Solicitor Jonah Temple, Senior Planner Neil Cronin, Planning Associate Katie Whewell

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#262-19(3) Petition to allow more than one garage at 333 Otis Street

NATHANIEL K AND LAURA FOOTE petition for **SPECIAL PERMIT/SITE PLAN APPROVAL** to amend Special Permit Board Order #63-99 to construct a 329 sq. ft. one-car attached garage where a three-car garage exists, creating private garage space greater than 700 sq. ft., more than one garage, a private garage for more than three vehicles, extending the nonconforming height and exceeding the allowable FAR at 333 Otis Street, Ward 3, West Newton, on land known as Section 32 Block 03 Lot 13, containing approximately 24,547 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 3.4.2.B.1 and 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 7-0 (Kelley Recused); Public Hearing Closed 09/24/2019**

Note: The petitioners, Laura and Nathaniel Foote, 333 Otis Street, presented the request to amend Special Permit Council Order #63-99 to construct a single-car addition to the principal structure at 333 Otis Street. In 1999, the petitioners received a special permit to locate an accessory apartment in the second story of an existing carriage house. A garage is located on the first story. Ms. Foote explained that the driveway slopes and the winter conditions create unsafe conditions crossing the driveway to get to the main dwelling. The petitioner proposes to construct a single car attached garage. Ms. Foote noted that the proposed garage is consistent with the existing style of the house and has been approved by Preservation Planner Katy Holmes.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Mr. Cronin noted that due to the downward slope of the driveway from Otis Street to the rear of the property, the basement is considered a story and counts toward the Floor Area Ratio (FAR). He noted that language relative to the accessory apartment and included in the prior Board Order is no longer found in the City's Zoning Ordinance and the petitioner seeks to strike that language.

The public hearing was opened. No member of the public wished to speak. Councilor Crossley motioned to close the public hearing which carried unanimously. Councilor Crossley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members expressed no concerns relative to the petition and voted unanimously in favor of approval (Councilor Kelley recused).

#267-19 Petition to alter existing nonconforming three-story at 410 Newtonville Ave
KRISHNA BUTANEY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #608-89 to construct a flat roof over the second story, creating a three-story structure at 410 Newtonville Avenue, Ward 2, Newtonville, on land known as Section 22 Block 05 Lot 14, containing approximately 14,547 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 8-0; Public Hearing Closed 09/24/2019**

Note: The petitioner, Ms. Krishna Butaney, 410 Newtonville Avenue, presented the request to amend Special Permit #608-89 to allow for the continuance of a non-conforming three-story structure. The petitioner proposes to construct a room over the existing second story, extending the roofline to the rear of the house and construct two dormers to increase the amount of habitable space. Ms. Butaney stated that the property will remain a multi-family and confirmed that no increase to the highest elevation or footprint of the building is proposed. She stated that other properties in the neighborhood have similar additions and noted that the proposed addition will not be visible from the front of the house. The proposed plans have been approved by the Historic Commission. It was noted that the Zoning Board of appeals granted a variance to decrease the lot area per unit to allow three-units at the site in 1989.

The Public Hearing was opened.

Todd Kates, 402 Newtonville Ave, expressed his support for the petition.

Seeing no other member of the public who wished to speak. Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Lipof motioned to approve the item. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members expressed no concerns relative to the request and voted unanimously in favor of approval.

#266-19 Petition to establish accessory apartment at 342 Dudley Road
KEREN DIAMOND petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow an accessory apartment larger than 1,000 sq. ft. in the existing lower level space at 342 Dudley Road, Ward 8, Newton Centre, on land known as Section 82 Block 04A Lot 02, containing approximately 16,700 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 6.7.1.D.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 8-0; Public Hearing Closed 09/24/2019**

Note: Architect Anita Rogers, Nashawtuc Architects, 2 Lexington Road, Concord, represented the petitioner, Ms. Keren Diamond. Ms. Rogers presented the request for a Special Permit petition to

allow an in-law apartment in the existing finished basement at 342 Dudley Road. Because the proposed space is larger than 1,000 sq. ft., a special permit is required.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, zoning, land use and photos of the site as shown on the attached presentation. Mr. Gleba confirmed that no changes are proposed to the exterior to the building, with the exception of a door to be used for egress. Mr. Gleba stated that the Planning Department has no concerns relative to the petition but noted that there is open building permit because there is no as-built site plan on file for a 2002 expansion project. He stated that the Planning Department recommends approval of the project with the condition that an as-built site plan is submitted prior to issuance of a building permit.

Seeing no member of the public who wished to speak, Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Lipof motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown attached. A Committee member suggested changing language in findings 1 (elimination of the use of the word "substantial"), 2 and 5 (to eliminate the reference to the character of the neighborhood). Committee members expressed no concerns relative to the petition and voted unanimously in favor of approval.

#425-18 Request to Rezone three parcels for Northland Development

NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, NORTHLAND OAK STREET, LLC petition for a change of zone to BUSINESS USE 4 for land located at 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), currently zoned MU1.

Action: Land Use Held 8-0; Public Hearing Closed 09/24/2019

#426-18(2) Special Permit to allow mixed use development

NEEDHAM STREET ASSOCIATES, NORTHLAND TOWER ROAD INVESTORS, LLC, NORTHLAND OAK STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a mixed-use development greater than 20,000 sq. ft. with building heights of up to 96' and up to eight stories, to allow a development with an FAR of up to 2.0, consisting of 800 residential units, with ground floor residential units, containing restaurants with more than 50 seats, for-profit schools and educational uses, stand-alone ATMs, drive-in businesses, open air businesses, hotels, accessory multi-level parking facilities, non-accessory single-level parking facilities, non-accessory multi-level parking facilities, places of amusement, radio or TV broadcasting studios, and lab and research facilities, to allow a reduction in the overall parking requirement, to allow tandem spaces, to allow valet spaces, to waive dimensional requirements for parking stalls, to allow assigned spaces, to waive end stall maneuvering requirements, to allow driveway entrances and exits in excess of 25', to waive perimeter landscaping requirements, to waive interior landscaping and planting area requirements, to waive lighting requirements for parking lots, to waive tree requirements, to waive bumper overhang requirements, to waive 1-foot candle lighting requirements, to waive general lighting, surfacing and maintenance requirements, to waive off-street loading facilities requirements, to allow the extension of a nonconforming front setback, loading docks and nonconforming retaining wall to the extent necessary and

to waive sign requirements relative to number, size, location or design, to waive the number of signs allowed at all properties known as 0 156 Oak Street (Section 51 Block 28 Lot 5A), 275-281 Needham Street (Section 51, Block 28, Lot 6) and 55 Tower Road (Section 51 Block 28 Lot 5), Newton Upper Falls, Ward 5, on 22.6 acres of land in a proposed BU4 district. Ref: Sec. 7.3.3, 7.4, 7.8.2.C, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 4.4.1, 5.1.3.E, 5.1.4.A, 5.1.4.C, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.D.2, 5.1.8.E.1, 5.1.9.A, 5.1.9.B, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10, 5.1.10.A.1, 5.1.12, 5.1.13, 5.2, 5.2.13, 5.4.2 and of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 8-0; Public Hearing Closed 09/24/2019**

Note: Attorney Alan Schlesinger, Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioners, Needham Street Associates, Northland Tower Road Investors, LLC, and Northland Oak Street, LLC. Atty. Schlesinger presented an overview of the proposed development and project revisions as shown on the attached presentation. Atty. Schlesinger noted that the item was re-advertised to incorporate additional relief for valet parking, tandem parking and a further reduction in the number of parking stalls. Atty. Schlesinger requested that the testimony, presentations and data presented as part of #426-18 is included for reference in the petition. Details of the presentation can be found on the attached presentation. An amended report will be available Monday, October 7, 2019.

Respectfully Submitted,

Greg Schwartz, Chair

Department of Planning and Development



PETITION #262-19 333 OTIS STREET

SPECIAL PERMIT/SITE PLAN APPROVAL
TO AMEND COUNCIL ORDER #63-99 TO
ALLOW MORE THAN ONE PRIVATE
GARAGE, TO ALLOW A PRIVATE GARAGE
EXCEEDING 700 SQUARE FEET, TO
ALLOW A PRIVATE GARAGE FOR MORE
THAN THREE VEHICLES, TO EXCEED THE
FLOOR AREA RATIO FROM .35 TO .36,
AND TO FURTHER EXTEND THE
NONCONFORMING HEIGHT



SEPTEMBER 24, 2019

1

Requested Relief



Special Permits per §7.3.3 and §7.8.2.C.2 of the Newton Zoning Ordinance to:

- amend Council Order #63-99;
- allow more than one private garage (§3.4.2.B.1);
- allow more than 700 square feet of garage space (§3.4.2.B.1);
- allow garage space for more than three vehicles (§3.4.2.B.1);
- exceed the FAR from .35 to .36, where .35 is the maximum allowed as of right (§3.1.9); and
- further extend the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed (§3.1.3).

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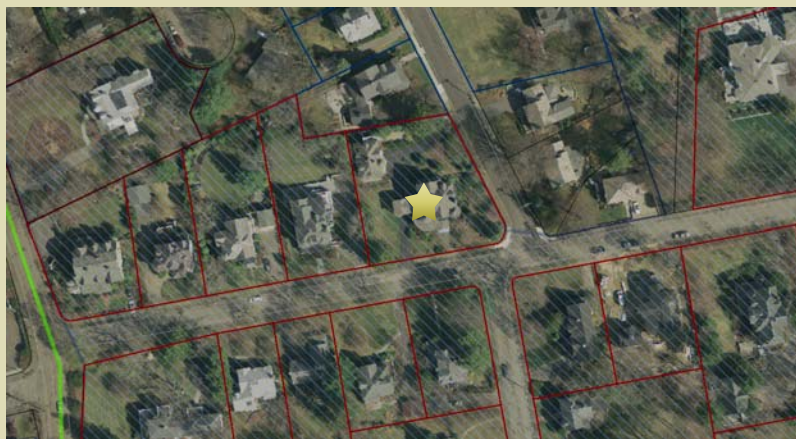
Criteria to Consider

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the additional garage space. (§7.3.3.C.1.)
- The site, due to the additional garage space, as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians due to the additional garage space. (§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 increase in FAR from .35 to .36, where .35 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.1.9 and §7.3.3)
- The increase in the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed is substantially more detrimental than the existing nonconforming structure is to the neighborhood (§3.1.3 and §7.8.2.C.2).

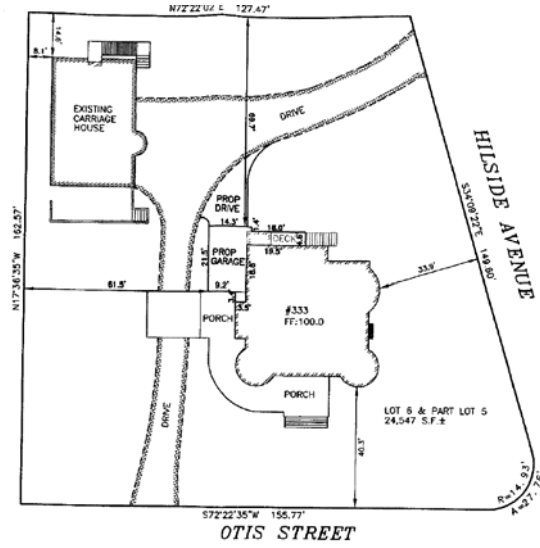
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AERIAL/GIS MAP



4

Site Plan



5

Proposed Rear Elevation



6

Council Order #63-99

- Council Order #63-99 established an accessory apartment within the half-story of the carriage house.
- The Order contains language that is no longer found in the accessory apartment section of the Newton Zoning Ordinance.
- The petitioner is seeking to remove this condition.

7

Analysis

- The Planning Department is unconcerned with the petition.
- The garage is a one-story addition, complementing the architecture of the principal dwelling.
- The increase in building height is di minimis.

8

Proposed Findings

1. The specific site is an appropriate location for the additional garage space. (§7.3.3.C.1.)
2. The site, due to the additional garage space, as developed and operated will not adversely affect the neighborhood because the garage is contained to the first story and is consistent with the architecture of the principal dwelling. (§7.3.3.C.2.)
3. There will be no nuisance or serious hazard to vehicles or pedestrians due to the additional garage space because the garage is set back from the street. (§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)

9

Proposed Findings Continued

6. The increase in floor area ratio from .35 to .36, where .35 is the maximum allowed by right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the addition is to the rear of the structure, minimally visible from the street. (§3.1.9 and §7.3.3)
7. The increase in the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the increase is de minimis and is an outcome of the Newton Zoning Ordinance rather than an increase in building height. (§3.1.3 and §7.8.2.C.2)

10

Proposed Conditions



1. Condition #4 of Council Order #63-99 is deleted in its entirety.
2. The remaining conditions of #63-99 remain in full force and effect.
3. Plan Referencing Condition.
4. Standard Building Permit Condition
5. Standard Certificate of Occupancy Condition

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site 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 allow more than one private garage, to allow more than 700 square feet of garage space, to allow a garage accommodating more than three vehicles, to exceed the floor area ratio from .35 to .36, where .35 is the maximum allowed as of right, and to further extend the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the additional garage space. (§7.3.3.C.1)
2. The site, due to the additional garage space, as developed and operated will not adversely affect the neighborhood because the garage is contained to the first story and is consistent with the architecture of the principal dwelling. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians due to the additional garage space because the garage is set back from the street. (§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 increase in floor area ratio from .35 to .36, where .35 is the maximum allowed by right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the addition is to the rear of the structure, minimally visible from the street. (§3.1.9 and §7.3.3)
6. The increase in the nonconforming building height from 40.2 feet to 40.8 feet, where 36 feet is the maximum allowed is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the increase is de minimis and is an outcome of the Newton Zoning Ordinance rather than an increase in building height. (§3.1.3 and §7.8.2.C.2)

PETITION NUMBER: #262-19

PETITIONER: Nathaniel and Laura Foote

LOCATION: 333 Otis Street, on land known as Section 32, Block 03, Lot 13, containing approximately 24,547 square feet of land

OWNER: Nathaniel and Laura Foote

ADDRESS OF OWNER: 333 Otis Street
Newton, MA 02465

TO BE USED FOR: Garage addition to dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §7.3.3 to amend Council Order #63-99; §3.4.2.B.1 and §7.3.3 to allow more than one private garage; §3.4.2.B.1 and §7.3.3 to allow 1,529 square feet of garage space; §3.4.2.B.1 and §7.3.3 to allow garage space for four vehicles; §3.1.9 and §7.3.3 to exceed the floor area ratio; and §3.1.3 and §7.8.2.C.2 to further extend the nonconforming building height

ZONING: Single Residence 2 district

This property is governed by Council Order #63-99 which established an accessory apartment within a detached structure. The conditions set forth in Council Order #63-99 remain in full force and effect unless otherwise stated.

Approved subject to the following conditions:

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. Proposed Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated April 8, 2019.
 - b. Architectural Plans and Elevations, prepared by Torrey Architecture, unsigned and unstamped, dated February 26, 2019 Revised March 15, 2019 consisting of three (3) sheets.
2. Condition #4 of Council Order #63-99 is hereby deleted in its entirety.
3. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:

- a. Recorded a certified copy of this Order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded 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.
- 5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect or a professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

Department of Planning and Development



PETITION #267-19
410 NEWTONVILLE AVENUE

SPECIAL PERMIT/SITE PLAN
APPROVAL TO AMEND COUNCIL
ORDER #608-89 TO ALLOW A THREE-
STORY STRUCTURE



SEPTEMBER 24, 2019

1

Requested Relief



Special Permit per §7.3.3 of the Newton Zoning Ordinance to:

- To amend Council Order #608-89 to allow a three-story structure (§3.2.4)

2

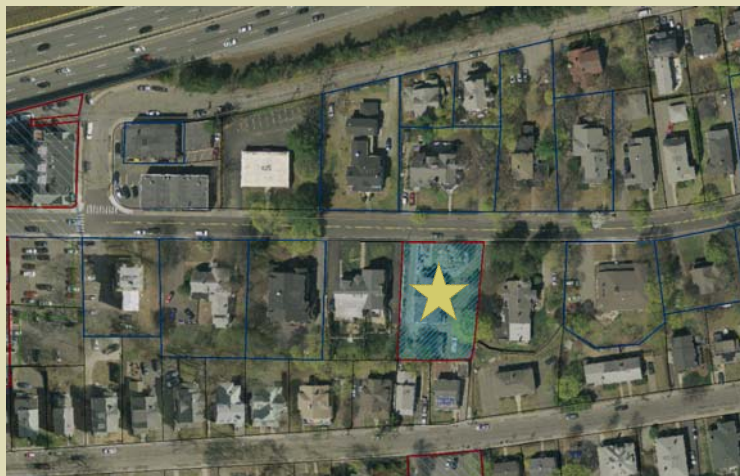
Criteria to Consider

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed three-story structure. (§7.3.3.C.1.)
- The site, due to the proposed three-story structure, as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed three-story structure. (§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.)

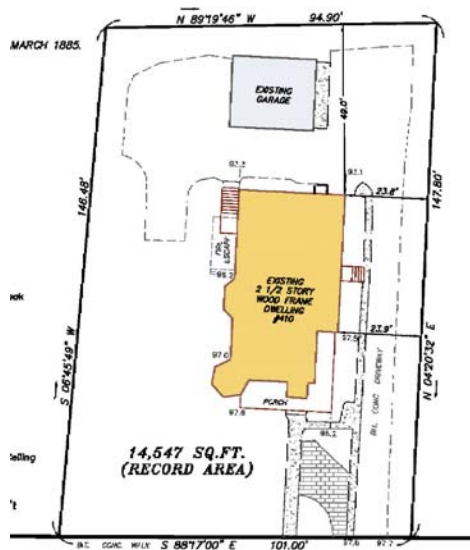
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AERIAL/GIS MAP



4

Site Plan



5

Existing and Proposed Right Elevations



6

Existing and Proposed Left Elevations



7

Analysis

- The Planning Department is unconcerned with the petition.
- The proposed ridgeline will be consistent with the principal ridgeline and the structure is one in a group of structure distinctive for their massing and their scale.

8

Proposed Findings

1. The specific site is an appropriate location for the proposed three-story structure because three-story structures are allowed by special permit in the Multi Residence 1 zone and the structure will remain compliant with the dimensional standards of a two-family structure. (§7.3.3.C.1.)
2. The site, due to the proposed three-story structure, as developed and operated will not adversely affect the neighborhood because the structure is one in a group of structures known for their scale and massing. (§7.3.3.C.2.)
3. There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed three-story structure. (§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.)

9

Proposed Conditions

1. Council Order #608-89 remains in full force and effect.
2. Plan Referencing Condition.
3. Standard Building Permit Condition
4. Standard Certificate of Occupancy Condition

10

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site 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 Council Order #608-89 to allow a three-story structure as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed three-story structure because three-story structures are allowed by special permit in the Multi Residence 1 zone and the structure will remain compliant with the dimensional standards of a two-family structure. (§7.3.3.C.1)
2. The site, due to the proposed three-story structure, as developed and operated will not adversely affect the neighborhood because the structure is one in a group of structures known for their scale and massing. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed three-story structure. (§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: #267-19

PETITIONER: Krishna A. Butaney

LOCATION: 410 Newtonville Avenue, on land known as Section 22, Block 05, Lot 14, containing approximately 14,547 square feet of land

OWNER: Krishna A. Butaney

ADDRESS OF OWNER: 410 Newtonville Avenue
Newton, MA 02460

TO BE USED FOR: Addition to Multi-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.2.3 and §7.3.3 to amend Council Order #608-89 to allow a three-story structure

ZONING: Multi Residence 1 district

This property is governed by Council Order #608-89 that authorized the conversion of a structure to more than two families. The conditions set forth in Council Order #608-89 remain in full force and effect.

Approved subject to the following conditions:

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. Plot Plan, prepared by GRE Surveying LLC., signed and stamped by Wesley T. Guillaume, Professional Land Surveyor, dated December 29, 2017.
 - b. Architectural Plans, prepared by Barriere Design Associates, signed and stamped by Gregory K. Barriere Registered Architect, consisting of three (3) sheets:
 - i. Sheet A-1 Existing and Proposed Elevations;
 - ii. Sheet A-2 Existing and Proposed Floor Plans; and
 - iii. Sheet A-3 Survey, FAR, Conceptual Roof Framing & Section Studies, and Electric Plan.
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Department of Inspectional Services and the Fire Department.
3. 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 for the approved Special Permit/Site plan 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.

4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.

Department of Planning and Development



PETITION #266-19

342 DUDLEY ROAD

SPECIAL PERMIT/SITE PLAN
APPROVAL TO ALLOW AN
ACCESSORY APARTMENT
LARGER THAN 1,000 SQ. FT. IN
THE EXISTING LOWER LEVEL
SPACE

SEPTEMBER 24, 2019



1

Requested Relief



Special permit per §7.3.3 to:

- to allow an interior accessory apartment exceeding 1,000 square feet (§6.7.1.D.2)

2

Criteria to Consider

When reviewing the requested special permits the Council should consider whether:

- The site is an appropriate location for the proposed accessory apartment (§7.3.3.C.1)
- The proposed accessory apartment will not adversely affect the neighborhood (7.3.3.C.2)
- The proposed accessory apartment 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 number of vehicles involved. (§7.3.3.C.4)
- The proposed exterior alterations are in keeping with the architectural integrity of the structure and character of the neighborhood (§6.7.1.D.3)

3

AERIAL/GIS MAP



4

Zoning



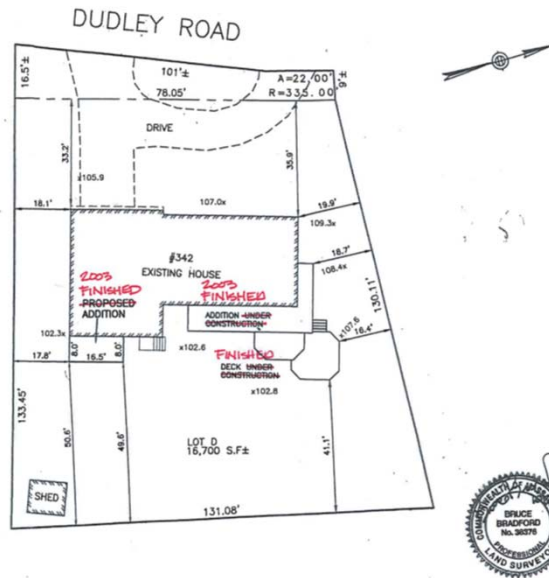
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Land Use



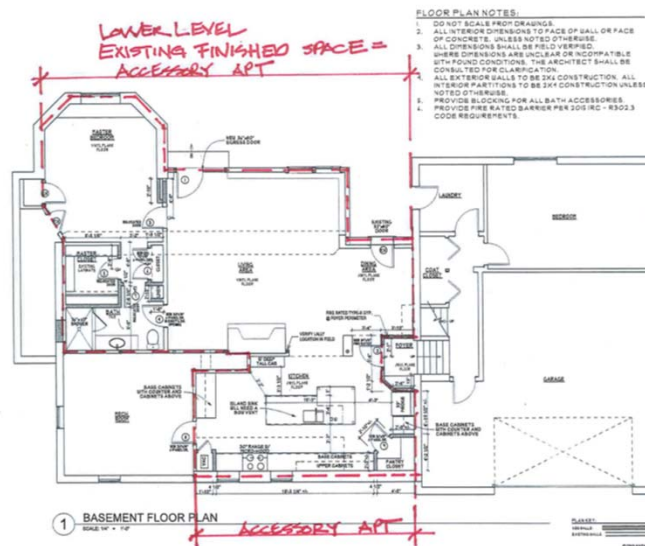
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Site Plan



7

Proposed Accessory Apartment



8

Photos



9

Photos



10

Issue

The Planning Department recommends:

- the petitioner submit as-built drawings, including an as-built site plan, pursuant to a 2002 expansion of the dwelling to the Inspectional Services Department
- in the event this petition is granted such submission be made a condition precedent to the issuance of any building permit pursuant to this petition

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Proposed Findings

1. The site is an appropriate location for an accessory apartment within a single-family dwelling as the existing structure can accommodate the accessory apartment without substantial changes to the single-family structure. (§6.7.1.D.1 and §7.3.3.C.1)
2. The accessory apartment will not adversely affect the neighborhood as it will be located in existing space within, and accessed at the rear of, the single-family dwelling. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
4. Access to the site is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed exterior alterations, the creation of a rear entrance and associated landing that will not be visible from a public way, are in keeping with the architectural integrity of the structure and character of the neighborhood. (§6.7.1.D.3)
6. The creation of an accessory apartment will help to diversify Newton's housing stock consistent with Newton's Comprehensive Plan, by providing an additional unit of housing without the expense, environmental impact, and increased massing associated with new construction.

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Proposed Conditions

1. *Plan Referencing Condition*
2. The accessory apartment must be held in common ownership with the principal dwelling unit.
3. The owner of the dwelling shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. When ownership of the property changes the new owner shall notify the Commissioner of the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.

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Proposed Conditions (con't)

5. Before the issuance of a building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall file with the Inspectional Services Department and the Department of Planning and Development final as-built plans in paper and digital format signed and stamped by a licensed land surveyor reflecting the 2002 expansion of the dwelling as well as any and all existing conditions.
6. *Standard Building Permit Condition.*
7. *Standard Final Inspection/Certificate of Occupancy Condition.*

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CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site 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 a SPECIAL PERMIT/SITE PLAN APPROVAL for the creation of an internal accessory apartment exceeding 1,000 square feet, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for an accessory apartment within a single-family dwelling as the existing structure can accommodate the accessory apartment without adding space to the single-family structure. (§6.7.1.D.1 and §7.3.3.C.1)
2. The accessory apartment will not adversely affect the neighborhood as it will be located in existing space within the single-family dwelling. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed rear entrance and associated landing will not be visible from a public way and are in keeping with the architectural integrity of the structure and character of the neighborhood. (§6.7.1.D.3)
6. The creation of an accessory apartment will help to diversify Newton's housing stock, consistent with Newton's *Comprehensive Plan*, by providing an additional unit of housing without the expense, environmental impact, and increased massing associated with new construction.

PETITION NUMBER: #266-19

PETITIONER: Keren Diamond

LOCATION: 342 Dudley Road, on land known as Section 82 Block 4A Lot 2, containing approximately 16,700 sq. ft. of land

OWNERS: Keren Diamond

ADDRESS OF OWNER: 342 Dudley Road
Newton, MA

TO BE USED FOR: Accessory apartment in a single-family dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to allow an accessory apartment in a single-family dwelling exceeding 1,000 square feet (§6.7.1.D.2)

ZONING: Single Residence 2 (SR2) district

Approved subject to the following conditions:

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. A plan entitled "Plan of Land in Newton, MA, 342 Dudley Road, Proposed Additions," prepared by Everett M. Brooks Co., dated October 28, 2002, stamped and signed by Bruce Bradford, Professional Land Surveyor,), as submitted by the petitioner hand-modified to identify the extent and locations of areas occupied by "2003 Finished Additions" and a "Finished Deck."
 - b. A set of architectural plans entitled "Diamond Residence, 342 Dudley Road, Newton, Mass.," prepared by Nashawtuc Architects Inc., June 3, 2019, signed and stamped by Anita L. Roberts, Registered Architect:
 - i. Basement Demolition Plan (D1)
 - ii. Basement Plans & Plan Notes (A1)
 - iii. Basement Plans & Plan Notes (A1), as submitted by the petitioner hand-modified to show extent of area to be occupied by the accessory apartment
 - iv. Basement Electrical Plan & Schedule (E1)
 - c. A document entitled "Floor Area Ratio Worksheet" indicating, *inter alia*, the property as having a "Total gross floor area" of 4,750.8 square feet, a "Lot size of 16,700±," and a "FAR" (floor area ratio) of .28.
2. The accessory apartment must be held in common ownership with the principal dwelling unit.
3. The owner of the dwelling shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. When ownership of the property changes the new owner shall notify the Commissioner of

the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.

5. Before the issuance of a building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall file with the Inspectional Services Department and the Department of Planning and Development final as-built plans in paper and digital format signed and stamped by a licensed land surveyor reflecting the 2002 expansion of the dwelling as well as any and all existing conditions.
6. 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 Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded 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.
7. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered land surveyor or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer,
 - c. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final site plan.

Northland
INVESTMENT CORPORATION

1

Alan J. Schlesinger
Partner
Schlesinger and Buchbinder, LLP

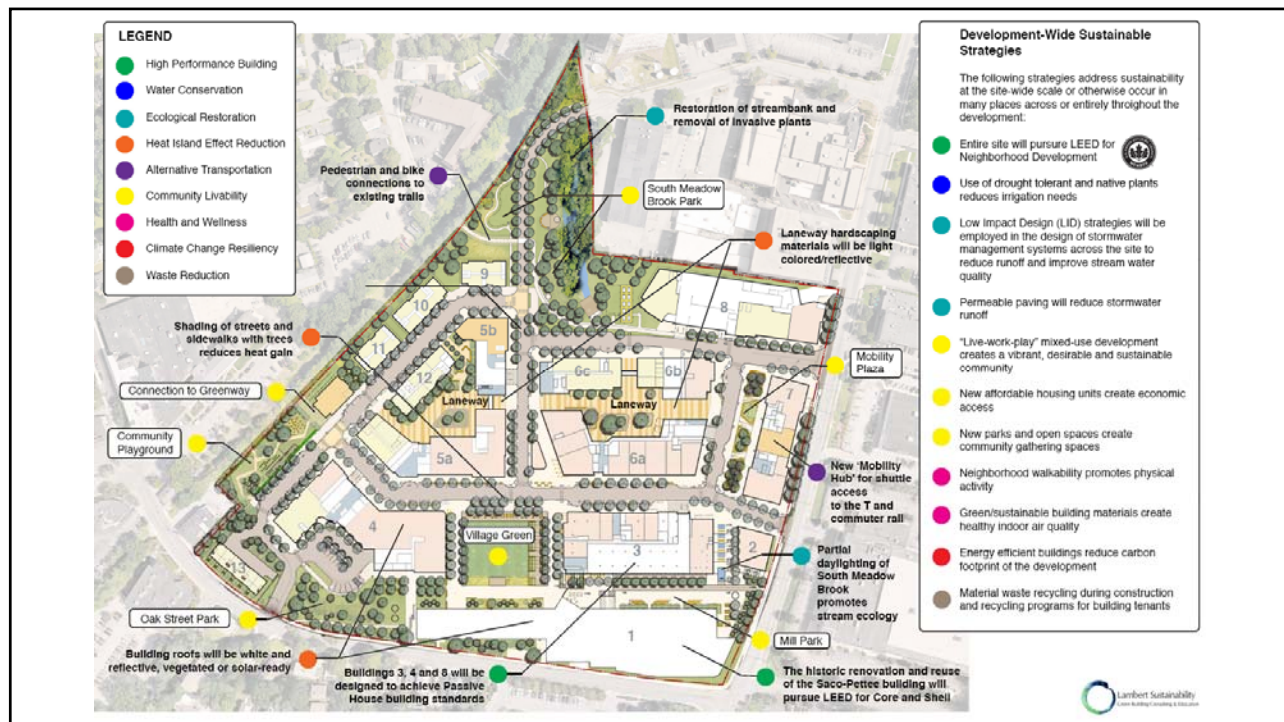
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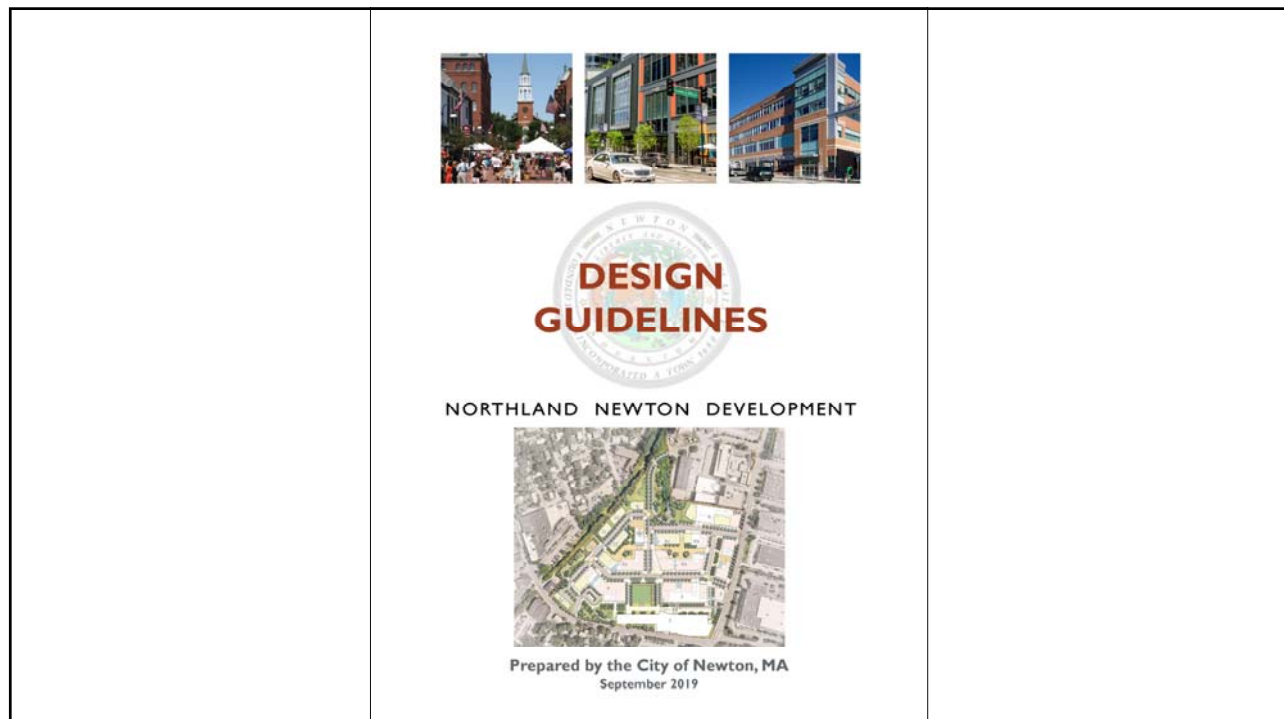
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BUILDING 06A SOUTH ELEVATION

Rendered Representation



7

BUILDING 06A NORTH ELEVATION

Rendered Representation



8

VIEW FROM VILLAGE GREEN
BUILDING 06A RENDERED VIEW



9

LANEWAY VIEW
BUILDING 06A & 06B RENDERED VIEW



10



11



12



13



NORTHLAND NEWTON DEVELOPMENT

“Without damaging a single blade of grass on a single lawn, suburbs across North America can seize opportunities to transform tens of millions of acres of ‘greyfields’”... David Dixon, Suburban Remix

14

NEWTON COMPREHENSIVE PLAN



Prepared by the
 Mayor's Comprehensive Plan Advisory Committee
 Recommended by the
 Planning and Development Board
 Adopted by the Newton Board of Aldermen
 November 19, 2007
 Mixed-Use Centers added November 7, 2011





Needham Street Area Vision Plan 2018

Adopted 8.13.2018

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NEEDHAM ST VISION PLAN 2018

- “...a prosperous mixed-use district...”
- “incorporate environmentally sustainable technologies and design”
- “diverse options for getting to the street whether by transit, walking, biking or driving”



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DEVELOPMENT PROGRAM

- 22.6 - Acre site
- 800 Apartments
 - 660 Market-rate
 - 140 Affordable apartment homes
- 180,000 Square feet of first class office space 115,000 Square feet of retail and commercial space (70,000 existing)
- 9.8 Acres of open space with 7 parks
- Public splash park adjacent to the Greenway
- Underground parking with 1,350 striped parking spaces and 250-car valet capacity
- Storage for 1,100 bicycles

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AFFORDABLE HOUSING

Unit Count:

| | 65% AMI | 110% AMI | Total |
|------------|---------|----------|-------|
| Unit Count | 120 | 20 | 140 |

Rent Levels:

| | 1 BR Unit | 2 BR Unit | 3 BR Unit |
|----------|-----------|-----------|-----------|
| 65% AMI | \$1,440 | \$1,603 | \$1,766 |
| 110% AMI | \$2,260 | \$2,526 | \$2,792 |

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INCLUSIONARY HOUSING PLAN

- Building by Building floor plans of units dispersed
- One parking space per unit, one bicycle space per unit
- Same finishes for affordable and market units
- Access to all building amenities
- SEB Housing will prepare and execute the Affirmative Fair Housing Marketing & Resident Selection Plan
- 44 Group 2A accessible units at least 8 affordable
- Building 8 – All Age Friendly Universal Design Standards
 - Josh Safdie of Kessler McGuiness & Associates
 - Attention to colors, hallways, access, lighting for “all age friendly”
 - Clear sightlines and navigable circulation routes for residents with limited vision and/or mobility
 - Bathrooms with roll-in showers and ample space for resident assistance
 - Senior specific common building amenities

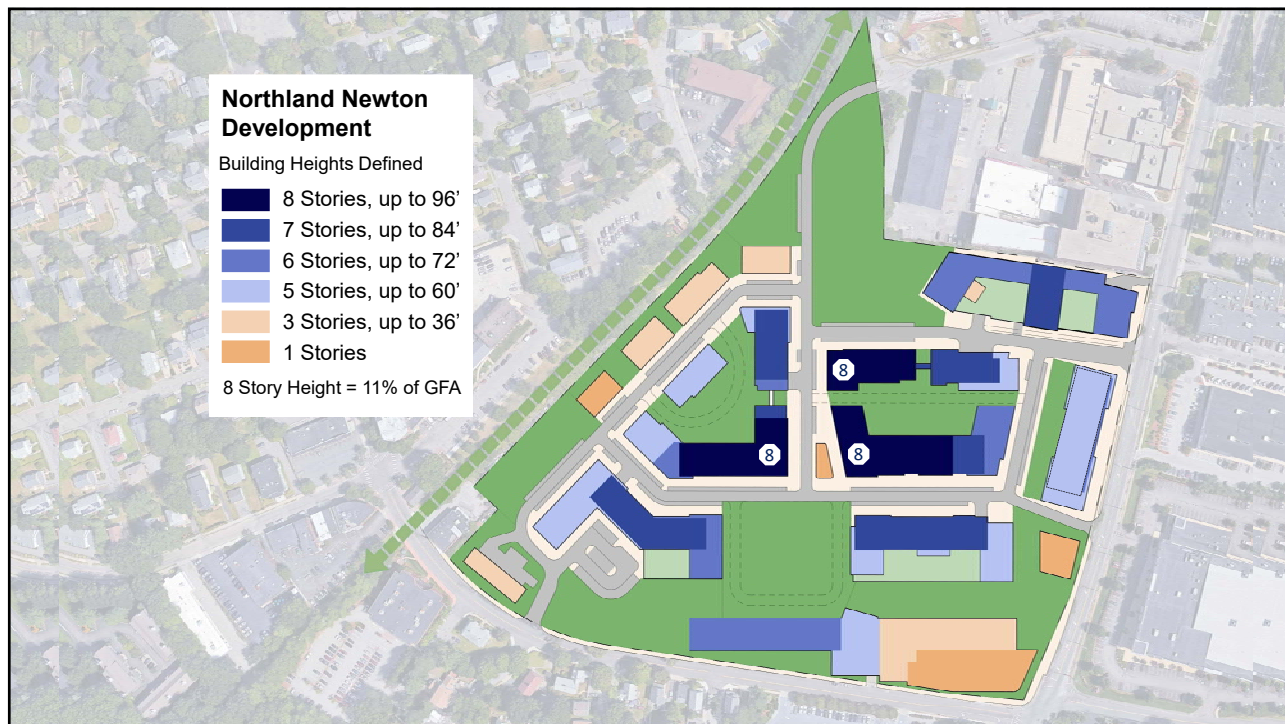
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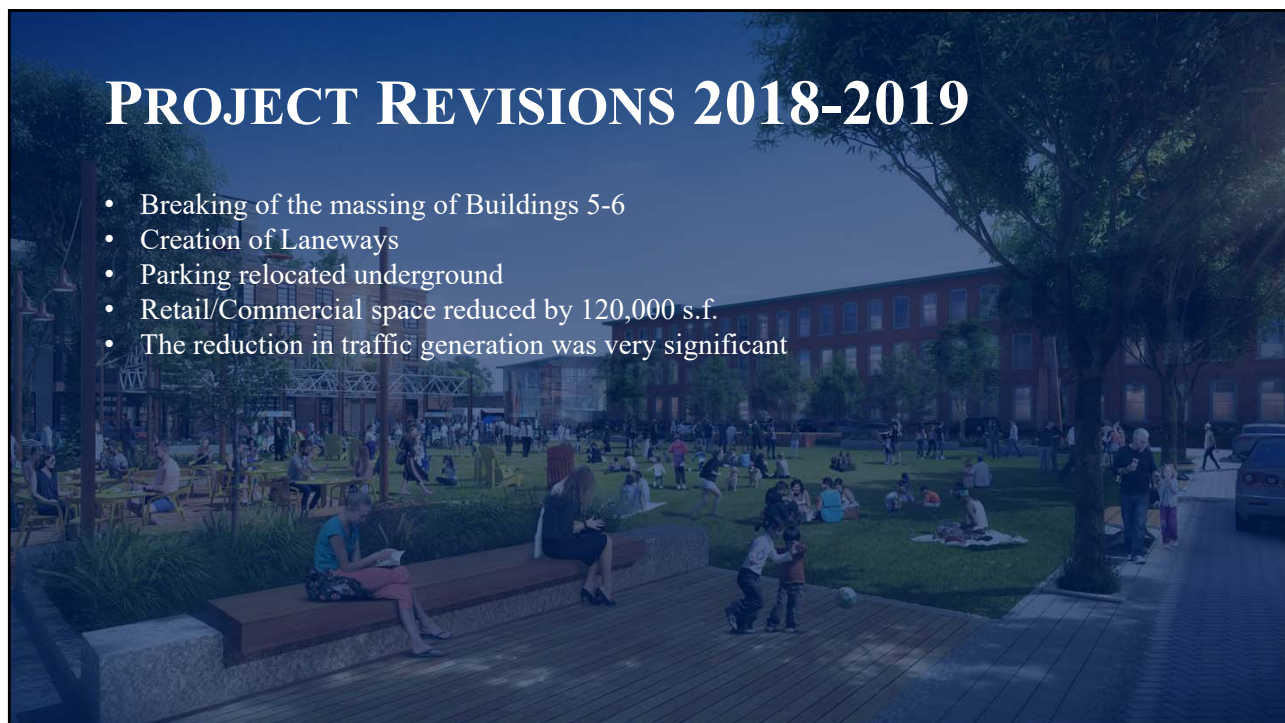
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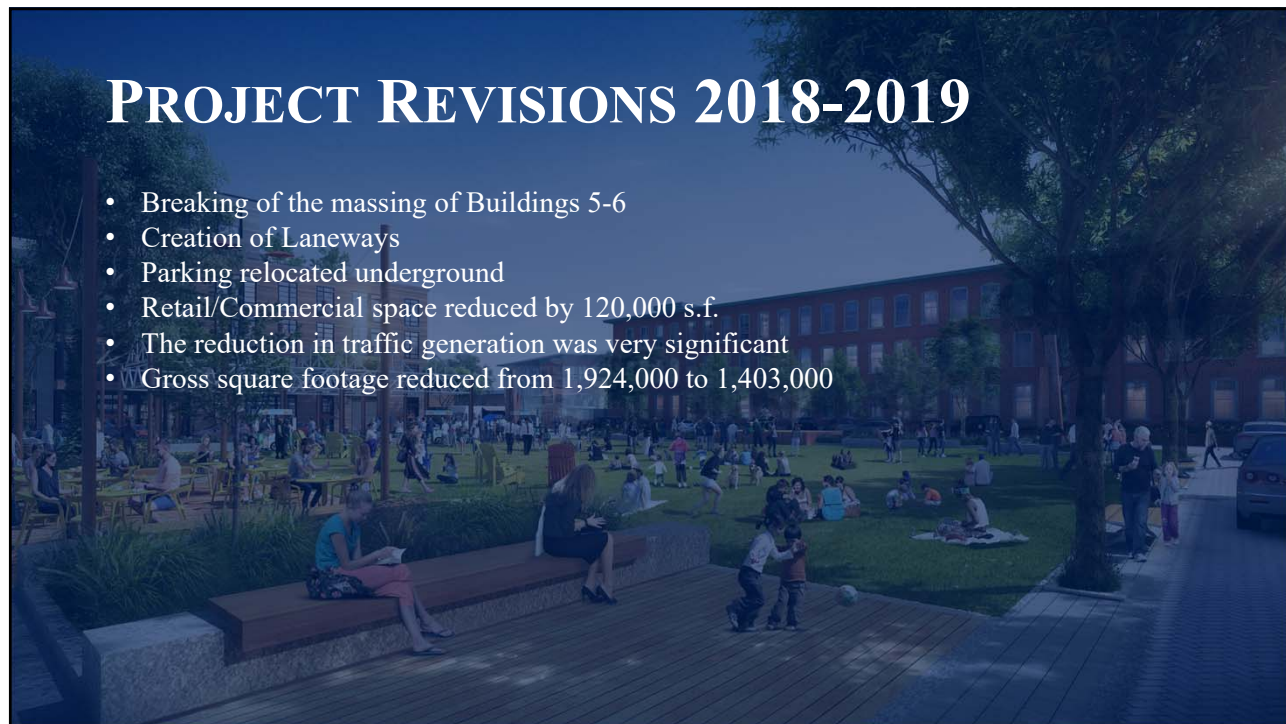
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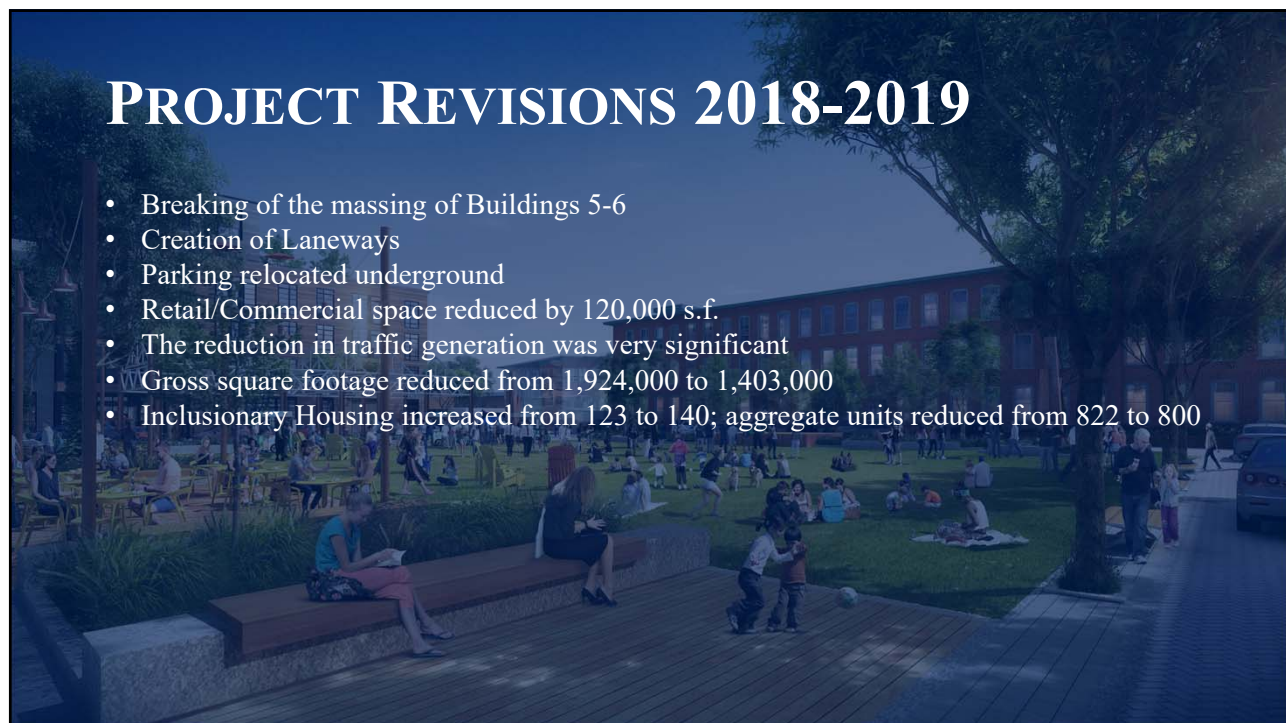
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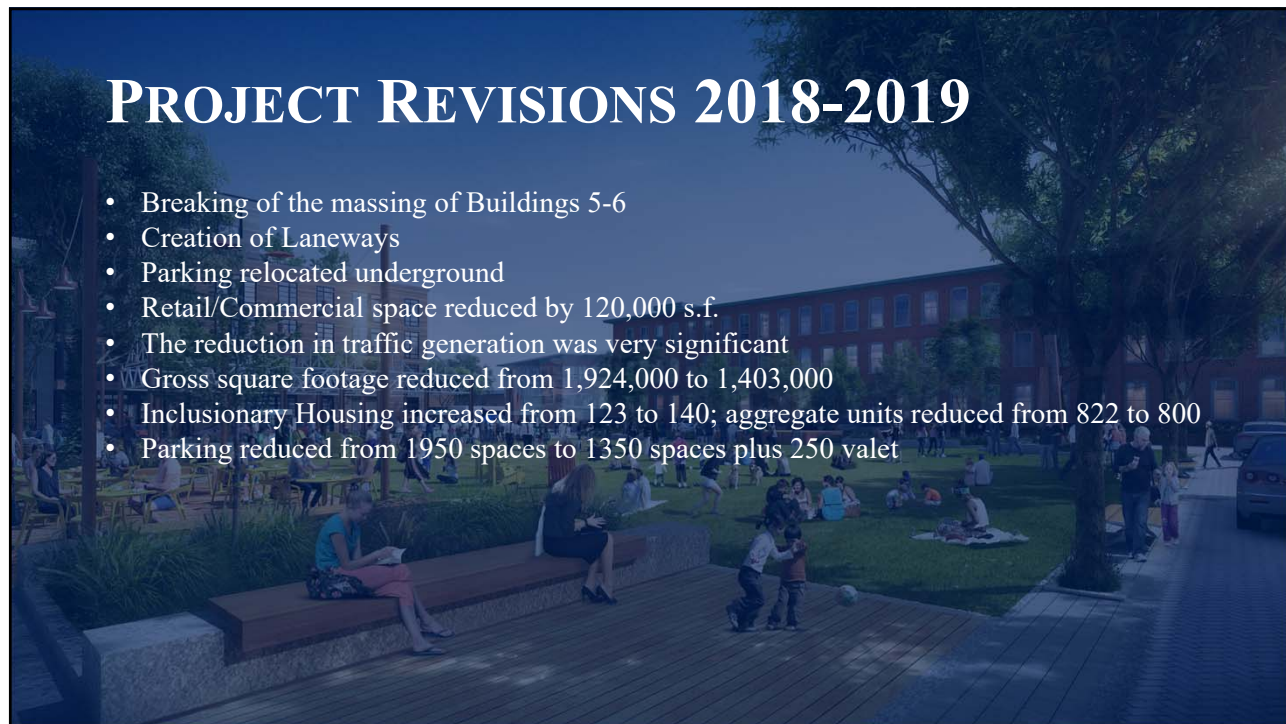
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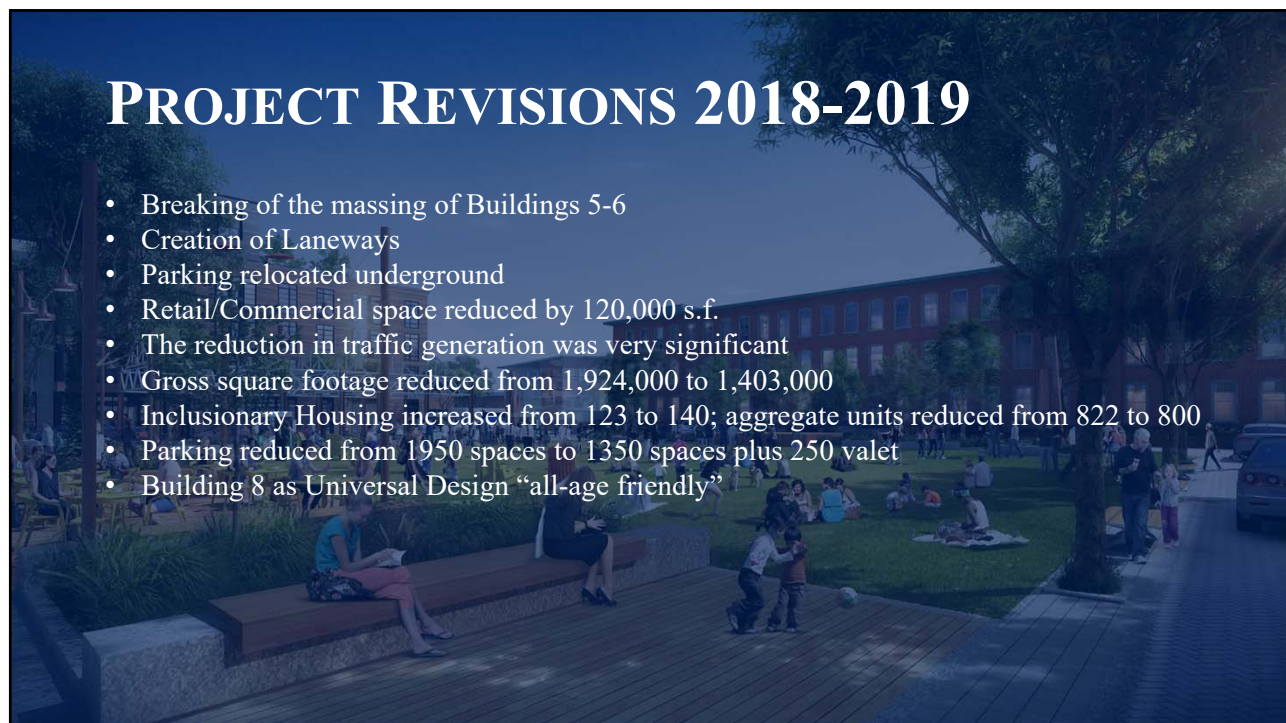
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PROJECT REVISIONS 2018-2019

- Breaking of the massing of Buildings 5-6
- Creation of Laneways
- Parking relocated underground
- Retail/Commercial space reduced by 120,000 s.f.
- The reduction in traffic generation was very significant
- Gross square footage reduced from 1,924,000 to 1,403,000
- Inclusionary Housing increased from 123 to 140; aggregate units reduced from 822 to 800
- Parking reduced from 1950 spaces to 1350 spaces plus 250 valet
- Building 8 as Universal Design “all-age friendly”
- Passive House standard for 3 buildings (35% of units)

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- TDM Plan
- Community Mitigation

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ZONING DENSITY

Business 4 (BU-4):

| Standard | Allowed | Provided |
|----------------|------------------|---------------|
| Units | 1/1,200SF (822) | 1/1,230 (800) |
| F.A.R. | 1.50 as of right | 1.42 |
| Square Footage | 1,479,000 SF | 1,403,000 SF |

There is no density bonus or density increase sought. In the BU-4 district on 22.6 acres 1,479,000 s.f. of building is allowed as of right as are 822 dwelling units. NND is smaller than allowed by right.

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SPECIAL PERMITS

- **Uses** – certain retail uses which are special permits (e.g. for profit school, ATM, accessory parking, restaurants)
- **Height** – for the creation of the open spaces
- **Parking** – Reduction in parking, valet
- **Technical** – technical parking requirements (e.g. underground landscaping and lighting)

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Comparison of Proposed Project and Zoning

| CURRENT PROPOSAL | | MAX BUILDOUT UNDER CURRENT ZONING (WITH SPECIAL PERMIT) |
|-------------------------|---|---|
| Number of Housing Units | 800 | 98 |
| SF of Office/Commercial | 308,200 sf; 1.39 million sf total (inclusive of all uses) | 1.97 million sf (inclusive of all uses_ |
| Maximum Height | 96' | 48' |
| Open Space | None required, 9.4 acres provided | None required |
| Affordable Housing | 140 units (17.5%) | 17 units (17.5%) |

Additional mitigations/benefits such as the TDM plan, LEED and Passive House commitments and financial contributions are not required by zoning and are analyzed on a project by project basis.