



Land Use Committee Report

City of Newton In City Council

Thursday, November 21, 2019

Present: Councilors Schwartz (Chair), Greenberg, Kelley, Markiewicz, Crossley

Absent: Councilors Lipof, Laredo, Auchincloss

City Staff Present: Assistant City Solicitor Jonah Temple, Senior Planner Neil Cronin, Planning Associate Katie Whewell, Deputy Director of Planning Jennifer Caira, Director of Transportation Jason Sobel

Planning and Development Board Members: Peter Doeringer, Kevin McCormick

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.

#332-19 **Petition to amend Board Order #650-86(2) to alter garage at 77 Paul St/1400 Centre St**
MARK F DONATO petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #650-86(2) to allow alteration to an existing structure, extending the existing nonconforming use by constructing an addition for an elevator, to reduce the nonconforming lot coverage and to further extend the nonconforming parking in the front setback at 7400 Centre Street/77 Paul Street, Ward 6, Newton Centre, on land known as Section 62 Block 13 Lot 9, containing approximately 30,023 sq. ft. of land in a district zoned MULTI RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.2.2.A.3, 4.2.3 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved Subject to Second Call 5-0; Public Hearing Closed 11/21/2019**

Note: Attorney Stephen Buchbinder, offices of Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, Mark Donato. Atty. Buchbinder presented the request to amend Board Order #650-86(2) to alter an existing garage at 77 Paul Street/1400 Centre Street. Atty. Buchbinder noted that the petition includes a request to extend the non-conforming structure by constructing two additions; the first to locate an elevator and the second to expand an existing stairwell. The proposed additions total approximately 200 sq. ft. and do not increase the setbacks. Because the structure is nonconforming, the additions require an amendment to the special permit. The upper level of the existing garage is accessed by a ramp. Due to salt application over the years, the condition of the ramp has deteriorated. The petitioner proposes to locate a new driveway, off Paul Street, which would allow access to the upper level of the garage. The upper level of the garage would provide access to 25 parking spaces and would be restricted to tenants and employees. The lower portion of the garage would be used by visitors to the site. VHB Traffic Consultant Randy Hart showed the attached proposed site plan. Mr. Hart stated that a detailed site distance evaluation was conducted, and traffic volumes were measured. The speed on Paul

Street is 21-22 mph. The “site triangle” is used to evaluate safe sight lines for drivers. Five trees and one utility pole exist within the site triangle. To accommodate the new curb cut, the petitioner proposes to remove the five existing trees. Mr. Hart showed how the existing trees within the site triangle create a fence-like appearance. The second driveway (existing) would have improved sight lines by removing the existing trees. Additionally, existing shrubs at the site would be maintained at 2.5’ in height.

Planning Associate Katie Whewell presented the requested relief, criteria for consideration, zoning and proposed plans as shown on the attached presentation. Ms. Whewell noted that at the first public hearing concerns about the clear site distance triangle were raised. Ms. Whewell confirmed that the City’s Transportation Director is comfortable with the site distance triangle subject to the trimming of existing vegetation and the removal of the five trees at the site.

No member of the public wished to speak. Councilor Kelley motioned to close the public hearing which carried unanimously. Director of Transportation Jason Sobel confirmed that the 2.5’ height limit for plantings and/or signage is in accordance with accepted standards for maintenance of clear sight distance. Mr. Sobel emphasized the importance of maintaining a clear site triangle and explained that at this location; the placement of the five existing trees acts as a fence, blocking the sight lines. Mr. Sobel noted that the utility pole is within the site triangle but located on the exterior of the sidewalk and narrower than the existing trees.

The Committee expressed concerns relative to the reduction in height of the existing plantings as well as the removal of all five trees. Councilors noted that the leaves on the trees begin higher than eye level. Mr. Hart noted that the caliper of the trees is the main barrier. Atty. Buchbinder noted that it is the petitioner’s intent to work with the Director of Urban Forestry Marc Welch to locate the trees on site or elsewhere in the neighborhood. Mr. Sobel confirmed that he has not reviewed the crash data near the site. The Committee questioned whether there is a way to approach the removal of the brush and trees gradually, to evaluate whether adequate sight lines can be established without the removal of all of the trees. Atty. Buchbinder confirmed the petitioner will work with Mr. Welch, the Transportation Division and the Planning Department to reduce the impact, while achieving clear site lines. Committee members asked that the Council Order language be modified to require review of the site triangle, tree plan and landscape plan by the Planning Department through a staged approach with the expectation that Planning will make a determination relative to the necessity of removing all of the trees and a landscape plan that shows what trees will be replaced and where. Council Crossley motioned to approve the petition, subject to second call, pending review of the draft Council Order. Committee members voted 5-0 in favor of approval subject to second call.

#268-19 **Petition to allow adult-use marijuana dispensary at 58 Cross St/1089 Washington St**
ASCEND MASS, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow retail marijuana sales and waivers to the extent necessary for minimum stall dimensions, perimeter screening requirements, interior landscaping requirements and lighting requirements at 58 Cross Street/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 BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 4.4.1, 5.1.8.A.1, 5.1.8.B.2, 5.1.9.A, 5.1.9.B, 5.1.10, 5.1.13, 6.10.3.D of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 5-0; Public Hearing Continued**

Note: Attorney Katherine Adams, offices of Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, Ascend Mass, LLC. Atty. Adams presented changes to the petition from the initial public hearing on October 15, 2019 that respond to concerns raised by the Committee and members of the public. The petitioner proposes to remove the rear portion of the building, relocate some parking to the rear of the site, locate a rain garden at the corner of the site and increase perimeter landscaping. The proposed rain garden will satisfy the Engineering Department's requirements regarding cleaner stormwater management at the site. The shift of the parking to the rear eliminates the need for a waiver for parking in the setback as well as a waiver to perimeter and interior landscaping requirements. The accessible parking stalls have been relocated, adjacent to the building, for easier access. The petitioner will need a waiver to the one-foot candle lighting requirement.

Planning Associate Katie Whewell reviewed the requested relief, criteria for consideration, land use, zoning and proposed revisions to the plan as shown on the attached presentation. Ms. Whewell noted that 26 stalls are now proposed where 27 previously were. No waiver for the number of parking stalls is required. Ms. Whewell noted the revised plan includes pedestrian ramp upgrades as well as a crosswalk on Cross Street. The petitioner's Transportation Demand Management (TDM) Plan includes transit passes for employees, enrollment in a bike share program, carpooling incentives and reimbursement of new shoes for employees who walk to work. Ms. Whewell noted that the City's peer reviewer has identified that the Saturday mid-day anticipated trip generation is high but does not consider the "appointment only" policy that has been used for other dispensaries in the City.

Public Comment

Jim, 104 Fairway Drive, spoke on behalf of Jonathan Katz, 16 Cross Street. He stated that the neighborhood has been actively involved to ensure the maintenance quality of life. The petitioner has made good progress with regard to parking and building layout as well as landscaping, but the neighborhood remains concerned about the exit onto Cross Street. He noted that the neighborhood's alternative plan has not been reviewed (showing access to and from Washington Street). It was emphasized that factors that must be evaluated include; the impacts on Cross Street and the time people typically spend at a dispensary. Support was expressed for an appointment only policy as well as a publicly accessible bathroom.

Helen, Watertown Street, read a letter from Sarah, 35 Cross Street, expressed concerns relative to the exit onto Cross Street. She noted that the proposed exit onto Cross Street will contribute to a significant increase in parking in the neighborhood and the width of Cross Street is insufficient. She noted that the Flink Traffic Report questioned the completeness of the traffic study on Cross Street. Concerns were expressed relative to litter, public marijuana, increased traffic, public urination, trash disposal and pickup frequency and the monitoring of public behavior.

Sean Stetson, 16 Wiswall Street, stated that Ascend has not yet addressed the concerns from the neighborhood relative to the egress onto Cross Street. Mr. Stetson noted that Cross Street is not wide

enough for two-way traffic, particularly during snow-storms and suggested that Washington Street traffic will ultimately backup onto Cross Street.

Antonio Decentes, 15 Cross Street, has concerns about the impact of parking and traffic on Cross Street and emphasized the narrow width of Cross Street.

Joe Lee and Shuqin Luo, 53 Cross Street, urged Committee members to consider elimination of the Cross Street curb cut.

Tim Techler, 40 Cross Street, appreciates the petitioner's willingness to remove the rear portion of the building and the requests for waivers for lighting at the site. Mr. Techler noted that the petitioner's survey refers to the width of Cross Street as 33', which is inaccurate. He questioned why some of the spaces are dimensioned as 17' and may require a waiver. It was noted that the alternative site plan (shown attached) submitted for review creates a loop; entering from Washington Street at the west entrance and exiting at the east curb cut. Additionally, the one-way loop is safer and a fence could be constructed on three sides of the facility.

Mark, 21 Cross Street, expressed concern relative to the safety impacts of the proposed dispensary and the proximity of the proposed site to Garden Remedies. He urged Committee members to consider the impact on students as well as traffic and suggested that the "appointment only" policy is not a strict policy.

Philip, 25 Stony Road, expressed concern relative to the impact on neighboring streets. He noted that the petitioner initially said they could not remove the back portion of the building because they do not own the building and now has changed. He questioned the petitioner's credibility.

Amanda Caruso, 67 Tolman Street, works at 1075 Washington Street. Ms. Caruso questioned why a traffic study hasn't been completed on Cross Street, How many appointments are anticipated per hour and why the hours of operation (9:00 am – 9:00 pm) include the peak morning hour.

Attorney Michelle Caron, 1075 Washington Street, noted that there are 19 businesses in the building at 1075 Washington Street. She stated that the businesses are reliant on the street parking near the site. She has concerns that the customers of Ascend will take every parking spot and expressed concerns relative to compliance with the appointment only policy and the lack of available public restrooms. She noted that there is no covered bus stop/waiting area.

The Committee was supportive of the changes made since the initial public hearing but noted that the Cross Street exit remains a concern. The Committee questioned why elimination of the Cross Street exit is a bad idea. Mr. Sobel stated that the Transportation Division has been working with the petitioner and evaluating possible options. He explained that the eastern driveway off of Washington Street will be used for deliveries and has a secure rear driveway. He suggested there is a benefit to having a delivery area separate from the main entrance at the facility. Mr. Sobel stated that from an access management and safety perspective, his recommendation would be to close the driveways on Washington Street and have all access from Cross Street. He explained that closure of the access points on Washington Street would

reduce the number of conflict points. Mr. Sobel confirmed that the number of conflict points and number of trips that are considered when evaluating traffic impacts. He stated that the driveway for Washington Street deliveries is a conflict point but will be used less frequently. Mr. Sobel confirmed that he and the City's peer reviewer reviewed the traffic study submitted, which included exit volumes (AM and PM weekday, Saturday peak) onto Cross Street. He stated that the impacts on traffic operations on Cross Street are relatively minor. It was noted that the Saturday peak hour currently has approximately 27 trips. The increase in number of trips anticipated is 45 during the weekend peak hour. The Committee asked that the Planning Department analyze the neighborhoods traffic study submitted and work with the Ward 3 Councilors to discuss all possible options for accessing the site. It was noted that the delivery vehicles will be backing out onto Washington Street from the delivery driveway, which could be unsafe for pedestrians. The Committee questioned whether restrooms may be made available for customers. Atty. Adams and the petitioner, Ascend CEO Andrea Cabral explained that everything in the building is secured and accessed by key card. Ms. Cabral emphasized the strict regulation on behalf of the Cannabis Control Commission with regard to securing a facility and minimizing areas open to the public. The Committee asked the petitioner to provide an analysis of how many customers will be served each hour. With that, Committee members voted unanimously to hold the item until December 10, 2019.

#318-19 Request to Rezone 15-21 Lexington Street to Multi Residence 3

DANTE CAPASSO/PICARIELLO REALTY TRUST/DSP REALTY TRUST petition for a change of zone to Multi-Residence 3 for portions of land located at 15-21 Lexington Street (currently zoned Single-Residence 3), also identified as Section 41, Block 35, Lots 2, 3, 4 and 5.

Land Use Approved 5-0 on 10/10/2019; Public Hearing Closed 11/21/2019

#319-19 Petition to allow 24-unit multi-family dwelling at 15-21 Lexington Street

DANTE CAPASSO/PICARIELLO REALTY TRUST/DSP REALTY TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a 24-unit multi-family dwelling with a below grade parking garage and surface stalls, to reduce the parking stall depth, to allow restricted end stalls in the garage parking facility, to waive the perimeter screening requirements for the outdoor parking facility, to waive interior landscaping requirements for the outdoor parking facility and to waive the minimum intensity of outdoor lighting of the parking facility on 51,870 sq. ft. of land at 15-21 Lexington Street, Ward 4, West Newton, on land known as Section 41 Block 35 Lots 2-5 in a district zoned SINGLE RESIDENCE 3 (to be rezoned to MU3). Ref: Sec. 7.3.3, 7.4, 3.4.1, 5.1.8.B.2, 5.1.13, 5.1.8.B.6, 5.1.9.A, 5.1.9.B, 5.1.10.A.1 of the City of Newton Revised Zoning Ord, 2017.

Action: **Land Use Approved Subject to Second Call 5-0; Public Hearing Closed 11/21/2019**

Note: Attorney Michael Peirce, Wellesley, represented the petitioner, Dante Capasso/Picariello Realty Trust, DSP Realty Trust. Atty. Peirce presented updates to the Committee on the request to allow a 24-unit multi-family dwelling at 15-21 Lexington Street. Atty. Peirce noted that the proposed development has a 30' setback on Lexington Street and additional plans were submitted that reflect the landscaping details. He explained that 51 parking stalls were initially proposed but based on feedback from the Committee, the petitioner has reduced the number of proposed parking stalls to 48. Atty. Peirce explained that the petitioner is from the neighborhood, understands the needs of the residents given the transit options in the area and is conscious of neighborhood support for sufficient parking due to the

concern of overflow parking in the neighborhood. Atty. Peirce stated that five of the units will be affordable units and confirmed that the storm water management will solve for 100% of the impervious surface at the site (not just the new impervious surface). The petitioner intends to incorporate sustainability features that have been reviewed by the Planning Department. The petitioner, Mr. Dante Capasso, 5 Ionia Avenue, stated that based on the size of the project, certification funds (LEED, Passive House) might be better spent elsewhere within the project. Mr. Capasso noted that it is difficult to receive Passive House certification unless the passive house elements are incorporated into the early stages of design. He confirmed that the proposed design does incorporate many elements of a Passive House Design.

Deputy Director of Planning and Development Jennifer Caira confirmed that the Planning Department and the Director of Sustainability Director have reviewed the sustainability plan and have incorporated details into the Council Order. The Committee questioned why the Planning Department is supportive of 48 parking stalls at the site. Ms. Caira confirmed that the Planning Department generally encourages less parking, but the petitioner believes the 48 stalls support the demand. Ms. Caira noted that a further reduction in the number of parking stalls would require a parking waiver. Seeing no member of the public who wished to speak, Councilor Markiewicz motioned to close the public hearing which carried 5-0. Councilor Markiewicz motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation.

Committee members discussed the I&I mitigation fee. It was noted that there is a process by which the City may split the fee into two payments. The petitioner must pay the first payment and may seek an abatement based on the actual, reduced flows after occupancy. The second payment may be reduced if the installed appliances are more efficient than is anticipated based on the 110-gallon calculation, which is a higher flow than typical low flow appliances. Committee members asked that the conditions in the Council Order require the petitioner to lease the affordable units at a rate proportionate to the market rate units. With that, Committee members voted 5-0 in favor of approving the item subject to second call pending a review of the sustainability measures included in the Council Order. Committee members expressed no concern relative to the request to rezone the parcel (#318-19). Councilor Markiewicz motioned to approve the request to withdraw which carried 5-0.

#317-19 Petition to allow attached dwelling units at 67 Walnut Street

60 WOODBINE STREET LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-family dwelling and construct three single-family attached dwelling units in one building, to reduce side setback requirements, to reduce the required lot area, to allow a driveway within ten feet of the side lot line and to allow retaining walls of four feet or more in height within the setback at 67 Walnut Street, Ward 2, on land known as Section 21 Block 24 Lot 15, containing approximately 14,516 sq. ft. in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.2, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 2-0-3(Crossley, Kelley, Markiewicz abstaining)-0; Public Hearing Closed 11/21/2019

Note: Attorney Laurance Lee, office of Rosenberg, Freedman & Lee represented the petitioner, 60 Woodbine Street, LLC. Atty. Lee presented details of the proposed development as shown on the attached presentation. Atty. Lee noted that the proposed three multi-family dwelling units range in size from 2400-2600 sq. ft. and have an FAR of .47 where an FAR of .48 would be permitted as a matter of right. He noted that no parking waiver is required for the proposed development and stated that the third unit in the proposed development has been designed to be “adaptable” and easily modified into an accessible unit. The petitioner has completed a one-year demo delay period. Atty. Lee stated that the petitioner submitted plans for review by the Director of Urban Forestry who has approved the tree removal and replanting plans. Atty. Lee noted that the proposed lot coverage is 23.8% where 25% would be permitted as a matter of right and the height of the proposed building is lower than the existing structure. The petitioner proposes to locate two EV charging stations, solar ready roofs, low flow plumbing fixtures and energy star appliances. Due to the location of a City drain easement at the rear of the property, the proposed landscaping should be done in accordance with a license agreement from the City. Atty. Lee confirmed that it is the petitioner’s intent to use gas for heating of the new dwelling.

Senior Planner Neil Cronin presented analysis of the proposed development. Mr. Cronin noted that the staff has reviewed the plans and are supportive of the proposed design. Mr. Cronin confirmed that one unit will be adaptable to meet a residents’ needs, rather than available for immediate use. The first floor will meet Group 1 accessibility of the state’s standards. Atty. Lee confirmed that a proposed retaining wall will be moved slightly to the south to avoid any encroachment and stated that the Engineering Department has found the turning template acceptable.

Public Comment

Jack Porter, 79 Walnut Street, noted that this is a historic house and emphasized that the petitioner should build within the existing, historic footprint of the structure.

Ashley Richardson, 340 Linwood Avenue, expressed concerns relative to the definition of the “adaptable” and able to be modified to accommodate an individual with accessibility needs rather than accessible. Ms. Richardson has concerns relative to the number of stories at the site and the egress. Ms. Richardson questioned whether trees will be replaced if they die and stated that she is concerned about topographic changes.

Mr. Cronin stated that the petitioner’s civil engineer submitted a revised plan and confirmed that Associate City Engineer John Daghlian is confident that water runoff will be managed and can be addressed prior to issuance of a building permit. It was noted that there is no living space above the second floor of the building. Seeing no other member of the public who wished to speak, Councilor Greenberg motioned to close the public hearing which carried 5-0. Councilor Greenberg motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members requested that the language relative to the level 2 EV charging stations be incorporated into the Council Order. With that, Committee members voted 2-0-3 in favor of approval (Crossley, Kelley, Markiewicz abstaining).

#259-19 Petition to allow attached dwelling units at 264 Pearl Street

BENEDETTO CAIRA, TRUSTEE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow construction of three single-family attached dwelling units, to allow a reduction in the required side setbacks, to allow a reduction in the required frontage, to allow a reduction in the required lot area, to allow a driveway within 10' of a side lot line and to allow retaining walls great than four feet within a setback at 264 Pearl Street, Ward 1, Newton, on land known as Section 11 Block 14 Lot 10, containing approximately 14,608 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 5.4.2.B, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 5-0; Public Hearing Closed 11/21/2019

Note: Attorney Laurance Lee, office of Rosenberg, Freedman & Lee represented the petitioner, Benedetto Caira, Trustee. Atty. Lee presented an overview of the petition to allow attached dwelling units and proposed elevations at 264 Pearl Street as shown on the attached presentation. Atty. Lee noted that the proposed dwelling units range in size from 1688-1773 sq. ft.. He stated that both the FAR and setbacks are within the allowable limits and noted that in response to concerns raised, three exterior parking spaces were eliminated; creating additional open space. Atty. Lee noted that the petitioner has received community support regarding the project.

Mr. Verne Porter explained that soil at the site is primarily peat and there is a high groundwater table, which does not allow groundwater infiltration. As such, the petitioner must pump stormwater into the City's system from tanks located at the site. The tanks are not designed to accommodate a one-hundred-year storm but will delay the release to the City's system. Associate City Engineer John Daghljan requested that a condition of approval be that the petitioner must have a backup generator to provide power to the pumps. Atty. Lee requested that installation of the backup generator is elective rather than mandatory, noting that it may be a significant expense. The Committee noted that there is no stormwater system on site currently and the proposed stormwater conditions are an improvement over the existing conditions but agreed that the backup power source should be mandatory.

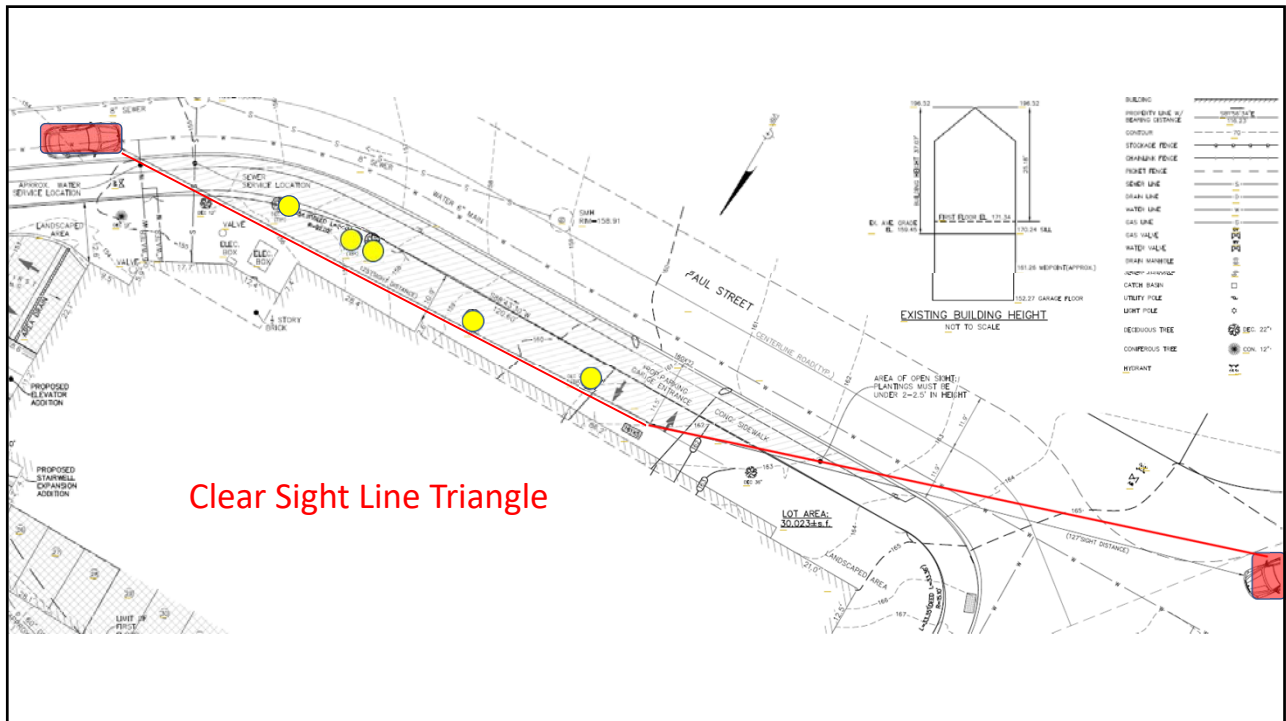
The Public Hearing was opened. No member of the public wished to speak. Councilor Greenberg motioned to close the public hearing which carried 5-0. Councilor Greenberg motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation and voted 5-0 in favor of approval.

Respectfully Submitted,

Greg Schwartz, Chair



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Department of Planning and Development



PETITION #650-86 (3)
**77 PAUL STREET/
1400 CENTRE STREET**

SPECIAL PERMIT/SITE PLAN
APPROVAL TO AMEND SPECIAL
PERMITS #650-86 (2) TO EXTEND THE
NONCONFORMING USE, INCREASE
NONCONFORMING LOT COVERAGE
AND TO FURTHER EXTEND
NONCONFORMING PARKING IN THE
FRONT SETBACK

NOVEMBER 21, 2019



Requested Relief



Special Permit per § 7.3.3 and §7.8.2.C.2 of the NZO to:

- To amend Special Permit #650-86 (2)
- To extend/alter the nonconforming office use (§3.4.1, §7.8.2.C.2)
- To further increase nonconforming lot coverage (§3.2.2.A.3, §7.8.2.C.2)
- To further extend nonconforming parking in the front setback (§4.2.3, §7.8.2.C.2)

Criteria to Consider



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the amendment to Special Permit #650-86 that creates an additional curb cut and other site changes. (§7.3.3.C.1)
- The proposed amendment to Special Permit #650-86 that creates an additional curb cut and other site changes will not adversely affect the neighborhood. (§7.3.3. C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians by the proposed amendment to Special Permit #650-86 that creates an additional curb cut and other site changes. (§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)

Criteria to Consider (continued)



When reviewing this request, the Council should consider whether:

- The proposed alterations of the nonconforming structure and use are not substantially more detrimental than the existing nonconforming structure and use. (§3.4.1, §7.8.2.C.2)
- The extension of the nonconforming parking in the front setback is not substantially more detrimental than the existing nonconforming parking facility. (§4.2.3, §7.8.2.C.2)
- The increase in the nonconforming lot coverage is not substantially more detrimental than the existing nonconforming parking facility. (§3.2.2.A.3, §7.8.2.C.2)

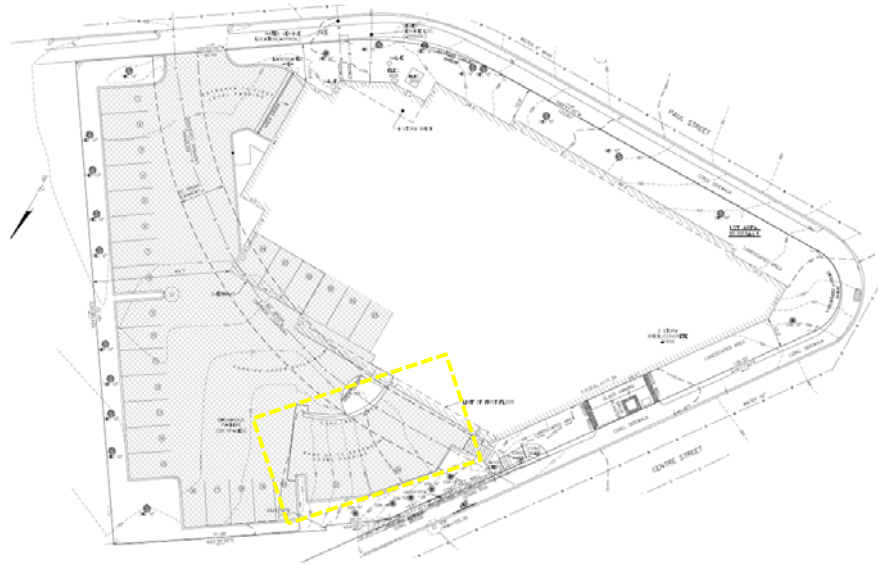
AERIAL/GIS MAP



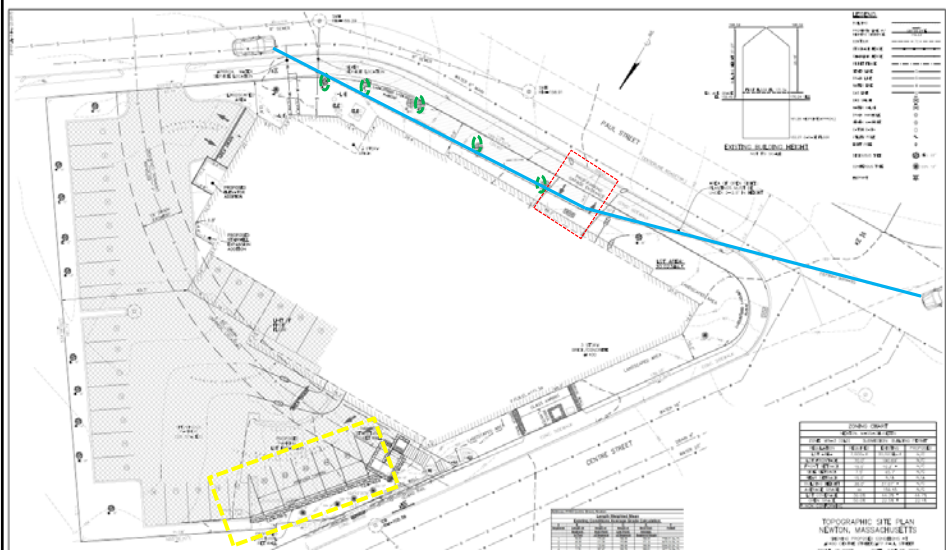
Public Hearing 10/10/2019

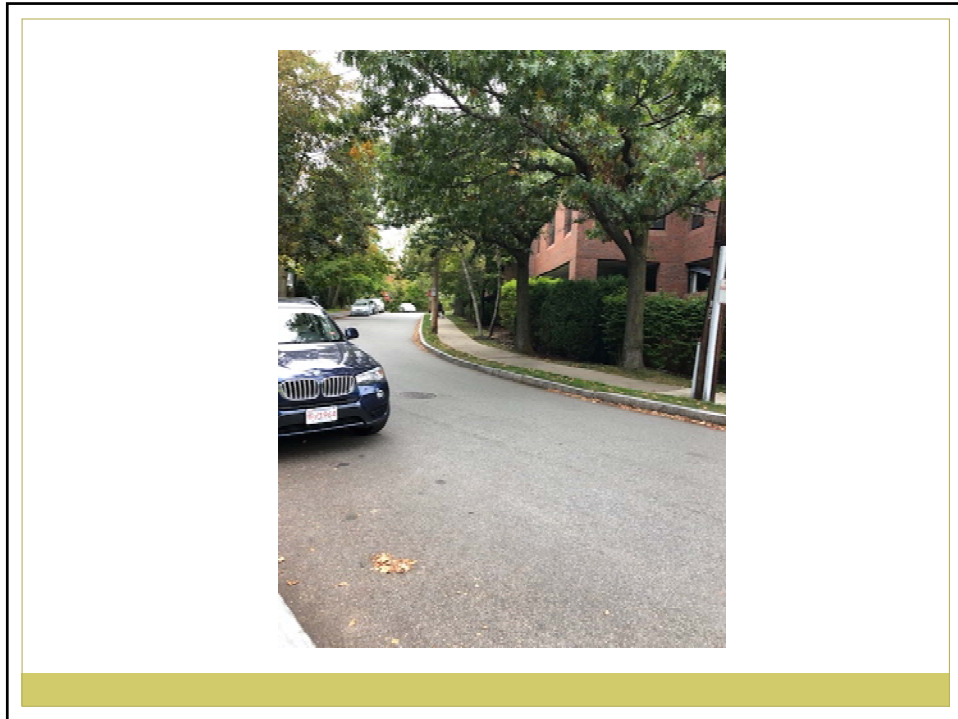
- Concerns about the Clear Sight Distance Triangle to be reviewed with City's Transportation Department
- Upon reviewing plans, City's Transportation Director is comfortable with the clear sight distance triangle, as long as all vegetation with the sight triangle is kept below 2.5 feet
- Planning has requested a landscape plan showing the vegetation to be kept below 2.5 feet as well as replanting trees removed elsewhere on site.

Existing Site Plan



Proposed Site Plan with Clear Sight Distance Triangle





Proposed Findings (1 of 2)



1. The specific site is an appropriate location for the amendment to Special Permit #650-86 that creates an additional curb cut and other site changes due to the creation of conditions for a clear sight distance and the removal of an unsafe ramp. (§7.3.3.C.1)
2. The proposed amendment to Special Permit #650-86 that creates an additional curb cut and other site changes will not adversely affect the neighborhood due to the creation of conditions for a clear sight distance. (§7.3.3. C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians by the proposed amendment to Special Permit #650-86 (2) that creates an additional curb cut and other site changes because the parking is utilized by tenants and employees and will have limited turnover. (§7.3.3.C.3)

Proposed Findings (2 of 2)

4. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the parking accessed by the new ramp will primarily be tenant and employee parking, which has low turnover, and the ramp maintains clear site distances and removes an unsafe ramp.

(§7.3.3.C.4)

5. The proposed alterations of the nonconforming structure and use are not substantially more detrimental than the existing nonconforming structure because the additions total less than 200 square feet and are already nonconforming. (§3.4.1, §7.8.2.C.2)

6. The extension of the nonconforming parking in the front setback is not substantially more detrimental than the existing nonconforming parking facility because there is existing parking in the front setback. (§4.2.3, §7.8.2.C.2)

7. The increase in the nonconforming lot coverage is not substantially more detrimental than the existing nonconformity because the lot coverage is increasing minimally from 44.3% to 44.7%. (§3.2.2.A.3, §7.8.2.C.2)

Proposed Conditions

1. Plan Referencing Condition
2. Standard Building Permit Conditions
3. Certificate of Occupancy/Final Inspection
4. Notwithstanding the provisions of Condition #3 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.



Land Use Committee Public Hearing
58 Cross Street/1089 Washington Street
November 21, 2019

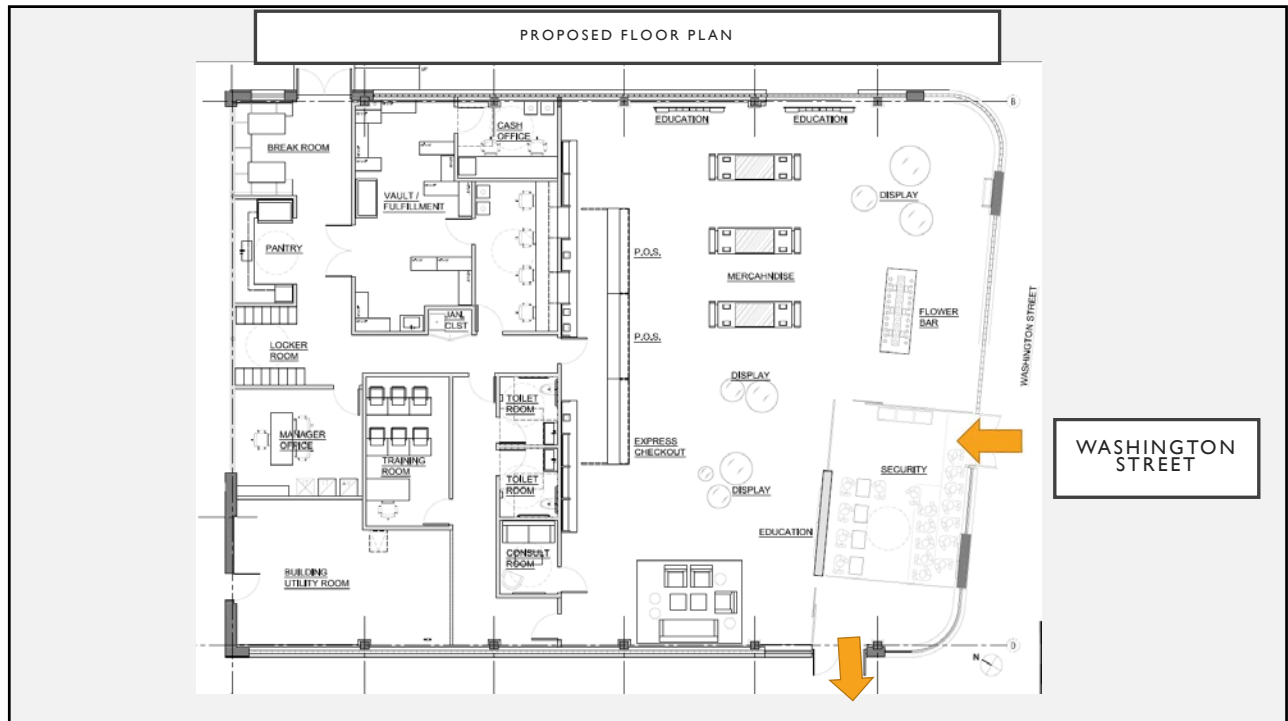
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Department of Planning and Development



PETITION #268-19
58 CROSS ST./
1089 WASHINGTON ST.

SPECIAL PERMIT TO ALLOW A MARIJUANA RETAILER, WAIVE MINIMUM PARKING STALL DIMENSIONS, ALLOW PARKING WITHIN THE FRONT SETBACK, AND WAIVE LANDSCAPING AND LIGHTING REQUIREMENTS



NOVEMBER 21, 2019

Requested Relief



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

- To allow a Marijuana Retailer (§4.4.1, §6.10.3.D)
- To allow parking within the front setback (§5.1.8.A.1)
- To waive perimeter and interior screening requirements (§5.1.9.A, §5.1.9.B)
- To waive the lighting requirements (§5.1.9.A)
- Waiver for minimum stall dimensions (§5.1.8.B.2)

Criteria to Consider



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed Marijuana Retailer (§7.3.3.C.1).
- The Marijuana Retailer, as developed and operated, will not adversely affect the neighborhood (§7.3.3.C.2).
- There will be no 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 lighting requirements is impracticable due to the nature of the use, 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)

Criteria to Consider Continued



- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)
- The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.G.1.c)
- The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the marijuana retailer will not create a significant adverse impact on nearby uses. (§6.10.3.G.2.b)

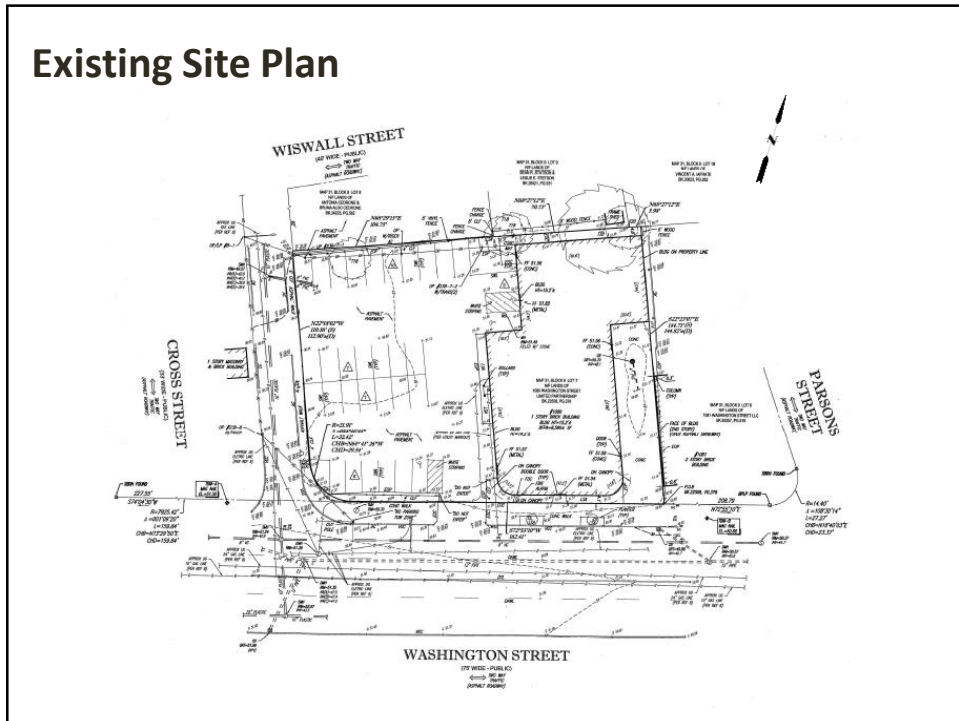
Criteria to Consider Continued

- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3.G.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
- The marijuana retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.G.2.g)

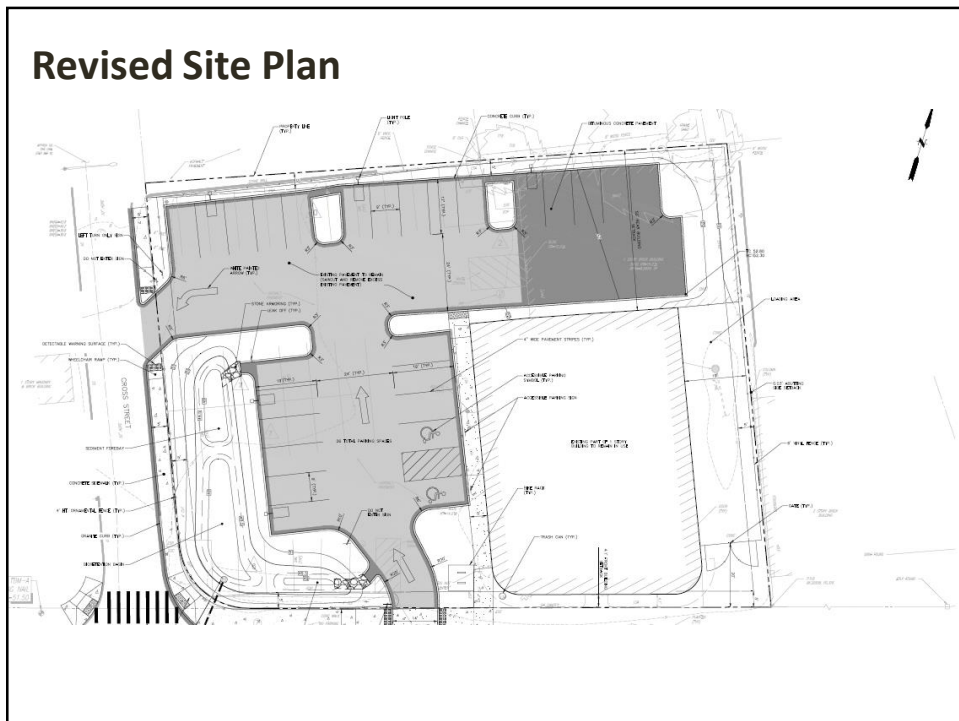
AERIAL/GIS



Existing Site Plan



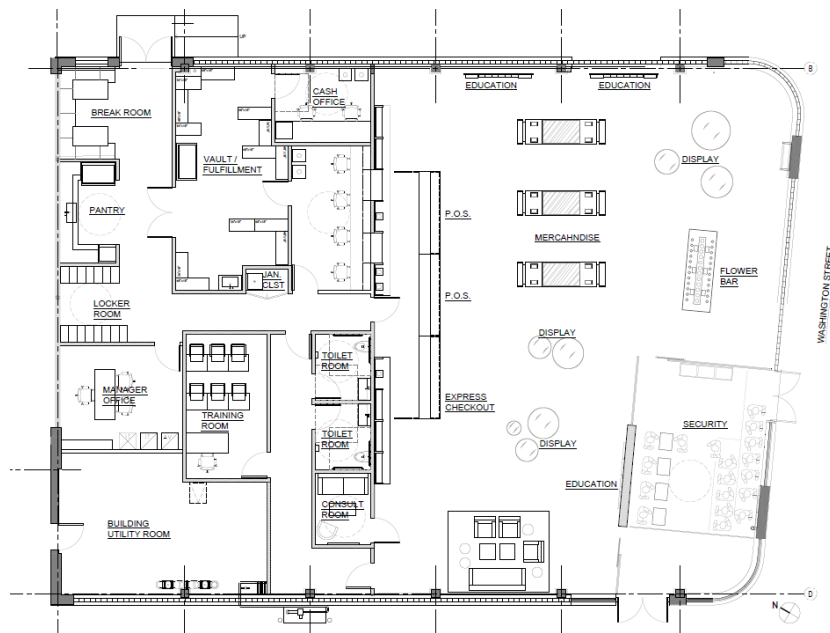
Revised Site Plan



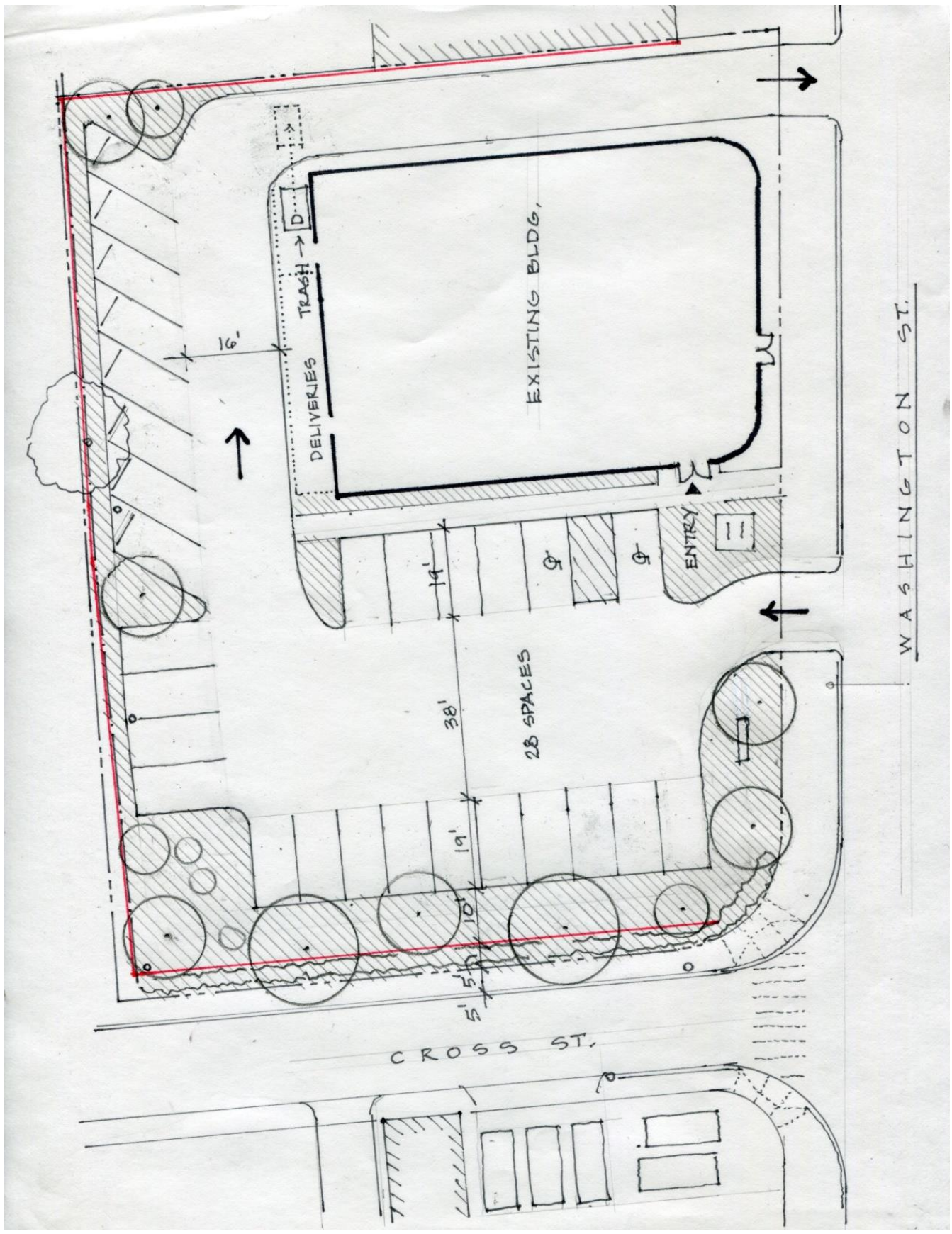
Transportation

- TDM Plan: pre-paid transit passes, carpooling incentives bike rack, bikeshare program, reimbursement for new shoes for employees who walk
- Response to City's Peer Review received, BSC is satisfied with the response
- Saturday Midday peak hour trip generation

Floor Plan



Alternative site plan:



Cross Street Neighborhood

Nov 21, 2019

Department of Planning and Development



PETITION #318-19/#319-19
15-21 LEXINGTON ST.

#318-19

FOR A CHANGE OF ZONE TO MULTI-RESIDENCE 3 FOR PORTIONS OF LAND LOCATED AT 15-21 LEXINGTON STREET (CURRENTLY ZONED SINGLE-RESIDENCE 3)

#319-19

SPECIAL PERMIT/SITE PLAN APPROVAL TO ALLOW A 24-UNIT MULTIFAMILY DWELLING WITH A BELOW GRADE PARKING GARAGE AND SURFACE STALLS, TO REDUCE THE PARKING STALL DEPTH, TO ALLOW RESTRICTED END STALLS IN THE GARAGE PARKING FACILITY, TO WAIVE THE PERIMETER SCREENING REQUIREMENTS FOR THE OUTDOOR PARKING FACILITY, TO WAIVE INTERIOR LANDSCAPING REQUIREMENTS FOR THE OUTDOOR PARKING FACILITY AND TO WAIVE THE MINIMUM INTENSITY OF OUTDOOR LIGHTING OF THE PARKING FACILITY ON 51,870 SQ. FT. OF LAND

NOVEMBER 21, 2019

Requested Relief



- Rezone subject parcels from SR3 to MR3
- Special Permit per §7.3.3:
 - to allow a multi-family dwelling (§3.4.1)
 - to reduce parking stall depth (§5.1.8.B.2, §5.1.13)
 - ~~to allow restricted end stalls in the garage parking facility (§5.1.8.B., §5.1.13)~~
 - to waive the perimeter screening requirements for the outdoor parking facility (§5.1.9., §5.1.13)
 - to waive the interior landscaping requirements for the outdoor parking facility (§5.1.9.B, §5.1.13)
 - to waive the minimum intensity of outdoor lighting of the parking facility (§5.1.10.A.1, §5.1.13)

Special Permit Criteria



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed twenty-four-unit dwelling (§7.3.3.C.1)
- The proposed twenty-four unit dwelling as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2)
- There will be no 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)

Special Permit Criteria (cont'd)



When reviewing this request, the Council should consider whether:

- The site planning building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy (§7.3.3.C.5)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance (NZO) 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)

Update on Outstanding Items

- “ Reduction of parking stalls results in an elimination of the requests for maneuverability waivers
- “ Limiting turning movements
- “ Petitioner’s response to sustainability comments

Parking Reduction

Reduction of parking spaces

- “ Parking stalls reduced by 3 to 48 (number required by NZO).
 - “ two spaces in the garage (area to be “cross hatched” and used for storage
 - “ one surface space

Elimination of maneuverability waivers

- “ Removal of 2 garage spaces eliminates need for maneuvering space waiver

Turning Movements

In response to request to limit the driveways to right in/right out only the petitioner submitted a statement from a traffic consultant stating:

- “ Such restriction is not warranted based on capacity and sight lines
- “ Doing so would encourage u-turns further down the road

Sustainability

Based on petitioner’s submission and comments from the Director of Sustainability, we recommend the following commitment to implement and to further analyze:

Commitment:

- “ Low maintenance materials on the façade
- “ Double-paned, Low E, Energy Star rated windows
- “ LED lighting
- “ 2 EV charging stations plus conduit for additional stalls
- “ High efficiency electric air source heat pumps to handle all heating and cooling (except hot water)
- “ Separate residential thermostats
- “ Drought tolerant and indigenous plants

Analyze:

- “ Rooftop and parking solar panels
- “ Additional exterior insulation
- “ Maximizing low embodied carbon and rapidly renewable materials
- “ Commissioning appropriately sized HVAC systems at building completion

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 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 to allow a multi-family dwelling (§3.4.1); grant exceptions to certain parking facility requirements so as to allow reduced parking stall depths (§5.1.8.B.2, §5.1.13) and to waive perimeter screening requirements for the outdoor parking facility (§5.1.9., §5.1.13), interior landscaping requirements for the outdoor parking facility (§5.1.9.B, §5.1.13), and minimum intensity requirements for outdoor lighting of the parking facility (§5.1.10.A.1, §5.1.13), 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 twenty-four-unit dwelling as it is located on street with a mix of uses and adjacent to commercial uses (§7.3.3.C.1)
2. The proposed twenty-four unit dwelling as developed and operated will not adversely affect the neighborhood as it is located on street with a mix of uses and adjacent to commercial uses (§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 over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
5. The site planning building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy as it will have features including high efficiency electric heat pumps to handle the heating and cooling of the building, “Energy Star”-rated windows and two electric vehicle (EV) charging stations; further a buffer of mature trees will be maintained pursuant to the project (§7.3.3.C.5)
6. Literal compliance with the parking requirements of the Newton Zoning Ordinance (NZO) 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)

PETITION NUMBER: #319-19

PETITIONER: Dante Capasso

ADDRESS OF PETITIONER: 5 Ionia Street
Newton, MA 02466

LOCATION: 15-21 Lexington Street, Ward 4, West Newton, on land known as
Section 41 Block 35 Lots 2-5, containing approximately 51,870
square feet of land

OWNER: Picariello Realty Trust / DSP Realty Trust

ADDRESS OF OWNER: c/o Dante Capasso
5 Ionia Street
Newton, MA 02466

TO BE USED FOR: A 24-unit multi-family development with associated garage
parking.

EXPLANATORY NOTES: Special permits per §7.3.3:
– to reduce parking stall depth (§5.1.8.B.2, §5.1.13)
– to waive the perimeter screening requirements for the outdoor
parking facility (§5.1.9., §5.1.13)
– to waive the interior landscaping requirements for the outdoor
parking facility (§5.1.9.B, §5.1.13)
– to waive the minimum intensity of outdoor lighting of the parking
facility (§5.1.10.A.1, §5.1.13)

ZONING: Multi-Residence 3 (MR3)

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 set of engineering plans entitled "Site Plan of Land in Newton MA, 15-21 Lexington Street," prepared by Everett M. Brooks Co., consisting of the following sheets:
 - i. Existing Conditions (Sheet 1 of 4), dated October 30, 2019, signed and stamped by Michael S. Kosmo, Registered Professional Engineer on October 30, 2019 and Bruce Bradford, Professional Land Surveyor on October 30, 2019;

- ii. Proposed Layout (Sheet 2 of 4), dated October 30, 2019, as revised through November 12, 2019, signed and stamped by Michael S. Kosmo, Registered Professional Engineer on November 12, 2019 and Bruce Bradford, Professional Land Surveyor on November 12, 2019;
 - iii. Proposed Utilities and Grading and Drainage Plan (Sheet 3 of 4), dated October 30, 2019, signed and stamped by Michael S. Kosmo, Registered Professional Engineer on October 30, 2019;
 - iv. detail sheet (Sheet 4 of 4), dated October 30, 2019, signed and stamped by Michael S. Kosmo, Registered Professional Engineer on October 30, 2019.
 - b. A set of architectural plans entitled "CityLine, 15 & 21 Lexington, Newton, MA," prepared by Reisen Design Associates, signed and stamped by Erik P. Miller, Registered Architect, dated November 12, 2019, consisting of the following sheets:
 - i. Project Cover Sheet & Drawing List (G-0);
 - ii. Front Elevation (A-1);
 - iii. Left Side Elevation (A-2);
 - iv. Rear Elevation (A-3);
 - v. Right Side Elevation (A-4);
 - vi. Basement Plan (A-5);
 - vii. 1st Floor Plan (A-6);
 - viii. 2nd Floor Plan (A-7);
 - ix. 3rd Floor Plan (A-8);
 - x. Roof Plan (A-9);
 - xi. Site & Parking Plan (L-1).
 - c. A Landscape Plan entitled "Landscape Plan for : 15-21 Lexington Street, Newton MA 02465," prepared by The Garden Artisan Co., Antonio Mariano MCLP, dated , 2019, consisting of the following sheets:
 - i. untitled key sheet (P1);
 - ii. A Side Right (East) (P2);
 - iii. A Side Left (East) (P3);
 - iv. B Side (South) (P4);
 - v. C Side (West) (P5);
 - vi. D Side (North) (P6);
 - vii. C Side Rear Boarder (*sic*) (P7).
 - d. A photometric plan entitled "Project: 15-21 Lexington Ave, Location: Newton, MA," prepared by Illuminate, dated August 29, 2019.
2. In accordance with the City's Inclusionary Zoning Ordinance, §5.11.4, the Project shall include five (5) affordable housing units (the "Inclusionary Units"), as follows:
 - a. Four (4) of the residential units in the Project shall be made available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for

household size for the Boston-Cambridge-Quincy, MA-NH HMFA (“Tier 1 Units”). The AMI used for establishing rent and income limits for the Tier 1 Units must average no more than 65% AMI. Alternatively, at least 50% of the Tier 1 Units may be priced for households having incomes at 50% of AMI and the remaining Tier 1 Units priced for households at 80% of AMI.

- b. One (1) of the residential units in the Project shall be affordable to households earning greater than 80%, but at or below 110% of AMI, as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA (“Tier 2 Unit”).
3. The Petitioner, the Project, and the Inclusionary Units shall comply with all applicable provisions of the City’s Inclusionary Zoning Ordinance, §5.11, in effect as of the date of this Special Permit/Site Plan Approval, regardless of whether such requirements are set forth herein.
4. The bedroom mix of the Inclusionary Units shall be equal to the bedroom mix of the market-rate units in the Project. The proposed mix of the Inclusionary Units is:

	Studio	1BR	2BR
Tier 1 Units Inclusionary Units	1	2	1
Tier 2 Inclusionary Units	0	1	0

The final bedroom mix shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for the Project.

5. Monthly housing costs (inclusive of rent, utility costs for heat, water, hot water and electricity, 1 parking space and access to all amenities offered to tenants in the building), must not exceed 30% of the applicable household income limit for that Inclusionary Unit and shall be consistent with Inclusionary Zoning Ordinance, § 5.11.4.D.1.
6. For the initial lottery, 70% of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).
7. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall provide an updated Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan (AFHMP) for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the Inclusionary Zoning Ordinance. The Inclusionary Housing Plan and Affirmative Fair Housing Marketing and Resident Selection Plan must meet the requirements of DHCD’s guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.8. of the Inclusionary Zoning Ordinance. In accordance with DHCD’s current guidelines, the units will be affirmatively marketed and leased through a lottery.

8. Prior to the issuance of any temporary or final occupancy certificates for the Project, the Petitioner, the City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Tier 1 Inclusionary Units in perpetuity.
9. Prior to the issuance of any temporary or final occupancy certificates for the Project, the Petitioner and the City will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Tier 2 Inclusionary Unit in perpetuity.
10. To the extent permitted by applicable regulations of DHCD, the Tier 1 Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
11. The Inclusionary Units shall be designed and constructed subject to the provisions of the Inclusionary Zoning Ordinance, §5.11.7.
12. Inclusionary Units, and their associated parking spaces, shall be proportionally distributed throughout the Project and be sited in no less desirable locations than the market-rate units, and the locations of such units and parking spaces shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for the Project.
13. No residential unit or building shall be constructed to contain or be marketed and/or sold as containing more bedrooms than the number of bedrooms indicated for said unit in the Project Master Plans referenced in Condition #1.
14. Any room that meets the minimum dimensional and egress requirements to be considered a bedroom under the state building code and Title 5 regulations shall be counted as a bedroom for purposes of determining the required bedroom mix of the Inclusionary Units in accordance with the Inclusionary Zoning Ordinance.
15. The petitioner shall comply with the City's Tree Preservation Ordinance.
16. With the exception of those spaces associated with the Inclusionary Units, charges for parking stalls shall be separate and in addition to ("unbundled") from rent and other charges for residential tenants.
17. Prior to the issuance of any building permit pursuant to this special permit, the petitioner shall provide an Approval Not Required plan ("ANR Plan") combining the four lots that are the subject of this special permit into one lot to the City Engineer for review and approval. Once approved, the ANR Plan must be recorded at the Middlesex South Registry of Deeds. A certified copy of the approved and recorded ANR Plan shall be submitted to the Engineering Division of Public Works, the Commissioner of Inspectional Services and the Director of Planning and Development.

18. Prior to the issuance of any building permit pursuant to this special permit, the petitioner shall submit to the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a certified copy of an easement agreement or similar agreement recorded at the Registry of Deeds for the Southern District of Middlesex County requiring and providing for the continuous maintenance by the petitioner of the plantings and vegetation shown on Sheet P7 of the Landscape Plan referenced in Condition #1 that are located on an abutting property.
19. Prior to the issuance of any building permit pursuant to this special permit, the petitioner shall pay, in accordance to the Department of Public Works' "Policy for Sewer Infiltration/Inflow (I/I) Mitigation for New Connections and Modifications to Existing Connections to the Municipal Sewer System," an assessment of \$269,662.80 (calculated upon 31 bedrooms x 110 gal/day/bedroom x 4:1 x \$19.77).
20. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the new units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
21. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance
22. The Petitioner shall consult with an independent sustainable building professional on the design and construction of the building, and achieve and/or implement the following sustainability strategies which shall be incorporated into the Project:
 - a. the majority of the exterior façade will be composed of low maintenance materials (brick and cementation panels) that will increase the longevity and minimize material consumption in the future;
 - b. all windows shall be will be double-paned and Low E, Energy Star rated;
 - c. LED lighting will be used throughout the project;
 - d. the underground parking garage will be outfitted with two (2) electric vehicle charging stations;
 - e. high efficiency electric air source heat pumps shall be used to handle the heating and cooling of the building in order to reduce fossil fuel use;
 - f. all appliances shall be electric and "Energy Star"-rated (or functional equivalent), (except that domestic hot water equipment may utilize natural gas as an energy source);
 - g. all residential units will be thermally and acoustically separated with individual thermostats;
 - h. electric conduit to make wiring readily available for additional EV spaces that can simply be added to satisfy future demand shall be installed;
 - i. drought tolerant and indigenous plants will be the predominant species installed in

- the landscape.
23. The Petitioner has committed to analyze, review and discuss with the Director of Planning and Development the following sustainability strategies, prior to the issuance of any building permit for the Project, in order to determine their feasibility and the possible return on investment if they were to be implemented:
 - a. consolidating rooftop mechanicals and penetrations in a configuration that will allow the installation of solar panels to offset some of the project's energy consumption;
 - b. installing parking canopies with solar panels;
 - c. installing exterior insulation;
 - d. maximizing the use where appropriate for low embodied carbon materials and rapidly renewable materials;
 - e. commissioning appropriately-sized HVAC systems at completion of the building.
 24. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 25. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan (which shall indicate the location of adequate snow storage area(s) or identify a suitable alternative for snow removal) for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 26. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity in determining hours and routes for construction vehicles.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials

- and construction and delivery vehicles and equipment, and location of any security fencing.
- e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - construction materials,
 - parking of construction workers' vehicles,
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties;
 - proposed method of noise and vibration control.
27. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
28. 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 Middlesex South Registry of Deeds.
 - 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 Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.8. of the Zoning Ordinance.

- e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approvals shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a final plan of land, to the Engineering Division of Public Works in accordance with Condition #25.
 - g. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
29. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
30. Prior to the issuance of any Certificate of Occupancy pursuant to this Special Permit/Site Plan Approval, the Petitioner, City, and DHCD will enter into, and record at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department and DHCD, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
31. No 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 and civil engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features and fencing consistent with the plans referenced in Condition 1.

- e. Submitted to the Law Department copies of fully executed Regulatory Agreements and Affordable Housing Restriction for all Inclusionary Units, in accordance with **Conditions #8 and #9**.
 - f. Provided evidence satisfactory to the Law Department that the Regulatory Agreements for all Inclusionary Units have been recorded at the Southern Middlesex District Registry of Deeds, as appropriate.
 - g. Inclusionary Units shall be completed and occupied no later than the completion and occupancy of the Project's market-rate units. If the Inclusionary Units are not completed as required within that time, temporary and final occupancy permits may not be granted for the number of market-rate units equal to the number of Inclusionary Units that have not been completed.
32. Notwithstanding the provisions of Condition **#31d** above, but subject to the satisfaction of Condition **#17**, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of required on-site landscaping/exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
33. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased and/or dies shall be replaced on an annual basis with similar material.

67 WALNUT STREET

Land Use Committee
Public Hearing – November 21, 2019

1

CURRENT SITE

- MRI Zoning District
- 14,520 SF of Land
- By-Right Use of 2-Family + Accessory Apartment
- Neighborhood Mix of 1-2-3 Family Uses; F.A. Day Middle School; City of Newton Early Education Program;
- Bus Routes: Nos. 59 and 556



2

PROJECT SUMMARY



Three-Unit Single Family Attached Dwellings



Proposed FAR is LESS than By-Right (0.477 proposed - 0.48 allowed)



Rear Unit to have one exterior handicap parking space with option to install wheelchair lift and First Floor bedroom, HP-Bathroom; and Living Space



No Parking Waiver Requested



Demolish existing house at 42.9 feet tall – Replace with new building between 30-33 feet tall (approximately 10 feet lower than existing building)



Rear yard maintained, cleaned, and landscaped

3

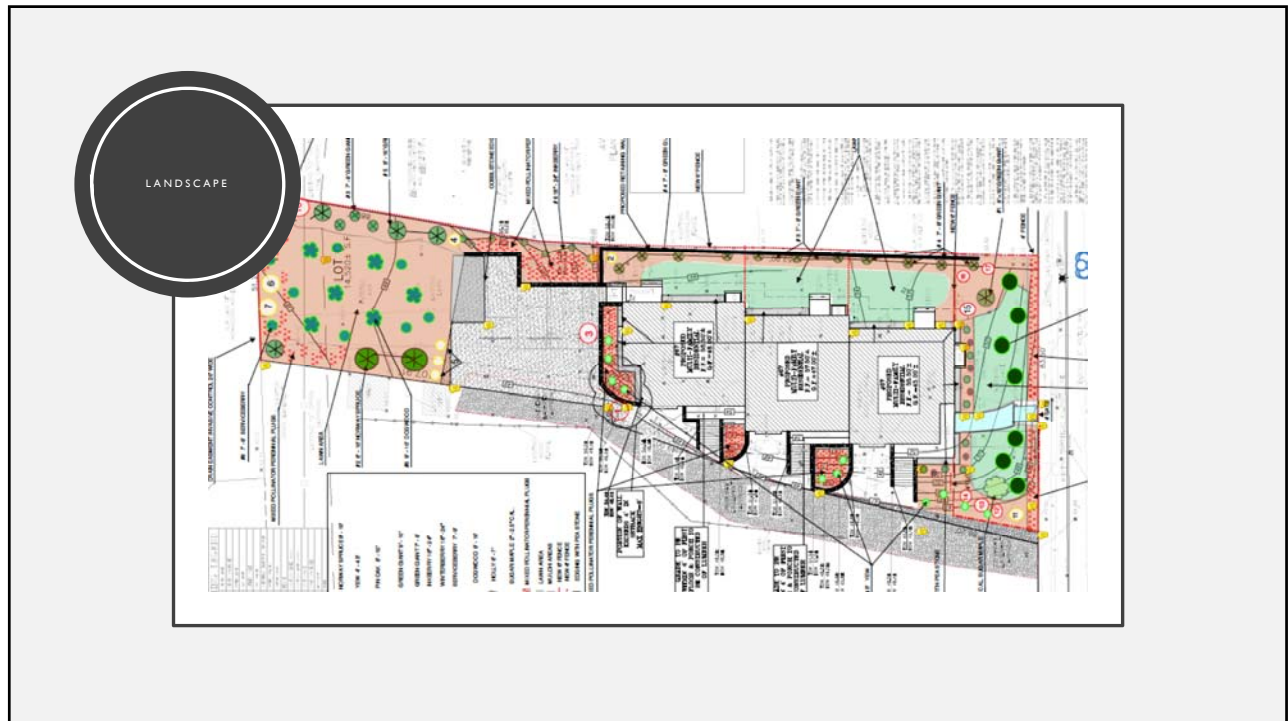
PROPOSED FRONT ELEVATION



4







5



6

SUSTAINABILITY

			
EACH GARAGE EQUIPPED WITH LEVEL 2 EV CHARGING STATIONS	SOLAR-READY ROOF	LOW-FLOW PLUMBING FIXTURES	SMART AND ENERGY STAR APPLIANCES

Department of Planning and Development



**PETITION #317-19
67 WALNUT STREET**

SPECIAL PERMIT/SITE PLAN
APPROVAL TO ALLOW SINGLE-
FAMILY ATTACHED DWELLINGS
WITH WAIVERS TO THE
DIMENSIONAL STANDARDS AND
A RETAINING WALL EXCEEDING
FOUR FEET WITHIN THE
SETBACK



NOVEMBER 21, 2019

Requested Relief



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

- Allow three Single-Family Attached Dwellings in a Multi-Residence 1 zoning district (§3.2.4 and §7.3.3).
- Reduce the lot area requirement (§3.2.4 and §7.3.3).
- Reduce the side setback requirement (§3.2.4 and §7.3.3).
- Allow a driveway along a side lot line (§3.2.4 and §7.3.3).
- Allow a retaining wall of four feet in height within the setback (§5.4.2.B and §7.3.3)

Criteria to Consider



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

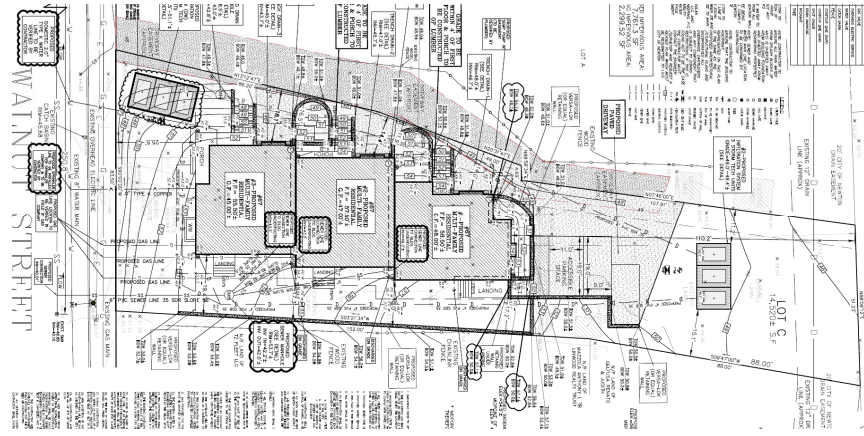
- The specific site is an appropriate location for the proposed Single-Family Attached Dwellings. (§7.3.3.C.1)
- The Single-Family Attached Dwellings as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- The Single-Family Attached Dwellings will create a nuisance or serious 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)

Criteria to Consider Continued

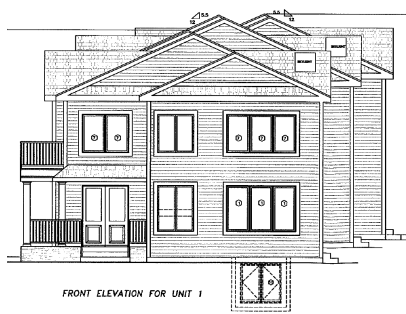


- Literal compliance with the dimensional standards of Single-Family Attached Dwellings, specifically lot area, side setback, and a driveway within ten feet of a side lot line is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§3.2.4 and §6.2.3.B.2)
- The specific site is an appropriate location for retaining walls of four feet in height within the front and the side setbacks. (§5.4.2.B)

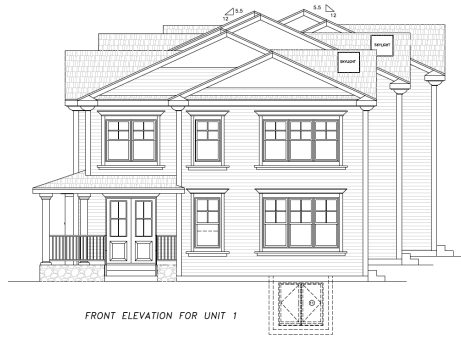
Site Plan



Initial and Revised Front Elevations



FRONT ELEVATION FOR UNIT 1



FRONT ELEVATION FOR UNIT 1

Findings



1. The specific site is an appropriate location for three Single-Family Attached Dwellings because Single-Family Attached Dwellings are an allowed use in the Multi Residence 1 zone and the Single-Family Attached Dwellings comply with the lot area per unit requirements (§3.2.4 and §7.3.3.C.1).
2. The Single-Family Attached Dwellings as developed and operated will not adversely affect the surrounding neighborhood given the presence of other multi-family uses in the area. (§7.3.3.C.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians because access to the lot will be not change from the existing condition. (§7.3.3.C.3)
4. Access to site is appropriate for the number and types of vehicles involved. (§7.3.3.C.4).

Findings Continued



5. Exceptions to the dimensional standards of Single-Family Attached Dwellings, specifically lot area, side setback, and a driveway within ten feet of a side lot line are in the public interest because the waivers allow for the creation of three units within the building envelope of an as of right two-family dwelling (§3.2.4 and §6.2.3.B.2)
6. The specific site is an appropriate location for a retaining wall of four feet in height within the setback distances due to the grade of the lot. (§5.4.2 and §7.3.3)

Conditions



1. Standard Plan Reference Condition.
2. The petitioner shall comply with the Tree Preservation and Protection Ordinance.
3. The petitioner shall construct the first floor of the rear unit, "Unit 3" in the plans referenced in Condition #1 above, to the Group 1 standard of Section 521 of the Code of Massachusetts Regulations.
4. O&M Plan Condition.
5. Landscape Plan Condition.
6. Standard Building Permit Condition.
7. Standard CO Condition.

Land Use
Committee
Public Hearing
November 21, 2019

264 PEARL STREET

1



NONANTUM

2

FRONT AND
LEFT
ELEVATION



PERSPECTIVE VIEW OF LEFT ELEVATION

3

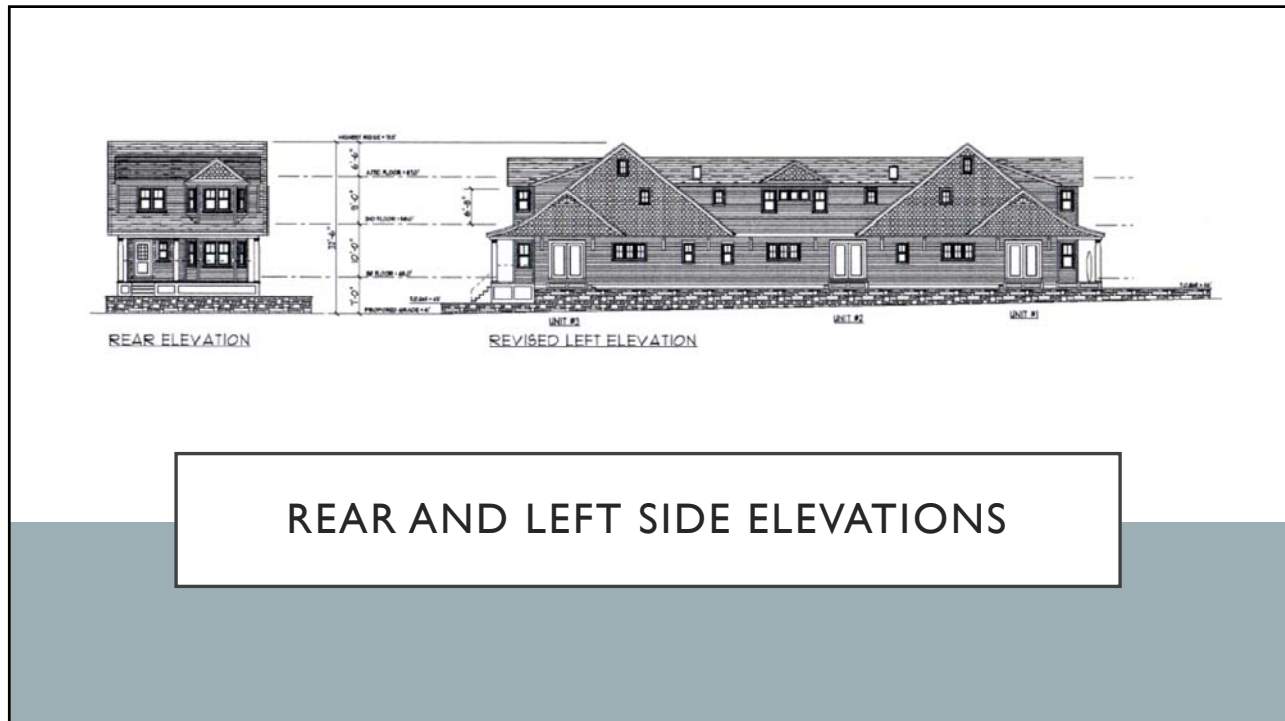


PERSPECTIVE VIEW OF RIGHT ELEVATION

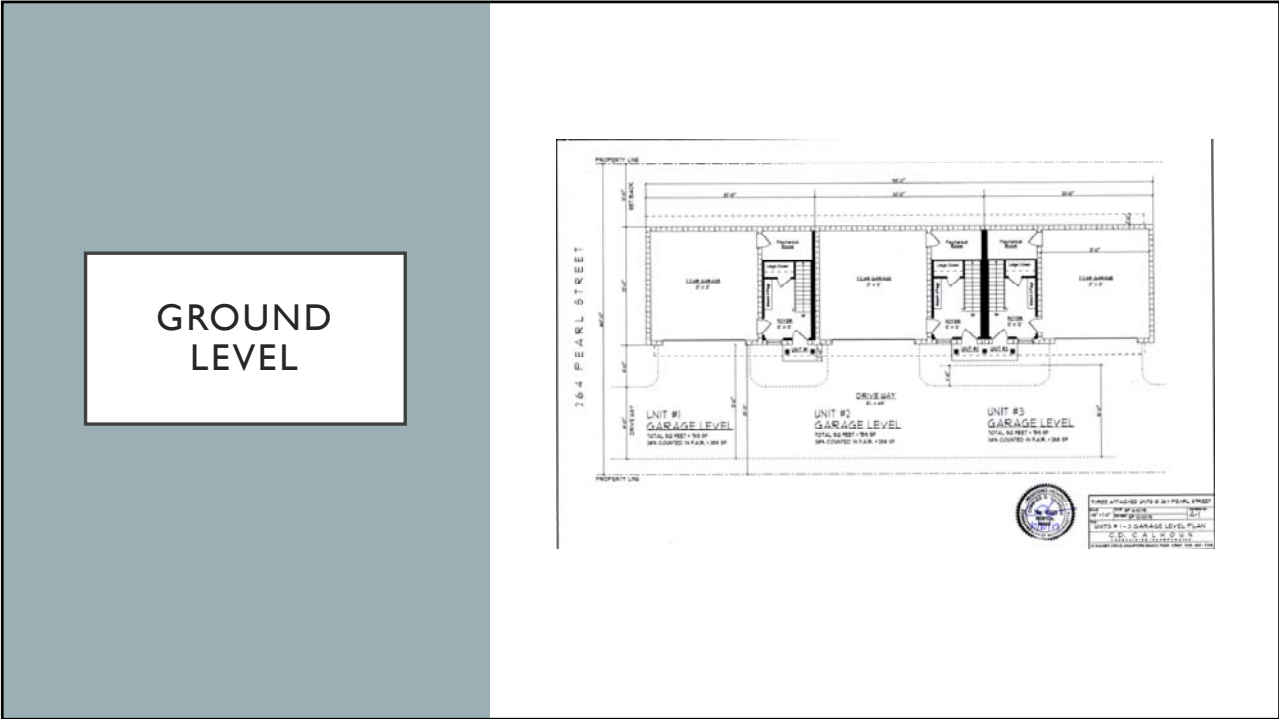
4



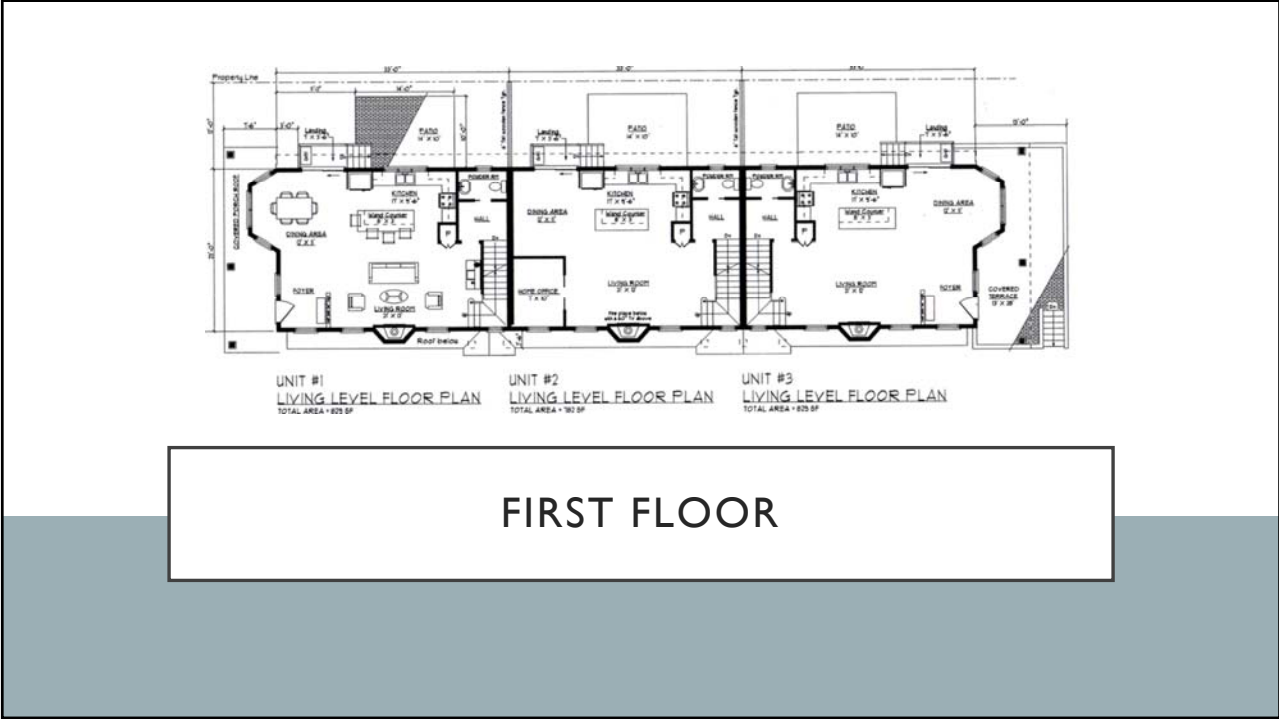
5



6



7



8



SECOND FLOOR

Department of Planning and Development



PETITION #259-19
264 PEARL STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO ALLOW SINGLE-
FAMILY ATTACHED DWELLINGS
WITH WAIVERS TO THE
DIMENSIONAL STANDARDS



NOVEMBER 21, 2019

Requested Relief



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

- Allow attached three Single-Family Attached Dwellings in a Multi-Residence 2 zoning district (§3.2.4 and §7.3.3).
- Reduce the lot area requirement (§3.2.4 and §7.3.3).
- Reduce the frontage requirement (§3.2.4 and §7.3.3).
- Reduce the side setback requirement (§3.2.4 and §7.3.3).
- Allow a driveway along a side lot line (§3.2.4 and §7.3.3).
- Allow a retaining wall of four feet in height within the setback (§5.4.2.B and §7.3.3).

Criteria to Consider



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

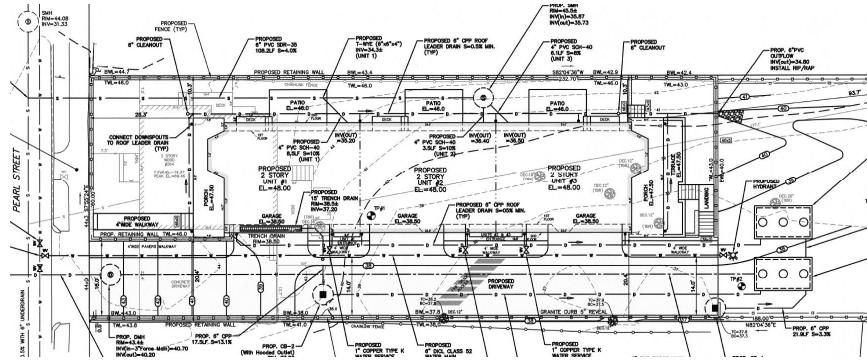
- The specific site is an appropriate location for the proposed Single-Family Attached Dwellings (§7.3.3.C.1).
- The Single-Family Attached Dwellings will adversely affect the neighborhood (§7.3.3.C.2).
- The Single-Family Attached Dwellings will create a nuisance or serious hazard to vehicles or pedestrians (§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).

Criteria to Consider Continued



- Literal compliance with the dimensional standards of Single-Family Attached Dwellings, specifically lot area, frontage, side setback, and to allow a driveway within ten feet of a side lot line is impractical due to the nature of the use, or the location, size, frontage, 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 (§3.2.4 and §6.2.3.B.2)
- The specific site is an appropriate location for a retaining wall exceeding four feet in height within the setbacks (§5.4.2.B)

Revised Site Plan



North Elevations



RIGHT ELEVATION / SITE CROSS SECTION



REVISED RIGHT ELEVATION / SITE CROSS SECTION

Findings

1. The specific site is an appropriate location for the three Single-Family Attached Dwellings because the site is proximate to the Nonantum village center and at 4,869 square feet per unit, the lot exceeds the minimum 4,000 square feet density per unit required (§7.3.3.C.1).
2. The proposed project as developed and operated will not adversely affect the surrounding neighborhood because the structure is similar in footprint and floor area ratio to an as of right single or two-family structure (§7.3.3.C.2).
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner is maintaining the driveway location (§7.3.3.C.3).

Findings Continued

4. Access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
5. Exceptions to the dimensional standards of Single-Family Attached Dwellings, specifically lot area, frontage, side setbacks, and allowing a driveway within ten feet of a side lot line are in the public interest for the following reasons:
 - a. The site exceeds the required 4,000 square feet of lot area per unit;
 - b. The petition develops an underutilized parcel proximate to a village center;
 - c. Landscaping is utilized within the reduced side setback distances to protect abutting uses; and
 - d. The site design utilizes the existing driveway location.

(§3.2.4 and §6.2.3.B.2)

Findings Continued

6. The Council finds that the specific site is an appropriate location for retaining walls of four feet in height within the front and the side setbacks because such walls allow for the driveway to slope into the site and allow for a front yard along Pearl Street (§5.4.2.B).

Conditions

1. Plan Reference Condition
2. The petitioner shall comply with the Tree Preservation and Protection Ordinance.
3. Prior to the issuance of a Building Permit, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe in Pearl Street and provide an electronic copy of such inspection to the Commissioner of Public Works.
4. O&M Plan Condition
5. Prior to the issuance of a Building Permit, the petitioner shall provide a final design for a "backup" power supply to the water pump on site to the satisfaction of the Commissioner of Public Works.

Conditions



6. Standard Building Permit Condition
7. Landscape Plan Condition
8. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a closed-circuit television inspection of the City's drainpipe in Pearl Street and provide an electronic copy of such inspection to the Commissioner of Public Works.
9. Prior to the issuance of any occupancy certificate, the petitioner shall update the sidewalks along the frontage to the satisfaction of the Commissioner of Public Works.
10. Standard Certificate of Occupancy Condition