



# Land Use Committee Report

## City of Newton In City Council

**Tuesday, May 1, 2018**

**Present:** Councilors Schwartz (Chair), Lipof, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo

**Also Present:** Councilors Leary, Downs, Gentile, Baker, Grossman

**City Staff Present:** Associate City Solicitor Bob Waddick, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba, Planning Associate Valerie Birmingham

All Special Permit Plans, Memos and Application Materials can be found at [http://www.newtonma.gov/gov/aldermen/special\\_permits/current\\_special\\_permits.asp](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.

**#200-18      Update on the Special Permit for the Station at Riverside**

COUNCILOR GENTILE requesting an update on Special Permit Board Order #258-12(2), the Special Permit for The Station at Riverside, including the status of the lease and lease payments between the MBTA and BH Normandy Riverside LLC and to discuss a petition from the City to MassDOT and the MBTA to issue a new RFP for a ground lease at the Riverside MBTA Station. This new RFP to be developed in consultation with the LFIA, LNA & the ACA consistent with the previous RFQ/RFP.

**Action:**      Land Use Held 8-0

**Note:**      The Chair read the item into the record and introduced Councilors and MBTA representatives in attendance including Chief Strategy Officer Scott Bosworth, Real Estate Representative Mark Boyle and Real Estate Advisor Tom Cox Greystone. Councilors expressed gratitude that the representatives from the MBTA attended the meeting. Councilor Gentile stated that request, which included Councilors Markiewicz and Krintzman, was intended to initiate a discussion relative to an update on the Special Permit at Riverside.

Councilor Gentile reviewed the backup provided for Committee members which included a timeline of the process for the Riverside Special Permit (beginning in April 2007), the September 19, 2012 docket for the Special Permit Petition, the combined reports from the petition for Riverside and Hotel Indigo, City Council actions showing approval of the permit and the final Board Order #258-12(2), which was approved in October 2013. Councilor Gentile noted that during the process for the Riverside project, the City Council discuss the separate petitions (Riverside, Hotel Indigo, the zone change) over 16 separate meetings before approval. If not exercised, the expiration of the Special Permit is five years after approval. It was noted that after the City Council granted the Special Permit, residents to the site initiated a lawsuit which was settled several months later. Councilor Gentile asked the Law Department to provide an

update on the expiration date for the Special Permit. Associate City Solicitor Robert Waddick confirmed that after settling of the lawsuit, the expiration date for the petitioner to exercise the Special Permit became February 24, 2019. He stated that for the Special Permit to be exercised, the petitioner is required to complete one of the following two tasks:

- Obtain a building permit and commence construction of the office, retail or community buildings
- Receive final state approval for the MBTA intermodal commuter facility

Atty. Waddick noted that an extension of the Special Permit without exercising the Special Permit would require a majority vote by the Council. The Chair opened the discussion for questions.

#### **Q & A**

Q: What is the status of the current lease? Are payments up to date? What is the balance due?

A: Chief Strategy Officer Scott Bosworth stated that the current lease and development agreement is still active. He confirmed that the developer is in arrears with the MBTA but noted that the development team has indicated the intent to provide a new proposal. He stated that if there is no plan by February 2019, the MBTA will go out to bid again.

Q: How much in arrears is the developer?

A: Mr. Bosworth could not provide a figure for the amount in arrears that the developer is, but noted that if the project moves forward, the developer will need to bring the balance current.

Q: The project was approved five years ago with the hope and understanding that it would be built. What has changed and why hasn't the project been built? The Council spent a lot of time and City resources on this project, when did you realize it wasn't going to work? Is Normandy partnering with someone else and are we going to see a new project?

A: When the project was initially proposed it was much larger. The project that was permitted was not large enough to pay for the infrastructure and development. The project was not fiscally sustainable.

A: Normandy Development Senior Vice President Jamie Nicholson stated that a number of reasons contributed to the project not being feasible. He noted that during the public process, the size of the project was reduced from approximately 900,000 sq. ft. to 583,000 sq. ft. He noted that costs were added to the project throughout the process (off-site roadway improvements and intermodal commuter facility) and noted that they initially planned to look for funding sources elsewhere. Mr. Nicholson stated that they have reconstituted the team to reenvision the site and have partnered with Mark Development to develop a new, economically viable plan.

Q: The developer is \$1.6 million dollars in arrears and has not made payments since October 2015. No MBTA representative has disputed those numbers.

A: Mr. Nicholson noted that there has been an ongoing dialogue about status of the lease. There are certain elements regarding triggering lease payments that could swing that figure. He confirmed that they are planning to address the balance as the project moves forward.

A; Mr. Bosworth noted that they have seen the schematics in draft form from the new development team and feel that developing the new project could be an expedient way and in the best interest of taxpayers to bring the account current.

Q: After the permit was approved, it was clear that MBTA and Normandy Development disagreed on who was responsible for building the intermodal garage. This was a major stumbling block in getting the project built and there were many questions relative to who was responsible and whether cost sharing was an option. Does this continue to be an issue?

A: Mr. Bosworth noted that the disagreement was well known throughout the process. The contract language was ambiguous and as a result many discussions were had to resolve the issue. They decided to work together to find alternative funding sources to bridge the gap. The financing has not come through to date, but they would be ready to explore a larger project, if the Council approved it. It was noted that the ambiguity was not evident to the Council during the process.

Q: Transportation is a critical component of developing the site. What will be different this time around with funding, etc.?

A: The Chair noted that the Committee would not entertain a petition that hasn't been filed. Once Councilor noted that if the approved development isn't going to move forward, the City should ask the MBTA to open the RFP other developers, not just one. It is of the City's interest that the developer is \$1.6 million dollars in arrears on a development that was approved by the Council.

Q: Does the current lease have any language regarding certain events triggering payments?

A: There is a default clause in the lease, but it does allow the MBTA to work with the developer. Mr. Bosworth reiterated that they are interested in a new proposal that could quickly bring the account current.

Q: What is amount of space that can be developed at the site? Was there any breakdown included in the RFP for commercial vs. residential at the site?

A: Mark Boyle noted that the range in the RFP was projected from 750,000 – 1 million sq. ft. He stated that the different bidders proposed different sizes for the development. While levels of commercial/residential wasn't specified in the RFP, it was clear that the development must be built in a manner consistent with the Zoning Ordinance. Mr. Boyle noted that the developer was always

responsible for designing and building the intermodal garage, but that ownership and management of the garage after construction was the issue.

Q: We do have an interest in seeing permitted projects built and many City resources were spent along the way. Are you planning to abandon 258-12(2)?

A: Mr. Bosworth stated that the developer has been exploring funding options and vision plans for the site to help the project get off the ground. They hope to bring in a new permit with Indigo and Riverside that will be feasible and will address outstanding issues.

A: Atty. Steve Buchbinder, representing Normandy and Mark Development noted that a revised project can be brought to the Council by amending the approved Special Permit or allowing it to lapse and filing for a new one. He confirmed that the new proposal will be drastically different than the project that was approved.

Some Committee members felt that looking at the details of the approved development, which is not economically viable, without considering future options for the site was unproductive. It was suggested that the new partnership could provide insight on how the development can be modified to be feasible. Councilor Gentile noted that as the project has not yet been built, it is likely that it will not be built prior to the expiration of the Special Permit. He noted that the Special Permit was approved unanimously, which is atypical, after much deliberation and work towards a compromise. He reiterated that a determination has been made that the project is not economically feasible and noted that it would be more appropriate to put the project out to bid to all possible developers. With a motion from Councilor Markiewicz to hold the item, Committee members voted unanimously in favor.

**#91-18**            **Petition to Amend Special Permits #273-14(2) & #40-07 on Elm Street**  
NICORE CONSTRUCTION CORP./ANTONIO BONADIO petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Orders #273-14(2) and #40-07 to allow for the location of a new driveway, requiring an amendment to the site plan at 5-7 Elm Street and 11-19 Elm Street, Ward 3, West Newton, on land known as Section 33 Block 23 Lot and Section 33 Block 23 Lot 16, containing approximately 26,320 sq. ft. of land in a district zoned MR2 and MR1. Ref: Sec. 7.3, 7.4, 6.2.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015

**Action:**            **Land Use Held 8-0; Public Hearing Closed 03/06/2018**

**Note:**              After reviewing the request to postpone the item to May 8, 2018, Councilor Lipof motioned to hold the item. Committee members voted unanimously in favor of holding.

**#68-18**            **Petition to allow for profit educational use at 227 Washington Street**  
EUI CHOI petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit learning center in the existing day care at 227 Washington Street, Ward 1, Newton, on land known

as Section 71, Block 07, Lot 01, containing approximately 5,553 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 4.4.1 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Held 8-0; Public Hearing Continued

**Note:** Petitioner Eui Choi stated that he has been working with ISD and the Planning Department regarding whether a Special Permit is necessary for the for-profit educational use at 227 Washington Street. He stated that he was advised that it was necessary but does not agree with that determination based on the administrative approval of other for-profit education centers in the City. He noted that Planning has not provided sufficient feedback on which of the proposed plans is better.

Chief Planner Jennifer Caira noted that the Planning Department has responded to each iteration of the plans but remains unsupportive of the plans due to insufficient parking, unsafe conditions and an inadequate dropoff/pickup plan. The Chair explained that if the petitioner has concerns relative to the determination of whether the Special Permit is necessary, those concerns might be addressed by a different body. Ms. Caira noted that if the petitioner filed for a building permit and was denied due to the determination that a Special Permit was necessary, the petitioner could file an appeal of the determination before the Zoning Board of Appeals. Mr. Choi requested that the Committee hold the item while he evaluates other options. Councilor Greenberg motioned to hold the item which carried unanimously.

**#210-18** **Special Permit Petition to amend Special Permit Board Order #129-16 at 23 Howe Rd**  
MARIA SANTOS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #129-16 to amend the site plan approved in 2016 to allow for the removal of dormers, redistribution of living space and enclosing a portion of a patio, resulting in a reduced FAR of .59 where .62 was approved and .44 is allowed at 23 Howe Road, Ward 8, Newton Centre, on land known as Section 81, Block 11A, Lot 37, containing approximately 6,591 sq. ft. of land in a district zoned SINGLE RESIDENCE 2 . Ref: 7.3, 7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 7-0 (Auchincloss not Voting) Public Hearing Closed 05/01/2018

**Note:** Attorney Terry Morris, office at 57 Elm Road, represented the petitioner, Ms. Maria Santos. The Special Permit at 23 Howe Road, approved in 2016, granted relief for FAR of .62 where .44 is allowed. After the passing of the petitioner, his partner, Ms. Santos is requesting an amendment to the Special Permit to modify the approved plans. The modifications of the plans include redistribution of living space and the removal of a dormer and will result in a reduction in the proposed FAR from .62 to .59. It was noted that the petitioner submitted revised site plans on May 1, 2018 to the Planning Department. The Public Hearing was Opened.

Julie Katten, 532 Parker Street, noted that her house is situated close to the site. She stated that the property has been the subject of several Special Permits, remains a construction site and has been vacant for years. She noted that the new design is beautiful and that the neighborhood wants assurance that the house will be finished in a timely fashion.

Atty. Morris confirmed that he has discussed timing of the construction with the contractor who confirmed that he is ready to begin construction. Atty. Morris confirmed that the building can be closed in by July/August 2018.

Joe Canaven, 16 Howe Road, lives across the street. He noted that the property has been abandoned for 14 years and questioned what can happen when permit fails? He noted that the neighborhood is frustrated and has been told that construction will be completed before. He asked what can be done to ensure that something is built.

It was explained that the City cannot force the petitioner to build or determine the contractor's schedule. It was noted that if however, the site is ill managed or maintained, Inspectional Services can issue citations. If that is unsuccessful, abutters are encouraged to contact Councilors. With no other member of the public wishing to speak, Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Lipof motioned to approved. Committee members noted that the plans came to the Committee as a consistency ruling. Although Committee members agreed that the modified plans were an improvement, the plans were changed enough to require an amendment to the Special Permit. Committee members reviewed the draft findings and conditions as shown on the attached presentation and voted unanimously in favor of the petition.

**#209-18 Special Permit Petition to exceed FAR at 138 Arnold Road**

LOUS FRANCHI/JAMS REALTY LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXCEED FAR by allowing additional attic space above an attached garage, creating an FAR of .35 where .33 is allowed at 138 Arnold Road, Ward 8, Newton Centre, on land known as Section 81, Block 01, Lot 03, containing approximately 15,250 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 6-0 (Auchincloss, Laredo not Voting) Public Hearing Closed 05/01/2018

**Note:** Mr. Verne Porter, 354 Eliot Street represented the petitioner Lou Franchi, owner of 138 Arnold Road. He noted that when the designer calculated the FAR for the by right construction, he did not include area above the garage. The space above the garage is not habitable but includes some space that exceeds 7'. After construction, Mr. Porter did the calculations and found that the FAR was miscalculated and was overlooked by Inspectional Services. The petitioner is seeking a Special Permit to allow FAR relief (of .35 where .33 is allowed) to allow the garage space to remain.

Ms. Caira reviewed the requested FAR relief and criteria for consideration. The Public Hearing was Opened. With no member of the public wishing 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 on the attached presentation. Committee members voted unanimously in favor of the petition.

**#211-18 Special Permit Petition to further increase nonconforming FAR at 48 Cotton Street**

ROBERTA AND PHILIP LEVY petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mudroom and half bath, connecting an attached garage ,as well as a basement addition for improved exterior access, extending the existing nonconforming FAR to .48 where .39 is allowed and .45 exists 48 Cotton Street, Ward 7, Newton, on land known as Section 73, block 22, Lot 02, containing approximately 9,153 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.9, 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 7-0 (Auchincloss not Voting) Public Hearing Closed 05/01/2018

**Note:** Petitioner and architect for the project, Ms. Robin Levy, 48 Cotton Street, presented the request to further increase the non-conforming FAR at 48 Cotton Street. Ms. Levy reviewed the proposed plans which include rebuilding an existing garage and connecting it to the house. Ms. Levy noted that additional space will be added to the rear of the house to expand the back den, the kitchen space and add a half bath. She noted that the total added square footage is 281 sq. ft. Ms. Levy confirmed that she has spoken to abutters who have expressed no concerns relative to the renovations.

Ms. Caira reviewed the requested relief, criteria for consideration, land use and zoning at the site. The public hearing was opened. With no member of the public wishing to speak, Councilor Laredo motioned to close the public hearing which carried unanimously. Councilor Laredo motioned to approve the item. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members voted unanimously in favor of the motion.

**#212-18** **Petition to amend Board Orders #91-15 and #182-09(2) at 180 Needham Street**

C P NEEDHAM STREET LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Orders #91-15 and #182-09(2) to allow a for-profit learning center in the second-floor office space at 180 Needham Street, Ward 8, Newton Upper Falls, on land known as Section 83, Block 28, Lot 01, containing approximately 8,960 sq. ft. of land in a district zoned MULTI USE 1. Ref: 7.3, 7.4, 4.4.1, 6.3.14 of the City of Newton Rev Zoning Ord, 2015.

**Action:** Land Use Approved 7-0 (Auchincloss not Voting) Public Hearing Closed 05/01/2018

**Note:** Atty. Frank Stearns represented the petitioner, CP Needham Street, LLC to present the request for a Special Permit Petition to allow a for-profit education center at 180 Needham Street. Atty. Stearns noted that the proposed location of the education use is the second floor at Anthony's Coal Fired Pizza. He stated that Crosspoint Associates owns the buildings at 180 Needham Street as well as the adjacent 188 Needham Street, which allows a shared parking arrangement. Atty. Stearns noted that the proposed educational use "Empow" has operated in a similar capacity in Lexington for five years successfully. The center for learning with a focus on arts and technology operates during summer, afterschool and for birthday parties. Atty. Stearns noted that the use would be permitted as of right in a business district but requires a Special Permit in the mixed-use district. He stated that between 180 Needham Street and 188 Needham Street, there is a significant amount of parking for the users at the site. Atty. Stearns noted that the parking plan demonstrates the transport of children into the building and stated that there is a strong pickup/drop-off plan. He continued that the TDM plan informs parents how to circulate at the site and prohibits pickup and drop-off in the front drive aisle. Atty. Stearns noted

that safe driving will be encouraged and stated that there are multiple points with safe access and egress to the building.

It was noted that Special Permit Board Order #91-15 required a lookback on traffic when full occupancy was reached. Because full occupancy never occurred, the petitioner is prepared to do a lookback in the Summer or Fall of 2018.

Senior Planner Michael Gleba reviewed the requested relief, criteria for consideration, project photos; land use and zoning at the site. It was noted that the parking at the site may become strained during peak restaurant hours. Atty. Stearns noted that no parking relief is necessary and stated that there is sufficient parking at the site. Crosspoint Associates Kerry McCormick noted that there is an office operating at the site as well. He stated that the restaurant traffic increases as the office use decreases, which has worked successfully. Committee members questioned how issues identified during the post occupancy traffic study will be addressed. Atty. Stearns noted that multiple options have been identified, but that the petitioner is open to discussing solutions for issues identified.

Ms. Caira noted that the students attending the center will be coming for the full afternoon and confirmed that there is sufficient parking. She confirmed that the Planning Department is comfortable given the TDM plan and lookback. Committee members asked who is responsible for the lookback study. Ms. Caira confirmed that the Planning Department tracks when a petitioner must perform a lookback study. One Committee member noted that Mr. McCormick has been very responsive throughout the development of the Nexus project and any issues have been quickly addressed.

With no member of the public wishing 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 in the attached presentation. It was noted that both 180 Needham Street and 188 Needham Street are governed by Special Permit and two orders will be amended. Committee members asked that the Planning Department revisit the wording on Finding #3 and specify that the lookback will focus on traffic, access and parking. Committee members requested that the TDM letter reference was included in the report. The letter is attached to the end of this report. Committee members voted unanimously in support of the petition.

The Committee adjourned at 9:15 pm.

**Respectfully Submitted,**

**Greg Schwartz, Chair**



## Department of Planning and Development



**PETITION #210-18  
23 HOWE ROAD**

SPECIAL PERMIT/SITE PLAN APPROVAL  
AMEND SPECIAL PERMIT BOARD  
ORDER #129-16 TO AMEND THE SITE  
PLAN APPROVED IN 2016 TO ALLOW  
FOR THE REMOVAL OF DORMERS,  
REDISTRIBUTION OF LIVING SPACE  
AND ENCLOSING A PORTION OF A  
PATIO, RESULTING IN A REDUCED FAR  
OF .59 WHERE .62 WAS APPROVED  
AND .44 IS ALLOWED



*MAY 1, 2018*

### Requested Relief



Special Permit per §7.3.3 of the NZO to:

- to amend Special Permit #129-16

## Criteria to Consider



When reviewing this request, the Council should consider whether:

- The proposed FAR of 0.59, where 0.62 was previously approved by special permit and 0.44 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 (§3.1.9 and §7.3).

## AERIAL/GIS MAP



# Zoning



## ATTACHMENT B

### Zoning

23 Howe Rd.

City of Newton,  
Massachusetts

### Legend

Single Residence :



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton makes no guarantee of the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her intended purpose. GIS Departments will not accept any responsibility for any errors or omissions based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Scott D. Warren  
GIS Administrator - Douglas Goodfield

Scale: 1:10,000  
Map Date: April 19, 2018

# Land Use



## ATTACHMENT A

### Land Use

23 Howe Rd.

City of Newton,  
Massachusetts

### Land Use

Single Family Residential  
Mixed Use  
Vacant Land

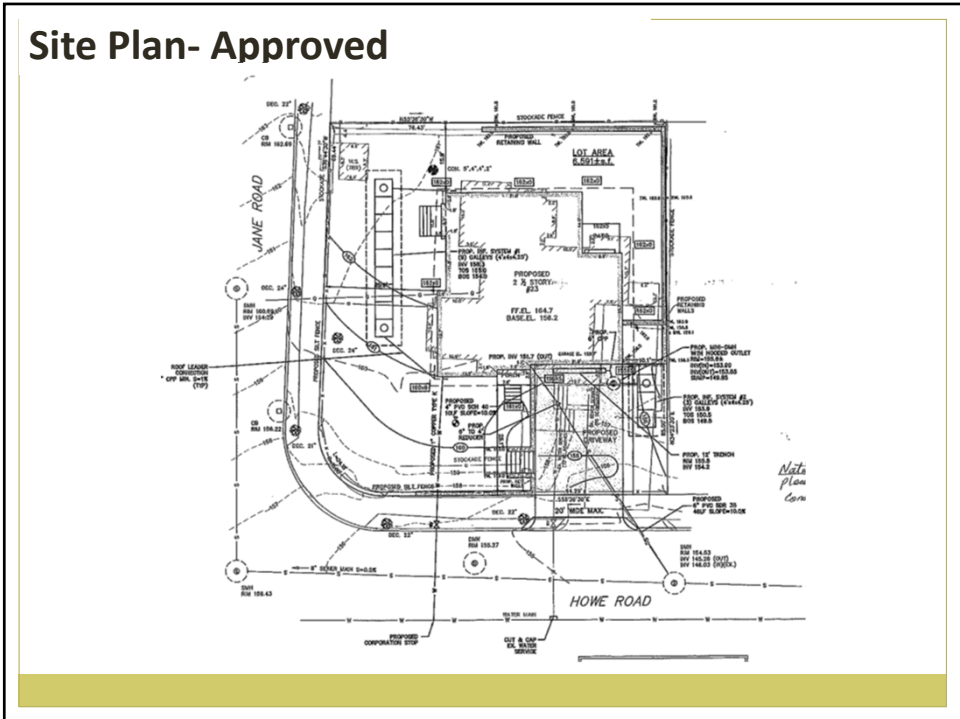


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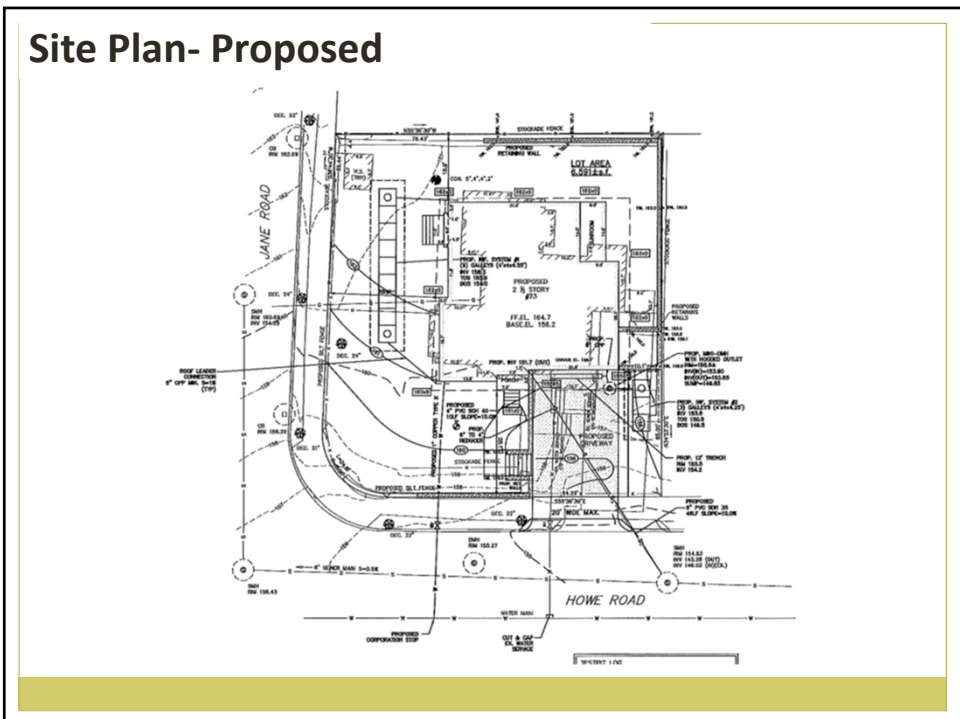
CITY OF NEWTON, MASSACHUSETTS  
Mayor - Scott D. Warren  
GIS Administrator - Douglas Goodfield

Scale: 1:10,000  
Map Date: April 19, 2018

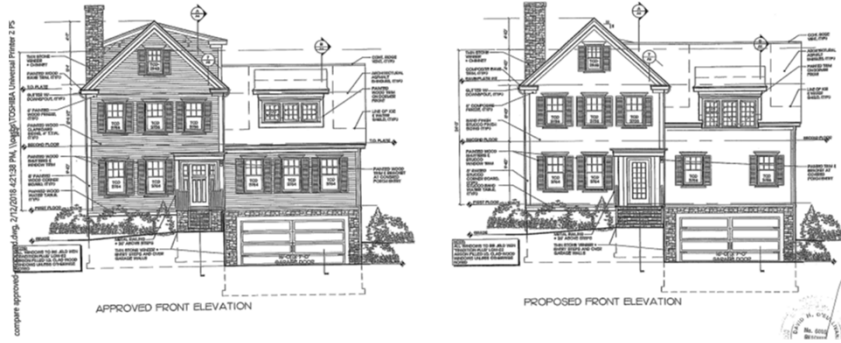
### Site Plan- Approved



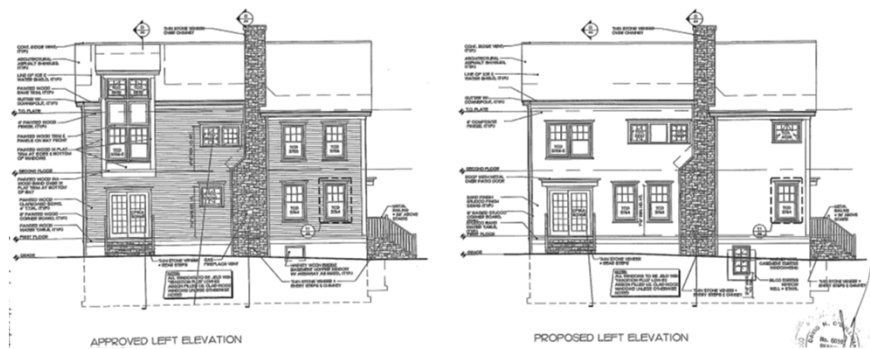
### Site Plan- Proposed



### Elevations: Front -Previously Approved & Proposed

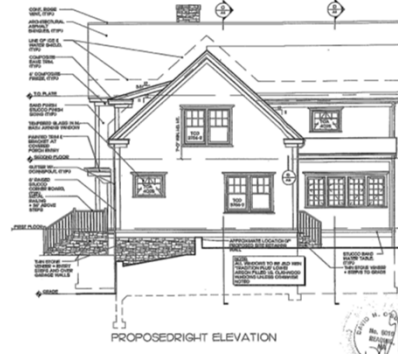
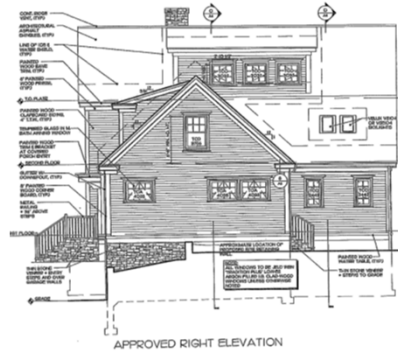


### Elevations: Left- Previously Approved & Proposed

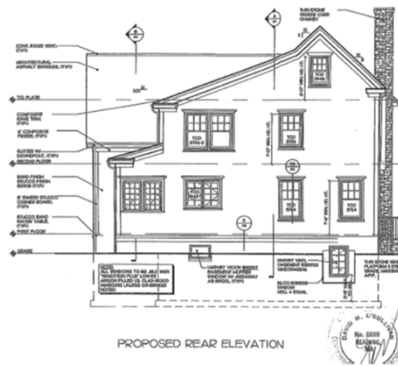
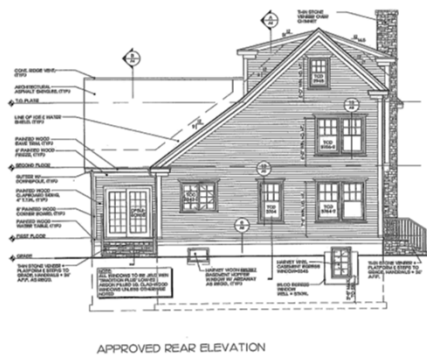




### Elevations: Right- Previously Approved & Proposed



### Elevations: Rear- Previously Approved & Proposed



**Photos**



**Photos**



**Photos**



**Photos**





## Proposed Findings

1. The proposed FAR of 0.59, where 0.62 was previously approved by Special Permit #129-16 and 0.44 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 (§3.1.9 and §7.3) for the following reasons:
  - a. The site is a small corner lot with two frontages and the proposed structure meets the required setbacks, open space, and dimensional regulations.
  - b. The two-car garage will remove the view of vehicles from the street and abutting properties.
2. The proposed design changes reduce the dwelling's FAR and reallocates some bulk from the attic level (where it would contribute to a taller appearance for the dwelling), to lower floors while not significantly affecting its footprint.

## Proposed Conditions

1. All conditions set forth in Special Permit #129-16 shall remain in full force and effect with the exception that the following plans are substituted for the site plan referenced in said Special Permit and the buildings, parking areas, driveways, walkways, landscaping and other site features associated with Special Permit #129-16 shall be located and constructed consistent with the plans as originally identified in Condition 1 and as amended by the following plans:
  - a. Proposed site plan, signed and stamped by Joseph R. Porter, surveyor, dated July 8, 2009, as revised through **March 9, 2017**:  
(.....)

## Proposed Conditions



b. architectural plans entitled “Santos Residence, 23 Howe Rd, Newton, Ma,” prepared by O’Sullivan Architects, Inc., signed and stamped by David H. O’Sullivan, Registered Architect, dated February 12, 2018:

(.....)

NOTE: The drawings labeled “Proposed” on each of the preceding sheets are the architectural plans approved pursuant to this special permit.

3. Standard Building Permit Condition.
4. Standard Final Inspection/Certificate of Occupancy Condition.

# Department of Planning and Development



**PETITION #209-18**

**138 ARNOLD ROAD**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO ALLOW  
ADDITIONAL SPACE ABOVE AN  
ATTACHED GARAGE EXCEEDING  
THE MAXIMUM ALLOWABLE  
FAR OF .33 WHERE .35 IS  
PROPOSED AND .33 EXISTS



*MAY 1, 2018*

## Requested Relief



Special Permit per §3.1.9 of the NZO to:

- Exceed FAR (§3.1.9 and §7.3).

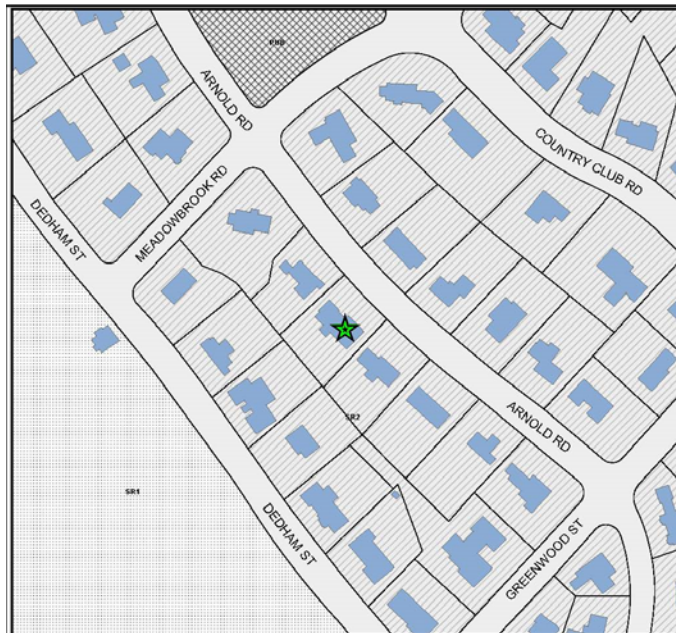
## Criteria to Consider

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

- The increase in FAR from .33 to .35, where .33 is the maximum allowed is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood

## Zoning

Legend	
	Single Residence 2
	SR1
	PUB
	Building Outlines
	Surface Water
	Property Boundaries







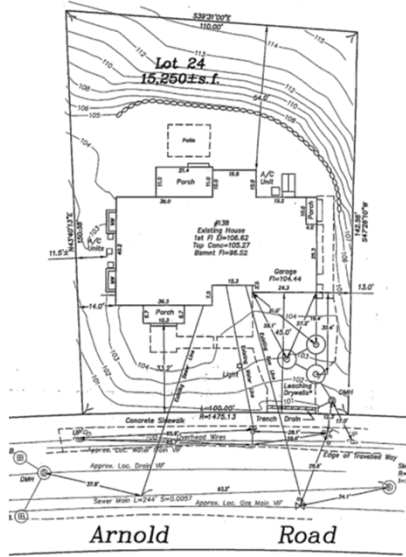
### Photographs – 138 Arnold Road



### Photographs – Neighborhood



### Site Plan



### Elevations – Front (Approved Plans)



### Elevations – Rear (Approved Plans)



### Proposed Findings

1. The proposed increase in FAR from .33 to .35, where .33 is the maximum allowed by right is consistent with and not in derogation of the size, scale or design of other structures in the neighborhood as it will be adding 295 square feet to the structure and meets all other dimensional requirements (§3.1.9 and §7.3.3).



## Proposed Conditions

1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

## Department of Planning and Development



**PETITION #211-18**

**48 COTTON STREET**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO CONSTRUCT  
ADDITIONS EXTENDING THE  
NONCONFORMING FLOOR  
AREA RATIO (FAR) FROM .45  
TO .48, WHERE .39 IS THE  
MAXIMUM ALLOWED



*MAY 1, 2018*

## Requested Relief



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

- Further increase the nonconforming FAR (§3.1.9 and §3.1.9).

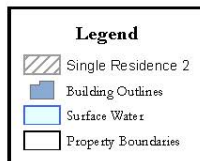
## Criteria to Consider

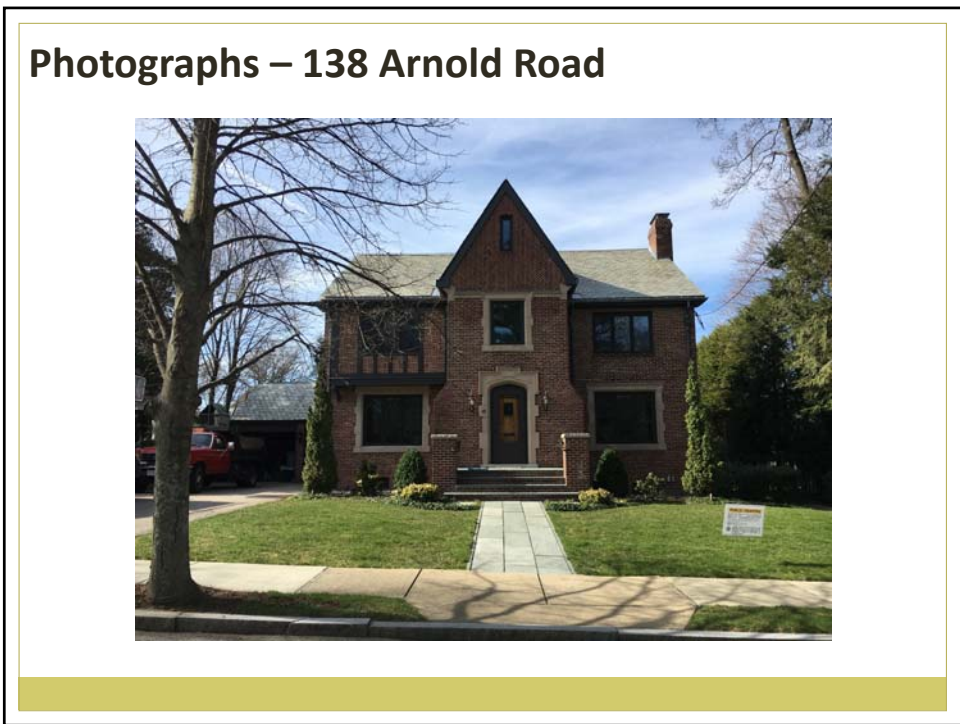
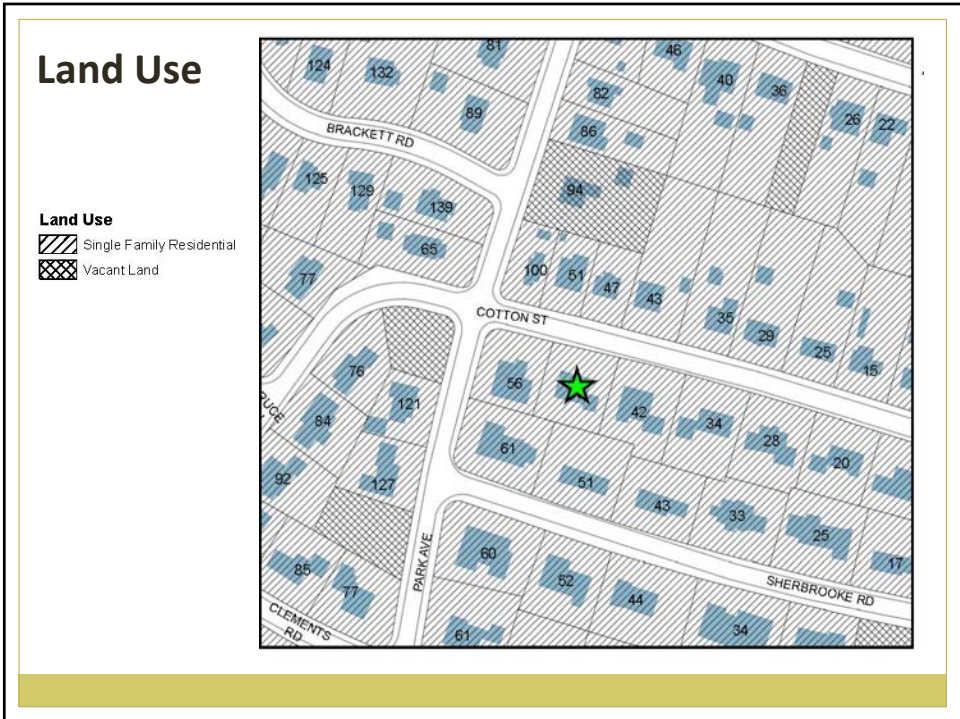


When reviewing the requested special permit the Council should consider whether:

- The nonconforming FAR from .45 to .48, where .39 is the maximum is allowed is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9 and §7.8.2.C.2).
- The proposed extension in the nonconforming FAR will be substantially more detrimental than the existing nonconforming FAR is to the neighborhood (§3.1.9 and §7.8.2.C.2).

## Zoning





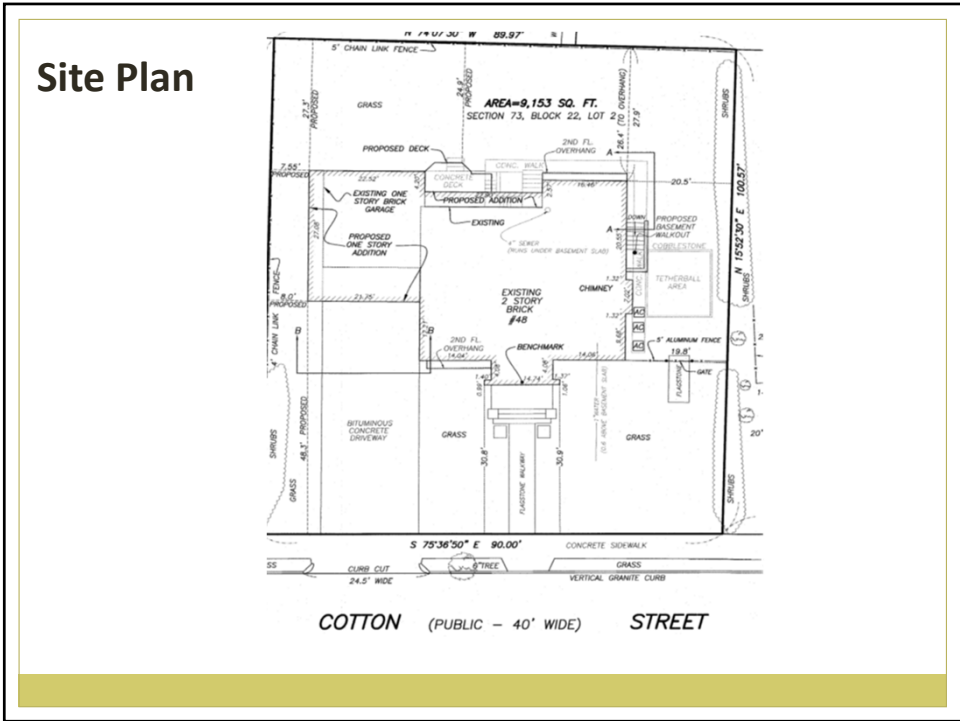


### Photographs – 138 Arnold Road

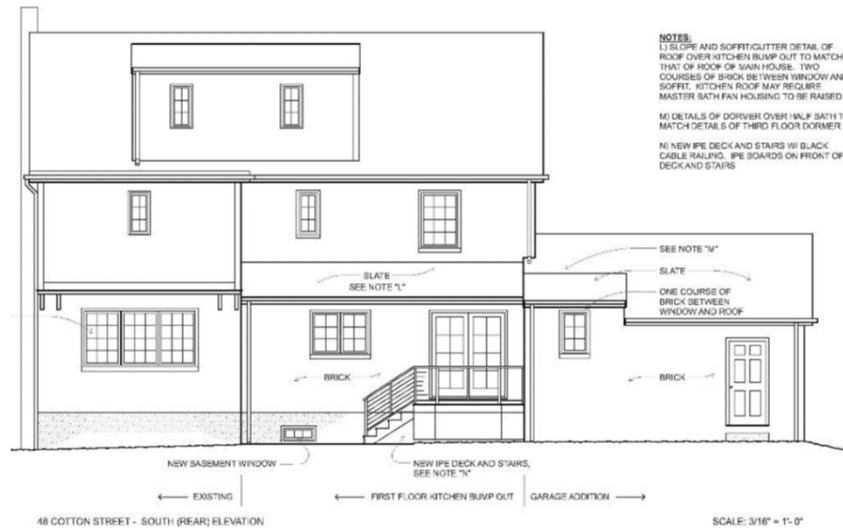


### Photographs – Neighborhood





## Proposed Elevations – Rear



## Proposed Findings

1. The proposed increase in the nonconforming FAR will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as the addition conforms with all other dimensional requirements and replicates the design of the existing structure (§3.1.9 and §7.8.2.C.2).
2. The proposed increase in the nonconforming FAR will not be substantially more detrimental than the existing nonconforming FAR is to the neighborhood as it will be adding a net total of 281 square feet to the structure, the majority of which will be located in the rear of the structure. (§3.1.9 and §7.8.2.C.2).

## Proposed Conditions

1. Plan Referencing Condition
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.



## Department of Planning and Development



**PETITION #212-18**  
**180 NEEDHAM STREET**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO AMEND  
SPECIAL PERMIT BOARD  
ORDERS #91-15 AND  
#182-09(2) TO ALLOW A  
FOR-PROFIT LEARNING  
CENTER IN THE  
SECOND-FLOOR OFFICE SPACE

*MAY 1, 2018*



### Requested Relief

- Amend Board Orders #91-15 and 182-09(2)
- Special permit per §7.3.3 to allow a for-profit educational use in the Mixed Use 1 zoning district (§4.4.1; §6.3.14.B.2)

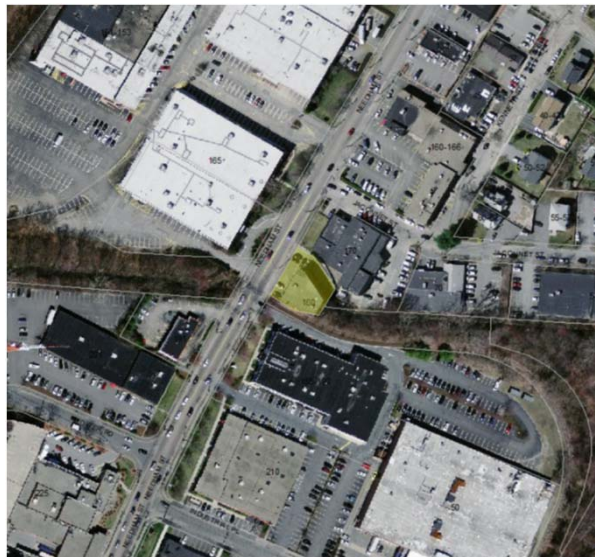
## Criteria to Consider



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed for-profit educational use (§7.3.3.C.1);
- The proposed for-profit educational use as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2);
- The proposed for-profit educational use 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).

## AERIAL/GIS MAP



# Zoning



## ATTACHMENT B

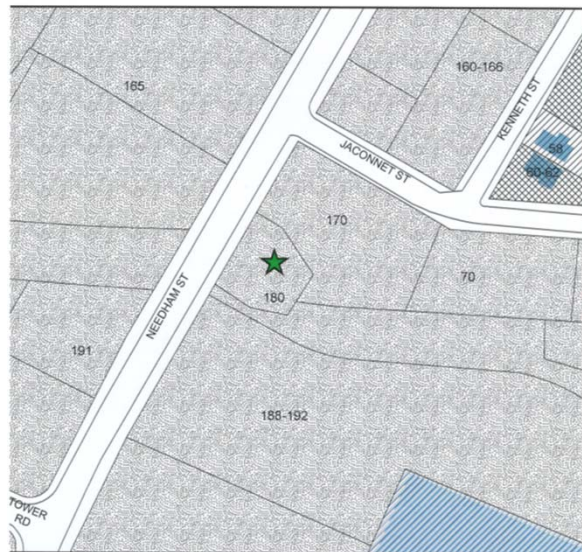
**Zoning**  
**180 Needham St.**  
*City of Newton,  
Massachusetts*

- Legend**
- Multi-Residence 1
  - Mixed Use 1
  - Mixed Use 2



The information on this map is from the OpenStreetMap project. The City of Newton does not warrant the accuracy of the information. Each user of this map is responsible for determining the suitability for their intended purpose. City information will not constitute an offer of insurance or any other financial product. Information based only on GIS data.  
CITY OF NEWTON, MASSACHUSETTS  
Mayor: Scott D. Wiener  
GIS Administrator: Douglas Greenfield  
Map Date: April 19, 2018

# Land Use



## ATTACHMENT A

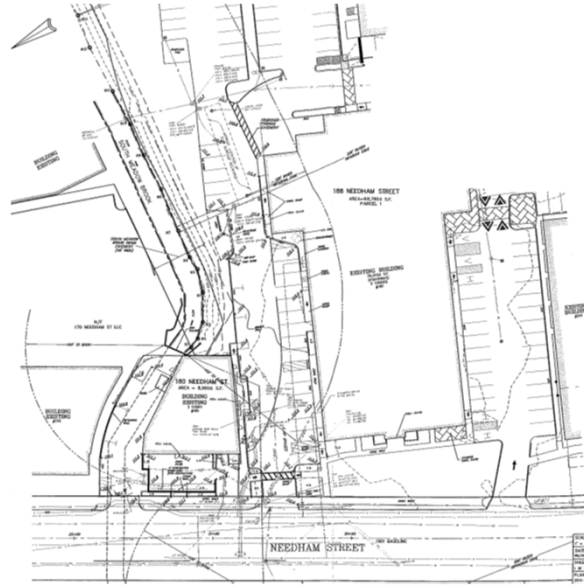
**Land Use**  
**180 Needham St.**  
*City of Newton,  
Massachusetts*

- Land Use**
- Single Family Resident
  - Multi-Family Residential
  - Commercial
  - Industrial

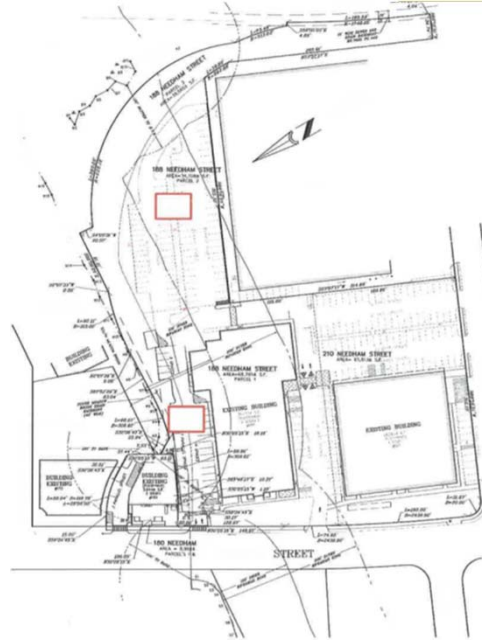


The information on this map is from the OpenStreetMap project. The City of Newton does not warrant the accuracy of the information. Each user of this map is responsible for determining the suitability for their intended purpose. City information will not constitute an offer of insurance or any other financial product. Information based only on GIS data.  
CITY OF NEWTON, MASSACHUSETTS  
Mayor: Scott D. Wiener  
GIS Administrator: Douglas Greenfield  
Map Date: April 19, 2018

### Site Plan (As-built)



### Site Plan



**Photos**



**Photos**





**Photos**



**Photos**



## Proposed Findings

1. The specific site is an appropriate location for the proposed for-profit educational use as it is located in an active commercial corridor with a mix of retail, service, office and residential uses (§7.3.3.C.1);
2. The proposed for-profit educational use as developed and operated will not adversely affect the neighborhood as the site is located in a mixed-use area with active commercial uses and has adequate off-site parking to meet the projected parking demand for the proposed 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 as the site is located on a major commercial corridor with access to highways and public transportation, and the proposed project will not significantly affect the levels of service at surrounding intersections (§7.3.3.C.4).

## Proposed Conditions

**“This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #212-18 are null and void.”**

1. Plan Referencing Condition
2. The for-profit educational use shall be operated consistent with the provisions of a letter ( ... ) dated March 30, 2018, and the exhibits:
  - a. Exhibit A- Access Plan (180 Needham Street);
  - b. Exhibit B- Parking Plan (180 Needham Street).
3. Building Permit Condition
4. No Certificate of Occupancy for the buildings and uses 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 or surveyor certifying substantial compliance with Condition #1.

## Proposed Conditions (con't)



### *Conditions incorporated from Board Order #91-15:*

5. Plan Referencing Condition
6. The petitioner shall maintain all landscaping associated with this Special Permit/Site Plan Approval in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
7. At its sole expense, the petitioner shall complete a **post occupancy traffic study** to document the actual traffic characteristics of the Project and to assess traffic volumes and operating conditions at the one access point to 180 Needham Street and the two access points to 188-210 Needham Street. (...)
8. The petitioner shall use dispose of its trash in the dumpster on the adjacent site at 188-210 Needham Street. The trash enclosures shall be maintained in a sanitary condition with the gate remaining closed at all times when not in use.

## Proposed Conditions (con't)



### *Conditions incorporated from Board Order #91-15: (con't)*

9. At the written request of the Director of Planning and Development, the petitioner shall submit funds in the amount of \$8,755.00 to be paid towards undergrounding of utilities along Needham Street at such time as either the City of Newton or the Commonwealth commences a project of undergrounding the utility lines with sufficient funding in place or committed from governmental or private sources to undertake the project for at least a distance of a quarter mile, inclusive of the section of Needham Street fronting the subject property at 180 Needham Street. This obligation shall run with the land for a period of 25 years from the date of this special permit. These funds shall be used by the City or the Commonwealth for the purpose of undergrounding utilities on Needham Street within the 25 year time period identified above. Any funds collected under this condition and not spent in accordance with this condition at the end of this time period shall be returned to the petitioner or its successors or assigns.



# CROSSPOINT

March 30, 2018

Neil Cronin, Senior Planner  
City of Newton  
Newton City Hall, Room 202  
1000 Commonwealth Ave.  
Newton Centre, MA 02459

**RE: 180 Needham Street - Special Permit  
Empow Studios Description and Traffic Management Plan**

Dear Neil:

Crosspoint Associates, Inc. (Crosspoint) is in the process for filing for a Special Permit for change of use at 180 Needham Street for “educational for-profit”. On Wednesday, February 28, 2018 we met with the Development Review Team (DRT) to discuss the project and proposed Tenant, **Empow Studios (Empow)**. The following information will help answer some of the questions asked at the meeting.

## **DESCRIPTION**

**Empow** based in Lexington, MA is looking to open a second studio at 180 Needham Street, Newton in time for the 2018 Summer programming.

**Empow** will create a STEM (Science, Technology, Engineering & Math) Enrichment Center serving children in grade 1 through grade 8. The Center will be equipped with the latest tech gadgets to keep kids continuously thinking about what they can create next.

**Empow believes in empowering girls in STEM Education.** Only 19% of all bachelor’s degrees in engineering and 18% in computer science were awarded to girls in 2014. **Empow’s** mission is to change these trends and empower girls to design, make, and create amazing projects in design and coding. **Empow’s** project-based curriculum will put girls’ curiosity, creativity, and storytelling powers to the test!

Additional information may be found online at: <https://empow.me>

# CROSSPOINT

To provide an idea of the type of programs at the Newton location, the following is a list of the proposed offerings. Empow has designed their space to provide three (3) classrooms with 10-13 students per classroom taught by 1-2 teachers.

- **Summer Camps**

- o Days: Monday – Friday
- o Hours: 9:00 AM – 4:00 PM (full day)
- o Dates: June 25 – August 31

- **After-School Club (ASC)**

- o Days: Monday – Friday
- o Hours: 2:30 – 6:00 PM (partial day)
- o Newton’s Tuesday early release offers hours 12:30 – 2:30 PM

- **Birthday Parties**

- o Days: Saturday & Sunday
- o Hours: 9:00 AM – 4:00 PM (2 hour periods)

- **NanoCamps**

- o Days: typically on NO SCHOOL days
- o Hours: 9:00 AM – 4:00 PM (full day)

## TRAFFIC MANAGEMENT

The Site Access and Parking Management Plan (the “Plan”), will assure that all parents and caregivers are provided information materials to inform them ahead of their arrival to the property. As Property Manager with Crosspoint, Rebecca Finley will work with **Empow** to make sure these materials are provided and readily available.

In addition to parents transporting their children, **Empow** partners with Sheprd ([www.sheprd.us](http://www.sheprd.us)) to coordinate transportation from K-12 facilities. This will result in even less trip generation.

There are two (2) access points off Needham Street as well as one (1) from Industrial Place (See Exhibit A). There are 27 parking spaces at the front between 180 & 188 Needham Street and an additional 92 parking spaces at the rear (See Exhibit B).

If customers of **Empow** enter the northern entrance and do not find a parking space in the front area, they will be instructed to proceed to the rear parking area. At no time will they

# CROSSPOINT

be allowed to “live park” in the drive aisle between 180 & 188 Needham Street to drop-off/pick-up. If the front area parking spaces are filled on a regular basis, customers will likely elect to enter off of Industrial Place and proceed directly to the rear parking area.

Crosspoint Property Management and **Empow** on-site Staff will closely monitor access and parking as customers get accustomed to the new location. Reminders will be sent to **Empow** customers as needed on an ongoing basis. Crosspoint actively manages 180, 188 and 210 Needham Street as well as Newton Nexus across the street and has staff on-site daily managing trash and performing routine maintenance. Empow Staff will also come downstairs to receive the students at the scheduled time of arrival, providing a hands-on level of management.

If live parking is observed or complaints received from citizens, tenants or their customers, the license plate will be noted and vehicle asked to park. If the same vehicle is observed live parking multiple times, **Empow** will be notified to work directly with their customer to educate them on access and parking protocol.

If you have any questions, please do not hesitate to contact me directly,

Email: [kmccormack@crosspointassociates.com](mailto:kmccormack@crosspointassociates.com)  
Phone: 781.916.8680

Very truly yours,  
**NEWTON TECHNOLOGY PARK, LLC**  
By its authorized agent,  
**CROSSPOINT ASSOCIATES, INC.**

  
Kerry McCormack, Director of Development

cc: Frank Stearns, Attorney, Holland & Knight

# CROSSPOINT

180 Needham Street

## EXHIBIT A - ACCESS PLAN



# CROSSPOINT

180 Needham Street

## EXHIBIT B - PARKING PLAN

