

CITY OF NEWTON

IN BOARD OF ALDERMEN

LAND USE COMMITTEE REPORT

TUESDAY, DECEMBER 3, 2013

Present: Ald. Hess-Mahan (Chairman), Ald. Leary, Albright, Laredo, Crossley, and Harney;
absent: Fischman and Schwartz

Staff: Robert Waddick (Assistant City Solicitor), Stephen Pantalone (Senior Planner), Alexandra Ananth (Chief Planner for Current Planning), Linda Finucane (Assistant Clerk of the Board)

Item recommitted to Land Use by Board of Aldermen on November 18, 2013:

#291-13 NEWTON RESTAURANT, LLC./PINKY'S PLACE, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING USE to increase an existing nonconforming restaurant containing 74 seats to 116 seats; to waive the requirement for an additional 16 parking stalls; and to utilize an adjacent parcel to meet a portion of the required parking at 1205 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land known as SBA 51, 45, 11, containing approximately 12,012 sf of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a, 30-19(f)(2), and 30-19(m) of the City of Newton Rev Zoning Ord, 2012.

(Land Use Approved 5-0 on October 22, 2013; item postponed on November 4 to date certain of November 18, 2013

ACTION: APPROVED 4-0 (Albright not voting; Leary excused)

NOTE: Subsequent to the October 22 meeting (excerpt from that report is attached) the actual boundary of the land leased from the MBTA was called into question raising concern about the proximity of the parking to the newly-opened 14-foot pedestrian walkway, which is located on the former MBTA railroad bed. The petitioner then submitted a revised parking layout plan. This evening, however, questions about the revised plan and the buffer zone, landscaping, location of the dumpster, and terms of the lease with the MBTA still remained. Although the petitioner has leased land from the MBTA for many years, the parking and dumpsters for both the petitioner's property and abutting properties have gradually encroached further into the MBTA right-of-way. To address this situation, the petitioner will lease additional land from the MBTA to increase the buffer and allow the parking to be pulled back. Mr. Waddick reviewed the licensing agreement between the petitioner and the MBTA and the agreement between the City and the MBTA. The City has an 80-foot right-of-way, but the City's agreement is not inclusive; the MBTA can lease to other entities as long as they don't interfere with the City's buffer. All agreements contain the standard condition that the MBTA reserves its right to nullify any license agreement/lease. If the petitioner's agreement is terminated, reducing the number of parking stalls available to it the petitioner, if the special permit is approved, will within 60 days file to amend the site plan and identify off-site parking stalls to replace the number of stalls lost. The petitioner has agreed to move its dumpster, which will continue to be enclosed by a concrete wall, and will landscape the buffer area, and install a bicycle rack. Recycled railroad ties will be

used for wheel stops for the stalls that abut the buffer area. Snow, which historically has been stored on the unused railroad bed, will be removed from the site.

The Committee agreed that two-way circulation around the small island in the parking lot should not be encouraged. If the existing utility pole in the parking lot were moved it would improve circulation; however, there is a question of whether the pole is the end of the line. The Engineering Division noted that it supports a pole on Oak Street, which in that case may mean it supports multiple poles. Also, it may be on the MBTA's property, not the petitioner's. The Committee suggested that the petitioner relocate two parking stalls, possibly the two HP stalls, close to the rear entrance of the building to free up additional space for circulation. The petitioner agreed to have Mr. Porter take another look at the parking configuration. The Committee decided that if the special permit were approved, a reconfiguration could be finalized with input and approval of the Inspectional Services Department, as has been done in other special permits.

Alderman Crossley moved approval of the petition with the findings and conditions enumerated in the draft special permit dated December 16, 2013. The motion to approve carried 4-0, with Alderman Albright not voting and Alderman Leary excused. The petitioner will provide an updated parking layout plan prior to December 16. *Note: Attached is an updated parking layout plan prepared by Verne T. Porter Jr., PLS, dated December 5, 2013.*

2014 Auto Dealer Licenses

The following license applications were returned too late for inclusion on the last agenda.

Class 2

#383-13 R.S. SERVICE, INC.
361 Washington Street
Newton Corner 02458

ACTION: APPROVED 6-0

Class 3

#391-13 ECHO BRIDGE SALVAGE, INC.
16-24 Maguire Court
Newtonville 02460

ACTION: APPROVED 6-0

#392-13 SCHIAVONE BROTHERS, INC.

16-24 Maguire Court
Newtonville 02460

ACTION: APPROVED 6-0

#79-12(2) REFERRED TO LAND USE AND FINANCE COMMITTEES
COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of nine hundred ten thousand one hundred seventy-nine dollars (\$910,179) from the Community Preservation Fund to the Planning & Development Department for a grant to Myrtle Village, LLC, to create 7 units of permanently affordable rental housing at 12 and 18-20 Curve Street, West

REFERRED TO LAND USE AND FINANCE COMMITTEES

#79-12(2) **COMMUNITY PRESERVATION COMMITTEE** recommending the appropriation of nine hundred ten thousand one hundred seventy-nine dollars (\$910,179) from the Community Preservation Fund to the Planning & Development Department for a grant to Myrtle Village, LLC, to create 7 units of permanently affordable rental housing at 12 and 18-20 Curve Street, West Newton, as described in the proposal submitted in August – October 2013.
[11/06/13 @ 4:08 PM]

FINANCE REFERRED TO 2014-2015 BOARD OF ALDERMEN

ACTION: REFERRED TO 2014-2015 BOARD OF ALDERMEN

The Chairman thanked the Committee members and staff for their work over the past term. The meeting was adjourned at approximately 8:10 PM.

Respectfully submitted,

Ted Hess-Mahan, Chairman

and up to 100 residential units, and accessory parking at 200 Boylston Street, Chestnut Hill Square, to provide additional parking spaces to serve the retail and future residential uses.

Note: Senior Vice President of New England Development William Cronin withdrew the request and said the petitioner will seek an amendment to the special permit.

Application for a Class 2 Automobile Dealer License

#360-13 MAVERICK MOTORS, INC. (Gregory G. Keshishyan)
1209 Washington Street, West Newton 02465

ACTION: APPROVED 5-0

NOTE: Mr. Keshishyan is the owner of Global Ventures Group d/b/a Lux Auto Plus, a retail auto dealership that has been licensed at 1201 Washington Street since 2009. He wishes to lease additional space for a separate wholesale business at 1209 Washington Street, which is a building to the rear of 1201 Washington Street. There will not be any outside storage or display of vehicles. Alderman Crossley moved approval, which carried 5-0.

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parking at 1205 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land
known as SBA 51, 45, 11, containing approximately 12,012 sf of land in a district
zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)a, 30-19(f)(2), and 30-
19(m) of the City of Newton Rev Zoning Ord, 2012.

ACTION: APPROVED 5-0

NOTE: The public hearing was opened and closed on October 15, 2013. Present at the hearing were Aldermen Fischman, Harney, Albright, Laredo, and Schwartz. Attorney Stephen Buchbinder presented the petition. The petitioner is seeking to increase the number of seats at the Biltmore Bar and Grille from 74 to 116. The increased number of seats requires 16 additional parking spaces. Relief is sought to increase the nonconforming use on the site and to waive the required number of parking stalls required by the additional seats. In addition to the Biltmore, which has operated on the site since 1921, other uses in the block include a variety store, barber shop, and drycleaners. Two small commercial buildings to the east are owned by related entities. The petitioner purchased the properties approximately seven years ago and has completed a number of renovations; eventually all the facades will match. The petitioner has upgraded the streetscape and plans to replace two existing benches and re-plant the tree wells. Currently, the petitioner has an outdoor café permit for 22 outdoor seats, which were moved from inside onto a patio which is located between the buildings at 1209-1213 and 1203-1207 Chestnut Street.

There is a legally nonconforming shared parking lot at the rear of the site. The lot has 37 parking spaces, which include 11 spaces designated for tenants of 1215 Chestnut Street during normal business hours. Two of the 11 spaces are HP spaces. The parking lot has access from both Chestnut and Oak Streets. It is not clearly striped and does not meet the dimensional and other requirements of Sec. 30-19. A rear portion of the parking lot is owned by and leased by the petitioner on an annual basis from the MBTA. The petitioner has arranged with the

business for the use of its 11 spaces in the evenings; however since the spaces are only available when the business is closed, they can't be used as mitigation to satisfy the parking requirement. The petitioner submitted a parking study by Planning Horizons that indicates there are approximately 78 parking spaces available within a two minute walk of the site. The Planning Department expressed concern about the impact of the additional seating on vehicle circulation in the parking lot, given the aisle width and parking lot entrances are only wide enough for one-way traffic. Planning is concerned about cars entering the parking lot from opposite entrances during peak times blocking each other from exiting. Although it acknowledged that the parking lot has been functioning over the years without major conflict, the Planning Department recommends that the petitioner consider ways to improve the parking to avoid conflicts, including striping the spaces, adding directional markings, and using landscaping to direct circulation and possibly employing a parking attendant during peak times. It also recommends designating two parking spaces for the physically handicapped and adding bicycle racks, which would be a benefit to the soon to be opened pedestrian greenway on the former MBTA rail bed.

Mr. Buchbinder reported that neighbors were supportive of the concept at a neighborhood meeting held on September 30. There was no public comment.

This evening there was some concern about the proximity of parking spaces to the pedestrian greenway. Mr. Buchbinder explained that the restaurant, which has operated on the site since 1921, has utilized the abutting MBTA land for a very long time via an annual lease. (The dumpster for the restaurant is also located along the property line.) The rail bed/greenway has approximately ten feet on each side. The petitioner is willing to install appropriate native plantings. The dumpster will be enclosed. The leased portion provides ten parking spaces, if the petitioner loses the lease with the MBTA an amendment to the special permit will need to be sought for additional parking relief.

Although the Planning Department has suggested that the Chestnut Street ingress/egress be made one-way, the petitioner prefers that it remain a two-way. It works fine. The two-way drive slows cars. There have not been any accidents. Exiting the Oak Street drive to take a left turn is very difficult because of poor sight lines. The Chestnut Street drive does have a pinch point at the corner of the building, but most patrons who park in the rear are regulars. The petitioner acknowledged and Alderman Crossley attested to the creative parking that currently exists in the lot, but with striping, signage, and directional pavement markings, the parking will work.

The petitioner provided an updated parking plan and has agreed to minor adjustments relative to HP spaces, cautionary signage, lighting, landscaping, etc. At the suggestion of the Committee, two of the parking spaces will be reoriented. The petitioner will install a bicycle rack, which will complement the new pedestrian greenway. The petitioner will post parking locations on its website and explore whether to petition the Traffic council to extend the time limit on some of the one-hour parking meters in the area.

Alderman Crossley moved approval finding that the proposed increase of 42 seats will not be substantially more detrimental to the neighborhood than the existing use; literal compliance with the parking requirements is impracticable because the site predates adoption of the parking ordinance and cannot provide additional compliant parking; the parking study submitted by the petitioner shows sufficient parking within a reasonable distance of the site to meet the parking demand for the waiver of 16 parking stalls. Conditions include seeking an

amendment to the special permit within 60 days if the lease with the MBTA is terminated; posting directions re parking on its website; installing in coordination with the city appropriate plantings along the greenway. The motion to approve carried 5-0.

#237-13 SEVENTY FIVE to SEVENTY SEVEN AUBURN ST. TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to reconfigure an existing two-family dwelling into three units with a 2-car garage and to construct two additional attached dwelling units with 2-car garages at the rear for a total of five units at 75-77 AUBURN STREET, Ward 3, Auburndale, on land known as SBL 33, 6, 42, containing approximately 31,437 square feet of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15 Table 1, 30-9(b)(5), (b)(5)(a) and (b)(5)(b), of the City of Newton Rev Zoning Ord, 2012.

ACTION: HELD 5-0 **(90 days: December 9, 2013)**

NOTE: The public hearing was opened on August 13 and continued to September 10, 2013, when it was closed. Present at the public hearing were Aldermen Fischman (Acting Chairman), Albright, Laredo, Schwartz, Crossley, and Harney. The petition was presented by attorney Terrence Morris. The petitioner is proposing to demolish a portion of an existing circa 1853 Greek revival two-family dwelling and construct four additional single-family attached dwellings on the site. The petitioner is seeking relief to construct attached dwellings, to locate a structure 15 feet, where 25 feet is required, from the side lot line, to exceed maximum lot coverage of 25%, (to 28%), and to locate a driveway five feet, where 10 feet is required, from the side lot line. The Historical Commission voted on July 30, 2013 to approve the submitted plans and to waive the demolition delay.

Two of the proposed new 2½ -story attached dwellings with two-car garages will be constructed directly behind the existing house, with the other two 2½ story attached dwellings with two-car garages proposed for the east side of the property. There are two curbs cuts on the property. The existing driveway on the east side of the property will be extended towards the rear and the existing driveway on the west side of the property will be expanded and will provide access for the existing house. The Planning Department suggests eliminating the driveway and curb cut on the west side of the property and creating access to all the garages via the east driveway.

Currently, there is a stockade fence on the western property line, a wire fence on a portion of the eastern property line, and large trees along most of the property lines. The proposed landscaping plan maintains most of the existing screening on the site and adds additional screening towards the front of the property on the east and west sides.

The Planning Department notes that the increase in density would not be out of character with the neighborhood in terms of lot area per unit; recesses in the rear structure will mitigate the additional mass. However, while acknowledging that each of the reliefs sought is relatively minor, the Planning Department believes that are no significant aspects of the site that make it impractical to adhere to the dimensional requirements, other than the desire for five units, and suggests the petitioner reduce the number of proposed units to four or reduce the size of the proposed units to meet the dimensional requirements of the site. Reducing the size of the proposed units could provide greater diversity in housing type.

Adjusted Centerline of Greenway
as Staked by City of Newton
Typical Layout of Trail to Extend
5' from Centerline With a 2' Buffer
as Shown (7' Total from Centerline)

① - ⑪ Existing Lease Spaces

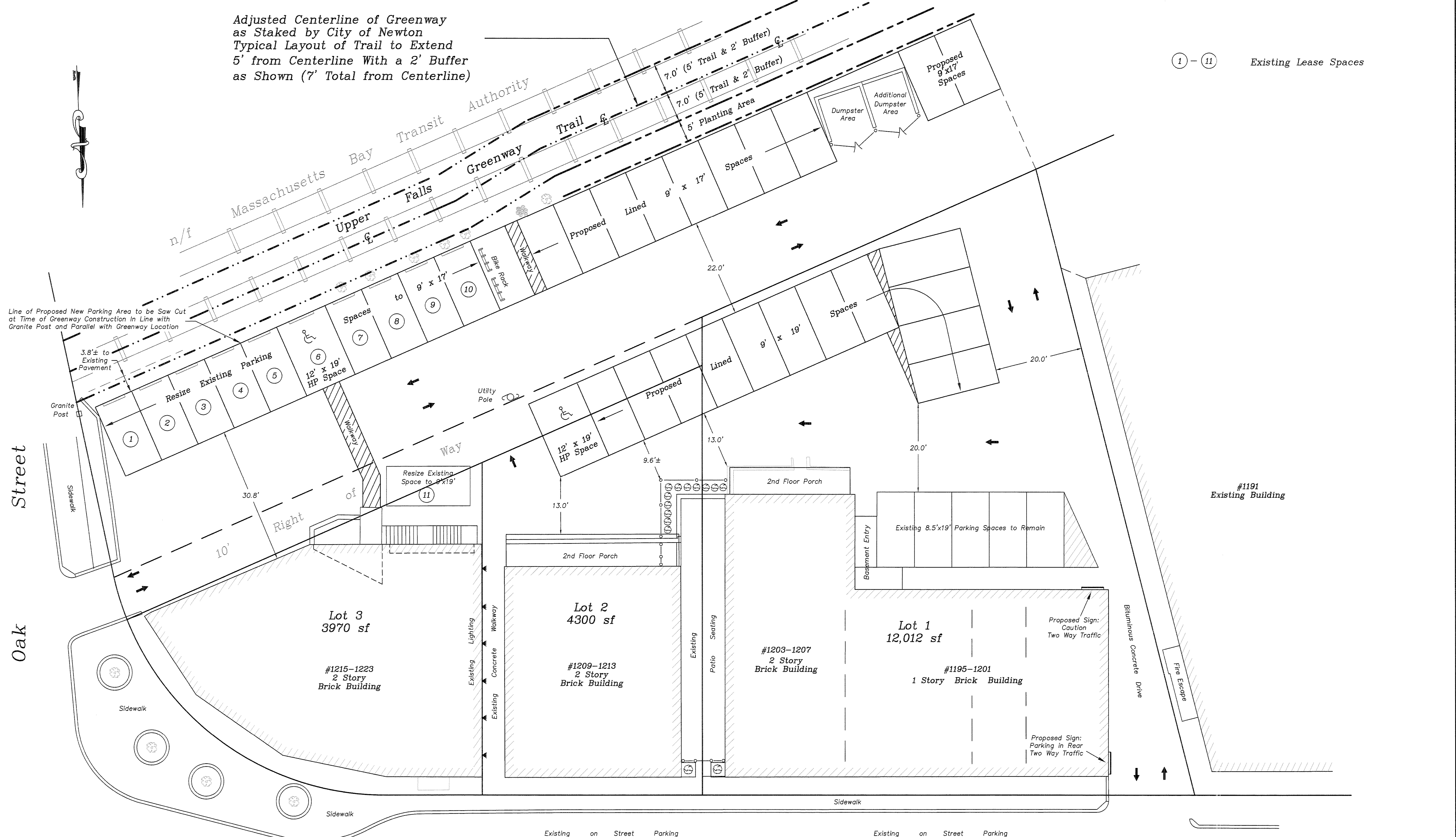
Line of Proposed New Parking Area to be Saw Cut
at Time of Greenway Construction In Line with
Granite Post and Parallel with Greenway Location

Street

Oak

Chestnut

Street



REVISIONS	
DATE	DESCRIPTION

1195-1213 Chestnut St., Newton, Massachusetts
Proposed Parking Layout Plan
Scale: 1"=10' December 5, 2013
VERNE T. PORTER Jr., PLS
Land Surveyors - Civil Engineers
354 Elliot Street Newton, Massachusetts 02464
Project # 13010-90/2
Drawn By: R. Jardine Jr.

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