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Barney Heath
Director

STAFF MEMORANDUM

Meeting Date: **Wednesday, March 11, 2020**
DATE: March 5, 2020
TO: Urban Design Commission
FROM: Shubee Sikka, Urban Designer
SUBJECT: **Additional Review Information**

The purpose of this memorandum is to provide the members of the Urban Design Commission (UDC) and the public with technical information and planning analysis which may be useful in the review and decision-making process of the UDC. The Department of Planning and Development's intention is to provide a balanced view of the issues with the information it has at the time of the application's review. Additional information may be presented at the meeting that the UDC can take into consideration when discussing Sign Permit or Fence Appeal applications.

Dear UDC Members,

The following is a brief discussion of the sign permit applications that you should have received in your meeting packet and staff's recommendations for these items.

I. Roll Call

II. Regular Agenda

Fence Appeal

1. 40 Fernwood Road Fence Appeal

PROJECT DESCRIPTION: The property located at 40 Fernwood Road is within a Single Residence 3 district. The applicant has added the following fence:

- a) Front Lot Line along Cumberland Road – The applicant has added a fence along Cumberland Road front lot line, set at the front property line with a new solid fence, 6 feet in height.

TECHNICAL REVIEW:

The existing fence along the front property lines appear to be not consistent with the fence criteria outlined in §5-30(d)(1) of the Newton Code of Ordinances.

According to §5-30(d)(1), "Fences bordering a front lot line: No fence or portion of a fence bordering or parallel to a front lot line shall exceed four (4) feet in height unless such fence is set back from the front lot line one (1) foot for each foot or part thereof such fence exceeds four (4) feet in height, up to a maximum of six (6) feet in height, and further, that any section of a perimeter fences greater than four (4) ft. in height must be open if it is parallel to a front lot line."

As specified under §5-30(c) and (h), the UDC may grant an exception to the provisions of the City's Fence Ordinance. The proposed fence, however, must be found to comply with the *"requirements of this ordinance, or if owing to conditions especially affecting a particular lot, but not affecting the area generally, compliance with the provisions of this ordinance would involve substantial hardship, financial or otherwise."* The UDC must also determine whether the *"desired relief may be granted without substantially nullifying or substantially derogating from the intent and purposes of this ordinance or the public good."*

The applicant is seeking an exception to allow 6 feet tall solid fence at the front property line for a length of 57 feet 3 inches, where the ordinance would permit such a fence to be 4 feet tall. The applicant's stated reasons for seeking this exception are that "We believe that the fence provides protective measures for our family from our resident cayotes, that movement of the fence would create a monetary and a loss of use hardship, and also that the fence does not hinder public use or appear inconsistent with the neighboring properties and parts of which replace a previously existing fence. A further explanation of these conditions affecting the property are provided below with corresponding photographs in the attachments.

- *We request an appeal foremost because of the concern of danger for our small children and potentially future pets from local cayotes. See photographs on pages 15-17.*
 - *We installed a protective measure fence of this height to deter coyotes from entering our back yard to provide a safer place for our children and future pets to play without risk of injury.*
 - *We believe that we have a unique situation as there have been multiple sightings of cayotes entering the back yard and even more of them walking on the sidewalk and street.*
 - *We were able to capture a picture of one of these occasions where one cayote was walking down the road and stopped to stare at our two-year old in the front window for an extended and intimidating amount of time.*
 - *We have contacted animal control for advice and assistance, but they confirmed that they do not assist with deterrence measures and*

recommended at least a six-foot fence to keep them out amongst other measures which we have taken such as removal of bird feeders and garden items that attract coyote prey.

- *If the appeal cannot be granted solely because of the concern of danger explained above, we respectfully request an appeal due to the substantial financial hardship and loss of use if the fence were to be set back either two feet or five feet. See photographs on pages 25-27.*
 - *We understand that the setback requirements must be either two feet for the height to remain as is or set back five feet to no longer be subject to the regulations.*
 - *We believe that these options are substantially hindered by the location of the current vegetation and the irrigation system which would be impacted by either option.*
 - *The placement of the fence two feet in from the property line would be a financial burden as it would require the movement or removal of 16 six-foot trees, two large pine trees and the movement of an irrigation system which was installed for the health of the vegetation. This would also substantially change the look of the property and the shade to the public way.*
 - *In addition to the explanations above, we believe that moving the fence back five feet so that a permit is not required would also require the movement of an irrigation system to maintain the property as is and would also create a loss of use hardship. This option would result in a loss of 20% of the land on the side yard and limit the reasonable use of the side of the home.*
- *If the appeal cannot be granted because of the reasons above, we ask that you consider whether the fence may be conforming due to the fact that there was a pre-existing fence on the property. See photographs on pages 40-43 of the pre-existing fence.*
- *To assist with your consideration of our appeal, we also have provided photographic support to show that besides the concerns and issues explained above, we believe that there is no hinderance to the public safety due to the placement of the fence. See photographs on pages 18-24.*
 - *While the house is on a corner lot and therefore the side yard may be considered a front yard under the ordinance, we believe that the lot is unique because it is on the corner of a dead-end street with no neighboring properties. See the map of the property and adjacent streets on page 5 and supporting photograph on page 18.*
 - *Because the section of the fence that is in question is on a short piece of a dead-end street, we believe that there is no increased risk of blind spots, traffic incidents, pedestrian safety or similar issues. See photographs provided, including the one on page 24.*
 - *Based on the set back of the fence from Fernwood Road, we do not believe that the safety of the neighbor at 66 Cumberland Road, which is*

the only other property on or near the dead-end portion of the roadway, is not impeded by the fence because there is still a full view of traffic on each street from the property lot and specifically, the driveway. See photograph on page 23.

- *To further assist with your consideration of our appeal, we understand that consistency with the neighboring properties may factor into your decision. Therefore, we have also provided photographic support to show that the height, material and look of the fence is not inconsistent with the fences of our abutters, several of who have verbalized support for our fence and approve of its appearance. See photographs on pages 28-38.*
 - *Below is a list of the residents in neighborhood who have fences of a similar height and materials. We note that the neighbors that have similar property lines and/or have children and pets that play outside each have similar sized fences for reasons that include safety. We have provided photos of some examples, including:*
 - *The three most direct abutters all have similar fences in their yards*
 - *66 Stratford Road - Property abutting the left side of the home: The height of our fence is consistent with the wire and wood fences maintained by the neighbor bordering the side of the lot; this lot is similarly situated on a corner lot of Stratford Road and Fernwood Road. See photographs on pages 17 and 28-29.*
 - *39 Fernwood Road - Property directly across Fernwood Road: The height, material and location of our fence is consistent with neighbor's fence directly across Fernwood road; this lot is similarly situated on a corner lot of Cumberland Road and Fernwood Road. See photographs on pages 30-33.*
 - *66 Cumberland Road - Property directly across Cumberland Road: The height of the fence is consistent with the neighbor's wood fence. See photograph on page 34.*
 - *Other examples of close abutters in sight of the property, include:*
 - *33 Fernwood Road - The property across from the front of the house on Fernwood Road to the right, abutting 39 Fernwood Road: the height of the wooden fence is consistent with our fence. See photographs on pages 32-33.*
 - *72 Cumberland Road - Property across from the side of the home on Cumberland Road, abutting 66 Cumberland Road: the height of the wooden fence is consistent with our fence. See photograph on page 35- 36.*
 - *Other homes with a potential view of our property such as 78 Cumberland Road and 42 Murray Road also have fences of the same height and material in sections of their lots. See photographs on pages 37-38."*

Attachment B shows all the letters received from the abutters of this property.

Update from February 12, 2020 UDC meeting: The UDC continued this fence appeal application to the next UDC meeting scheduled to be held on March 11, 2020. The UDC requested the applicant to talk to the fence company to check if they will fix their fault. UDC members, please bring your application from last month's meeting. Thank you.

STAFF RECOMMENDATION: Based on the information submitted in the fence appeal application and staff's technical review, staff seeks advise from Urban Design Commission.

Sign Permits

1. 199 Boylston Street - Talbots

PROJECT DESCRIPTION: The property located at 199 Boylston Street is within Business 1 zoning district and has a Board Order #474-14. The applicant is proposing to install the following sign:

1. One wall mounted secondary sign, internally illuminated, with approximately 24 sq. ft. of sign area on the southern façade facing the parking lot and Boylston Street.

TECHNICAL REVIEW:

- The proposed secondary sign appears to be consistent with the Board Order #474-14. The Board Order states that *"Due to the nature of the use of the premises as a shopping mall, the proposed signage, which consists of six secondary wall mounted signs not to exceed 250 square feet each, and the changes to the facade, are in the public interest because they will improve the appearance of the existing structure, and will help the public to identify marquee stores within the mall. (§30-20(E)(2) and §30-20(1))"* (attachment A).

STAFF RECOMMENDATION: Staff recommends approval of the secondary sign as proposed.

2. 1205 Washington Street – Japan Auto Services

PROJECT DESCRIPTION: The property located at 1205 Washington Street is within Business 1 zoning district. The applicant is proposing to install the following sign:

1. One wall mounted principal sign, non-illuminated, with approximately 32 sq. ft. of sign area on the southern façade facing Washington Street.

TECHNICAL REVIEW:

- The proposed principal sign appears to be consistent with the dimensional controls specified in §5.2.8. Per the Zoning Ordinance, one principal sign is allowed, which

the applicant is not exceeding, and on this façade of 80 feet, the maximum size of the sign allowed is 100 sq. ft., which the applicant is also not exceeding.

STAFF RECOMMENDATION: Staff recommends approval of the principal sign as proposed.

3. 28 Austin Street – Caffe Nero

PROJECT DESCRIPTION: The property located at 28 Austin Street is within Mixed Use 4 zoning district. The applicant is proposing to install the following signs:

1. One wall mounted principal sign, internally illuminated, with approximately 20 sq. ft. of sign area on the northern façade facing Austin Street.
2. One wall mounted secondary sign, internally illuminated, with approximately 20 sq. ft. of sign area on the eastern façade facing Philip Bram Way.

TECHNICAL REVIEW:

- The proposed principal sign appears to be consistent with the dimensional controls specified in §5.2.8. Per the Zoning Ordinance, one principal sign is allowed, which the applicant is not exceeding, and on this façade of 40 feet, the maximum size of the sign allowed is 100 sq. ft., which the applicant is also not exceeding.
- The proposed secondary sign appears to be consistent with the dimensional controls specified in §5.2.8. Per the Zoning Ordinance, two secondary signs are allowed, which the applicant is not exceeding, and on this façade of 40 feet, the maximum size of each sign allowed is 40 sq. ft., which the applicant is also not exceeding.

STAFF RECOMMENDATION: Staff recommends approval of both the principal and secondary signs as proposed.

4. 28 Austin Street – Henry Bear’s Park toys games books

PROJECT DESCRIPTION: The property located at 28 Austin Street is within Mixed Use 4 zoning district. The applicant is proposing to install the following sign:

1. One wall mounted principal sign, internally illuminated, with approximately 44 sq. ft. of sign area on the northern façade facing Austin Street.

TECHNICAL REVIEW:

- The proposed principal sign appears to be consistent with the dimensional controls specified in §5.2.8. Per the Zoning Ordinance, one principal sign is allowed, which the applicant is not exceeding, and on this façade of 65 feet, the maximum size of the sign allowed is 100 sq. ft., which the applicant is also not exceeding.

STAFF RECOMMENDATION: Staff recommends approval of the principal sign as proposed.

Comprehensive Sign Package

1. 1-55 Boylston Street – The Street

PROJECT DESCRIPTION: The property located at 1-55 Boylston Street is within Business 4 zoning district and has a comprehensive sign package authorized by a special permit via Board Order # 417-12. The applicant is proposing to amend the special permit for the following signs:

1. One free-standing entrance sign, internally illuminated, with approximately 42 sq. ft. of sign area on the southern entrance along Boylston Street (sign A2).
2. One free-standing directory sign, internally illuminated, with approximately 42 sq. ft. of sign area behind 49 Boylston Street facing the rear parking lot (sign D1).
3. One free-standing directory sign, internally illuminated, with approximately 42 sq. ft. of sign area in front of 1 Boylston Street facing the front parking lot (sign D2).
4. One free-standing directory sign, internally illuminated, with approximately 14 sq. ft. of sign area in front of 55 Boylston Street facing Boylston Street (sign E1).
5. One free-standing directory sign, internally illuminated, with approximately 14 sq. ft. of sign area in the plaza between 49 and 55 Boylston Street facing Boylston Street (sign E2).
6. One free-standing directory sign, internally illuminated, with approximately 14 sq. ft. of sign area behind 33 Boylston Street facing the rear parking lot (sign E3).
7. One free-standing directory sign, internally illuminated, with approximately 14 sq. ft. of sign area in front of 33 Boylston Street facing the front parking lot (sign E4).
8. One free-standing directory sign, internally illuminated, with approximately 14 sq. ft. of sign area behind 3-23 Boylston Street facing the rear parking lot (sign E7).
9. One free-standing directory sign, internally illuminated, with approximately 14 sq. ft. of sign area in front of 3-23 Boylston Street facing the front parking lot (sign E9).
10. Two planter event signs, non-illuminated, with approximately 8 sq. ft. of sign area in front of 46 Boylston Street on the mini green space (sign EH1 and EH2).
11. Six vehicular directional signs, non-illuminated, with approximately 5 sq. ft. of sign area throughout the property (signs K1, K5, K6, K11, K12, and K13).
12. Four vehicular directional sign, non-illuminated, with approximately 8 sq. ft. of sign area throughout the property (signs KT2, KT8, KT9, and KT10).

13. One vehicular directional sign, non-illuminated, with approximately 11 sq. ft. of sign area on eastern side of 1 Boylston Street (sign KD7).
14. One vehicular directional sign, non-illuminated, with approximately 7 sq. ft. of sign area in the covered parking area behind 55 Boylston Street (sign L6).
15. Two vehicular directional signs, non-illuminated, with approximately 15 sq. ft. of sign area in the covered parking area behind 55 Boylston Street (signs LD2 and LD3).

The applicant is proposing to change the following signs that do not require an amendment to the special permit but will require a sign permit:

16. One free-standing entrance sign, internally illuminated, with approximately 42 sq. ft. of sign area on the western entrance along Hammond Pond Parkway (sign A1).
17. One free-standing entrance sign, internally illuminated, with approximately 25 sq. ft. of sign area on the eastern entrance along Hammond Street (sign A3).
18. Five vehicular directional signs, non-illuminated, with approximately 7 sq. ft. of sign area in the covered parking area behind 1-23 Boylston Street (signs L1, L2, L3, L4, and L5).

The applicant is proposing the following signs that do not require an amendment to the special permit:

19. Three wall mounted perpendicular pedestrian directional sign, internally illuminated, with approximately 2 sq. ft. of sign area behind of 55 Boylston Street (signs F1, F2, and F3).
20. One free-standing pedestrian directional sign, non-illuminated, with approximately 2 sq. ft. of sign area in front of 55 Boylston Street facing front parking lot (signs G1).
21. One free-standing pedestrian directional sign, non-illuminated, with approximately 2 sq. ft. of sign area in front of 3-23 Boylston Street facing front parking lot (signs G3).
22. Ten park bench tags directional signs, non-illuminated, with approximately 1 sq. ft. of sign area on Mini Green benches near Star Market (signs J4).
23. Ten planter directional signs, non-illuminated, with approximately 1 sq. ft. of sign area located in planters throughout the property (signs J8).
24. One pedestrian directional sign, non-illuminated, with approximately 1 sq. ft. of sign area in the plaza between 49 and 55 Boylston Street (sign M1).

The applicant has also submitted revised sign bands and tenant sign locations for building 49 Boylston Street and 55 Boylston Street.

TECHNICAL REVIEW:

- The signs numbered from 1 to 15 in the above list do not appear to be consistent with the dimensional controls specified in §5.2.8. The applicant will need to apply for a Special Permit to the City Council for these signs.
- The signs numbered from 16 to 18 in the above list appear to be consistent with the comprehensive sign package authorized by a special permit via Board Order # 417-12.
- The signs numbered 19 to 24 in the above list appear to be consistent with the dimensional controls specified in §5.2.8 and are allowed by right and do not require a sign permit or a special permit.
- Staff seeks recommendation from UDC regarding the revisions to the sign bands and tenant sign locations for 49 and 55 Boylston Street. All the signs appear to be consistent with the waivers specified in the comprehensive sign package from 2013.
- Update from February 12th UDC meeting: The applicant is presented to UDC at the February 12th meeting. The applicant mentioned that they had taken mock-up photos of some of the signs. The UDC requested the applicant to share the mock-up photos at the site. Please find the mock-up photos in the packet. UDC members, please bring your application from last month's meeting. Thank you.

STAFF RECOMMENDATION: Staff seeks recommendation regarding all the signs from UDC to the Land Use Committee of the City Council.

Design Review

1. 1114 Beacon Street Design Review

The applicant is proposing to construct a new building with 27 multi-family residential condominium units, of which 5 would be inclusionary units with 46 below-grade parking stalls and four surface stalls.

The petitioner seeks a special permit to allow:

1. residential use at the ground floor pursuant to Section 4.4.1;
2. a development of 20,000 square feet or more of new gross floor area pursuant to Section 4.1.2.B.1;
3. a four-story structure up to 48 feet (46.15 feet) in height pursuant to Sections 4.1.2.B.3 and 4.1.3;
4. alteration of a nonconforming front setback pursuant to Sections 4.1.3 and 7.8.2.C.2;
5. an FAR of up to 2.0 (1.142) pursuant to Sections 4.1.2.B.3 and 4.1.3;
6. a waiver of 4 required parking stalls pursuant to Sections 5.1.4.A and 5.1.13;
7. parking in the side setback pursuant to Sections 5.1.7.A and 5.1.13; and

8. a waiver of the minimum stall depth requirements pursuant to Sections 5.1.8.B.2 and 5.1.13.

The applicant has appeared before UDC in June 2018. At the request of the Planning Department, the petitioner has been asked to present the project proposal to the UDC for consideration. The Planning Department encourages the UDC to review the project with regards to, but not limited to, the following: the proposed site plan; the building's design; bulk and massing; and relationship to context and the street.

2. 355 Grove Street and 399 Grove Street - Riverside Design Review

The applicant is proposing a mixed use, transit-oriented development of residential units, office, retail, personal services, restaurant, hotel, and related commercial uses not to exceed 1,025,000 square feet of gross floor area, with residential uses comprising not less than 60% of the total gross floor area with a residential density of not less than 800 square feet per unit. The complete list of the relief that the applicant is seeking is in the document packet.

The applicant has appeared before UDC in the last year. The applicant has changed the design and the proposed building area since last year. At the request of the Planning Department, the petitioner has been asked to present the project proposal to the UDC for consideration. The Planning Department encourages the UDC to review the project with regards to, but not limited to, the following: the proposed site plan; the building's design; bulk and massing; and relationship to context and the street.

ATTACHMENTS

- **Attachment A** – 199 Boylston Street, Board Order



RECEIVED
OPERATIONAL SERVICES
NEWTON, MA

Bk: 64917 Pg: 185 Doc: DECIS
Page: 1 of 6 02/17/2015 11:31 AM

#474-14

15 FEB 17 PM 12:17 CITY OF NEWTON

IN BOARD OF ALDERMEN

January 20, 2015

ORDERED:

That the Board, 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 AMEND Special Permit #307-12(2) and to EXTEND a NONCONFORMING STRUCTURE in order to renovate the Mall's exterior façade to incorporate newly expanded vestibules at the north and south entrances, and to add six additional secondary signs not exceeding 250 square feet each, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

1. The proposed additions to the nonconforming structure, which will modestly enlarge two existing vestibules and will modernize the building's southern facing façade, will not be substantially more detrimental to the neighborhood than the existing building. (§30-11(k) and §30-21(b))
2. Due to the nature of the use of the premises as a shopping mall, the proposed signage, which consists of six secondary wall mounted signs not to exceed 250 square feet each, and the changes to the façade, are in the public interest because they will improve the appearance of the existing structure, and will help the public to identify marquee stores within the mall. (§30-20(f)(2) and §30-20(l))
3. The use as developed and operated, with the expanded vestibules, will not adversely affect the neighborhood. (§30-24(d)(2))
4. The proposed improvements will not create a nuisance or serious hazard to vehicles or pedestrians on the site nor in the immediate neighborhood. (§30-24(d)(3))

PETITION NUMBER: #474-14

PETITIONER: Mall at Chestnut Hill, LLC.

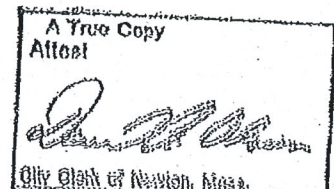
C2812-38

LOCATION: 199 Boylston Street, Chestnut Hill, on land known as SBL 65,8,1, containing approximately 324,691 sf of land

OWNERS/ADDRESSES: Mall at Chestnut Hill, LLC.
P.O. Box 6120, Indianapolis, IN 46206-6120

*Jane Goldman
Mall Management Office
Mall at Chestnut Hill*

02467



NORTH ARROWS:			
DATE	2024-03-03		
ISSUE			
DESCRIPTION			



158 ALBANY STREET
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JOB TITLE & ADDRESS:
 THE MALL AT
 CHESTNUT HILL
 199 BOYLSTON STREET
 CHESTNUT HILL, MA 02467

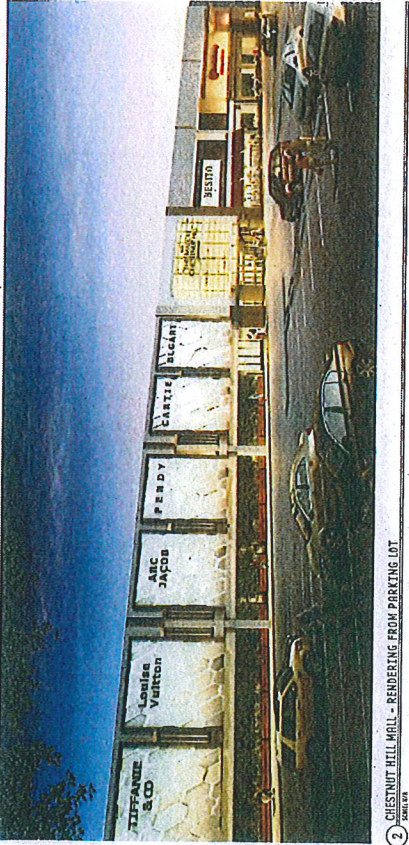
PROJECT INFORMATION:
 SCALE: N/A
 DRAWN: OJC
 JOB NO: 14-3008
 SHEET TITLE:
 MALL FACADE RENDERING
 OPTION 1

STAMP:

A.11



1 CHESTNUT HILL MALL - RENDERING FROM ROUTE 9



2 CHESTNUT HILL MALL - RENDERING FROM PARKING LOT