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Ruthanne Fuller
 Mayor

Barney Heath
 Director

STAFF MEMORANDUM

Meeting Date: **Wednesday, November 13, 2019**
 DATE: November 7, 2019
 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

Sign Permits

1. 84 Needham Street – Comprehensive Sign Package

PROJECT DESCRIPTION: The property located at 84 Needham Street is within Business 4 zoning district. The applicant is proposing to install the following signs:

1. One free-standing principal sign for the building "84", internally illuminated, with approximately 16 sq. ft. of sign area perpendicular to Needham Street. Five free-standing principal signs for the five businesses (Everpresent, The Weight Room, goPuff, future tenant 1, and future tenant 2), internally illuminated, with

approximately 3 sq. ft. each of sign area perpendicular to Needham Street. The total area of all these signs is 35 sq. ft.

2. Five secondary signs for the five businesses (Everpresent, The Weight Room, goPuff, future tenant 1, and future tenant 2), non-illuminated, on the southern and western façade facing Needham Street or the parking lot.

TECHNICAL REVIEW:

- The proposed free-standing principal sign appears to be not consistent with the dimensional controls specified in §5.2.8. Per the Zoning Ordinance, one free-standing principal sign is allowed, which the applicant is not exceeding. Per §5.2.13.A, *"In particular instances, the City Council may grant a special permit to allow free-standing signs and exceptions to the limitations imposed by this Sec. 5.2 on the number, size, location and height of signs where it is determined that the nature of the use of the premises, the architecture of the building or its location with reference to the street is such that free-standing signs or exceptions should be permitted in the public interest."* The staff has spoken to the applicant about applying for a Special Permit to the Land Use Committee of the City Council.
- The secondary signs currently do not have dimensions as the tenants will apply for the signs in the future.

STAFF RECOMMENDATION: Staff recommends the applicant to apply for a Special Permit to the Land Use Committee of the City Council after receiving a recommendation from UDC. Staff seeks recommendation from UDC regarding the placement of the secondary signs. Staff recommends that the business owners apply for a sign permit application for all the secondary signs in the future with exact dimensions of the business frontage and the signs.

2. 320 Washington Street – Four Points by Sheraton

PROJECT DESCRIPTION: The property located at 320 Washington Street is within Business 1 zoning district and has a Board Order #270-67. The applicant is proposing to replace and install the following signs:

1. One wall mounted principal sign, internally illuminated, with approximately 289 sq. ft. of sign area on the eastern façade facing Massachusetts Turnpike (I-90).
2. One wall mounted principal sign, internally illuminated, with approximately 289 sq. ft. of sign area on the western façade facing Massachusetts Turnpike (I-90).
3. One wall mounted principal sign, internally illuminated, with approximately 73 sq. ft. of sign area on the western façade facing Massachusetts Turnpike (I-90).
4. One wall mounted principal sign, internally illuminated, with approximately 60 sq. ft. of sign area on the western façade facing Massachusetts Turnpike (I-90).
5. One free-standing principal sign, internally illuminated, with approximately 38 sq. ft. of sign area perpendicular to Washington Street.

6. Two directional signs, non-illuminated, with approximately 7 sq. ft. of sign area on the northern façade facing Washington Street.
7. One wall mounted principal sign, internally illuminated, with approximately 104 sq. ft. of sign area on the southern façade facing Washington Street.

TECHNICAL REVIEW:

- All the signs are replacements of the existing signs. The Board Order states that *“All exterior signs, freestanding or affixed to the buildings or structures shall be erected subject to permission of the Board of Aldermen”* (attachment A).
- The applicant will bring additional materials showing the night view of the signs to the UDC meeting on November 13th.

STAFF RECOMMENDATION: Staff recommends the applicant to apply for a Special Permit to the Land Use Committee of the City Council. Staff seeks recommendation regarding all the signs from UDC to the Land Use Committee of the City Council.

3. 11 Commonwealth Avenue – Flat Breads

PROJECT DESCRIPTION: The property located at 11 Commonwealth Avenue is within Business 1 zoning district. The applicant is proposing to replace and install the following sign:

1. One wall mounted principal sign, externally illuminated, with approximately 18 sq. ft. of sign area on the southern façade facing Commonwealth Avenue.

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 23 feet, the maximum size of the sign allowed is 69 sq. ft., which the applicant is also not exceeding.
- The window sign appears to be more than 25% of the window. Staff has spoken to the applicant to send revised drawings of the window sign.

STAFF RECOMMENDATION: Staff recommends approval of the proposed principal sign on the condition that the applicant send revised pictures showing the window sign to be less than 25% of the window.

Fence Appeal

1. 43 Chinian Path Fence Appeal

PROJECT DESCRIPTION: The property located at 43 Chinian Path is within a Single Residence 2 district. The applicant has added the following fence:

- a) Front Lot Line along Chinian Path – The applicant has added a fence along Chinian Path 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 a distance of 2 feet from the front property line for a length of 146 feet, where the ordinance would permit such a fence to be 6 feet tall where top 2 feet of the fence will need to be open. **Please note that the staff is waiting for the applicant to send a measurement of the distance from the property line to the house to determine the property line and may have a revised recommendation at the UDC meeting.** The applicant's stated reasons for seeking this exception are that *"Altering the fence would pose financial hardship:*

1- Our house is in Oak Hill Park, an unusual neighborhood. According to the city, because our house is on a cul de sack and a path, we have two front property lines. However, for all practical purposes our "front" is on M Roadway, the cul de sack, and our "rear" is on Chinian Path. Over the years, most of the homes in Oak Hill Park have evolved to exist and be lived in in this way.

2- We have had a 6' stockade fence on the exact location since moving here in 1982. The new fence in question on this application replaced a deteriorating fence of the same design and location.

3- Having had a fence here for over 37 years with no objections by neighbors or the city, the new fence in question was erected innocently with no intention of violating the fence ordinance."

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

CITY OF NEWTON

Attachment A

IN BOARD OF ALDERMEN

May 15, 1967

ORDERED:

That the Board finding that the public convenience and welfare will be substantially served by its action 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, the following permissive use is hereby granted:

Petition No.: 270-67

Petitioner: Urban Development Corporation

Location: Facing #299-337 Washington Street, Ward 1, Section 12, Block 11 (in entirety); Ward 7, Section 71, Blocks 6 (in part) and 33 (in part), containing approximately 213,895 square feet.

To be used for: Hotel and related facilities; and office building.

Construction: Reinforced concrete development of land and air rights over Massachusetts Turnpike.

Explanatory Remarks: This petition is in conjunction with Petition #269-67 of the Massachusetts Turnpike Authority for a change of zone from Unzoned to Business A for this parcel. This petition requests permission to exceed the height limitation for hotel and related facilities (130 feet) and office building (100 feet) in accordance with the provisions of Section 25-15 of the Revised Ordinances, 1965.

and referred to herein is in Business A District.

Approved subject to the following conditions which shall be applicable to the entire area rezoned by Board Order #269-67:

The maximum height of the proposed hotel and related facilities shall not exceed 130 feet above the grade of Washington Street, and the maximum height of the proposed office building shall not exceed 100 feet above the grade of Washington Street. The following shall not be included in the measurement of said height: cornices which do not extend more than five feet above the highest point of the roof; enclosures for the machinery of elevators which do not exceed ten feet in height; nor enclosures for tanks which do not exceed ten feet in height above the roof beams, and do not exceed ten per cent of the area of the roof.

2. All exterior signs, freestanding or affixed to buildings or structures shall be erected subject to the permission of the Board of Aldermen.

3. A pedestrian walkway shall be provided at grade level, over the air rights development between Washington and Centre Avenue/Streets located at all points between an extension of the westerly street line of Peabody Street and the easterly street line of Channing Street both extended southerly to Centre Avenue/Centre Street.

4. Provision shall be made for a "second level" pedestrian walkway and such walkway shall be constructed to connect with pedestrian overpasses if and when constructed over Washington and Centre Streets by the City at locations approximately the same as the grade level pedestrian walkway defined in condition #3 above.

5. Adequate space and maneuvering room for a public bus stop shall be provided on the premises' Washington Street frontage at a location east of the pedestrian way defined in condition #3 above.

6. Adequate maneuvering and loading facilities shall be provided on the premises for all service vehicles entering or serving the premises.

7. No portion of any building facade from ground level to a minimum height of sixteen feet shall be located nearer than twenty feet to the Washington Street curb line, nor than ten feet to the Centre Avenue/Centre Street curb line.

8. All uses herein permitted which shall not have been exercised within eighteen (18) months of the granting of such permission shall expire at the end of such eighteen (18) month period.

9. No building permit shall be issued in pursuance of this permissive use until:

- a. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County, a statutory notice of the granting of this permissive use with appropriate reference to the book and page of the recording of the petitioner's title deed or notice of lease endorsed thereon.
- b. A certified copy of such recorded notice shall have been filed with the City Clerk.

Under Suspension of Rules
Readings Waived & Adopted
11 Yeas 3 Absent
Absent - Ald. Hicks, Hopkins and Hovey)

Ald. Barkin made motion to reconsider
Motion Seconded
Motion to reconsider failed
11 Yeas 18 Nays 6 Absent
Absent - Ald. Burke, Hicks, Hopkins,
Hovey, Magni and McDonnell)

Joseph H. Karlin
(Sgd) JOSEPH H. KARLIN City Clerk

EXECUTIVE DEPARTMENT

Approved May 17, 1967

Monte G. Basbas

(Sgd) MONTE G. BASBAS Mayor

Copy + Form to
Mr. Lovell
5-18-67