



**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Setti D. Warren  
Mayor

James Freas  
Acting Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: February 3, 2015  
Land Use Action Date: March 3, 2015  
Board of Aldermen Action Date: April 21, 2015  
90-Day Expiration Date: May 4, 2015

DATE: January 30, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Daniel Sexton, Senior Planner

SUBJECT: **Petition #1-15, CANTON CIRCLE LLC, for a SPECIAL PERMIT/SITE PLAN APPROVAL** for medical office use in 4,433 square feet of space located in a one-story building in conjunction with an existing bank and post office; waive 6 parking stalls; to waive dimensional requirements, aisle width, landscape screening, interior landscaping, lighting, and bicycle parking, and to allow parking in the side setback at 714-724 BEACON STREET, Ward 6, Newton Centre, on land known as SBL 61, 38, 8, containing approximately 37,941 sq. ft. of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-19(c)(2)a), 30-19(d)(10), (12), 30-19(h)(1), (h)(2)a), (h)(2)b), (h)(2)c), (h)(2)e), (h)(3)b), 30-19(i)(1), (i)(2)a), (i)(2)b), (i)(2)c), (i)(2)d), 30-19(j)(1)a), (1)b), 30-19(j)(2)e), (2)f), 30-19(k)(1), (2), (3), 30-19(m) of the City of Newton Rev Zoning Ord., 2012 and special permit nos. 131-96, 503-96, and 520-74

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



**714-724 Beacon Street**

## EXECUTIVE SUMMARY

The property located at 714-724 Beacon Street consists of a 37,941 square foot lot improved with a one-story commercial building, containing three tenant spaces, constructed in 1920. At this time, a bank and a United States Post Office location occupy two of the tenant spaces, and the third tenant space is vacant. The petitioner is proposing to lease the 4,433 square foot vacant tenant space to a medical office, which previously was occupied by a retail use, an allowed use in the Business 2 zoning district. The proposed change of use from retail to medical office increases the parking stall requirement for the site. The petitioner is therefore seeking a special permit to waive six parking spaces in order to rent the current vacant tenant space to a medical office tenant as well as waivers to legalize the existing noncompliant parking conditions. The requested relief may eliminate the need for future tenants to seek a waiver of parking and will allow the landlord to better market the building. The subject property does not appear to have any space to provide additional parking on the site.

Per the Zoning Review Memorandum (**ATTACHMENT A**), the property is at capacity for actual and grandfathered parking stalls with the current mix of uses on the site. The parking facility configuration is also technically deficient in terms of parking stalls in the setbacks, minimum stall depth and width, end stall maneuvering space, substandard aisle width, landscape screening, interior landscape treatments, lighting, and bicycle parking facility requirements. According to the petitioner, the existing parking configuration and 45 parking stalls have been adequate for the uses on the property. In the parking inventory and utilization report provided by the petitioner, the site has sufficient parking spaces available during peak hours of operation for the existing and proposed uses. Additionally, while there are two municipal parking lots nearby (Cypress Street Lot and Beacon Street Lot) and on-street parking, the zoning ordinance does not allow these spaces to be used to meet the parking requirement.

The Planning Department has reservations that existing and proposed uses on the site may lead to increased traffic congestion on and from the site as customers search for parking spaces during times of high parking occupancy. To ensure the burden of providing parking is born equitably throughout the immediate neighborhood, the Department has asked the petitioner to consider ways in which to mitigate these potential off-site impacts of the requested waivers in the surrounding area.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether:

- A waiver of six (6) parking spaces will adversely affect the neighborhood. (§30-24(d)(2), §30-19(c)(3), §30-19(d)(10) and (12))
- The requested waivers with regards to the design and dimensional controls for parking and bicycle facilities will result in the creation of a nuisance or hazard to vehicles or pedestrians in the surrounding neighborhood. (§30-24(d)(3), §30-19(h)(1), (h)(2)(a), (h)(2)(b), (h)(2)(c), (h)(2)(e), and (h)(3)(b), §30-19(i)(1), (i)(2)(a), (i)(2)(b), (i)(2)(c), and (i)(2)(d), §30-19(j)(1)(a) and (1)(b), §30-19(j)(2)(e) and (2)(f), and §30-19(k)(1), (2), and (3))
- The requested waivers to the parking dimensional controls are appropriate because literal compliance with the parking requirements is impracticable due to the existing uses and development patterns present on the subject property and

in the surrounding neighborhood. (§30-19(m))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The property fronts on Beacon Street, and is located in the village of Newton Centre. The properties directly abutting the subject property contain multi-family residential and commercial land uses, and the Massachusetts Bay Transportation Authority's (MBTA) Green Line subway route (**Attachment B**). The subject property is zoned Business 2. The surrounding parcels are zoned Single Residence 2, Multi-Residence 1 and 2, Business 1 and 2 (**Attachment C**).

### B. Site

The site consists of 37,941 square feet of land and is improved with a one-story commercial building. The commercial building contains three tenant spaces consisting of a bank and a United States Post Office location, and the third tenant space is vacant. The current building and similar uses have been in existence on the site since the 1920s. The existing parking situation, however, is one of dimensional and technical noncompliance, which is a common scenario for many older commercial properties in the area. As tenants change or expand, the parking arrangement changes and results in restriping and dimensional noncompliance.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The site is currently permitted to be occupied by commercial types of land uses (i.e. a bank, office, retail) and a United States Post Office location, which is exempt use under the Newton Zoning Ordinance, and is allowed in all zoning districts. The petitioner is proposing to lease a 4,433 square foot vacant tenant space, previously was occupied by a retail use, to a medical office use, which is a use allowed in the Business 2 zoning district. Since the medical office use has a different parking requirement than the previous retail use, the petitioner is seeking the proposed waiver of six parking stalls. If approved, the waiver of parking stalls and the legalization of the existing noncompliant parking conditions should eliminate the need for future tenants to seek a waiver of parking as part of the development process.

### B. Building and Site Design

The property was developed to its current configuration in the 1920s, which includes a commercial building near the street. The façade of the building has been modernized in recent years to improve its visual appearance. The vacant tenant space is located in the eastern end of the building and consists of approximately 4,433 square feet of commercial space. The petitioner has indicated that no physical changes to the building are proposed as a result of the requested waivers that would result in any increase in the gross floor area present on the site.

The petitioner is proposing to modify the existing parking lot by adding two

handicap accessible parking stalls, consolidating the dumpster locations, striping a proposed crosswalk, relocating the existing curb cut on Beacon Street, and the creation of a parking stall in the southeast corner of the parking lot. These modifications should improve the interactions between pedestrians and vehicles on the site and make the commercial building more accessible to customers with additional needs. The Planning Department is supportive of these improvements.

C. Parking and Circulation

The proposed waivers will not result in any significant alterations to the current parking configuration for the property. The petitioner is, however, proposing to make a number of minor modifications to the existing parking lot. The relocate of the existing dumpster in the southeast corner of the site will allow the petitioner to create a new parking stall in this location. This new parking stall will not increase the available number of parking stalls on the site, as one stall along the eastern property line will be removed to allow for an access aisle adjacent to the two proposed handicap accessible parking stalls. The petitioner is also proposing to install pavement striping for a pedestrian crosswalk connecting the proposed handicap accessible parking stalls along the eastern property line to the concrete sidewalk that partially wraps the commercial building. Further, the petitioner plans to shift the existing curb cut on Beacon Street to the east to minimize conflicts between vehicles and the handicap accessible ramp on the eastern side of the building.

The existing uses on the property will remain, and have access to 45 grandfathered parking stalls. Of those grandfathered parking stalls, all have a standard configuration; however, all of these stalls are dimensionally noncompliant. If the 4,433 square foot vacant tenant space was developed with a medical office use, 23 parking stalls would be required (one parking stall for every 200 square feet). The previous retail use required 17 parking stalls (one parking stall for every 300 square feet and one additional stall for every three employees at the largest shift. By utilizing the equation for calculating the required parking for a change in use, found in §30-19(c)(2)(a), that required parking stalls for the existing and proposed uses  $(69) - \text{the required parking stalls that were previously required } (63) + \text{the actual parking spaces available on the site } (45) = 51$  required. Thus the petitioner is requesting a special permit to waive six parking spaces to allow for the tenancy of the vacant commercial space with the proposed medical office use. If approved, this waiver of parking stalls will also allow for increased flexibility in the leasing of the commercial building in the future.

Per a parking inventory and utilization report provided by the petitioner, the site appears to have sufficient parking spaces available within the existing parking facility during peak hours of operation for the existing and proposed uses. The report also indicates that nearby municipal parking lots and on-street parking stalls appear to be underutilized. As a result, the petitioner has indicated that the requested parking waiver and existing parking stalls on the site should be adequate to accommodate additional uses on the property, even though the parking facility is dimensionally deficient.

Additionally, the petitioner is seeking waivers to legalize the existing noncompliant parking lot configuration. The petitioner has indicated that the current parking configuration, topography of the undeveloped portions of the site, and the location of the existing structure makes the development of additional parking spaces and the creation of a dimensionally compliant parking lot impractical. The Planning Department concurs with the petitioner's assessment, in that the nature of the use on the site and the grade of the lot make the creation of a dimensionally compliant parking lot impractical, and would require additional relief.

The Planning Department is concerned that in the event of high parking occupancy, the existing and proposed uses may lead to increased traffic congestion on and from the site as customers search for parking spaces. The Department has asked the petitioner to consider ways in which to mitigate these potential off-site impacts of the requested waivers in the surrounding area, such as a voluntary contribution of funds to the City. These potential funds could be used to study or make certain pedestrian and vehicular improvements to mitigate the parking demand in the neighborhood and to improve pedestrian and vehicular mobility and safety in the area.

D. Landscape Screening

The petitioner has requested a waiver to the landscaping requirements for parking facilities with more than five parking stalls. Therefore, no landscaping plan was required for this petition. Unless existing parking stalls were removed, there does not appear to be sufficient space for any new landscaping on the site.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance).

The Zoning Review Memorandum (**ATTACHMENT A**) provides a complete analysis with respect to zoning. Based on the Zoning Review Memorandum, the petitioner is seeking a Special Permit for the following reliefs:

- §30-19(d) and §30-19(m) to waive six (6) required parking spaces for a medical office use;
- §30-19(h)(1) to allow parking within the required setback from the street and sidelines, for those spaces to be closer than five feet from the street;
- §30-19(h)(2)(a) and (2)(b)) to waive the minimum dimensions of parking stalls;
- §30-19(h)(2)(e) to waive the end stall maneuvering space requirements;
- §30-19(h)(3)(b) to waive the dimensional requirements for maneuvering aisles to two-way traffic;
- §30-19(i)(1) and 30-19(i)(2) to waive the landscaping requirements for parking facilities containing more than five stalls;
- §30-19(j) to waive the lighting, curbing, surfacing and maintenance requirements for parking facilities containing more than five stalls; and

- §30-19(k) to waive the requirement for bicycle parking facilities.

B. Engineering Review

This project does not require review by the Engineering Division of Public Works.

V. PETITIONERS' RESPONSIBILITIES

The Planning Department considers the petition to be complete at this time. The petitioner should consider the Department's recommendation to make a voluntary contribution of funding to the City to mitigate the potential off-site impacts of the requested waivers in the surrounding area.

**ATTACHMENTS:**

**Attachment A: Zoning Review Memorandum**

**Attachment B: Land Use Map**

**Attachment C: Zoning Map**



Setti D. Warren  
Mayor

**Attachment A**  
**City of Newton, Massachusetts**  
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(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

James Freas  
Acting Director

**ZONING REVIEW MEMORANDUM**

Date: December 15, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney  
Canton Circle, LLC  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to waive six parking stalls and to legalize a nonconforming parking lot**

| Applicant: Canton Circle, LLC                 |  |
|---|--|
| <b>Site:</b> 714 Beacon Street                | <b>SBL:</b> 61 038 0008                                |
| <b>Zoning:</b> BU2                            | <b>Lot Area:</b> 37,941square feet                     |
| <b>Current use:</b> Post Office, bank, retail | <b>Proposed use:</b> Post office, bank, medical office |

**BACKGROUND:**

The property at 714 Beacon Street consists of a 37,941 square foot lot improved with an existing one-story commercial building with three tenant spaces, constructed in 1920. A bank and a United States post office occupy two of the tenant spaces. A third space was most recently occupied by a retail use, but is now vacant. A 45-stall parking lot extends along the side and rear of the property.

The site has been the subject of several special permits, though only three appear to have been exercised. The permits allowed for a portion of the site to be used as accessory parking for an auto dealership, and then to allow retail uses. The site was zoned MR2 at the time.

The applicant is proposing to lease the 4,433 square foot vacant space as a medical office. Office uses are allowed by right in the BU2 zoning district.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 11/14/2014
- Board Order #503-66

- Board Order #520-74
- Board Order #131-96
- Parking calculation
- List of specific waivers
- Existing Conditions Plan, prepared by VTP Associates, dated 9/26/2014
- Proposed Conditions Plan, prepared by VTP Associates, dated 11/11/2014

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The property is located in a BU2 zoning district. The proposed office use is allowed by right per Section 30-11(a)(1).
2. The use of the vacant space for a 4,433 square foot medical office requires 23 parking stalls, pursuant to Section 30-19(d)(12), which requires one parking stall for every 200 square feet in a medical office. The previous retail use required 17 stalls, per Section 30-19(d)(10).

The post office and bank spaces each require one parking stall per each 300 square feet of floor area, and one stall per each three employees at the busiest shift. Per Section 30-19(d)(10), 46 parking stalls are required for the two spaces. The previous use of the site required in total 63 parking stalls. The proposed uses will require 69 parking stalls, where 45 exist on the site.

Utilizing the equation found in Section 30-19(c)(2)a) to calculate required parking for a change in use,  $A(69) - B(63) + C(45) = 51$  stalls required.

The applicant requires a waiver of 6 parking stalls pursuant to Section 30-19(m) for the three uses as proposed.

3. The existing parking lot has been in its present condition since the most recent special permit was issued in 1997. The parking lot has many preexisting nonconforming elements.
4. The existing parking is located within the side setback. Pursuant to Section 30-19(h)(1), no parking may be located within a setback. A special permit is required.
5. Section 30-19(h)(2)a) and b) require that stalls be at least 9 feet wide and 19 feet deep. Stalls range from 8.7 to 10 feet wide, and 17.2 to 18 feet deep. A special permit is required to waive the minimum dimensions of the stalls.
6. Pursuant to 521 CMR 23, four handicapped parking stalls are required for this lot. The applicant proposes to create four handicapped stalls as required.
7. Section 30-19(h)(2)e) requires end stalls restricted on one or both sides by curbs, walls, fences etc shall have a maneuvering space at the aisle end of at least five feet in depth and nine feet in width. There are walls along an end space requiring a special permit to waive these provisions.
8. The minimum aisle width required for 90 degree parking is 24 feet. The aisle narrows to 22.4 feet at the southeast corner. Pursuant to the aisle width provisions of Section 30-19(h)(3)b), a special permit is necessary to waive this requirement.



9. Section 30-19(i)(1) require a parking facility with more than five stalls provide landscape screening from streets and abutting properties. The applicant requests a waiver from these provisions to maintain the existing landscaping as is.
10. The Ordinance requires interior landscaping for parking lots with greater than 20 stalls, pursuant to Section 30-19(i)(2). There is no existing landscaping within the parking lot. The applicant requires a special permit to waive these requirements and maintain the parking lot as it exists.
11. Section 30-19(j)(1) requires that parking facilities have security lighting with a minimum intensity of one foot candle, and that it is arranged so as to not spill over to adjacent streets and properties. The applicant requires a special permit from these provisions to maintain the existing lighting conditions on site.
12. Curbing is required to protect landscaping per Section 30-19(j)(2)e). The applicant requests a waiver from this provision to maintain existing conditions.
13. Section 30-19(k) requires bicycle parking facilities. The applicant seeks to waive the bicycle parking provisions in their entirety.
14. The application notes that waivers are required for the dimensions of the handicapped parking stalls and for the minimum width of curbs required for handicapped access per 521 CMR 23. The applicant should seek approval from the Architectural Access Board for these waivers.
15. See “Zoning Relief Summary” below:

| <b>Zoning Relief Required</b> |   |                        |
|-------------------------------|---|------------------------|
| <i>Ordinance</i>              | <i>Required Relief</i>                            | <i>Action Required</i> |
| §30-19(d)(12),<br>§30-19(m)   | Parking waiver for 6 required parking stalls      | S.P. per §30-24        |
| §30-19(h)(1),<br>30-19(m)     | To allow parking in the side setback              | S.P. per §30-24        |
| §30-19(h)(2)a),<br>§30-19(m)  | To waive minimum stall width requirement          | S.P. per §30-24        |
| §30-19(h)(2)b),<br>§30-19(m)  | To waive minimum stall depth requirement          | S.P. per §30-24        |
| §30-19(h)(2)e),<br>§30-19(m)  | To waive end stall maneuvering space requirements | S.P. per §30-24        |
| §30-19(h)(3)(b),<br>30-19(m)  | To waive minimum aisle width for two-way traffic  | S.P. per §30-24        |
| §30-19(i)(1),<br>30-19(m)     | To waive requirements for landscape screening     | S.P. per §30-24        |
| §30-19(i)(2),                 | To waive interior landscaping requirements        | S.P. per §30-24        |

|                           |   |                 |
|---------------------------|---|-----------------|
| 30-19(m)                  |   |                 |
| §30-19(j)(1),<br>30-19(m) | To waive lighting requirements                          | S.P. per §30-24 |
| §30-19(k),<br>30-19(m)    | To waive the requirement for bicycle parking facilities | S.P. per §30-24 |

# Land Use Map 714 Beacon Street




*City of Newton,  
Massachusetts*

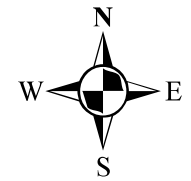
**ATTACHMENT B**

### Legend

Street Names

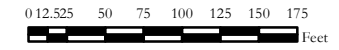
### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land
-  Tax Exempt
-  Property Boundaries
-  Building Outlines

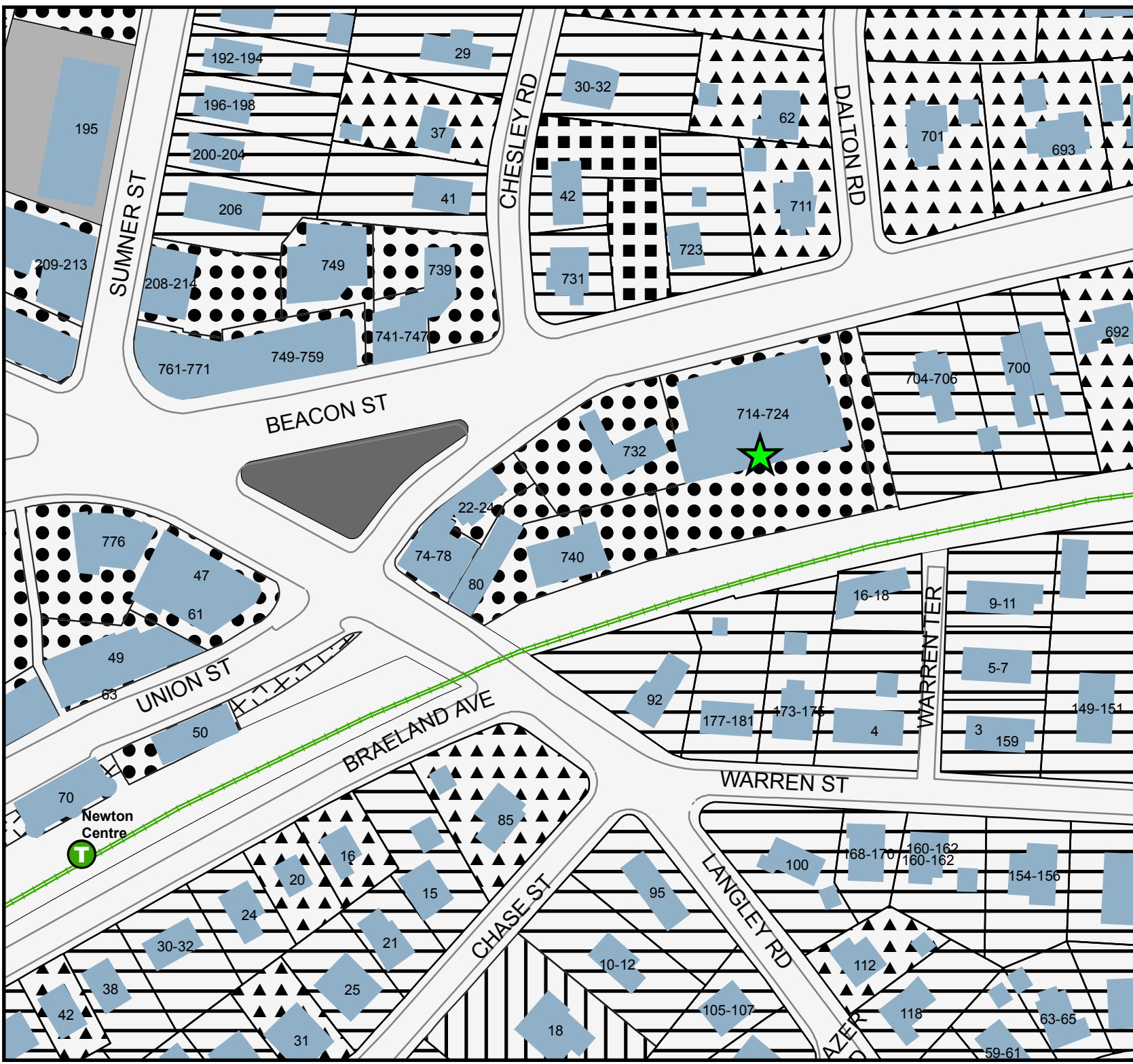


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



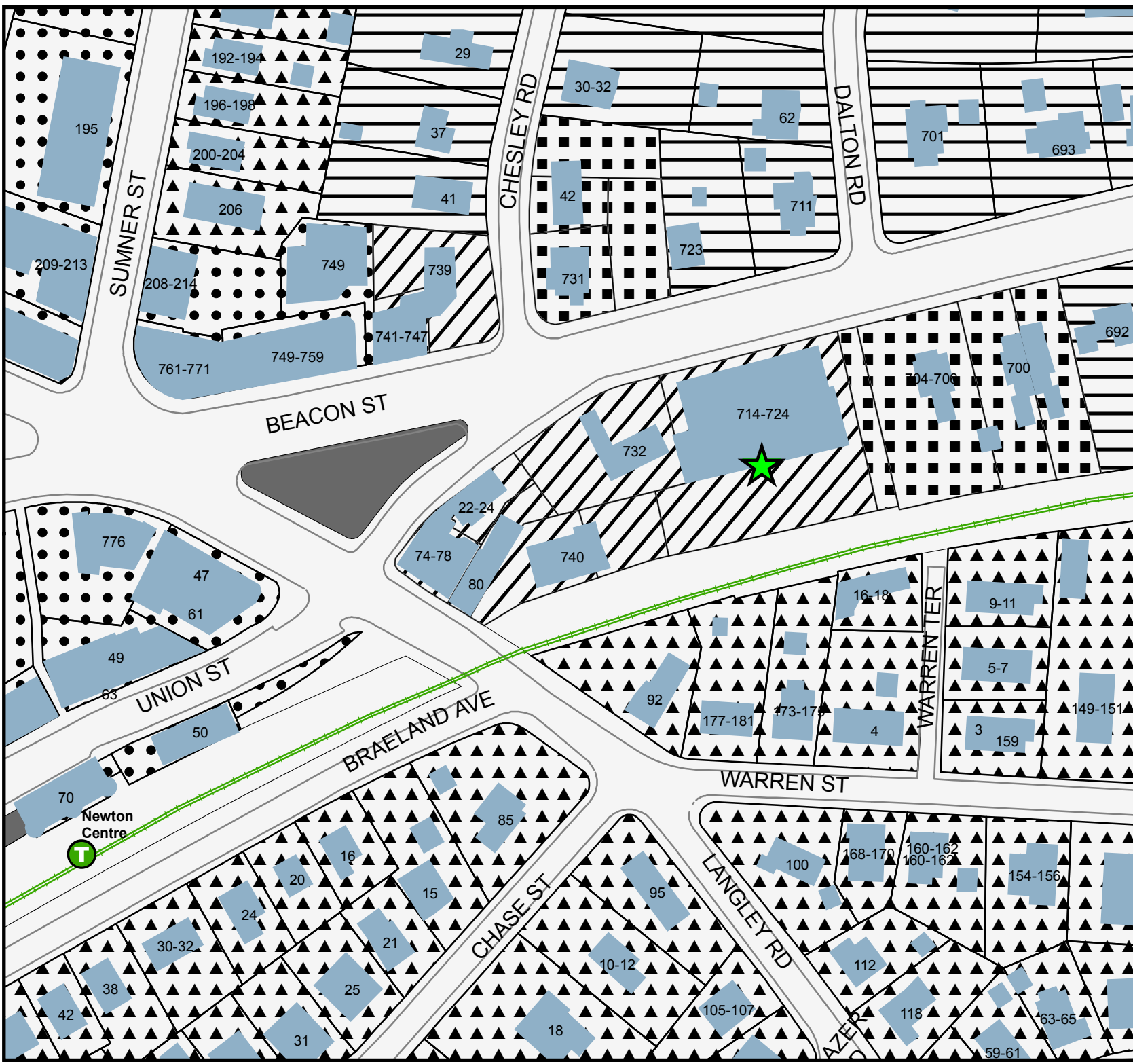
Map Date: January 26, 2015



# Zoning Map 714 Beacon Street

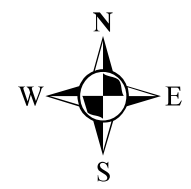
*City of Newton,  
Massachusetts*

**ATTACHMENT C**



**Legend**

|  |                     |
|--|---------------------|
|  | Single Residence 2  |
|  | Multi-Residence 1   |
|  | Multi-Residence 2   |
|  | Business 1          |
|  | Business 2          |
|  | Public Use          |
|  | Property Boundaries |
|  | Building Outlines   |
|  | Surface Water       |



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