



Setti D. Warren
Mayor

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James Freas
Acting Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 13, 2015
Land Use Action Date: January 27, 2015
Board of Aldermen Action Date: March 16, 2015
90-Day Expiration Date: April 6, 2015

DATE: January 9, 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 #472-14**, BNNT, INC./CID REALTY, LLC, for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING USE to expand the sale of food, extend self-service gas sales, modify signage, waive the dimensional requirements for maneuvering aisles and maximum driveway width, and to waive landscaping, screening and lighting requirements at 979 WATERTOWN STREET, Ward 3, West Newton, on land known as SBL 31, 16, 15, containing approximately 17,376 sf of land in a district zoned BUSINESS 1. Ref: 30-24, 30-23, 30-21(b), 30-19(h)(3), (4)(b), (i)(l), (j)(1)a and b), and (m), and 30-20(1) of the City of Newton Rev Zoning Ord., 2012 special permit nos. 394-70, 677-73, 11-93(4), and 278-07.

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.



979 Watertown Street

EXECUTIVE SUMMARY

The property at 979 Watertown Street consists of a 17,376 square foot lot, and is improved with a nonconforming service center consisting of automotive fueling and service uses, with the ancillary sale of snack foods. According to Inspectional Services Department (ISD) records, the service center was legally developed with a building permit and has been in use since 1920. The principal uses on the site are considered nonconforming because they were developed prior to the City's enactment of a zoning ordinance, and the Newton Zoning Ordinance (NZO) does not allow these uses by right or by special permit in a Business 1 zoning district. The Board has granted five previous special permits to govern the nonconforming uses and certain aspects of the site.

The petitioner is proposing to extend the nonconforming automotive fueling use and to abandon the automotive service use by converting the service bays into an expanded convenience store (retail use). The petitioner is also seeking to convert the remaining full-service pump to self-service, which requires an amendment of Board Order #11-93. Further, the petitioner is proposing to update the previously approved sign package for the site, which requires an amendment of Board Orders #11-93(4) and 278-07(5). Finally, the petitioner is requesting special permit approval to legalize the current nonconforming site conditions, which include substandard lighting, maneuvering aisle, noncompliant landscaping and screening, and driveways that exceed the allowable width (**ATTACHMENT A**).

According to the *Newton Comprehensive Plan*, adopted in 2007, the City "recognize[s] the importance of maintaining...business uses and not diminishing them over time" and "encourages retail uses [to provide]...a mix of neighborhood and regional services appropriate for the specific area of the City."¹ The Planning Department has no particular concerns with the conversion and extension of the nonconforming uses, as this petition will terminate the existing nonconforming automotive service use, and replace it with a use that is allowed by right within the Business 1 district (convenience store). The Planning Department is not concerned with the request to legalize the nonconforming site conditions. However, the petitioner should reduce the widths of the driveway openings along Watertown Street, which was a requirement of previous special permit approvals, to minimize any potential hazards for pedestrian and vehicular movements. Further, the Planning Department encourages the petitioner to consider replacing the remaining segments of fencing to ensure the fence design is consistent throughout the site.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether:

- The proposed conversion and extension of nonconforming uses on the site, which will result in the termination of a nonconforming automotive service use and replaces it with a use that is allowed by right in the district, is not substantially more detrimental than the existing nonconforming uses to the neighborhood. (§30-21(b))
- The requested waivers with regard to the design and dimensional controls for a parking facility are appropriate due to the nature of the use or the location, size,

¹ *Newton Comprehensive Plan*, adopted 2007, page 3-28.

width, depth, shape or grade of the lot, or that such an exception would be in the public interest of safety or protection of environmental features. (§30-19(h)(3), §30-19(h)(4)(b), §30-19(i), §30-19(m))

- The requested waivers will not result in the creation of a nuisance or hazard to pedestrians or vehicles in the surrounding neighborhood. (§30-24(d)(3))
- The proposed signage package, consisting of a free-standing sign, a single wall mounted sign, and two canopy signs, is appropriate due to the nature of the use of the premises, the architecture of the building or its location with reference to the street. (§30-20(l))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is a corner lot at the intersection of Watertown Street and Eden Avenue in the village of West Newton. The parcel is also proximate to the busy intersection of Waltham Street, Watertown Street, and Washington Street. The site has been occupied by a commercial use since 1920, and is proximate to parcels containing single- and multi-family residential, mixed-use, nonprofit organizations, open space, and vacant land uses (**ATTACHMENT B**). The property is zoned Business 1, but is surrounded by parcels zoned Single Residence 1, Multi-Residence 1 and 2, Business 2, and Public Use (**ATTACHMENT C**).

B. Site

The site consists of 17,376 square feet of land and is improved with a one-story commercial building and four automotive fueling islands with a canopy cover. The northern and western property lines are edged with chain-link fencing, some of which is sight-obscuring from the installation of vinyl slats. The site includes landscaping beds containing grass and trees in the northeast, southeast and southwest corners of the site as well as parallel with the northern property line. The site has vehicular access via three driveways, each exceeding the maximum allowed width of 25 feet.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The site is currently occupied by a service center, containing a nonconforming automotive fueling use and a nonconforming automotive service use, with the accessory sale of snack foods. The limited sale of snack foods was determined to be a use accessory to the nonconforming automotive fueling use under Board Order #278-07(5). The two principal uses on the site are considered nonconforming since they were developed prior to the enactment of the City's zoning ordinance and are not uses allowed by right or by special permit within the Business 1 zoning district under the City's current NZO. The petitioner is proposing to extend the nonconforming automotive fueling use and abandon the automotive service use by converting the service bays into an expanded convenience store (retail use).

The Planning Department has no particular concerns with the extension of the nonconforming automotive fueling use, as this petition will terminate the nonconforming automotive service use and replaces it with a use that is allowed by right within the Business 1 district.

B. Building and Site Design

The petitioner is proposing to convert the existing service bays into an expanded convenience store (retail use). The conversion will expand the existing 200 square feet of snack food sales to occupy the entire commercial building, which is approximately 1,852 square feet. Based on the project plans, the building's façade will be refaced with textured siding panels and storefront windows. The roof overhang fascia will also be repainted to match the Shell corporate color scheme. The petitioner is also proposing to convert the remaining full-service pump over to self-service, so there will be four self-service pumping islands on the site. In addition, the petitioner would like to replace the existing chain-link fence along the northern property line with a six-foot high vinyl sight-obscuring fence to screen this edge of the site from the adjacent Eden Playground.

A building permit has been issued by ISD for the conversion of the commercial building. The petitioner has, however, been asked to limit the conversion of the retail space to 200 square feet, which aligns with previous approvals, until a new special permit is obtained. Once the petitioner obtains this special permit, they will be allowed to continue work on the commercial space.

The Planning Department has no significant concerns with the project as designed, but encourages the petitioner to consider replacing the remaining segments of fencing with a similar six-foot high vinyl sight-obscuring fence to ensure the fence design is consistent throughout the site.

C. Parking and Circulation

The proposed waivers to the design and dimensional controls for the parking facility will not result in any changes to the current parking configuration or vehicular circulation patterns for the property. The petitioner is proposing to add an accessible parking space in the southwest corner of the site to bring the site into conformity with accessibility requirements. The conversion of the commercial building from a service use to a retail use does not result in an increase of the parking requirements. According to the NZO, the parking requirement for a retail use is one parking stall per each 300 square feet of gross floor area, and one stall per each three employees on the largest shift. The petitioner has indicated that the retail use will occupy approximately 1,852 square feet of gross floor area and will have no more than three employees working at the busiest shift, thus eight parking stalls are required.

Based on the previous special permit approvals granted under Board Orders #677-73 and #11-93(4), curb cuts on the site were required to be reduced. The curb cut on Eden Avenue (26 feet) appears to have been reduced as required; however, the two curb cuts off of Watertown Street (51 feet and 54 feet) still exceed the allowable maximum width of 25 feet. During a number of visits to the site, it appears Watertown Street experiences heavy pedestrian and vehicular use. Thus

the potential is high for hazardous pedestrian and vehicular interactions around the Watertown Street driveways.

In addition, the project plan does not designate how or where snow storage will be handled on the site. The petitioner should be prepared to explain how snow storage is to be handled since the site is constrained.

The Department of Planning and Development is concerned about the current width of the curb cuts off of Watertown Street, and recommends the petitioner consider reducing the width of these curb cuts to the maximum 25 feet width allowed by the NZO.

D. Signage

Based on the previous special permit approvals granted under Board Orders #11-93(4) and #278-07, the subject property has an approved sign package. The sign package includes a free-standing sign, two wall signs and two canopy signs. The petitioner is proposing to modify the sign package to include a free-standing sign, which has a sign area approximately two square feet smaller than the existing free-standing sign. The existing wall mounted signs on the building, showing "Snack Shop" and "Service Center," will be replaced by a single wall mounted sign showing "In Town Market." Finally, the two existing canopy signs will be replaced with two canopy signs that are approximately two square feet larger than the existing canopy signs.

The Urban Design Commission reviewed the proposed sign package on October 15, 2014 and has recommended approval of the signs as proposed (**ATTACHMENT D**). The Planning Department concurs with the UDC's recommendation of the proposed sign package.

E. Landscape Screening

The petitioner has requested a waiver to the landscaping and screening requirements for the existing parking facilities. To improve screening on the site, the petitioner has proposed to replace the existing chain-link fence along the northern property line with a six-foot high sight-obscuring fence. The design of the proposed fencing segment appears to adequately screen the adjacent Eden Playground from the site. Further, the petitioner is not proposing to change the existing exterior lighting fixtures at this time.

The Department encourages the petitioner to consider replacing the remaining chain link fence segments, especially those segments with vinyl slats, with a similar six-foot high vinyl sight-obscuring fence to ensure the fence design is consistent throughout 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:

- §30-21(b), to convert a nonconforming automotive service use into a retail use.
- §30-21(b), to allow the extension of a nonconforming automotive fueling self-service sales.
- §30-19(h)(3) and §30-19(m), to waive the dimensional requirements for maneuvering aisles.
- §30-19(h)(4)(b) and §30-19(m), to waive the maximum allowable driveway width of 25 feet.
- §30-19(i)(1) and §30-19(m), to waive the landscaping and screening requirements for parking facilities.
- §30-19(j)(1)(a) and §30-19(m), to waive the lighting requirements for parking facilities.
- §30-20(i), to approve the proposed sign package, consisting of a free-standing sign, a single wall mounted sign, and two canopy signs.

B. Engineering Review

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

V. PETITIONERS' RESPONSIBILITIES

Prior to scheduling this petition for a Working Session, the petitioner should consider the Department's recommendations for the site.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: Land Use Map

Attachment C: Zoning Map

Attachment D: Urban Design Commission Recommendation, dated October 16, 2014

Attachment E: Previously Approved Board Orders



Setti D. Warren
Mayor

Attachment A
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Department of Planning and Development
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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: December 3, 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 for the applicant
BNTT, Inc, Applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to amend Board Orders #278-07, 11-93 and #278-07 to extend a nonconforming gas station, to extend the self-service gas sales and to modify existing signage

Applicant: BNTT, Inc	
Site: 979 Watertown Street	SBL: 31016 0015
Zoning: BU1	Lot Area: 17,376 square feet
Current use: Autobody service and gas sales	Proposed use: Self-serve gas sales and convenience store

BACKGROUND:

The property at 979 Watertown Street is comprised of 17,376 square feet, and is improved with an automotive service center with gas sales. The existing service station has been in use since 1920, when it was constructed with a building permit, prior to the enactment of zoning in Newton. Gas and service stations uses are not permitted by right or by special permit in the Business 1 District, thus the uses are nonconforming.

The applicant received a special permit Board Order #278-07 in 2007 to allow for “expanded snack sales” on the property, accessory to the gas sales and service station. The applicant now proposes to terminate the nonconforming auto service and repair uses on site and to expand snack sales, utilizing the space taken by the service bays as a convenience store. The snack sales were permitted as accessory to the nonconforming uses, and were treated as an expansion of a nonconforming uses, though retail use is allowed by right in the district. As the snack sales were originally permitted as accessory to the nonconforming uses, it has been determined that an amendment to Board Order

#278-07 is required to alter the premises to allow expansion of the snack sales. This expansion terminates the nonconforming automotive service use, and replaces it with a use that is otherwise by right within the district.

The applicant is also requesting to convert its only remaining full service gasoline pump to a self-service pump. This conversion is an expansion of the nonconforming gasoline sales and requires an amendment to Board Order #11-93, which authorized the conversion of the other pumps from full- to self-serve.

The applicant finally seeks to modify the signage approved by Board Order #278-07. The Board Order approved a free-standing sign, two wall signs and two canopy signs. The proposed signs are consistent with those approved in 2007, and were approved by the Urban Design Commission in October 2014. The UDC advised the applicant to seek a consistency ruling from Commissioner John Lojek, and was advised that he would issue it. As the applicant began the special permit process prior to receiving the letter of consistency from the Commissioner, the applicant has elected to include the approval of the proposed sign modification as part of the relief sought from the Board with this application.

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

- Zoning Review Application, prepared Stephen J. Buchbinder, Attorney, dated 11/25/2014
- City of Newton Building Permit, dated 12/20/1920
- Board Order #502-64(1), dated 9/14/1963
- Board Order #394-70(2), dated 12/21/1970
- Board Order #677-73(3), dated 11/19/1973
- Board Order #11-93(4), dated 12/20/1993
- Board Order #278-07(5), dated 11/19/2007
- Exhibit 1 – History of the Site, undated
- Exhibit 2 – Parking calculation, undated
- Existing Conditions Site Plan, prepared by Ayoub Engineering, dated 11/17/2006, revised 11/24/2014
- Existing Floor Plan, prepared by Ayoub Engineering, dated 11/24/2014
- Site Improvement Plan, prepared by Ayoub Engineering, dated 11/24/2014, revised 11/25/2014
- Proposed Floor Plan, prepared by Ayoub Engineering, dated 7/9/2014, revised 7/15/2014, 10/27/2014, 11/24/2014
- Site Signage Plan, prepared by Ayoub Engineering, dated 9/29/2014, revised 10/22/2014, 10/28/2014, 11/24/2014

ADMINISTRATIVE DETERMINATIONS:

1. There currently exists on site an auto service station and both self- and full-serve gas sales, which are legal nonconforming uses dating back to the issuance of the building permit in 1920 and Board Order #11-93(4) authorizing self-service gas pumps.
2. In December 1970, a condition of Board Order #394-70 required that no business be conducted on site other than that of gas sales and a service station. Board Order #278-07 allowed for expanded snack sales as an extension of the existing nonconforming gas sales and service station in 2007. The abandonment of the auto service use, and alteration of the service bays to retail use as a convenience store, requires an amendment to the special permit pursuant to Section 30-21(b).

3. Board Order #11-93 authorized self-service gas pumps on the premises, maintaining one pump for full-service use. As the gas sales on site are nonconforming, a special permit is required pursuant to Section 30-21(b) for a change from one nonconforming use to another, and amend the existing special permit by eliminating the full-service pump and replacing it with a self-service pump.
4. The conversion of the building to retail use only changes the parking requirements to those found in Section 30-19(d)(10), which apply to retail uses. Retail uses require one stall per each 300 square feet of gross floor area, and one stall per each three employees on the busiest shift. The applicant proposes to use 1,852 square feet for retail use with three employees working at the busiest shift, requiring a total of eight stalls. The applicant is providing 12 stalls on site, with one handicapped stall, and thus meets the parking requirement of the Ordinance.
5. Section 30-19(h)(3)(b) requires maneuvering aisles to have a minimum of 20 feet in width for two-way traffic. The existing aisles are less than the required 20 feet at the canopy for the pumps, but are in a configuration approved on plans in previous Board Orders. A special permit per Section 30-19(m) is required to legitimize the existing condition.
6. Section 30-19(h)(4)b) states that the maximum width of entrance and exit driveways shall be 25 feet. There are three existing driveways, all of which exceed the maximum of 25 feet. Condition #3 of Board Order #677-73 requires that the curb cut on Eden Avenue be reduced to 30 feet in width, and condition #2 of Board Order #11-93(4) requires that “the 50’ wide curb cut be reduced to 42’ width”. To the extent that the third curb cut exceeds 25 feet, or that the existing curb cuts addressed by the previous Board Orders are not in accordance with these conditions, a special permit is required to legitimize the pre-existing nonconforming driveway widths per Section 30-19(m).
7. Each of the prior Board Orders address landscaping and screening for the site. To the extent that the site no longer complies with the conditions of the previous board orders, or the provisions of Section 30-19(i)(1), a special permit is required to waive such requirements per Section 30-19(m).
8. Each of the prior Board Orders condition lighting on the site so as to prevent light spillage onto neighboring properties, aside from a fixture mentioned in Condition 5 of Board Order #11-93 on the northeast side of the building. Section 30-19(j)(1)a) and b) require that lighting maintain a minimum intensity of one foot candle, and be arranged and shielded so as to prevent glare onto neighboring streets and properties. To the extent that the site does not comply with the conditions of the previous board orders, or the provisions of Section 30-19(j)(1)a) and b), a special permit is required pursuant to Section 30-19(m) to waive such conditions.
9. Board Orders #11-93(4) and #278-07 approved signage for the site, including a free-standing sign, two wall signs and two canopy signs. The proposed free-standing sign has an area that is approximately two square feet smaller than the existing free-standing sign. The two existing wall signs on the building shown as “Snack Shop” and “Service Center” will be replaced by a single wall sign showing “In Town Market”. The proposed canopy signs are proposed to be approximately two square feet larger than the existing canopy signs. The applicant seeks to amend the special permits and approve the proposed sign package pursuant to Section 30-20(l) of the Ordinance.

10. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-21(b)	To allow an extension of nonconforming auto service and gas sales use, to allow for gas sales and retail	S.P. per §30-24
§30-21(b)	To allow an extension of nonconforming self-service gas sales	S.P. per §30-24
§30-19(h)(3), §30-19(m)	To waive the dimensional requirements for maneuvering aisles	S.P. per §30-24
§30-19(h)(4)b) §30-19(m)	To waive maximum driveway width	S.P. per §30-24
§30-19(i)(1), §30-19(m)	To waive landscaping and screening requirements	S.P. per §30-24
§30-19(j)(1)a) and b), 30-19(m)	To waive lighting requirements	S.P. per §30-24
§30-20(l)	To approve the proposed sign package	S.P. per §30-24


Land Use Map 979 Watertown Street

City of Newton,
Massachusetts

ATTACHMENT B

Legend

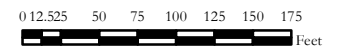
Land Use

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

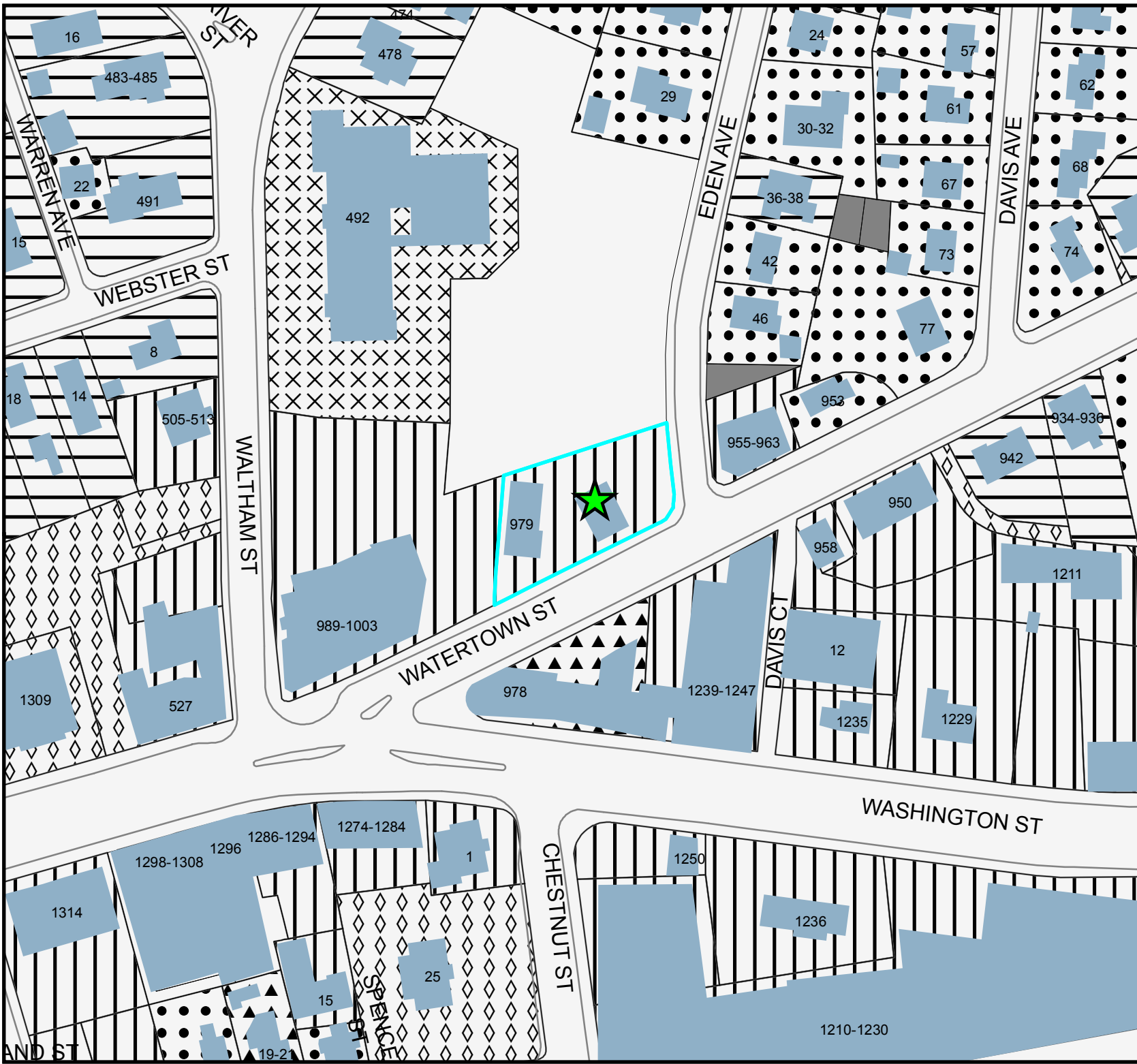


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: December 12, 2014

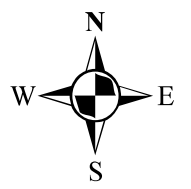


Zoning Map 979 Watertown Street

City of Newton,
Massachusetts

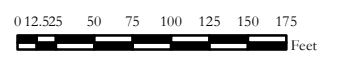
ATTACHMENT C

Legend	
	Single Residence 3
	Multi-Residence 1
	Multi-Residence 2
	Business 1
	Business 2
	Public Use
	Property Boundaries
	Building Outlines

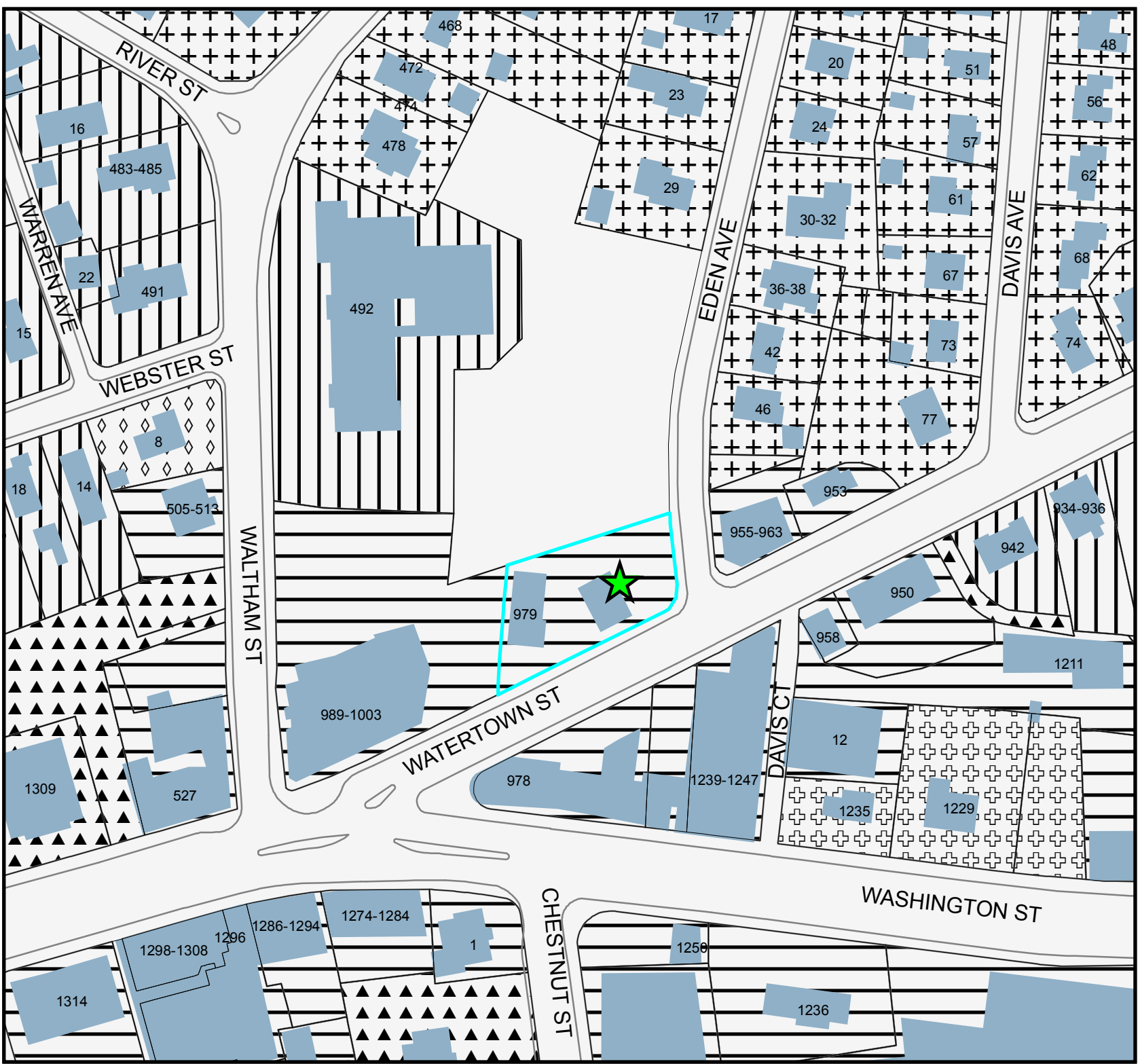


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: December 12, 2014



DEPARTMENT OF PLANNING AND DEVELOPMENT


CITY OF NEWTON

Massachusetts

INTER-OFFICE CORRESPONDENCE – SIGN APPLICATION REVIEW

DATE: October 16, 2014

TO: John Lojek, Commissioner of Inspectional Services

FROM: James Freas, Acting Director of Planning and Development
Daniel Sexton, Senior Planner 

LOCATION: 979 Watertown Street BUSINESS: Shell Station

CONTRACTOR: Ayoub Engineering (Steven Pedro)

§30-20(c)(1), as amended, allows the Director of Planning and Development, in consultation with the Urban Design Commission (UDC), to review sign permit applications. The UDC reviewed the proposed signs for compliance with Board Order #278-07, §30-20(f), and §30-20(m) on October 15, 2014 and has recommended approval of the following signs as proposed:

- *Replace* one free-standing principle sign, internally illuminated, with approximately 53.7 square feet of sign area along Watertown Street. This sign also contains pricing and fuel type panels that are customarily allowed by right.
- *Replace* two canopy mounted signs, internally illuminated, with approximately 15.5 square feet of sign area facing east and west along Watertown Street.
- One secondary wall mounted sign, internally illuminated, with approximately 23.2 square feet of sign area attached to the building canopy facing the Eden Avenue and Watertown Street intersection.

The applicant indicated that Shell corporate has asked that the In-Town Mart advertising message utilize a different color scheme. The UDC had no issue with this potential change, but did recommend that the message be centered on the display.

The Department of Planning and Development concurs with the UDC, and recommends approval of the proposed signage described in the application and plans of reference.

This application will require further review by the Department through the special permit process, and will also be reviewed by the Land Use Committee.

This memo does not constitute a permit. The applicant must amend the previously approved special permit and receive a building permit from Inspectional Services prior to installing the signs. All decisions of the Urban Design Commission are appealable to the Commissioner of Inspectional Services

Cc:

Ayoub Engineering, Attn. Steven Pedro, 414 Benefit Street, Pawtucket, RI 02861
Urban Design Commission file



Bk: 50563 Pg: 405 Doc: DECIS
Page: 1 of 4 01/07/2008 09:58 AM

#278-07

CITY OF NEWTON

IN BOARD OF ALDERMEN

November 19, 2007

2007 DEC - 3 PM 2:48
CITY CLERK
NEWTON, MA 02159

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, hereby grants the following SPECIAL PERMIT and SITE PLAN APPROVAL TO EXTEND A NONCONFORMING USE AND AMENDMENT TO PREVIOUS BOARD ORDERS [#11-93(4)], in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman George E. Mansfield:

16760 - 565

1. The Board finds that the extension of the nonconforming use is not substantially more detrimental to the neighborhood than the existing nonconforming use because the self service pumps, expanded snack sales and improved signage will allow for more expedient servicing of customers.
2. The Board finds that the landscape improvements will enhance the appearance of the site.
3. The revised signage will create a more attractive business climate and improve the environment by eliminating sign clutter.
4. Together these changes will serve the public convenience and welfare.

2008 JAN - 8 PM 3:11
CITY CLERK
NEWTON, MA 02159

PETITION NUMBERS: #278-07

PETITIONER: MOURIA/CID TRUST/CISIDIO MAZZOLLA

LOCATION: 979 Watertown Street, Ward 3, West Newton, Section 31, Block 16, Lot 15, containing approximately 17,241 sq. ft. of land

OWNER: Cisidio Mazzolla, CID Realty Trust

RETURN: S. Michael Peirce, Esq.
60 Walnut Street, Fl. 4
Wellesley, MA 02481

A True Copy
Attest
[Signature]
City Clerk of Newton, Mass.

ADDRESS OF OWNER: 177 Nevada Street, Newton, MA 02460

TO BE USED FOR: Self-service gasoline selling station (1 full-service pump), expanded snack sales, and revised signage

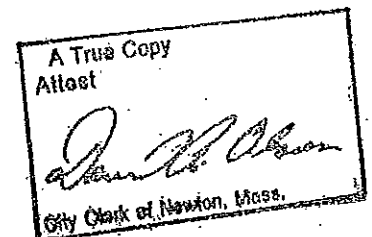
CONSTRUCTION: Addition of panels to existing freestanding sign, and addition of ID signs to existing canopy.

EXPLANATORY NOTE: Section 30-21-(b) allows the Board of Aldermen to grant a special permit for the alteration, structural change or extension of an existing nonconforming structure (freestanding sign) and use (snack sales).

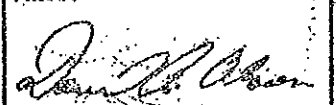
Land referred to is located in Business 1 District.

Approved, subject to the following conditions:

1. All structures, parking areas, landscaping, fencing and other site features shall be located and constructed consistent with plans entitled:
 - a. "Area Plan," Sheet RM, as prepared by Alan J. Micale, P. E. of Ayoub Engineering, Inc., dated 5/1/07.
 - b. "Site Plan," Sheet C-1, as prepared by Ayoub Engineering, Inc., dated revised 6/4/07.
 - c. "Site Sign and Graphics Plan," Sheet SG-1 as prepared by Alan J. Micale, P. E. of Ayoub Engineering, Inc., dated revised 9/5/07.
 - d. "Floor Plan," Sheet FP as prepared by Ayoub Engineering, Inc., dated 8/1/07.
2. Except as amended by this Board Order or previous Board Orders, all conditions of Board Orders #501-64, #394-70, #677-73 and #11-93(4) shall remain in effect.
3. The petitioner shall submit to the Director of Planning and Development for review and approval, a revised landscape plan that shows removal of the narrow planter adjacent to Watertown Street that was as approved in Board Order #11-93. The revised landscape plan shall show landscape materials as approved in Board Order #11-93. The landscape shall be restored with healthy plant materials consistent with Board Order #11-93 and all dead plant materials shall be removed. Any plant materials that become diseased or die shall be replaced annually.



4. The petitioner shall submit a revised sign and graphics plan to the Director of Planning and Development for review and approval, that shows two canopy signs and one 20-foot freestanding sign, removal of the freestanding sign on the corner of Eden Way/Watertown Street, and a visible and attractive location for the required Inspection sign. The plan shall note the red band around the canopy shall not be illuminated. All non-compliant signs including pendants and banners shall be removed.
5. All signs and exterior lighting shall conform to the City's Lighting Ordinance.
6. No building permit shall be issued pursuant to the SPECIAL PERMIT/SITE PLAN APPROVAL and SPECIAL PERMIT TO EXTEND A NONCONFORMING USE AND STRUCTURE until:
 - a. The petitioner shall have submitted a final landscaping plan, consistent with Condition #1 of this permit, indicating the location, number, size and type of landscape materials to be installed to the approval of the Director of Planning and Development. A statement certifying such approval for consistency with the plans cited in Condition #1 also shall have been filed with the City Clerk and the Department of Inspectional Services.
 - b. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County, a certified copy of this Board Order granting the SPECIAL PERMIT/SITE PLAN APPROVAL and SPECIAL PERMIT TO EXTEND A NONCONFORMING USE AND STRUCTURE.
 - c. The petitioner shall have filed a certified copy of the such recorded Board Orders with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
7. That no portion of the site authorized by the SPECIAL PERMIT and SITE PLAN APPROVAL to EXTEND THE NONCONFORMING USE AND STRUCTURE shall be occupied until:
 - a. The petitioner shall have filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development, a statement by a registered architect or registered engineer certifying that Condition #1 has been complied with.
 - b. The petitioner shall have filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, fencing and parking areas.
 - c. Notwithstanding the provision of Section 7b. hereof, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for the change of services and installation of signs prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of

A True Copy
Attest


Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules
Readings Waived and Approved
21 yeas 0 nays 2 absent (Aldermen Harney, Lennon, Vance)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on December 3, 2007. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

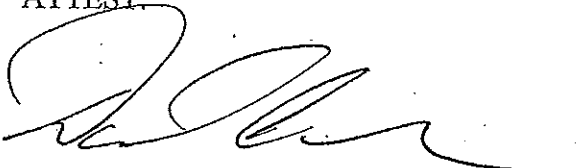
ATTEST:



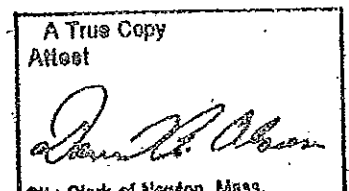
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 12/3 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen



CITY OF NEWTON

IN BOARD OF ALDERMEN

December 20, 1993

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 SPECIAL PERMIT/SITE PLAN APPROVAL AND EXTENSION OF NON-CONFORMING USE AND STRUCTURE is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefore, through its Chairman, Alderman Susan M. Basham:

1. The Board finds that the self-service gasoline station serves the public convenience and welfare by having lower prices for self-service customers.
2. The Board finds that the proposed canopy is aesthetically compatible with the gas station use and other uses in the area.
3. The Board finds that self-service facility and the canopy are not substantially more detrimental than the existing gasoline station facility.
4. The Board finds that the site will have an improved appearance with the added landscaping and buffering.

PETITION NUMBER: #11-93(4)

PETITIONER: Cisidio Mazzolla

LOCATION: 979 Watertown Street, West Newton on land known as Section 31, Block 16, Lot 15, containing approximately 17,241 square feet of land.

OWNER: Cisidio Mazzolla

ADDRESS OF OWNER: 979 Watertown Street West Newton, MA. 02165

TO BE USED FOR: Self-service gasoline station with a canopy

CONSTRUCTION: Metal

EXPLANATORY NOTE: Section 30-21 allows the Board of Aldermen to grant a special permit to extend a non-conforming use and structure. This special Permit allows the Board of Aldermen to amend Special Permit #501-64 by authorizing a canopy and self-service pump island.

Land referred to is in a Business 1 District.

Approved, subject to the following conditions:

1. That except as amended by Conditions #3, 8 and 9 below, all buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with plans entitled "Newton, MA. Watertown Street and Eden Avenue - Existing Site Plan, dated 2/22/93 and revised 10/25/93; General Arrangement Plan, dated 12/5/91 and revised 10/25/93; and "Lighting Plan", dated 12/5/91 and revised 10/25/93 by Texaco USA, Philadelphia, PA; and "Facility Elevations and Fire Suppression System" dated 1/2/91 by Bayside Engineering, submitted by the petitioner and filed herewith.
2. That the 50' wide curb cut be reduced to 42' width.
3. That a dumpster which shall be screened with a stockade fence shall be located on the north side of the building.
4. That the Petitioner shall use best efforts to recycle waste oil, tires, anti-freeze, glass and plastic containers and other materials used in the operation of the facility.
5. That all lighting shall be metal halide or equivalent and shall be reviewed and approved by the Director of Planning and Development. No light from fixtures on the site shall spill over onto adjoining properties, except for the fixture which presently exists on the northeast side of the building. The bulbs of such fixtures shall be concealed and shall not be visible off-site.
6. That a revised landscape plan be submitted for review and approval by the Director of Planning and Development. Such revised landscape plan shall show that the proposed mulch areas have been removed and replaced with landscaping and that the landscaping area at the east (Eden Ave.) end of the site be increased in size.)
7. That the lowest edge of the canopy shall be 14 ft. to the fascia.
8. That there shall be no signs on the canopy.
9. That a second free standing sign with a 3' x 5' pricing sign be allowed which shall be reviewed by the Urban Design and Beautification Commission.

10. That all new utilities be placed underground and that the City Engineer approve the site utility, access and drainage plans.

11. That there shall be only one self-service pump island.

12. That there shall be no more than three vending machines on the site and there shall be no food sales other than through the vending machines.

13. That the petitioner shall continue to offer the level of service currently available.

14. That no building permit shall be issued in pursuance of the SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE and STRUCTURE until:

a. A final landscape plan including lighting and fixture design and fencing, indicating the location, number, size and type of landscaping and landscape materials to be installed shall have been submitted to and approved by the Director of Planning and Development and statement of such certifying such approval shall have been filed with the City Clerk and the Department of Inspectional Services.

b. That the City Engineer has reviewed and approved site grading and drainage, and a statement by the City Engineer certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.

c. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE AND STRUCTURE with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.

d. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.

15. That no building or structure, or portion thereof subject to this SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF NON-CONFORMING USE and STRUCTURE shall be occupied until:

a. There shall have been filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that the finished grades and final construction details of the driveways, parking area, drainage systems, curbing and utility installations have been constructed to standards of the City of

Newton Engineering Department.

b. There shall have been filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, final landscape features, parking areas, fencing and lighting installation.

c. Notwithstanding the provisions of Section 15b, hereof, the Commissioner of Inspectional Services may issue one or more certificates/of temporary occupancy of all or portions of the buildings prior to installation of final landscaping provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules
Readings Waived and Approved
22 yeas 0 nays 2 absent (Ald. Creem and White)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT and SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on December 21, 1993. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT and SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the Planning and Development Board and the City Clerk.

ATTEST:



(SGD) EDWARD G. ENGLISH, City Clerk
Clerk of the Board of Aldermen

I, Edward G. English, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on December 21, 1993 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST Edward G. English
EDWARD G. ENGLISH, City Clerk

THE COMMONWEALTH OF MASSACHUSETTS

NEWTON

CITY

BOARD OF ALDERMEN

January 12, 19 94

NOTICE OF VARIANCE

Conditional or Limited Variance or Special Permit

(General Laws Chapter 40A, Section 24B as amended)

/SITE PLAN APPROVAL/EXTENSION OF NON-CONFORMING USE/STRUCTURE

Notice is hereby given that a ~~Conditional or Limited Variance or~~ Special Permit has been granted

To Cisidio Mazzolla
Owner or Petitioner

Address 979 Watertown Street

City Newton, on land known as Section 31, Block 16, Lot 15, containing

approximately 17,241 square feet of land.
Identify Land Affected

by the City of Newton Board of Aldermen affecting the rights of the owner with respect to the use of premises for self-service gasoline pump island with canopy at

979 Watertown Street Newton City

the record title standing in the name of

Cisidio Mazzolla

whose address is 979 Watertown Street Newton MA 02165
Street City State

by a deed duly recorded in the County Registry of Deeds in Book

Page Registry District of the Land Court

Certificate No. Book Page

The decision of said Board is on file with the papers in Decision or Case No. 11-93(4)

in the office of the City Clerk of Newton

Signed this 12th day of January 19 94

Board of Aldermen

Thomas B. Concannon, Jr. President

Linda Finucane Board of Aldermen acting Clerk

Linda Finucane, Acting Clerk

19 at o'clock and minutes M.

Received and entered with the Register of Deeds in the County of

Book Page

ATTEST

CITY OF NEWTON

#677-73

IN BOARD OF ALDERMEN

November 19, 1973

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 EXTENSION OF NON-CONFORMING USE is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor through its Chairman, Alderman Alan S. Barkin.

Petition Number: #677-73

Petitioner: Texaco Inc.

Location: 969-975 Watertown Street, Ward 3, Section 31, Block 16, Lot 15, containing approx. 17,376 sq. ft.

To be used for: Gasoline selling station as permitted by Board Order #394-70, with the addition of two pumps to service low lead gasoline and installation of a 4,000 gal. underground storage tank for low lead gasoline.

Land referred to is in the Business A District.

Approved subject to the following conditions:

1. That all conditions contained in Board Order #394-70 shall remain in full force and effect.

2. That no vehicles, except those of employees of the gasoline selling station and those customers thereof, as provided by condition #8 of Board Order #394-70, shall be parked on the premises.

3. That the curb cut on Eden Avenue shall be reduced to thirty feet (30') in width as measured from the northeasterly end of the existing curb cut.

4. That all landscaping shall be maintained in good condition at all times.

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BR

5. That no building permit shall be issued in pursuance of this EXTENSION OF NON-CONFORMING USE until:

- a. A plan shall have been submitted to the City Engineer indicating that surface drainage shall be directed toward a catch basin equipped with an MDC-type oil trap.
- b. 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 EXTENSION OF NON-CONFORMING USE with appropriate reference to the book and page of the recording of the petitioner's title deed or notice of lease endorsed thereon.
- c. A certified copy of such recorded notice shall have been filed with the City Clerk and Public Buildings Department.

Under Suspension of Rules
Readings Waived & Adopted
23 Yeas 1 Absent (Small)

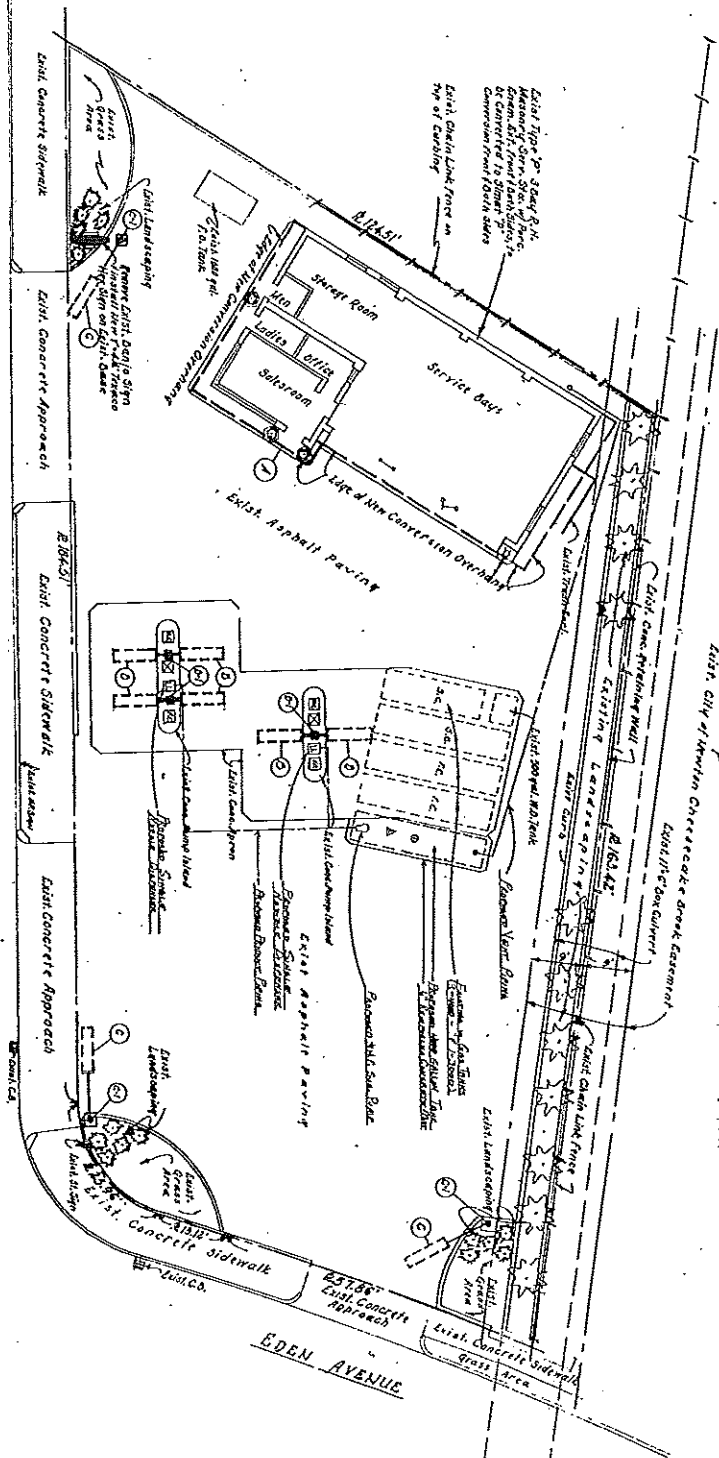
EXECUTIVE DEPARTMENT

Approved Nov. 21, 1973

(Sgd) EDWARD G. ENGLISH Acting City
Clerk

(Sgd) THEODORE D. MANN Mayor

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LIGHT FIXTURE TABLE

Symbol	Fix. No.	Fix. Type	No. of Fixtures	Watts per Fixture	Total Watts	Approx. Illumination (Foot-Candles)	Approx. Illumination (Lux)
1	1	POLE	1	15000	15000	21-0 FT.	21-0 FT.
2	2	WALL	215	15000	3225000	21-0 FT.	21-0 FT.
3	3	WALL	215	15000	3225000	21-0 FT.	21-0 FT.
4	4	WALL	215	15000	3225000	21-0 FT.	21-0 FT.
5	5	WALL	215	15000	3225000	21-0 FT.	21-0 FT.

APPROVAL RESPONSE

REVISION RECORD

EXHIBIT

APPROVED

NO. 64,240A

TRIXADO INC.
 SCIENTIFIC SALES REPRESENTATIVE
 1200 W. 10th Street
 Lawrence, Kansas 66044
 913-841-1177
 913-841-1178
 913-841-1179
 913-841-1180
 913-841-1181
 913-841-1182
 913-841-1183
 913-841-1184
 913-841-1185
 913-841-1186
 913-841-1187
 913-841-1188
 913-841-1189
 913-841-1190
 913-841-1191
 913-841-1192
 913-841-1193
 913-841-1194
 913-841-1195
 913-841-1196
 913-841-1197
 913-841-1198
 913-841-1199
 913-841-1200

CITY OF NEWTON DAVIS SCHOOL

WALTHAM

"BUS. A"

14858 SF

"BUSINESS"

24108 SF

"UNZONED"

6745 SF

WATERTOWN

17376 SF

13540 SF

"BUSINESS"

WASHINGTON STREET

EDEN AVE

"BUS" 6635 SF

"BC" 1466 SF

"A" 4650 SF

STREET

"A" 13408 SF

DAVIS COURT

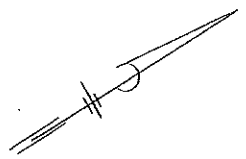
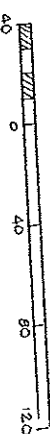
11230 SF

19180 SF

"BUSINESS" 8225 SF

"BUSINESS" 7356 SF

WASHINGTON STREET



CHESTNUT ST

TEXACO, INC.
LOW LEAD INSTALLED
WATERTOWN STREET
NEWTON, MASSACHUSETTS
NO. 2406-B-24010
SCALE: 1"=40.0'
Dwg. BY: S.R.M.

CITY OF NEWTON

IN BOARD OF ALDERMEN

December 21, 1970

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 Number: #394-70

Petitioner: Texaco Inc.,

Location: 969-975 Watertown St., Ward 3, Section 31, Block 16, Lot 15, containing approximately 17,376 square feet.

To be used for: To improve appearance of existing service station.

Construction: Consists of porcelain enamel siding, new pumps, new lights, and landscaping, alteration of free standing sign.

Land referred to is in Business A District

Approved subject to the following conditions:

1. That the new landscaped area, pump island, pump lights, and area lights shall be located in accordance with a plan entitled "Texaco Inc., Newton Mass. Watertown St. and Eden Ave. Rehabilitation dated 3/27/70" submitted by the petition and filed herewith.
2. That a 6" curb shall be constructed parallel to the Watertown St. sidewalks through the entire distance the two Watertown St. approaches to the station.
3. That the pump and area lights be shielded to prevent light from shining on Watertown St., Eden St., or abutting properties.

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4. That the facade treatment of the station building shall be in accordance with the details of a plan entitled "Texaco Inc., Boston, Mass. Matawan Conversion Type "P" Bldg. Northeast Region dated 1/22/70" submitted by the petition and filed herewith.
5. That no business be conducted at the site other than that of a gasoline selling station and service station as defined in Section 25-1 of the Revised Ordinances 1965.
6. That no business be conducted on the site other than that of a gasoline selling station and service station as defined in Section 25-1 of the Revised Ordinances, 1965.
7. That all unregistered vehicles and all junk materials be removed from the site.
8. No passenger cars, trucks, trailers, buses and other vehicles or other property of any kind shall be parked or stored on the site except customers' vehicles while being serviced, which term shall mean reasonable period of waiting time before servicing and thereafter before redelivery to customer; employees vehicles during business hours and one service station truck.
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 & Approved
20 years 4 absent Absent Ald. Cohen,
Dietz, Egelson, and McDonnell

(Sgd) Joseph H. Karlin City Clerk

EXECUTIVE DEPARTMENT

Approved December 23, 1970

(Sgd) Monte G. Basbas Mayor

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DEC 23 7 0 PM '70

PK 11936 PG 171

P4

THE COMMONWEALTH OF MASSACHUSETTS

Newton
CITY

BOARD OF ALDERMEN

December 23, 19 70

NOTICE OF VARIANCE

Conditional or Limited Variance or Special Permit
(General Laws Chapter 40A, Section 18 as amended)

Notice is hereby given that a Conditional or Limited Variance or Special Permit has been granted

To Ernest G. Angevine, Texaco Inc.,
Owner or Petitioner
Address (294 Washington Street) One Boston Place
City Boston, Mass. 02108
969-975 Watertown St., Ward 3, Section 31, Block 16, Lot 15,
Identify Land Affected
containing approximately 17,376 square feet.

by the City of Newton Board of Aldermen affecting the
rights of the owner with respect to the use of premises on

969-975 Watertown Street, Newton, Mass.
Street City

the record title standing in the name of
Archibald G. Barron
Black Forest, Rural Route 3,
Colorado Springs, Colorado 80908
Street City State

whose address is
by a deed duly recorded in the Middlesex County Registry of Deeds in Book
10566 Page 344, Registry District of the Land Court

Certificate No. Book Page

The decision of said Board is on file with the papers in Decision or Case No. 324-70
in the office of the City Clerk

Signed December 10 70

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CITY OF NEWTON
IN BOARD OF ALDERMEN

September 14, 1964

Upon recommendation of the Franchises & Licenses Committee through its Chairman, Alderman Theodore D. Mann, the following petition was approved subject to all restrictions imposed by Claims & Rules Committee upon accompanying petition for extension of non-conforming use #501-64:

Archibald Barron, 979 Watertown St., Ward 3,
12,500 gals. gasoline, 1,000 gals. fuel oil, 500
gals. waste oil, 500 gals. lube oil, 500 lbs.
grease, 10 gals. brake fluid, 400 gals. anti-
freeze, 8 hoses. Presently licensed for 2,500 gals.
gasoline & storage of 14 cars. (New totals to be:
15,000 gals. gasoline, 1,000 gals. fuel oil, 500
gals. waste oil, 500 gals. lube oil, 500 gals.
grease, 10 gals. brake fluid, 400 gals. anti-
freeze, 8 hoses, 14 cars)(Curb cuts to be as
shown on revised plan)(See accompanying petition for
extension of non-conforming use)(Hearing 8-3-64)

Readings Waived & Adopted
20 Yeas 4 Absent
(Absent - Ald. Burke, Flaschner,
Hovey & Walen)

EXECUTIVE DEPARTMENT

Approved September 16, 1964

(Sgd) MONTE G. BASBAS City Clerk

(Sgd) DONALD L. GIBBS Mayor

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