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2016 OCT 28 PM 2:59

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David A. Olson, CMC  
Newton, MA 02459

OF COUNSEL  
ROBIN GORENBERG

E-Mail: [sjbuchbinder@sab-law.com](mailto:sjbuchbinder@sab-law.com)

October 28, 2016

**BY HAND**

Mr. David A. Olson  
Clerk, Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: Petition #180-16/Mark Newtonville, LLC/Washington Place, Newtonville

Dear Mr. Olson,

This letter will serve as the petitioner's request for leave to withdraw the existing request for change of zone (Petition #180-16) without prejudice, and to file in its place a new request for a change of zone.

The reasons underlying this request are as follows:

1. The original legal notice for the zone change could potentially be deemed incomplete in certain respects. While the legal notice did reference the so-called Orr Block and identified the site as being located at Walnut Street, Washington Street, and Washington Terrace, it failed to list all of the lots comprising the locus. It also referred to Section 21 as "Map 201". While we believe the notice as published was sufficient, we think the better practice in this instance would be to file a new request for a change of zone with a new legal notice by publication and mailing.
2. The current request for a change of zone includes a portion of the way known as Washington Terrace, a private way. An issue has been raised as to the appropriateness of including that land area in the proposed change of zone. Since that portion of Washington Terrace merely serves as an access and egress to the proposed development, and is not part of the project locus, it would appear to be prudent to file a new request for a change of zone which does not include any portion of Washington Terrace.
3. In addition to the foregoing, the Planning and Development Board has requested that the petitioner present this request for the change of zone at a public hearing of its own. Filing a new request for a change of zone, and advertising the hearing on the same by publication and by mailing, would provide a clearer record of the Planning and Development Board's participation in this matter and ensure that the general public has the requisite notice of the Planning and Development Board hearing.

I have conferred with the Law Department on this matter, and the Law Department concurs with the foregoing approach. Thus, for the reasons stated above, the petitioner is requesting leave to withdraw its

## SCHLESINGER AND BUCHBINDER, LLP

Mr. David A. Olson, Clerk  
October 28, 2016

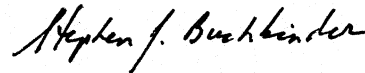
Page 2

original request for a change of zone, and to file in its place a revised request for change of zone. I am enclosing herewith a revised plan and legal description showing the revised area proposed to be rezoned, as well as a list of the properties involved identified by both street address and by section, block, and lot number. With the exception of the elimination of any portion of Washington Terrace, and the inclusion of a small "panhandle" at 22 Washington Terrace of which we only recently became aware, the remainder of the area to be rezoned remains the same as the prior request.

As you know, a protest petition has been filed by certain abutters and others with respect to the change of zone (the "zoning protest"). The petitioner, without acknowledging the validity of the zoning protest on the merits and reserving all rights, nevertheless waives any objection to allowing the zoning protest to be applied to the re-filed request for a change of zone. Likewise, the petitioner would request that the entire administrative record to date, including both written materials previously submitted and oral testimony at hearings (except as may not be relevant to the revised change of zone request) be incorporated by reference and included in the record respecting the new request for change of zone.

Please feel free to contact me with any questions.

Sincerely,



Stephen J. Buchbinder

SJB/mer  
enclosures

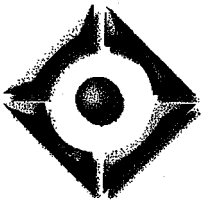
cc: (By Hand, w/enclosures)  
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Councilor Alison M. Leary  
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Ms. Megan Meirav  
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Mr. Barney Heath

Ouida C. M. Young, Associate City Solicitor  
Robert J. Waddick, Assistant City Solicitor  
Mr. James Freas  
Ms. Alexandra Ananth

(By First Class Mail, w/enclosures)  
Mr. Robert Korff  
Mr. Damien Chaviano  
Michael E. Scott, Esquire  
Peter F. Harrington, Esquire

3431650.1



# CONTROL POINT ASSOCIATES, INC.

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180-16

352 Turnpike Road, Suite 320  
Southborough, MA 01772  
Tel: 508.948.3000  
www.cpasurvey.com

OCTOBER 26, 2016  
03-150126

**SURVEYOR'S  
METES AND BOUNDS DESCRIPTION  
PROPOSED ZONE MU-4  
CITY OF NEWTON  
MIDDLESEX COUNTY  
COMMONWEALTH OF MASSACHUSETTS**

PROPERTY IN THE CITY OF NEWTON, MIDDLESEX COUNTY, COMMONWEALTH OF MASSACHUSETTS BEING SHOWN AS PROPOSED ZONE MU-4 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF WASHINGTON STREET, RUNNING THENCE;

1. ALONG THE NORTHERLY LINE OF WASHINGTON STREET, SOUTH 89 DEGREES - 04 MINUTES - 40 SECONDS WEST, A DISTANCE OF 433.14 FEET TO A POINT, THENCE;
2. ALONG THE EASTERLY LINE OF WASHINGTON TERRACE NORTH 02 DEGREES - 03 MINUTES - 34 SECONDS WEST, A DISTANCE OF 278.34 FEET TO A POINT, THENCE, THE FOLLOWING FOUR (4) COURSES ALONG THE EXISTING ZONE LINES OF MR-1 AND MR-3;
3. NORTH 86 DEGREES - 11 MINUTES - 41 SECONDS WEST, A DISTANCE OF 15.07 FEET TO A POINT, THENCE;
4. NORTH 01 DEGREES - 52 MINUTES - 35 SECONDS WEST, A DISTANCE OF 3.01 FEET TO A POINT, THENCE;
5. SOUTH 86 DEGREES - 11 MINUTES - 41 SECONDS EAST, A DISTANCE OF 85.43 FEET TO A POINT, THENCE;
6. NORTH 88 DEGREES - 31 MINUTES - 34 SECONDS EAST, A DISTANCE OF 370.56 FEET TO A POINT ON THE WESTERLY LINE OF WALNUT STREET, THENCE;
7. ALONG THE WESTERLY LINE OF WALNUT STREET, SOUTH 04 DEGREES - 12 MINUTES - 48 SECONDS EAST, A DISTANCE OF 261.82 FEET TO A POINT OF CURVATURE, THENCE;
8. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 93 DEGREES - 17 MINUTES - 28 SECONDS, AN ARC LENGTH OF 27.68 FEET, A CHORD BEARING OF SOUTH 42 DEGREES - 25 MINUTES - 56 SECONDS WEST, A CHORD LENGTH OF 24.72 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 123,765 SQUARE FEET OR 2.84 ACRES, MORE OR LESS.

CONTROL POINT ASSOCIATES, INC.



GERRY L. HOLDRIGHT  
COMMONWEALTH OF MASSACHUSETTS  
PROFESSIONAL LAND SURVEYOR #49211

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David A. Olson, CMC  
Newton, MA 02459

Corporate Headquarters  
35 Technology Drive, Warren, NJ 07059  
Tel: 908.668.0099 Fax: 908.668.9595

Professional Land Surveying, Geospatial and Consulting Services

The petitioner seeks a change of zone from Business 1, Business 2, or Public Use, to  
Mixed Use 4 for the properties shown below.

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Newton, MA 02459

Property Address	Legal Description (SBL)
241 Walnut Street	21029 0010
245-261 Walnut Street	21029 0011
845-855 Washington Street	21029 0012
14-18 Bailey Place	21029 0013
22 Bailey Place	21029 0014
Unnumbered lot on Bailey Place	21029 0015
861-865 Washington Street	21029 0016
857-859 Washington Street	21029 0017
867 Washington Street	21029 0018
869 Washington Street	21029 0019
875 Washington Street	21029 0019A
6-8 Washington Terrace	21029 0020
10-12 Washington Terrace	21029 0021
16-18 Washington Terrace	21029 0022
22 Washington Terrace	21029 0023

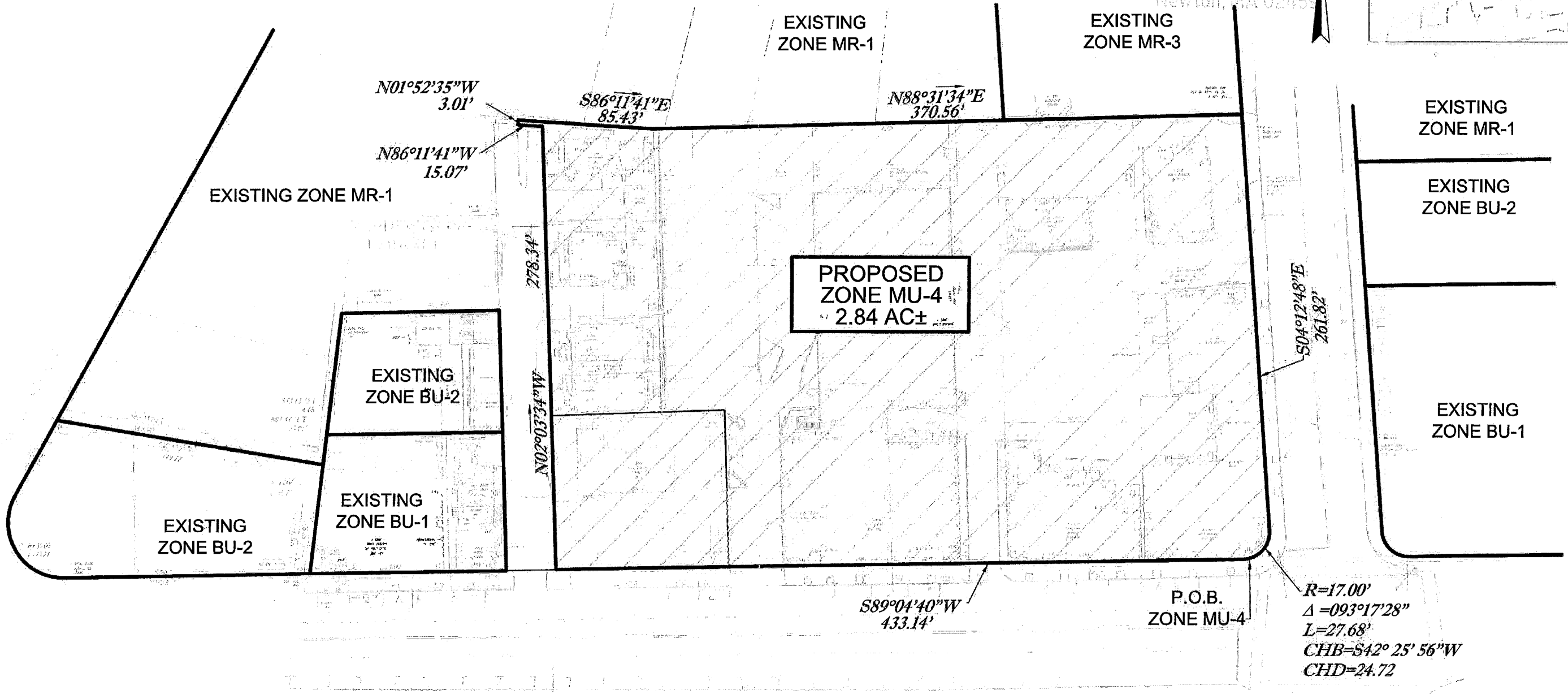
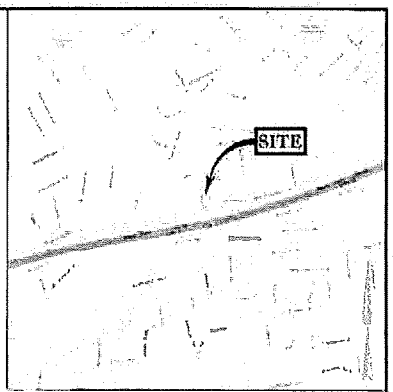
In addition, the petitioner seeks to zone as Mixed Use 4 the following private ways or portions thereof which are currently unzoned:

Bailey Place

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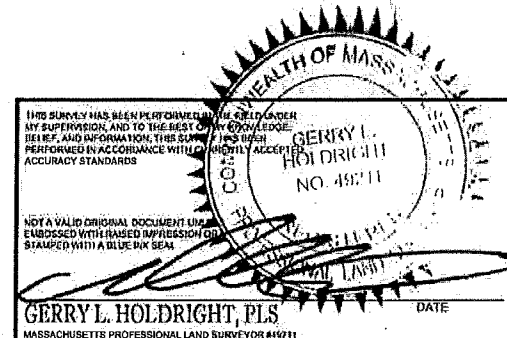
David A. Olson, CMA  
Newton, MA 02459



**PROPOSED  
ZONE MU-4  
2.84 AC±**

P.O.B.  
ZONE MU-4  
 $R=17.00'$   
 $\Delta=093^{\circ}17'28''$   
 $L=27.68'$   
 $CHB=S42^{\circ}25'56''W$   
 $CHD=24.72'$

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PROPOSED ZONING BOUNDARY EXHIBIT  
**MARK NEWTONVILLE, LLC**  
WASHINGTON STREET, WASHINGTON TERRACE  
WALNUT STREET AND BAILEY PLACE  
CITY OF NEWTON, MIDDLESEX COUNTY  
COMMONWEALTH OF MASSACHUSETTS

**CONTROL POINT ASSOCIATES, INC.**  
352 TURNPIKE ROAD  
SOUTHBOROUGH, MA 01772  
508-948-3009 - 508-948-3083 FAX

APPROVED: G.L.H. DATE: 10-26-16 SCALE: N.T.S. FILE NO.: 03-15126 DRG NO.: 1 OF 1