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Setti D. Warren
Mayor

James Freas
Acting Director

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 #2-15**, ATRIUM WELLNESS CENTER LLC, for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of a NONCONFORMING STRUCTURE to repurpose an existing vacant building into a mixed-use facility including medical office, laboratory, general office, retail, and restaurant uses (to allow restaurants of more than 50 seats) at 300 BOYLSTON STREET, Ward 7, Chestnut Hill, on land known as SBL 82, 2, 1, containing approximately 125,771 sq. ft. of land in a district zoned BUSINESS 1. Ref: 30-24, 30-23, 30-21, 30-11(b)(3), 30-11(d)(9), 30-19(m) of the City of Newton Rev Zoning Ord., 2012.

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.



300 Boylston Street

EXECUTIVE SUMMARY

The property located at 300 Boylston Street consists of a 125,771 square foot lot improved with a nonconforming multi-story mixed use shopping center, formerly known as “The Atrium Mall,” with underground parking facilities, constructed in 1986. The shopping center is considered nonconforming as a result of a 1988 amendment to the Newton Zoning Ordinance, which changed the height and setback requirements for the Business 1 zoning district. The property has also been the subject of several previous special permits since 1986. The petitioner is proposing to repurpose the building into a mixed-use facility with general office, medical office, laboratory, retail and restaurant uses. Although previous special permits authorized restaurants with more than 50 seats, the proposed building plans are no longer consistent with those previously approved. The petitioner is proposing to allocate up to 25,000 square feet of the building for restaurant uses, with a maximum of 332 seats; approximately 100,000 square feet will be occupied by laboratory uses; and the remaining 160,300 square feet of tenant space will be developed with general office, medical office, and retail uses. Most of these uses are allowed by right in the Business 1 zoning district; however, the restaurant use with more than 50 seats and a laboratory use require special permits.

Per the Zoning Review Memorandum (**ATTACHMENT A**), the existing parking facilities appear adequate to accommodate the proposed mix of uses. The petitioner is proposing to modernize the building’s façade to improve the visual appearance of the building. The *Newton Comprehensive Plan*, adopted in 2007, “Encourages business growth that furthers other goals in the Plan, provides essential services, and contributes to the vibrancy of the community.”¹ The Plan also identifies the need to “facilitate designs which assure compatibility between commercial and residential uses where such uses adjoin.”²

The Planning Department is supportive of the petitioner’s proposal to repurpose the existing vacant structure. The Department believes the proposed mix of uses will not increase the off-site impacts of the site. While a laboratory use is allowed by special permit in the Business 1 zoning district, the Department encourages the petitioner to seek comments from the City’s Biosafety Committee if the development of a laboratory use with recombinant DNA research or technology is pursued. Further, the Department encourages the petitioner to seek design review input from the City’s Urban Design Commission, since the structure is in close proximity to residential uses. Input from these advisory bodies should be obtained before the Board takes action on this proposal.

It should be noted that the proposed project plans indicate two modest additions to the nonconforming structure along Boylston Street. At this time, the petitioner is not seeking approval of these additions, which require a special permit to add more than 2,000 square feet to a building that exceeds 20,000 square feet per §30-11(k). If a special permit is granted for the restaurant and laboratory uses, the petitioner intends on filing a subsequent special permit to allow the expansion of the nonconforming structure.

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

² *Newton Comprehensive Plan*, adopted 2007, page 3-28.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether:

- The specific site is an appropriate location for the proposed mix of land uses, consisting of general office, medical office, laboratory, retail and restaurant, within the existing nonconforming structure. (§30-24(d)(1))
- The proposed mix of uses as developed and operated will not adversely affect the neighborhood. (§30-24(d)(2))
- The current access to the site over streets is appropriate for the types and numbers of vehicles that will be accessing the subject property. (§30-24(d)(4))
- The proposed site plan, building design, construction, maintenance or long-term operation of the premises will contribute to the efficient use and conservation of natural resources and energy. (§30-24(d)(5))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is at the corner of Boylston Street/Route 9 and Florence Street, and is located in the village of Chestnut Hill. The properties abutting the subject property contain multi-family and single family residential, commercial, and mixed-use land uses (**ATTACHMENT B**). The subject property is zoned Business 1. The surrounding parcels are zoned Single Residence 3, Multi-Residence 1, 2, 3, and 4, Business 1, 2, and 4 (**Attachment C**).

B. Site

The site consists of 125,771 square feet of land and is improved with a multi-story commercial building, with an underground parking garage, constructed in 1986. The commercial building was previously used as a mixed-use shopping center, and is currently vacant. The parcel is largely level, but gradually descends along Florence Street to the southeast corner of the site. Portions of the site not developed are landscaped with terraced planters.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The shopping center is currently vacant, but was previously developed with a number of land uses allowed by right and permitted through special permits. The petitioner is proposing to repurpose the building into a mixed-use facility with general office, medical office, laboratory, retail and restaurant types of land uses. Per the Newton Zoning Ordinance, restaurants with more than 50 seats and laboratories are allowed by special permit in the Business 1 zoning district. The following table outlines the distribution of the proposed mix of uses in the commercial building:

| Building Floor | Land Use | | | |
|----------------|-------------------|------------------|-------------------|------------------|
| | Laboratory | Office | Retail | Restaurant |
| Level 1 | 0 sf | 0 sf | 63,700 sf | 0 sf |
| Level 2* | 0 sf | 2,600 sf | 41,200 sf | 24,100 sf |
| Level 3* | 23,600 sf | 53,700 sf | 0 sf | 0 sf |
| Level 4* | 76,400 sf | 0 sf | 0 sf | 0 sf |
| Totals | 100,000 sf | 56,300 sf | 104,900 sf | 24,100 sf |

* The present square footages include expansions of the commercial building along Boylston Street. At this time, the petitioner is not seeking approval of these additions. If a special permit is granted for the restaurant and laboratory uses, the petitioner intends on filing a subsequent special permit amendment to allow the expansion of the nonconforming structure.

The Planning Department has no particular concerns with the proposed mix of uses, as these uses are less intense than the previous uses and there will be a surplus of parking. Although a laboratory use is allowed by special permit in the Business 1 zoning district, the Department encourages the petitioner to seek comments from the City’s Biosafety Committee if the development of a laboratory use with recombinant DNA research or technology is pursued.

B. Building and Site Design

The property was developed to its current configuration in 1986. The petitioner is proposing to modernize the building’s façade to improve the visual appearance. The building’s new exterior is clad with glass, precast decorative concrete panels, and segments of stone and stucco veneer. The petitioner is not proposing any physical changes to the site plan as a result of the requested special permits. While the project plans indicate modest addition in two areas along the Boylston Street façade, the petitioner is not pursuing these additions at this time. The petitioner will seek a special permit amendment in the future if development of these additions is desired, as these additions were not properly advertised for this public hearing.

The Planning Department believes the façade improvements will significantly improve the visual appearance of the building. Although it is not required, the Department encourages the petitioner to seek design review input from the City’s Urban Design Commission. The petitioner should further describe how the renovation of the structure and repurposing of the site further significantly contributes to the efficient use and conservation of natural resources and energy.

C. Parking and Circulation

The petitioner is not proposing to make any changes to the existing parking and circulation configuration on the site. The property currently has 1,106 parking stalls within at-grade and underground parking facilities. Based on the Zoning Review Memorandum, the proposed mixture of land uses require a total of 902 parking stalls, based on the square footages of each use and the projected number of employees at the largest shift (**Attachment A**). As such, there appears to be a surplus of 204 parking stalls on the site; thus no action is required.

D. Landscape Screening

The petitioner is not proposing any changes to the existing landscaping on the site. Therefore, no landscaping plan was required for this petition.

E. Lighting and Signage

The petitioner has not provided any details or information regarding changes to the existing signage or exterior lighting on the site. The Planning Department recommends that the petitioner provide additional information regarding these site elements before the close of the public hearing or scheduling of a working session.

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:

- §30-11(d)(9) to allow restaurants with greater than fifty seats; and
- §30-11(b)(3) to allow laboratory use.

B. Engineering Review

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

V. PETITIONERS' RESPONSIBILITIES

The petitioner should consider the Planning Department's recommendations. Prior to the close of the public hearing or scheduling of a working session, the petitioner should address and/or provide information regarding the following:

- Describe how the renovation of the structure and repurposing of the site significantly contributes to the efficient use and conservation of natural resources and energy.
- A comprehensive sign plan for all exterior signage on the site.
- A photometric plan for all exterior lighting fixtures.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: Land Use Map

Attachment C: Zoning Map

Attachment A



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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: October 30, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Alan Schlesinger, attorney representing applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow laboratory use and restaurants with more than 50 seats in a mixed use building

| Applicant: Atrium Wellness Center, LLC | |
|--|-------------------------------|
| Site: 300 Boylston Street | SBL: 82002 0001 |
| Zoning: BU1 | Lot Area: 125,771 square feet |
| Current use: Vacant – formerly mixed use shopping center | Proposed use: Mixed Use |

Background:

The subject property consists of 125,771 square feet and is currently improved with a structure formerly known as The Atrium Mall, a mixed use shopping center with underground parking. The property was developed by right in 1986 for retail purposes. A 1988 amendment to the Zoning Ordinance changed the dimensional requirements for the district and rendered the structure nonconforming due to height and setbacks. The building has approximately 260,500 square feet of tenant space, with common areas and several levels of underground parking.

The property has been the subject of several special permits since 1986. Board Order # 303-90(3) approved a free-standing sign. Board Order # 466-94 allowed for a restaurant with more than 50 seats (322 seats were permitted) and serving alcohol after 11:30PM, to waive 72 parking stalls, to create

larger entrance and exit drives and for a change of use in a nonconforming building. Board Order # 176-98 and 176-98(2) permitted an additional 224 restaurant seats and alcohol service after 11:30PM. These board orders reference the previous mall use and layout. The applicant is requesting new special permits for the repurposed property, so as to reflect the proposed uses and layout.

The applicant now proposes to repurpose the building into a mixed-use facility including medical office, laboratory, general office, retail and restaurant uses. In the Business 1 district, most of these uses are by right. However, a restaurant with more than 50 seats, and a laboratory, requires special permits. The applicant proposes up to 25,000 square feet of restaurant space with 332 seats in total, and approximately 100,000 square feet of laboratory space.

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

- Zoning Review Application, prepared by Alan Schlesinger, attorney, dated 9/19/2014
- Parking calculation
- Letter from Eve Tapper, dated 3/22/2010
- Land Title Survey, prepared by R.E. Cameron & Associates, dated 3/28/2012

ADMINISTRATIVE DETERMINATIONS:

1. The subject property is located in the BU1 district. The proposed uses of general office, medical office, and retail are allowed by right.
2. The applicant proposes approximately 25,000 square feet designated for restaurant uses with a total of 332 seats. Section 30-11(d)(9) requires a special permit for restaurants with more than 50 seats. While Board Orders # 176-98 and 176-98(2), and #466-94 granted special permits to allow for a restaurant with more than 50 seats, the permits were granted for the specific restaurant proposed at the time, and not restaurants in general. Further, the proposed building plans are no longer consistent with those approved in previous special permits. A special permit is required for the proposed restaurant use.
3. Approximately 100,000 square feet has been designated for laboratory use. Per section 30-11(b)(3), a special permit is required for a laboratory use in the BU1 district.
4. The property is located in the BU1 zone and must comply with the dimensional standards of Section 30-15, Table 3. A 1988 zoning amendment rendered the existing structure legally nonconforming with regard to height and setbacks.
5. There currently exist 1,106 parking stalls within the underground parking garage. The proposed uses require a total of 902 parking stalls, based on the square footages of each use and the projected number of employees per the requirements of Section 30-19(d). There is an excess of 204 parking stalls, therefore no action is required by the Board.

| <i>Use</i> | <i>Assumed Gross Floor Area</i> | <i>Number of Employees At Highest Shift</i> | <i>Number of Stalls Required</i> |
|----------------|---------------------------------|---|----------------------------------|
| Retail | 25,000 sf | 27 | 93 |
| Medical Office | 60,000 sf | 30 (in lab or pharmacy) | 310 |
| Office | 50,500 sf | N/A | 172 |
| Restaurant | 25,000 sf/ 332 seats | 48 | 127 |
| Laboratory | 100,000 sf | 400 | 200 |
| Total | 260,500 sf | 505 | 902 (1,106 available) |

6. See “Zoning Relief Summary” below:

| Zoning Relief Required | | |
|-------------------------------|---|------------------------|
| <i>Ordinance</i> | <i>Zoning</i> | <i>Action Required</i> |
| §30-11(d)(9) | Allow restaurants with greater than fifty seats | S.P. per §30-24 |
| §30-11(b)(3) | Allow laboratory use | S.P. per §30-24 |








Land Use Map 300 Boylston Street

*City of Newton,
Massachusetts*

ATTACHMENT B

Legend

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Vacant Land
-  Property Boundaries
-  Building Outlines

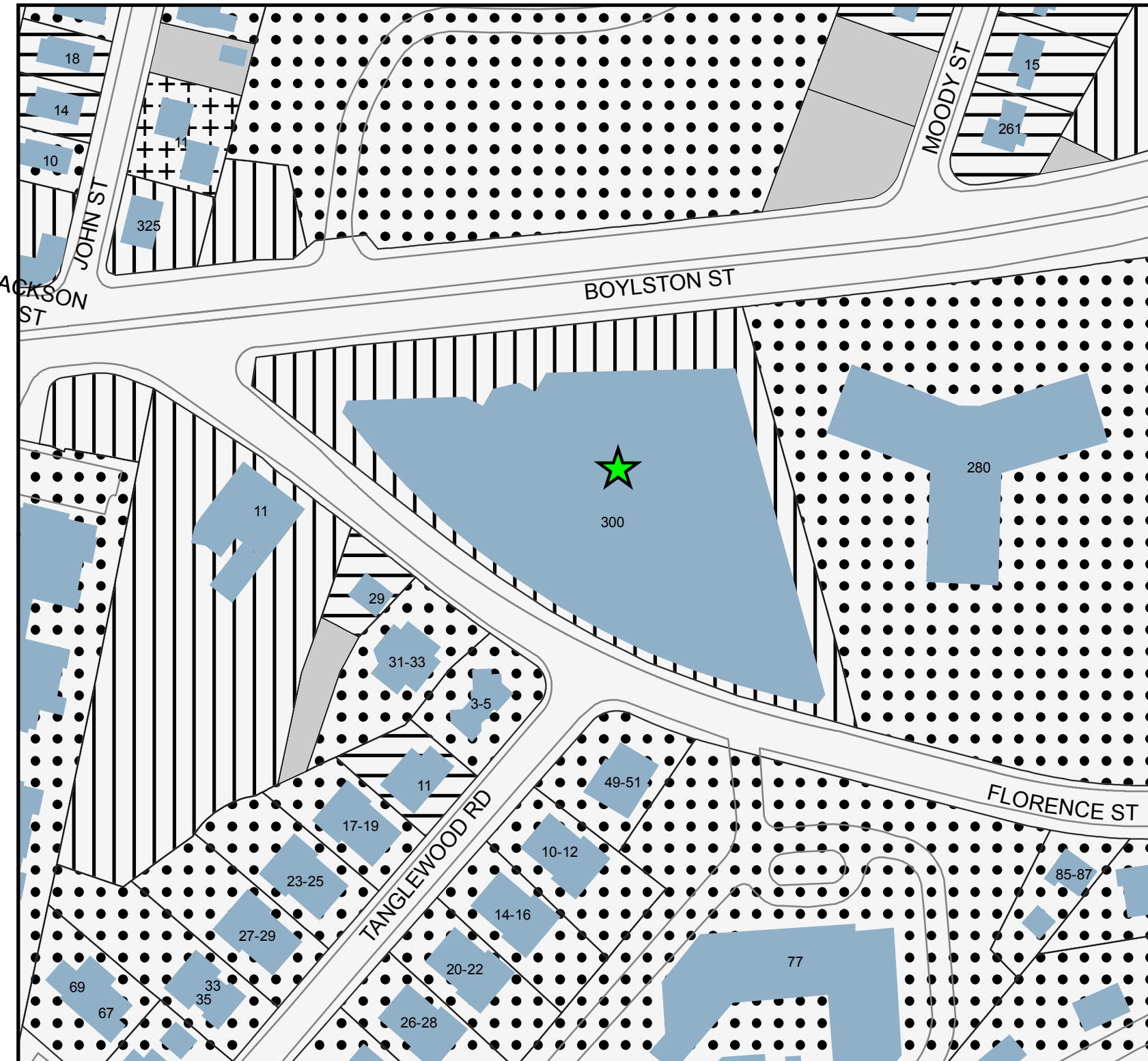


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100 125 150 175
Feet

Map Date: January 26, 2015













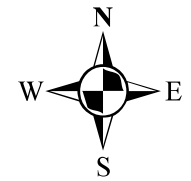
Zoning Map 300 Boylston Street

*City of Newton,
Massachusetts*

ATTACHMENT C

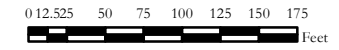
Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Multi-Residence 4
-  Business 1
-  Business 2
-  Business 4
-  Property Boundaries
-  Building Outlines



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