



Setti D. Warren
Mayor

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

Candace Havens
Director

MEMORANDUM

Public Hearing Date:	March 13, 2012
Land Use Action Date:	May 8, 2012
Board of Aldermen Action Date:	May 21, 2012
90-Day Expiration Date:	June 11, 2012

DATE: March 9, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner Current Planning
Alexandra Ananth, Senior Planner

ET

SUBJECT: **Petition #42-12**, BLOOMINGDALE'S DEPARTMENT STORES, INC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL for a 5-YEAR permit for a temporary tent to hold an ANNUAL rug sale in May not to exceed 15 days and the temporary displacement of approximately 90 parking spaces for the event at **175 BOYLSTON STREET**, Ward 7, CHESTNUT HILL. REF: Sec. 30-24, 30-23, 30-11(d)(10), 30-19(m) of the City of Newton Rev. Zoning Ord., 2007.

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.

EXECUTIVE SUMMARY

Bloomingdale's Department Stores, Inc., is seeking a special permit to temporarily waive 153 required parking stalls during the operation of their annual tent sale of carpets held during the last two weeks in May, every year for the next five years. The Bloomindale's annual rug sale has been held every year since 1996 on a portion of the parking lot at the Mall at Chestnut Hill, with the most recent approval in 2007 under Board Order #285-04(2), also for a period of five years. The petitioner is now requesting another five-year permit to allow the tent sale to continue.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board of Aldermen should consider if temporary displacement of parking spaces for the rug sale event would have any adverse impacts on access/egress, pedestrian or vehicle circulation or parking capacity at the site during the proposed time frame.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located along Boylston Street (Route 9) and Hammond Pond Parkway in the Chestnut Hill area of Newton. The surrounding neighborhood includes retail, commercial and service uses to the east and west, along the Route 9 corridor, and predominantly residential areas to the north and south.

The Mall is zoned Business 1.

B. Site

The 190,368 square foot site consists of one large, mid-century era retail building known as the Mall at Chestnut Hill. The site also includes parking facilities for approximately 2100 vehicles.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner proposes to establish a temporary open-air business for an annual two-week rug sale in May for the next five years.

B. Building and Site Design

The petitioner proposes to erect an 82 foot by 246 foot temporary tent to house the rug sale. The outdoor rug sale has taken place annually, within a temporary tent, in

the parking lot on the east side of the mall, adjacent to the home furnishings and mens store.

C. Parking and Circulation

The tent will temporarily displace 81 existing parking stalls. The temporary use has an additional parking requirement of 72 stalls. The petitioner must therefore obtain a temporary parking waiver of 153 parking stalls.

The petitioner submitted a parking survey which was conducted in May 2011, the last time the "Tent Sale" was held (**SEE ATTACHMENT "A"**), using a tent of similar size. The petitioner counted the number of available parking spaces in the lot adjacent to the Bloomingdales at 175 Boylston Street. Although the number of available spaces is low in some of the counts, it should be noted that the survey does not include all of the available parking stalls at the Mall, only the parking area closest to the Bloomingdale's Men's/Home Store where the event is held further at no time during the survey did the parking demand exceed parking availability in this area. Saturdays between 1:00 and 3:00 PM were the peak times and there was still available parking capacity.

Past experience has shown that the rug sale has not had a significant or adverse impact on parking availability for the overall Mall or neighborhood.

IV. TECHNICAL REVIEW

- A. Technical Considerations (Section 30). The Zoning Review Memorandum dated February 9, 2012 (**SEE ATTACHMENT "B"**), provides an analysis of the proposal with regard to zoning. The petitioner must seek a special permit to allow for a temporary open-air business and to temporarily waive 153 required parking stalls during operation of the temporary open-air business.
- B. Other Reviews. The City's Fire Department has provided permits for the tent in previous years and found that Fire Department accessibility has not been compromised. Should the Board choose to approve this special permit the petitioner will need to apply for the appropriate permits from the Fire Department at the time of building permit.

V. ZONING RELIEFS SOUGHT

As stated above, based on the completed Zoning Review Memorandum the petitioner is seeking approval through or relief from:

- Section 30-11(d)(10), to allow a temporary open-air business.
- Section 30-19(m), to waive 153 required parking stalls during operation of the temporary open-air business.

VI. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS

- ATTACHMENT A:** PARKING SURVEY FROM PETITIONER
- ATTACHMENT B:** ZONING REVIEW MEMORANDUM
- ATTACHMENT C:** ZONING MAP
- ATTACHMENT D:** LAND USE MAP
- ATTACHMENT E:** DRAFT BOARD ORDER
- ATTACHMENT F:** CONCEPTUAL SITE PLAN

BLOOMINGDALE'S

PARKING SURVEY

WEEKENDS OF MAY 21 & 22 AND MAY 28 & 29 (MEMORIAL DAY) 2011

TIME	21-May SATURDAY	22-May SUNDAY	28-May SATURDAY	29-May SUNDAY
11:00 a.m.	64	200	106	200
1:00 p.m.	12	94	49	208
3:00 p.m.	14	62	15	82
5:00 p.m.	28	79	59	110

Numbers reflect numbers of empty spaces in the lot adjacent to the Bloomingdales at 175 Boylston St.
Picture is reflected in the document attached.



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ATTACHMENT "B"

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: February 9, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning

Cc: Joanne Azar, representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Allow a temporary open-air business and temporarily waive compliance with parking requirements

Applicant: Bloomingdale's, Inc.	
Site: 175 Boylston Street	SBL: 65008 0099
Zoning: BU1	Lot Area: 190,368 square feet
Current use: Shopping mall	Proposed use: Shopping mall with temporary open-air business

BACKGROUND:

The site at 175 Boylston Street consists of a 190,368 square foot lot located in the BU1 zone and occupied by Bloomingdale's as part of the 15.2 acre Mall at Chestnut Hill. Beginning in 1996, Bloomingdale's has held a rug sale in a tent located on the east parking lot of the Mall. For each of the first three years, a separate special permit was granted to allow the temporary open-air business. Beginning in 1999, the applicant obtained a special permit (B.O. #209-99) allowing them to conduct the rug sale for five consecutive years. In 2004, the applicant renewed the five year permit (B.O. #285-04). In 2006, the applicant obtained a modification of B.O. #285-04 to change the date of the sale from late August to May. This special permit (B.O. #285-04(2)) also extended the five-year allowance. The applicant is now requesting another five year permit to allow their temporary sale to continue.

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

- Site plan showing location of temporary tent and parking stalls that will be eliminated, unsigned, unstamped, and undated.
- Parking survey of the number of empty spaces in the lot adjacent to Bloomingdale's where the tent would be located on the weekends of May 21 & 22 and May 28 & 29

ADMINISTRATIVE DETERMINATIONS:

1. The applicant proposes to establish a temporary open-air business for a two-week rug sale each May for the next five years. To establish an open-air business in the BU1 zone, the applicant must obtain a special permit from the Board of Aldermen per Section 30-11(d)(10).
2. The applicant proposes to erect an 82-foot by 246-foot temporary tent to house the rug sale. The tent will temporarily replace 81 existing parking stalls. The open-air business itself is a retail use and has a floor area of 20,172 square feet staffed by ten additional employees on the largest shift. Therefore the new use has a parking requirement of 72 stalls ($20,172/300 = 68$; $10/3 = 4$). As there is no surplus of parking stalls for the existing demand, the applicant must obtain a temporary waiver of 153 (81 + 72) parking stalls from the Board of Aldermen, per Section 30-19(m).
3. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-11(d)(10)	Allow a temporary open-air business	S.P. per §30-24
<i>Ordinance</i>	<i>Parking</i>	<i>Action Required</i>
§30-19(m)	Temporarily waive 153 required parking stalls during operation of the temporary open-air business	S.P. per §30-24

Zoning Map

175 Boylston St.

City of Newton,
Massachusetts

Legend	
	Single Residence 3
	Multi-Residence 3
	Business 1
	Business 4
	Public Use
	Building Outlines
	Surface Water



Attachment "C"

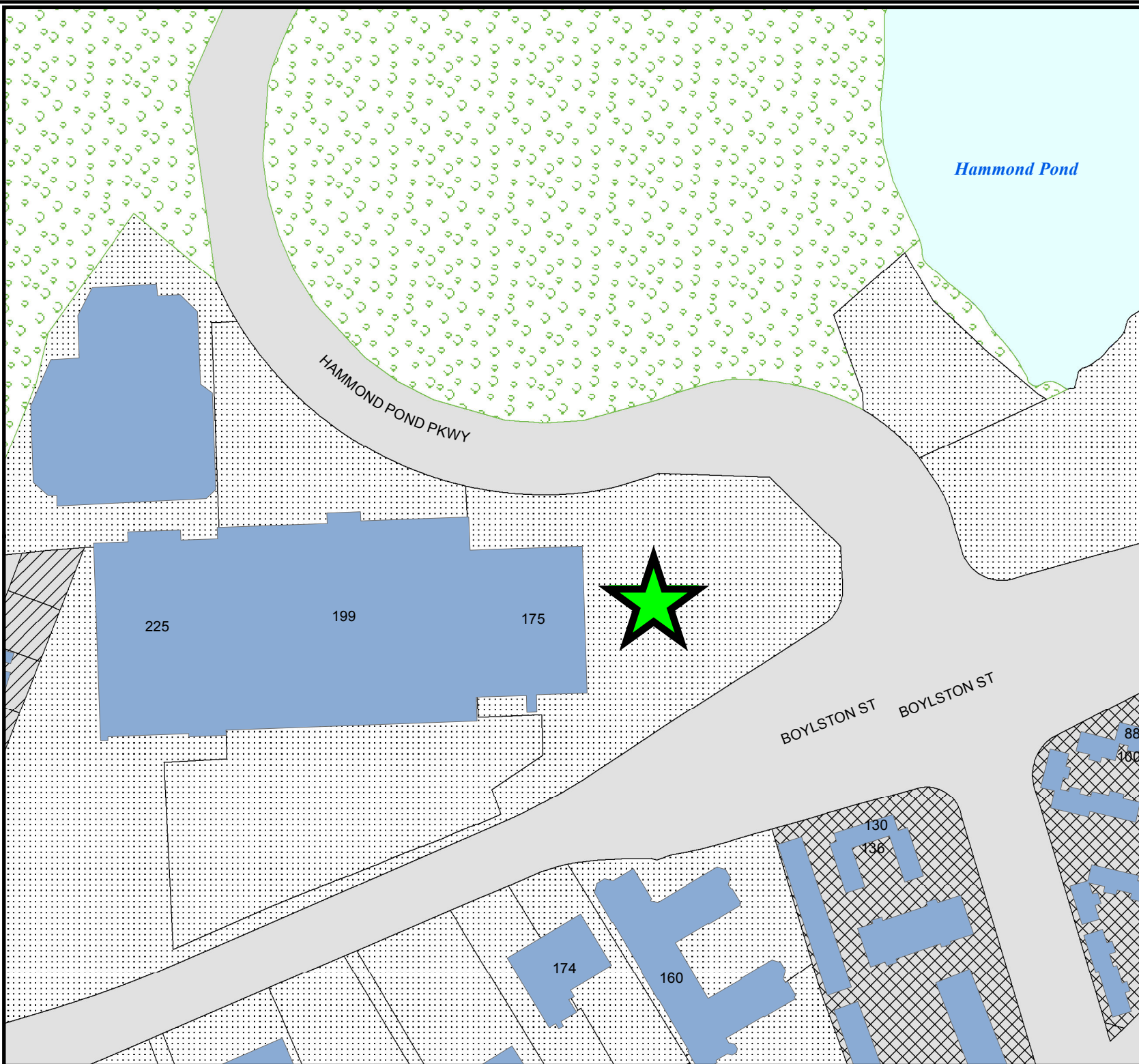
The information on this map is derived from a Geographic Information System (GIS) maintained by the City of Newton. The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not be held responsible for approving applications based solely on this map.

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

02.25 50 75 10012515017520022



Map Date: March 05, 2012








Land Use Map 175 Boylston St.

*City of Newton,
Massachusetts*

Legend

Land Use

-  Multi-Family Residential
-  Commercial
-  Open Space
-  Building Outlines
-  Surface Water



Attachment "D"

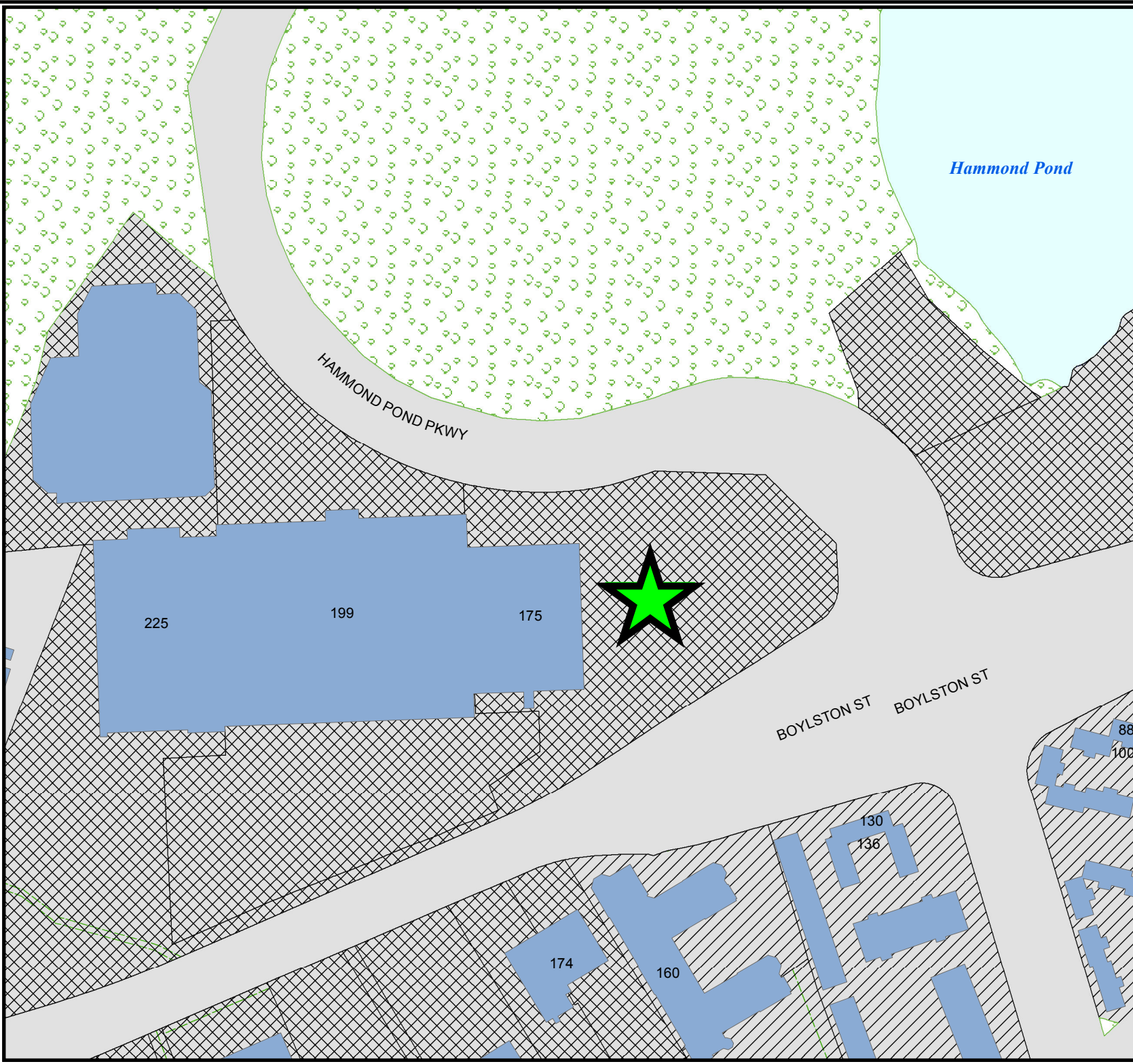
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Mayor - Setti D. Warren
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02.25 50 75 10012515017520022



Map Date: March 05, 2012



DRAFT
#42-12

CITY OF NEWTON
IN BOARD OF ALDERMEN

March 19, 2012

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 for a temporary open-air business and a temporary parking waiver of 153 parking stalls 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 Ted Hess-Mahan:

1. The Board finds that based on prior experience, the temporary waiver of 153 parking stalls to allow for the operation of an outdoor sales event (rug sale) should have no adverse impact on the surrounding neighborhood, and
2. The Board finds that literal compliance with the City's parking regulations is impractical due to the short-term temporary nature of the sale and based on the submitted parking survey, conducted during the 2011 event, which was held at a comparable period of time using a similarly- sized tent, there should be sufficient remaining parking available on-site to meet the demand during the outdoor sales event.

PETITION NUMBER: #42-12

PETITIONER: Bloomingdale's Department Stores, Inc.

LOCATION: 175 Boylston Street, Chestnut Hill, Section 65, Block 8, Lot 99

OWNER: Bloomingdale's Department Stores, Inc.

ADDRESS OF OWNER: 225 Boylston Street
Chestnut Hill, MA

TO BE USED FOR: An annual open air sales event of not more than 15 days in duration which is to occur generally during the two weeks leading up to and including Memorial Day, and which will require a temporary waiver of 153 parking spaces.

CONSTRUCTION: Temporary tent approx. 82 ft. x 246 ft.

EXPLANATORY NOTE: Section 30-11(d)(10) allows that Board of Aldermen to grant a special permit for a temporary open air business; and Section 30-19(m) allows the Board of Aldermen to grant a special permit to temporarily waive 153 required parking stalls during operation of the temporary open-air business

Land referred to is in a Business 1 District.

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features shall be located and constructed consistent with a concept plan shown in the report of the Newton Department of Planning and Development, submitted with a previous application, Board Order #193-96 and re-filed with this application, on file with the City Clerk.
2. The approval of this special permit for a temporary open air business and the temporary waiver of 153 parking spaces for the erection of the tent during the rug event is valid for five (5) years, and shall be allowed to continue to be held during the same general time period over the next five years, at the discretion of the Commissioner of Inspectional Services and the Director of the Department of Planning and Development. The petitioner must file a letter stating its intent to erect the sale tent and the dates of the sale with the Commissioner and Director no later than six months prior to the proposed start date of the tent sale.
3. This Board Order shall expire five (5) years from the date of approval.
4. The use of the temporary tent is allowed for not more than 15 days, for a period generally two weeks leading up to and including Memorial Day.
5. The temporary tent shall displace no more than 81 parking spaces.
6. If the petitioner intends to seek permission to hold the event in 2017, the petitioner shall conduct a parking demand survey during the May 2016 event. The parking demand survey shall take place during at least three full days, and shall include at least one day over the Memorial Day Holiday weekend. The petitioners should provide a scope of the proposed parking demand survey, including the dates, area of the parking facility that is proposed to be included in the survey, and manner in which the survey will be conducted to the Director of Planning and Development at least two weeks prior to beginning the May 2016 study, for review and approval. A copy of the completed parking demand survey shall be filed with the petitioner's application for a special permit for a 2017 event.

7. No building permit shall be issued pursuant to this SPECIAL PERMIT/SITE PLAN APPROVAL until:
 - a. The petitioner shall have submitted information and details on the proposed tent, including materials and location, for review and approval by the Fire Department.
 - b. The petitioner shall have complied with all State Building Code requirements for temporary structures.
 - 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.
 - d. A certified copy of such recorded notices shall have been filed with the City Clerk, the Inspectional Services Department, City Engineer, and the Director of Planning and Development.

JUL-09-2004 FRI 04:29 PM NEWTON PLANNING

FAX NO. 8177981142

