

**WRITTEN NOTICE OF PROTEST**  
**Regarding Special Permit and Proposed Zoning Amendments Applicable to**  
**Hovey Street, Lots 3 & 4, Newton Corner.**  
**Newton Board Of Alderman Matter #60-17 - #61-17**  
Applicant: Sunrise Development

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Newton City Clerk  
2011 AUG - 3 PM 12: 04  
David A. Olson, CMC  
Newton, MA 02459

TO: David A. Olson, City Clerk  
City Clerk's Office  
City of Newton, City Hall, 1st Floor  
1000 Commonwealth Avenue  
Newton, MA 02459

Dear Mr. Olson,

The undersigned are owners of twenty percent (20%) or more (of properties land immediately adjacent to 431 Washington St and Lots 3 & 4 on Hovey St, Newton, Massachusetts (afterwards referred to as the "Hovey Street Lots"), which is the subject of **B.O.A #60-17 - #61-17**, applications for rezoning and special permit filed by the above Applicant in conjunction with a proposed redevelopment of 431 Washington Street. We are filing this **WRITTEN NOTICE OF PROTEST** in accordance with the provisions of M.G.L Chapter 40A, Section 5, with respect to the proposed rezoning, so that no zoning change or special permits are adopted or issued except by a vote of three-fourths (3/4) of all members of the Board of Aldermen.

**As principal reasons therefor, the undersigned state:**

1. **Residential Character of Existing Neighborhood Would be Placed at Risk, Contrary to Comprehensive Plan.** The Proposed rezoning would change the classification of Hovey Street Lots from Multi-Residence 2 to Business Use 2 to allow construction and operation of the Proposed Project. The Proposed Project would be a massive development inappropriate to the land area, inappropriate in both character and scale. The proposed project also is seeking a special permit that would operate outside of current dimensional standards for this size and type of development. The resulting burdens and demands the Proposed Project would have upon the neighborhood and surrounding residential community, including the encroachment and intrusive views of the resulting structure, would adversely affect the residential character of this neighborhood and community.
2. **Spot Zoning.** The Proposed Project would require rezoning two lots that are currently zoned for 2 families. This rezoning is not in keeping with the comprehensive zoning plan for Newton and Newton Corner and we believe it constitutes unreasonable and discriminatory "spot zoning", benefitting the current owner and the Applicant over the existing neighborhood. Residential lots on Hovey Street have been petitioned for rezoning in the past (reference Point 5 below), and Newton's Board of Aldermen denied those petitions. The Comprehensive Plan's goal of maintaining and encouraging business is achieved by developing the property currently zoned for business use. The Plan does not require a loss of properties that are zoned for residential use.

3. **Current Land Use for Washington Street Deemed Appropriate; Expansion Would Alter Abutting Neighborhood Character and would be Contrary to the Comprehensive Plan.** The current zoning is designed to reflect current community vision, uses and goals, as set forth in the Comprehensive Plan: to protect the existing residential character of this neighborhood; to protect the financial investments and commitment to the quality of life which have been made by its residents; and to promote the policies and concerns specifically set forth in the Comprehensive Plan. To change the Comprehensive plan affects more than the nearby abutters; it would have an impact on this entire neighborhood. The Comprehensive Plan preserves neighborhood stability. Changing the current zoning could disrupt that stability by starting a trend to commercialize or increase density, and diminish the value of this neighborhood setting.
4. **Creeping Commercialism and Domino Effect.** The Proposed Project would deviate from the Comprehensive plan by permitting the incursion of commercial activity beyond Washington Street, which currently physically separates this residential neighborhood from the existing commercial district; would significantly alter the character of the residential neighborhood; and would open the door to creeping commercialism and a potential "domino effect" of other landowners requesting similar changes as surrounding property values diminish as residential investments, all of which would threaten, and materially and adversely affect, the residential neighborhood and the ability to maintain and preserve its residential character -- exactly what current zoning and policies set forth in the Comprehensive Plan are designed to protect.
5. **Precedent of refusing the owner's previous requests.** The residential zoning along Hovey Street has been protected before as precedent, 1970 BOA #728-70 and #728-70(2) requested rezoning of the Hovey Street Lots to B-2 and in the alternative a permissive use was requested to allow outside storage, customer parking and lighting on those lots. The petition was denied. In 1970 BOA #918-70, Frost Motor Company petitioned for permissive use of Lot 18 on Hovey St., (across the street from Hovey Street Lots) for asphalt paving and parking of passenger automobiles. This petition was also denied by the Aldermen. Since that time, no fewer than five (5) petitions by residents to Newton City Hall were submitted for incursions onto residential land by Frost and Clay by installing lighting, parking vehicles, displaying and servicing vehicles on residential lots, and allegedly violating the original permissive use permit.
6. **Insufficient Parking; Traffic.** The Proposed Project's Traffic Study contains demonstrable consistency errors and uses a methodology based on assumptions that do not apply to the project. Further, the Washington Street corridor near exit 17 of the Mass Pike, and the intersection of Hovey Street are known to present severe traffic challenges already. The Traffic Impact Study does not include the added noise, confusion and congestion caused by Emergency Vehicle response traffic, deliver, trash removal and other service vehicles, and does not provide statistics on emergency vehicle response, visitor traffic, and the associated parking burden.
7. **Demolition and Construction.** The Proposed Project expects 100-150 workers during two years of demolition and construction but does not specify whether construction workers will drive and park onsite, or be bussed in from another location during a two year construction period; both of these outcomes will be a burden on this community in

the form of parking, vehicle noise and exhaust, and increased traffic congestion and demand for parking.

8. **Resulting Disturbances from Changed Land Uses.** The Proposed Project's vertical height and light-industrial design will disturb views from abutter's yards, windows, and balconies year round, and particularly during 7 months when some screening trees are not in foliage.
9. **Potential for Construction to cause Structural Damage to Historic Dwellings** More information is necessary about the effects of pile driving construction and digging an underground garage upon the structural integrity of surrounding homes. Pile driving will most definitely cause property damage to adjacent 19th century fieldstone foundation homes that are structurally sensitive to vibrations. Damaged historic windows, foundations, plaster walls and ceilings are prohibitively costly to replace "in kind" or indeed impossible to replace, and not necessarily covered by homeowner's insurance. Damage caused by pile driving occurred to sewer pipes, foundations, and walls in homes near construction of the Atrium in Chestnut Hill and new Newton North High School, and similar damage is certain to occur to homes near the proposed Sunrise Development Project. The abutters should not be held financially responsible for this damage to our homes, but efforts should also be made to prevent such damage from occurring in the first place. Most importantly, the construction would erode the structural integrity of several historic buildings.
10. **A Needed Resource Not Beneficial to Neighborhood Acting as Host.** The large size of the development offers minimal benefit to enhance the public health, safety or welfare of the neighborhood, in counterbalance to its imposing architectural character and scale. The Applicant's business model would be financially exclusionary of many neighborhood residents, and most jobs created would be low-wage and filled by people outside our community.

For all of the foregoing reasons, the rezoning petition should be denied, because  
i). an extension and significant expansion of the non-conforming use would materially and adversely affect and threaten the residential neighborhood substantially, and would primarily serve a population from surrounding wealthier neighborhoods; ii) current zoning provides reasonable development rights; and iii) rezoning and the Proposed Project would be to the detriment and not improvement of this residential neighborhood and the surrounding community.

Executed in multiple counterparts, each of which shall constitute and original, as of the 4th day of June, 2017, by each of the following:

Abutters:

Address 124 Jewett Street, Newton, MA, Mary & Todd Sawler

(#) Names

Address 128 Jewett Street, Newton, MA, Pauline Moody

(#) Names

Address 132 Jewett Street, Newton, MA, Agnes Lau

Agnes Lau

(#) Names

Address 136 Jewett Street, Newton, MA, Jonathon Kazakoff & Stacy Eigen

Jonathon Kazakoff-Eigen

(#) Names

Address 140 Jewett Street, Newton, MA, John & Charlene DeMichele

(#) Names

Address 144 Jewett Street, Newton, MA,

(#) Names

Address 437 Washington Street, Newton, MA, Donatella Cedrone

(#) Names

Address 439 Washington Street, Newton MA, Mark & Jane Conroy

(#) Names

136 Jewett #2

Kelly Flynn      G. Chandran

KELLY FLYNN & CHANDRA GOPALAKRISHNAN

Address 124 Jewett Street, Newton, MA, Mary & Todd Sawler

(#) Names

Address 128 Jewett Street, Newton, MA, Pauline Moody *Pauline Moody*

(#) Names

Address 132 Jewett Street, Newton, MA, Agnes Lau

(#) Names

Address 136 Jewett Street, Newton, MA, Jonathon Kazakoff & Stacy Eigen

*JM Jonathon Kazakoff-Eigen* *SE Stacy Kazakoff-Eigen*

(#) Names

Address 140 Jewett Street, Newton, MA, John & Charlene DeMichele

(#) Names

Address 144 Jewett Street, Newton, MA,

(#) Names

Address 437 Washington Street, Newton, MA, Donatella Cedrone

(#) Names

Address 439 Washington Street, Newton MA, Mark & Jane Conroy

(#) Names

*136 Jewett #2*  
*KELLY FLYNN & CHANDRA GOPALAKRISHNAN*  
*Kelly Flynn* *G. Chandran*