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Candace Havens
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 8, 2014
Land Use Action Date: May 13, 2014
Board of Aldermen Action Date: June 16, 2014
90-Day Expiration Date: July 7, 2014

DATE: April 4, 2014

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner

SUBJECT: **Petition #67-14**, AUCTION DIRECT PRE-OWNED, INC. d/b/a OLD TIME GARAGE, for a SPECIAL PERMIT/SITE PLAN APPROVAL for an EXTENSION and CHANGE in a NONCONFORMING USE for an automobile service and ancillary automobile sales at 1545 WASHINGTON STREET, Ward 4, West Newton, on land known as SBL 33, 2, 7, containing approximately 10,000 square feet of land in a district zoned Multi-Residence 1. Ref: Sec. 30-24, 30-23, 30-21(a)(2)(b), 30-21(b) 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.



1545 Washington Street

EXECUTIVE SUMMARY

The property located at 1545 Washington Street consists of 10,000 square feet of land that is improved with a legal nonconforming one-story structure constructed in the 1920s. The use of the property and structure for an automotive service and gasoline station, a legal nonconforming use, has existed on the site since approximately the 1920s, but may have been in operation earlier. The legal nonconforming use was previously extended by special permits and a variance. Prior to the submission of this special permit application, the petitioner has taken steps to abandon the gasoline station use by removing the underground tanks and fueling pumps. According to the Inspectional Services Department (ISD), this work has been completed. To formally abandon the previously permitted gasoline station use and to establish a less intense automotive service and sales business on the site, the petitioner is seeking a special permit to allow the extension and change of the legal nonconforming use.

Per the Zoning Review Memorandum (**ATTACHMENT A**), the existing uses have a grandfathered parking requirement of six parking stalls based on the historical service use of the site. As proposed, the change of use on the site to include a retail use does not change the parking requirements per the provisions of the City's Zoning Ordinance. According to the petitioner, the proposed parking configuration and vehicle storage plan is adequate for the automotive repair and sale use.

The Planning Department has reservations that the proposed uses on the site will have adverse impacts on the nearby intersection if the two driveway entrances nearest the Washington Street and Auburn Street intersection are left in place. The petitioner is encouraged to abandon the two drive way entrances by replacing the curbing and sidewalk. The Department has asked the petitioner to consider ways in which the extension and change of uses on this site can mitigate the potential off-site impacts of the request in the surrounding area. The Department also encouraged the petitioner to consider planting a street tree along Washington Street.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The extension and change of a legal nonconforming automotive repair and gasoline station use to an automotive repair and sales use is not substantially more detrimental than the existing nonconforming use to the neighborhood. (§30-11(g)(2), §30-21(b))
- The subject property is an appropriate location for the proposed nonconforming automotive repair and sales use. (§30-24(d)(1))
- The requested extension and change of the legal nonconforming automotive repair and gasoline station use to a less intensive automotive repair and sales use will not adversely affect the neighborhood. (§30-24(d)(2))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property fronts on Washington Street and Auburn Street. The properties directly adjacent to the site are used for residential and nonprofit educational uses, whereas the subject property is a commercial use (**ATTACHMENT B**). The subject property and surrounding parcels are largely zoned Multi-Residence 1 (**ATTACHMENT C**). The surrounding neighborhood also has pockets of parcels zoned Single Residence 2 and 3, Multi-Residence 2, and Public Use.

B. Site

The property consists of 10,000 square feet of land improved with a legal nonconforming one-story structure containing a legal nonconforming automotive repair and gasoline station use. The previous development patterns and uses on the site have converted much of the site into impervious surfaces. The site is accessed via four entrance drives, two of which allow vehicles to drive directly into the Washington Street and Auburn Street intersection. Under previously building permits obtained from ISD, the petitioner has renovated the interior of the existing structure and removed the underground fuel storage tanks and gasoline pumps.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

As proposed, the petitioner is seeking a special permit to allow the extension and change of the existing legal nonconforming automotive repair and gasoline station use to an automotive repair and sales use, another nonconforming use. The intensity of the proposed use appears to be less intense than the existing use, because the petitioner has indicated that the hours of operation will be similar to that of a typical commercial business and that off-hours vehicle trips to the site should not occur.

At this time, the subject property is connected operationally to the petitioner's 1960 Washington Street location. The petitioner does not possess a vehicle sales license for the subject property, thus all sales transactions must occur at the 1960 Washington Street location. As a result, the principle use of this location, until a sales license is secured, will include the display, detailing, and minor service of vehicles.

B. Building and Site Design

The petitioner is not proposing to enlarge the existing structure as part of this special permit request. The automotive service use will utilize the existing structure and the remainder of the site will be dedicated as "vehicle storage" areas, which will

be used for the display of vehicles for sale and staging for vehicles being detailed or serviced.

C. Parking and Circulation

The proposed development will alter the parking and circulation of vehicles for the property. The petitioner is proposing to install a removable barrier along the property line facing the Washington Street and Auburn Street intersection to create a "Vehicle Storage" area. This barrier will limit vehicle access to the two entrance drives nearest the intersection. The petitioner has also proposed the installation of "Do Not Enter" signs at the second entrance drive on Auburn Street. This signage is intended to prevent vehicles from using the site as a cut through and to avoid the intersection. Because the signage at this entrance drive will limit access to three parking stalls on the north side of the site, the petitioner has suggested using these parking spaces for employees only. As such, customers visiting the site will use the three parking stalls on the south side of the site.

The Planning Department has reservations about the potential impacts the proposed uses may have on the nearby intersection, even with the proposed removable barriers, and the number of vehicles that will be stored at one time in the vehicle storage areas. As a result, the petitioner has been encouraged to abandon the two entrance drives closest the intersections, and to replace the curbing and sidewalk. The Planning Department has also recommended the use of permanent wheel stops as opposed to the removable barriers. Additionally, to improve pedestrian circulation around and to the site, the Department has also asked the petitioner to consider replacing certain deteriorated segments of sidewalk abutting the southeast side of the project site. Since the petitioner has not identified the total number of vehicles to be stored in the vehicle storage areas, the Planning Department recommends a maximum number of stored vehicles be allowed on the site.

D. Landscape Screening

Per work completed under the building permit to renovate the site, the petitioner modified the landscape areas that were indicated on the site plan approved under the special permit via Board Order #431-80. As part of this special permit request, the petitioner is looking to formalize new landscaped areas, which combined increase the amount of open space on the site. In the new landscaped areas, the petitioner has installed a mixture of arborvitae, azaleas, and grass, as well as a wood stockade fence. The petitioner has also expressed interest in planting or providing funds to the City to install a new street tree along Washington Street, adjacent to the entrance drive nearest the intersection, and to replant the sidewalk planter on Auburn Street.

Per the City's Director of Urban Forestry, Marc Welch, the installation of a new street tree along Washington Street would be a betterment that the entire community could enjoy. The cost associated with the installation of a street tree is approximately \$420. The applicant can either coordinate with the City's Division of Urban Forester and Public Works Department to install the tree themselves or contribute funds in the amount indicated above to cover the cost of the planting.

The Planning Department believes that the combination of existing plantings and fences, which provide year around screening, and the proposed streetscape planting should sufficiently screen the abutting property from the impacts of the proposed uses.

IV. TECHNICAL REVIEW

- A. Technical Considerations (Chapter 30, Newton Zoning Ordinance): The Zoning Review Memorandum (**ATTACHMENT A**) provides an analysis of the proposal with regard to zoning. The petitioner is requesting a Special Permit/Site Plan Approval to extend and change a legal nonconforming use (automotive service and gasoline station) to an automotive service and sales use, another legal nonconforming use in a Multi-Residence 2 zoning district.
- B. Engineering Review: This project does not require review by the Engineering Division of Public Works.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking a Special Permit/Site Plan Approval for the following reliefs:

- §30-21(b), to allow the extension and change of a nonconforming use to another nonconforming use.

VI. PETITIONERS' RESPONSIBILITIES

The petition should consider the suggestions made by the Planning Department prior to being scheduled for a working session.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Land Use Map
Attachment C: Zoning Map



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Attachment A

City of Newton, Massachusetts

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: January 13, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Laurence Lee, Attorney for the applicant
Auction Direct Preowned, Inc. d/b/a Old Time Garage, applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to extend a nonconforming use.**

Applicant: Auction Direct Preowned, Inc. d/b/a Old Time Garage	
Site: 1545 Washington Street	SBL: 33002 0007
Zoning: MR1	Lot Area: 10,000 square feet
Current use: Gas station and service	Proposed use: Car service and sales

BACKGROUND:

The property at 1545 Washington Street consists of a 10,000 square foot lot improved with a gas station, auto repair, service and a surface parking area. The property is at the intersection of Washington and Auburn streets. The site has been the location of a car service and gasoline selling station since at least 1922. The legal nonconforming use has been extended over time by special permits granted by the Board of Aldermen. The Newton Zoning Board of Appeals granted a variance in 1960 to include a third parcel of land that was combined with the site as being subject to the existing nonconforming use. The Board of Aldermen granted a special permit in 1960 to extend the nonconforming use for the entire site. And in 1980 the Board of Aldermen granted a special permit for signs.

The site is improved with a single story pre-existing car service station and office. The building recently underwent interior renovations (by regular building permit), for which work has been completed and signed off by the Inspectional Services Department.

The applicant is proposing to abandon the previously permitted use of a gasoline station and is seeking a special permit to operate a car sales and service business.

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

- Zoning Review Application, prepared Laurence Lee, Attorney, dated 9/4/13
- Commonwealth of Massachusetts Department of Public Safety, Division of Fire Prevention Petition # 73609, Report # 73735 & 73657
- City of Newton Board Order #344-60(2), dated 7/18/1960
- City of Newton Board Order #431-80, dated 9/29/1980
- City of Newton Zoning Board of Appeals Notice of Decision for a Variance #13-60 filed 6/8/1960
- Existing Conditions Plan, prepared by Verne T. Porter, dated 7/15/13
- Area Plan, prepared by Verne T. Porter, dated 7/15/13

ADMINISTRATIVE DETERMINATIONS:

1. There currently exists on site a gas selling and a service station, which are legal nonconforming uses. Board Order 344-60 issued in 1960 allowed an increase to this nonconforming use. Condition #1 of the Board Order restricted the use of the premises “to be used only as a gas selling and service station”. Any change from these uses requires a special permit per Section 30-21(b). The petitioner is proposing to operate a car sales and service business.
2. The lot has six grandfathered parking stalls based on the historical service use of the site. The parking requirement for the historical service use is one stall per each 300 square feet of gross floor area and one stall per each three employees on the highest shift per Section 30-19(d)(10). The change of use on the site from service to that of service and retail does not change the parking requirements. The applicant should consider the potential growth of the business on site and whether a waiver for additional parking is prudent.
3. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-21(b)	To allow a change/extension of a nonconforming use	S.P. per §30-24

Land-Use Map 1545 Washington Street

*City of Newton,
Massachusetts*

ATTACHMENT B

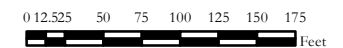
Legend

- Street Names
- Property Boundaries
- Building Outlines
- Single Family Residential
- Multi-Family Residential
- Commercial
- Industrial
- Mixed Use
- Open Space
- Nonprofit Organizations
- Vacant Land

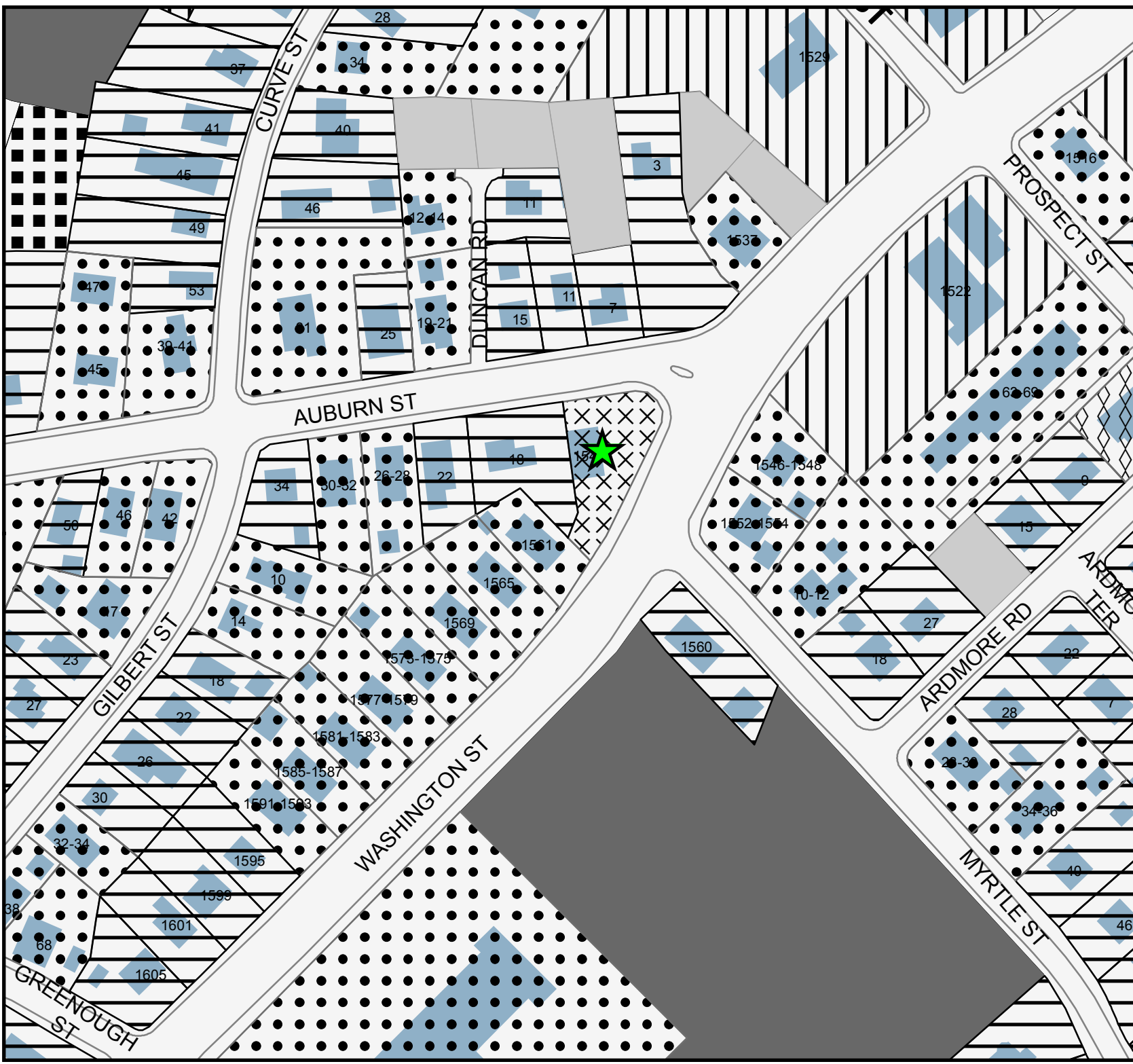


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: March 18, 2014



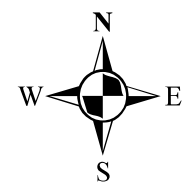
Zoning Map 1545 Washington Street

City of Newton,
Massachusetts

ATTACHMENT C

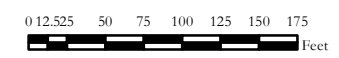
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- Street Names
- Single Residence 2
- Single Residence 3
- Multi-Residence 1
- Multi-Residence 2
- Public Use
- Building Outlines



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Map Date: March 26, 2014

