

CITY OF NEWTON

IN BOARD OF ALDERMEN

SUMMARY REPORT FOR PETITION NOS. 272-12 and 272-12(3) and 272-12(2)  
HOTEL INDIGO, 399 GROVE STREET

#272-12      BH NORMANDY OWNER, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for several improvements to be completed over two phases. The first phase requires a special permit to (1) amend the current site plan by adding a pool deck awning; reconfiguring the delivery and trash pick-up area at the front of the hotel; reconfiguring the existing parking areas; reflecting existing and proposed signage; and reflecting existing wireless communications equipment; (2) extend a nonconforming structure by adding a pool deck awning; (3) obtain waivers for number of parking stalls and parking facility design standards including stall width, stall depth, handicap stall depth, maneuvering space for end stalls, maneuvering space for aisles, maximum width for entrance and exit driveways, landscape screening, interior landscaping, surfacing and curbing, one foot candle lighting, number of bicycle parking spaces, and design of loading facilities; and (4) authorize existing and proposed signage at 399 GROVE STREET, Ward 4.. The second phase anticipates that a portion of the applicant's lot will be conveyed or taken to provide rear access/egress to the proposed Riverside Development. This taking or conveyance would require special permit relief to (6) authorize an FAR greater than 1.0; (7) extend the existing nonconforming lot coverage; (8) obtain relief for the existing nonconforming building (i.e., height, number of stories and loading facility) as the building may be affected by a reduction in lot area; and (9) obtain a waiver for number of required parking stalls; all on land known as Section 42, Block 11, Lot 4 containing approximately 116,650 square feet of land in a Business 5 Zoned district. Ref: Sections 30-15, Table 3; 30-19(d)(3); 30-19(d)(13); 30-19(h); 30-19(h)(2)a); 30-19(h)(2)b); 30-19(h)(2)c); 30-19(h)(2)e); 30-19(h)(3)b); 30-19(h)(4)b); 30-19(i); 30-19(i)(1); 30-19(i)(2); 30-19(j); 30-19(j)(1)a); 30-19(j)(2)e); 30-19(k)(1); 30-19(l); 30-19(m); 30-20(f)(1); 30-20(f)(2); 30-20(f)(9); 30-20(l); 30-21(b); 30-23; 30-24; and 30-26(a)(1) of the City of Newton Revised Zoning Ordinances, 2012. ***(Public hearing opened on 10/09/12, continued on 11/27/12, closed on 12/18/12; 90 days 10/31/13)***

ACTION:      APPROVED 6-0 on September 30, 2013

#272-12(3)      BH NORMANDY OWNER, LLC petition to AMEND Special Permit/Site Plan Approval application #272-12, for which a public hearing was opened on October 9, 2012, with respect to EXTENDING a NONCONFORMING STRUCTURE to allow construction of a ramp on the easterly side of the Hotel Indigo at 399 Grove Street, Newton Lower Falls. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2012. ***(Public hearing 10/31/13.)***

ACTION:      APPROVED 6-0 on September 30, 2013

272-12(2) BH NORMANDY OWNER, LLC petition for a change of zone to Mixed Use 3/Transit Oriented District for a portion of land located at 399 GROVE STREET, also identified as Section 42, Block 11, Lot 4, currently zoned Business 5.  
*(Public Hearing opened on 10/09/12, continued to 11/27/12; continued to 12/18/12; closed 7/16/13; 90 days 10/14/13)*

ACTION: APPROVED 6-0 on September 30, 2013

*October 9, 2012:*

Present were Aldermen Hess-Mahan (Chairman), Albright, Crossley, Merrill, Fischman, Laredo, and Harney; absent: Alderman Schwartz; Aldermen Fuller, Danberg, Sangiolo, Gentile, and Yates were also present. Public hearings on nos. 272-12 and 272-12(2) were opened and continued to a date to be determined.

Planning & Development Board members present for #272-12(2), the proposed map change, were Joyce Moss (Chairman), David Banash, Scott Wolf, and Candace Havens, ex officio

The petitions were presented by attorney Stephen Buchbinder of Schlesinger & Buchbinder, 1200 Walnut Street, Newton Highlands. The hotel was constructed in 1964 under special permit #392-63. Subsequent special permits were granted modifying the site plan and signage. Over time, the hotel has changed hands several times and successive owners were either unaware of or ignored a number of conditions. The hotel is now owned by BH Normandy under whose ownership it has become quite successful. This petition seeks to bring the site into compliance. In addition, the petitioner is proposing modifications to the pool deck including a retractable awning over a portion of the pool deck to provide a shaded area for hotel patrons. Since the awning includes a permanent frame, the Commissioner of Inspectional Services has determined that it is a structure and therefore constitutes an extension of a nonconforming structure. Landscaping will be increased around the pool and the roof of the restaurant's pavilion will be transformed into a green roof. The special permit relief requested is enumerated in the docket item #272-12.

In addition, there is wireless communications equipment on the hotel for which permits were approved under the city's administrative review process. However, it has been determined that because the site is subject to special permit the petitioner needs relief to amend the site plan to reflect the existing installations.

Signage Proposed new signage includes three new signs, two on the porte cochere and one on the southern wall facing I-95/Rte.128. The petitioner is seeking to legalize two other existing signs: a freestanding sign at the front entrance on Grove Street and a sign on the back of the hotel's elevator penthouse facing I-95/Rte. 128. Although these signs have probably been there since it opened as a Holiday Inn in 1965, they exceed the size allowed by ordinance.

Parking/Traffic The 1963 plan shows 277 parking stalls; in 1964 there are references to 289 parking stalls; currently there are 216 parking stalls; 279 parking stalls are required. Counts taken by the petitioner in April and May indicate 168 spaces in use at peak demand, 103 spaces average and 55 low demand. On occasion, the demand is higher for special events and functions. The petitioner proposes to increase the number of stalls to 224 by re-striping the existing facility. Most of the existing stalls are dimensionally substandard because at the time of its construction

there were no specific design standards. The committee asked the petitioner to provide more information about parking management and quieter deliveries. It was suggested that the petitioner look at the protocols put place for the Marriott Hotel.

The proposed change of zone for a portion of the Hotel Indigo property (approximately 15,000 square feet) from Business 5 to Mixed Use 3/Transit Oriented District is a technical legal issue. The petitioner, who is the lessee of the Riverside MBTA site, is also seeking to provide a secondary vehicular access/egress point for the proposed development on the Riverside site. That portion will be the subject of a future taking to provide the proposed secondary access into the Riverside site. The Riverside petition is linked to the petitions for Hotel Indigo, but separate and will be exercised accordingly.

In response to a question from the Planning Board, Mr. Buchbinder said that allowing direct access from the rear of the hotel property to the Riverside site is not possible because of configuration of the site. Currently, only pedestrian access is proposed. The Planning Department has advocated that a connection would facilitate shared parking between sites during high parking demand events.

The petitioner has agreed to develop and implement a Parking Management Plan, including hiring a police detail for events to ensure there are no backups on Grove Street, expanding valet service to prevent patrons seeking off-site parking, and stationing parking attendants to direct vehicles to available spaces. If approved, remediation of existing noncompliant conditions, i.e., the signs and operational and housekeeping components to ratify wireless equipment will be accomplished in "Phase 1." "Phase 2" relief is related to the creation of the rear access. Phase 2 and the proposed rezoning will only be exercised should the Riverside project be approved and exercised. It should be noted that the petitioner is also seeking relief from Floor Area Ratio (FAR) and lot coverage for if and when this portion of the hotel's lot is taken, as the reduction will affect both the FAR and lot coverage.

Subsequent to October 9, the petitioner presented plans for a new delivery/loading area at the rear of the hotel, which requires further relief to extend a nonconforming structure into the side setback. The existing front delivery dock was included on the revised as-built plan submitted in 1964. There was a question as to its legality; however, the Commissioner of Inspectional Services has determined that the 1964 plan was an approved plan modified during construction and that features of the site approved under the permit/site plan are legally nonconforming. The hotel's three levels present a unique challenge. The kitchen/food/beverage services are located at the front of the hotel as is the garbage compactor. It is impractical to carry garbage through the hotel to the rear. Currently, there is not adequate space for a truck to navigate the rear of the site. The proposed rear loading dock will alleviate the problems associated with the existing front loading dock. The front of the hotel will be limited to only trash haulers. The front drive will be narrowed to discourage and eliminate the need for trucks to back out onto Grove Street.

*November 27:*

Present were Aldermen Hess-Mahan (Chairman), Laredo, Merrill, Albright, Crossley, Fischman, Harney, and Schwartz. Aldermen Gentile, Fuller, and Swiston were also present. The hearing on petition #272-12(3), the proposed new loading dock, was opened and the hearings for #272-12 and #272-12(2) were continued. All three petitions were continued to a date to be determined.

*Public Comment:*

*Lynne Sweet* and *Tom Rezendes*, 416 Grove Street, Residences at Woodland Grove Condominium Association, said the hotel is now running more events, has more restaurant seats and a popular bar and pool, all of which have increased traffic and the demand for more parking. Red Sox game day parking is another problem in the neighborhood. There is concern about waiving the number and size of the parking stalls. Has new wireless been added recently? If so, is that properly permitted? They have health concerns related to the wireless. There is existing screening at the front of the hotel, which they would like to remain. What about additional landscaping? Hotel patrons have parked in the condo's lot. There is a public safety concern about Fire Department access to the hotel. Trucks from difference vendors back out onto Grove Street. The trash compactor is old and very noisy. The condos have been living with this hotel for four years.

*Bill Renke*, 142 Cornell Street, President of the Newton Lower Falls Improvement Association and co-founder and co-chair of the Riverside Station Neighborhood Coalition (RSNC) said he is opposed to the map change unless the parking issue is resolved. At least 20 parking spaces will be lost. Is it important that the existing vegetative buffer in front of the hotel be retained, preferably enhanced. He cited several examples of events and overparking at the hotel. People will also park at the hotel and walk to Riverside. *Paul Snyder*, 9 Ardmore Road, speaking for family at 25 Asheville Road, compared the low use of the former Holiday Inn with the success Hotel Indigo. He questioned whether the hotel has a legitimate occupancy permit. He urged there be no final decision until a decision is made on the Riverside petition. *Gina Parkinson*, 21 Grayson Lane, also questioned the legitimacy of the occupancy permit: 200 rooms? Are there an adequate number of parking spaces? Was a new permit issued when it was purchased four years ago? *Annette Lewis*, attorney for the Residences at Woodland Grove Condominium/416 Grove Street, asked how the hotel will in the interim control loading issues and parking for functions.

*December 18:*

Present were Aldermen Hess-Mahan (Chairman), Albright, Laredo, Harney, Crossley, Fischman, and Schwartz; absent: Ald. Merrill; Aldermen Gentile, Yates, and Danberg were also present.

Some suggestions from the Ward 4 Aldermen included a parking management preview. Also, perhaps temporary parking spaces can be repurposed, guests can park on the surface parking at the rear of the site. A number of residents would like a connection between the hotel and Riverside. Why is it not possible to have a road to the rear of the Riverside site? What

serious setbacks are there relative to a road to the rear of the Riverside site, there is a natural way out. What about locating the proposed Riverside office building closer to River?

*Bill Renke*, 142 Cornell Street, agreed, an access road should be in play, push the proposed office building back 10-20 feet perhaps access could be 2-way to the roundabout. *Paul Snyder* speaking for family at 25 Asheville Road is concerned that documents from the developer cannot be reviewed by the public. *Lynn Sweet*, 416 Grove Street, said it is good to see new suggestions. She acknowledged there have been some improvements from the hotel.

Alderman Gentile agreed that parking management preview would be helpful and suggested that the hotel implement a trial to test the Parking Management Plan,

As to access across the rear of the Riverside site along the river, the MBTA does not want or support a road through the rear of its property. The MBTA site's topography and uses such as working tracks, signals, gates, trailers for training and storage preclude any type of access as all present a hazard. As to direct access to any site from the highway, Federal Highway will never approve access to a private development; access must be to a public way.

*The public hearings on nos. 272-12 and 272-12(3) were closed; the public hearing on #272-12(2), the proposed map change, was continued to a date to be determined, which was ultimately July 16, 2013.*

*June 18*

Present were Aldermen Hess-Mahan (Chairman), Laredo, Merrill, Albright, Crossley, Fischman, Harney; absent Alderman Schwarz; 1 vacancy. Aldermen Gentile was also present.

The trash in front will be screened with a fence and kitchen loading will be relocated to the south side of the building. New compactor equipment, which should be quieter, has been purchased. The petitioner has agreed to limit deliveries and trash pickup to the hours of 9:00 AM - 4:00 PM. The petitioner has provided covered bicycle parking on the site. Additional landscaping will be added to the pool deck.

*July 16*

Present were Aldermen Hess-Mahan (Chairman), Albright, Crossley, Laredo, Harney, and Schwartz; absent Ald. Fischman; 1 vacancy; Alderman Gentile was also present.

The petitioner reported that the proposed Parking Management Plan had been tested out on Tuesday evening June 25. A summary of the evening was submitted: the hotel was at maximum capacity with all rooms filled and there were approximately 80 diner reservations in advance and three private parties with a total of approximately 120 guests. A police detail was engaged to direct cars onto and off the site. As they entered, cars were directed to a check point where hotel staff could further direct them. The petitioner reported that because the check point was several hundred feet away from the hotel entrance there was no queuing of cars on Grove Street.

The Planning & Development Board continued hearings on #272-(2) separately and submitted its recommendations on July 12 (attached).

*Public Comment:*

*Bill Renke*, 142 Cornell Street, reiterated his opposition to the map change until the petitioner resolves the lack of sufficient parking on the hotel site. The loss of approximately 15,000 square feet proposed for rezoning and ultimate taking will result in the loss of approximately 20 parking stalls, with a parking stall shortfall of approximately 75 spaces. He suggests the petitioner extend the upper parking deck to provide at least 30 additional stalls. (The public hearing on petition #272-12(2) was closed.)

*September 26, and September 30, 2013*

Present on September 26 were Aldermen Hess-Mahan (Chairman), Laredo, Albright, Harney, Fischman, Schwartz, and Crossley; 1 vacancy; Aldermen Swiston, Gentile, Blazar and Fuller were also present.

Present on September 30 were Aldermen Hess-Mahan (Chairman), Crossley, Albright, Fischman, Schwartz, Laredo; 1 absent: Alderman Harney; 1 vacancy. Aldermen Lennon, Gentile, Danberg, Fuller, Swiston, and Yates were also present.

Both evenings, the Committee reviewed a draft board order prepared by the Law and Planning Departments in conjunction with the petitioner. On September 30, Alderman Fischman moved approval of petitions #272-12 and (3) and the map change #272-12(2), with the Committee's discussions reflected in the findings and conditions contained in draft special permit #272-12 and (3). Several minor changes were made in the Committee of the Whole on October 2; that draft is dated October 7, 2013. The proposed map change is conditioned so that the change from Business 5 District to MU3/TOD will not take effect until special permit petitions #258-12, #272-12 and (3) are approved and exercised. Please note, in addition to the verbal comments summarized above, a number of written comments were received as well. All correspondence and comments are available at [www.newtonma.gov](http://www.newtonma.gov) under Current Special Permits, 399 Grove Street.

Respectfully submitted,

Ted Hess-Mahan, Chairman