



Ruthanne Fuller
Mayor

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Barney Heath
Director

M E M O R A N D U M

Public Hearing Date: July 9, 2019
Land Use Action Date: September 9, 2019
City Council Action Date: September 16, 2019
90-Day Expiration Date: October 7, 2019

DATE: July 5, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition 360-14 (3)** for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Council Order #360-14 to allow for an 8.14 square foot freestanding sign at the front of the property in a planting bed at 112 NEEDHAM STREET, Ward 8, NEWTON UPPER FALLS, on land known as SBL 83, 12, 7, containing approximately 7,500 sf of land in a district zoned MULTI USE 2. . Ref: Sec. 5.2.13, 7.3, 7.4 of Chapter 30 of the City of Newton Rev Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



112 Needham Street

EXECUTIVE SUMMARY

The property at 112 Needham Street consists of 7,500 square feet in the Mixed Use 2 zone (MU-2) and is improved with a newly constructed two and half story commercial building and parking facility approved by Council Order #360-14 (**Attachment A**). Special Permit #360-14 allowed for dimensional waivers to the building, as well as the waiver of one parking stall. The petitioner is requesting an amendment to the special permit to legitimize the existing free-standing sign.

The Planning Department believes the site is an appropriate location for the free-standing sign. There are other free-standing signs on Needham Street, but is not overrun with them. Additionally, there are not many free-standing signs at the northeastern end of Needham Street, where the site is. Planning Staff believes the 112 Needham Street sign would serve a wayfinding purpose, since not many of the surrounding properties are clearly marked with street numbers, which the sign has. The sign was reviewed by the Urban Design Commission (UDC) and the UDC recommends approving the sign, on the condition it is not illuminated, which will be incorporated into the final Council Order.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the City Council shall consider whether:

- The specific site is an appropriate location for the free standing sign (§7.3.3.C.1);
- The free standing sign will adversely affect the neighborhood (§7.3.3.C.2);
- The free standing sign will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
- The nature of the use of the premises, the architecture of the building, or its location with reference to the street is such that free-standing or exceptions should be permitted in the public interest (§5.2.13).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Needham Street in the MU-2 zone. The properties on the western side of Needham Street are zoned Mixed Use 1 and on the eastern

side of the street the properties are zoned Mixed Use 2 (**Attachment B**). These zones contain a vast array of uses that comprise the Needham Street Corridor. The surrounding land use of the area is mostly commercial with residential and open space to the northwest and east of the site. (**Attachment C**). As you travel down Needham Street, there are other free-standing signs, however, at the northeastern end of Needham Street there are not many free-standing signs with street addresses, which the sign at 112 Needham Street provides. Most of the other signs on Needham Street are mounted to the buildings.

B. Site

The subject property at 112 Needham Street consists of 7,500 square foot lot, improved with a two and a half story commercial building, with a garage in the middle of the building. Special Permit #360-14 allowed a two and a half story building with an FAR of no more than 1.5, a building height of up to 36 feet, and extension of reconstruction of a nonconforming structure, waiver of one parking stall, waiver of end stall maneuvering space requirement, and a waiver of off-loading requirements. The site features landscaped areas between the newly constructed concrete sidewalk and existing building.

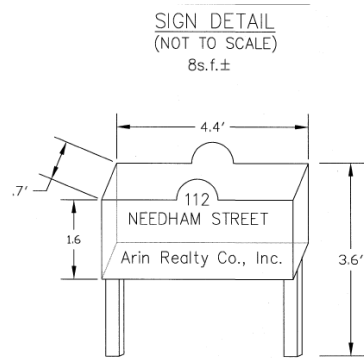
III. PROJECT DESCRIPTION AND ANALYSIS

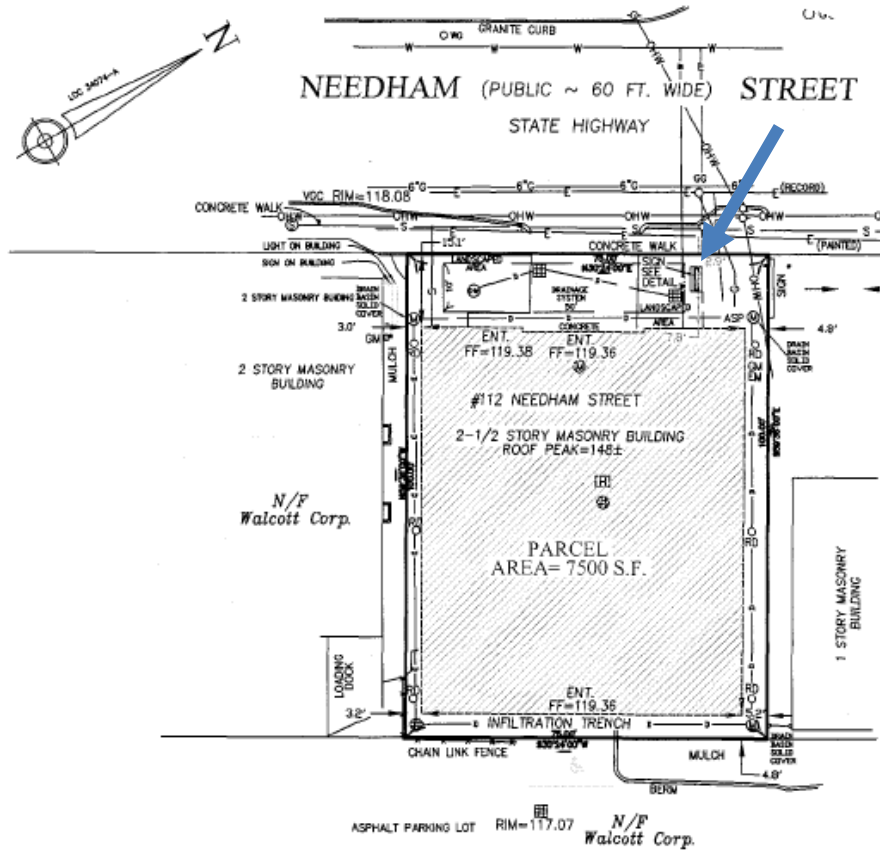
A. Land Use

The principle use of the site is and will remain commercial.

B. Building and Site Design

The petitioner is seeking to legitimize a free-standing sign installed at the northeast portion of the site, in front of the existing building. The sign is visible from Needham Street. The location of the sign is noted by the arrow on the site plan.





C. Parking and Circulation

The petitioner is not proposing any changes to the parking and circulation on site.

D. Landscape Screening

Per special permit #360-14, the site is already governed by a landscape plan.

IV. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Section §7.3.3 and §5.2.13 of Section 30, to allow a free-standing sign.

B. Newton Historical Commission

This petition does not meet the minimum threshold for review from the Chief

Preservation Planner.

C. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

D. Urban Design Commission

The UDC reviewed the existing sign and in a memo dated March 21, 2019 (**Attachment E**), recommended approval of the existing sign on the condition that it is not illuminated. The petitioner agreed not to illuminate the sign and the Planning Department will incorporate this in the final Council Order.

V. PETITIONERS' RESPONSIBILITIES

The petition is currently complete.

ATTACHMENTS:

- Attachment A:** Council Order #360-14
Attachment B: Zoning Map
Attachment C: Land Use Map
Attachment D: Zoning Review Memorandum
Attachment E: Urban Design Commission Memo
Attachment F: Draft Council Order



2015 01696271
Bk: 01462 Pg: 65 Cert#: 266517
Doc: DECIS 04/10/2015 02:46 PM

#360-14

CITY OF NEWTON
IN BOARD OF ALDERMEN

March 16, 2015

2015 MAR 18 PM 2:52

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, 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, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING STRUCTURE to demolish the existing building and construct a new 2½-story building to be used for an office use and ground floor parking, and to grant a waiver of one parking stall, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

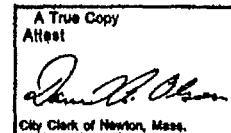
112 Needham Street, Newton
Title Ref: Doc. No. 16702-34
Cert # 256517

1. The waiver of one parking stall and the waiver of the end stall maneuvering space requirement are appropriate, as literal compliance with the parking requirements is impracticable due to the size of the lot and the development patterns in the surrounding neighborhood. (§30-19(d)(11),(d)(15), and (m))
2. The proposed structure, which will extend an additional 2½ feet into the front setback and an additional eight inches into the side setback, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§30-21(b))
3. The specific site is located on a major commercial corridor and is an appropriate location for the proposed office building and use. The proposed project will improve the streetscape, as there will be new landscaping in front of the building and the front of the building will consist of a brick façade with architectural details. 30-24(d)(1))
4. The proposed building and office use, as developed and operated, is similar to other land uses in the immediate area and will not adversely affect the neighborhood. (§30-24(d)(2))
5. There will be no nuisance or serious hazard to vehicles or pedestrians, as the proposed site plan will eliminate the existing back-out parking on Needham Street and will reduce the existing curb cut by 50 feet. (§30-24(d)(3))
6. Access to the site over streets is appropriate for the types and number of vehicles involved. (§30-24(d)(4))

PETITION NUMBER: #360-14

PETITIONER: 112 Needham Street, LLC

256517-1452-55



Unnumb.
Lot

LOCATION: 112 Needham Street, Ward 8, on land known as SBL 83, 12, 7 containing approx. 7,500 sq. ft. of land

OWNER: 112 Needham Street, LLC/Arin Realty Co. Inc.

ADDRESS OF OWNER: 17 Lincoln Street, 2nd Floor
Newton, MA 02461

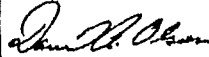
TO BE USED FOR: Office

EXPLANATORY NOTES: §30-15 Table 3, to exceed the Floor Area Ratio of 1.0 but not more than 1.5, to allow a 2½-story building, to allow a building height greater than 24 feet but less than 36 feet; §30-21(b), to allow for the extension and reconstruction of a nonconforming structure as to the side and front setbacks; §30-19(d)(11), §30-19(d)(15) and §30-19(m), to waive one parking stall; §30-19(h)(2)(e) and §30-19(m), to waive the end stall maneuvering space requirement; §30-19, Table of Off-Street Loading Requirements, to waive the off-street loading requirements for structures 5,000 to 50,000 square feet in gross floor area.


ZONING: Mixed Use 2

Approved subject to the following conditions:


1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
 - a. Existing Site Plan, prepared by R.E. Cameron Associates, Inc., signed and stamped by Scott D. Cameron, Professional Land Surveyor, dated August 18, 2014.
 - b. Proposed Plan, prepared by R.E. Cameron Associates, Inc., signed and stamped by Scott D. Cameron, Professional Land Surveyor, dated January 14, 2015.
 - c. Floor Plans and Elevations, prepared by Leavitt Associates, Inc., signed and stamped by Jonathan Leavitt, Registered Architect, dated February 7, 2015, consisting of the following two (2) sheets.
 - i. A1 – Ground Floor and Main Floor Plan; and
 - ii. A2 – Attic and Roof Plan
 - d. Landscape Plan, prepared by Leavitt Associates, Inc., signed and stamped by Jonathan Leavitt, Registered Architect, dated August 20, 2014.
2. The petitioner shall reduce the width of the curb cut and garage entrance to 20 feet, subject to approval by the Massachusetts Department of Transportation. Such reduction shall be included in the final site plan submitted for the building permit.

A True Copy
Attest

City Clerk of Newton, Mass.

3. The petitioner shall provide for landscaping in front of the windows facing Needham Street on the ground floor, so that views of the interior parking area from the public way are screened to the greatest extent possible.
4. The petitioner shall maintain all landscaping associated with this Special Permit/Site Plan approval in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
5. The petitioner shall submit all proposed signage for review by the Director of Planning and Development and the Urban Design Commission.
6. The petitioner shall either underground the utility lines to its site, or if it is unable to obtain necessary approvals from the responsible utility company, shall at the written request of the Director of Planning and Development, submit funds in the amount of \$9,081, (\$1 per square foot of building not including the parking area) to be paid towards undergrounding of utilities along Needham Street at such time as either the City of Newton or the Commonwealth commences a project of undergrounding the utility lines with sufficient funding in place or committed from governmental or private sources to undertake the project for at least a distance of a quarter mile, inclusive of the section of Needham Street fronting the subject property at 112 Needham Street. This obligation shall run with the land for a period of 25 years from the date of this special permit. These funds shall be used by the City or the Commonwealth for the purpose of undergrounding utilities on Needham Street within the 25 year time period identified above. Any funds collected under this condition and not spent in accordance with this condition at the end of this time period shall be returned to the petitioner or its successors or assigns.
7. Prior to the issuance of any building permit the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Board Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
 - c. The proposed schedule of the project, including the general phasing of the construction activities.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
 - e. Proposed truck route(s) that minimize travel on local streets.
 - f. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of building material.

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- materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
- g. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - h. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - i. A plan for rodent control during construction.
8. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
- a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed final site plans for review and approval by the City Engineer. A copy of such written approval shall be filed with the Clerk of the Board, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - d. Obtained a written statement from the Planning Department, with the advice of the Transportation Division and the Massachusetts Department of Transportation, approving the location of the driveway on the final site plan.
 - e. Submitted a Construction Management Plan in accordance with Condition #7.
 - f. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
9. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development, a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development, a final as-built survey plan in paper and digital format.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
10. Notwithstanding the provisions of Condition #9d. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the

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City Clerk of Newton, Mass.

building prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

Under Suspension of Rules
Readings Waived and Approved
22 yeas 0 nays 1 absent (Alderman Sangiolo) 1 recused (Alderman Hess-Mahan)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on March 18, 2015. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

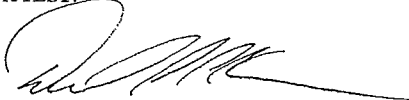
ATTEST:



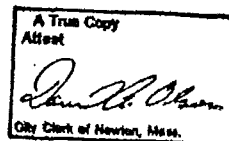
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 3/15 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen



①

Doc 01696271

Southern Middlesex Land Court
Registrar District

RECEIVED FOR REGISTRATION

On: Apr 10, 2015 at 02:44P

Document Fee 75.00

Receipt Total: \$75.00

NOTED ON: CERT 256517 BK 01452 Pg 55

ALSO NOTED ON:

Schlesinger + Buchbinder
TEL: 617-965-3525
ADDRESS
CITY OR TOWN ZIP


ATTACHMENT B

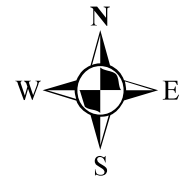
Zoning

112 Needham St.

City of Newton,
Massachusetts

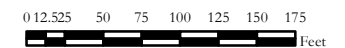
Legend

-  Multi-Residence 1
-  Mixed Use 1
-  Mixed Use 2
-  Public Use

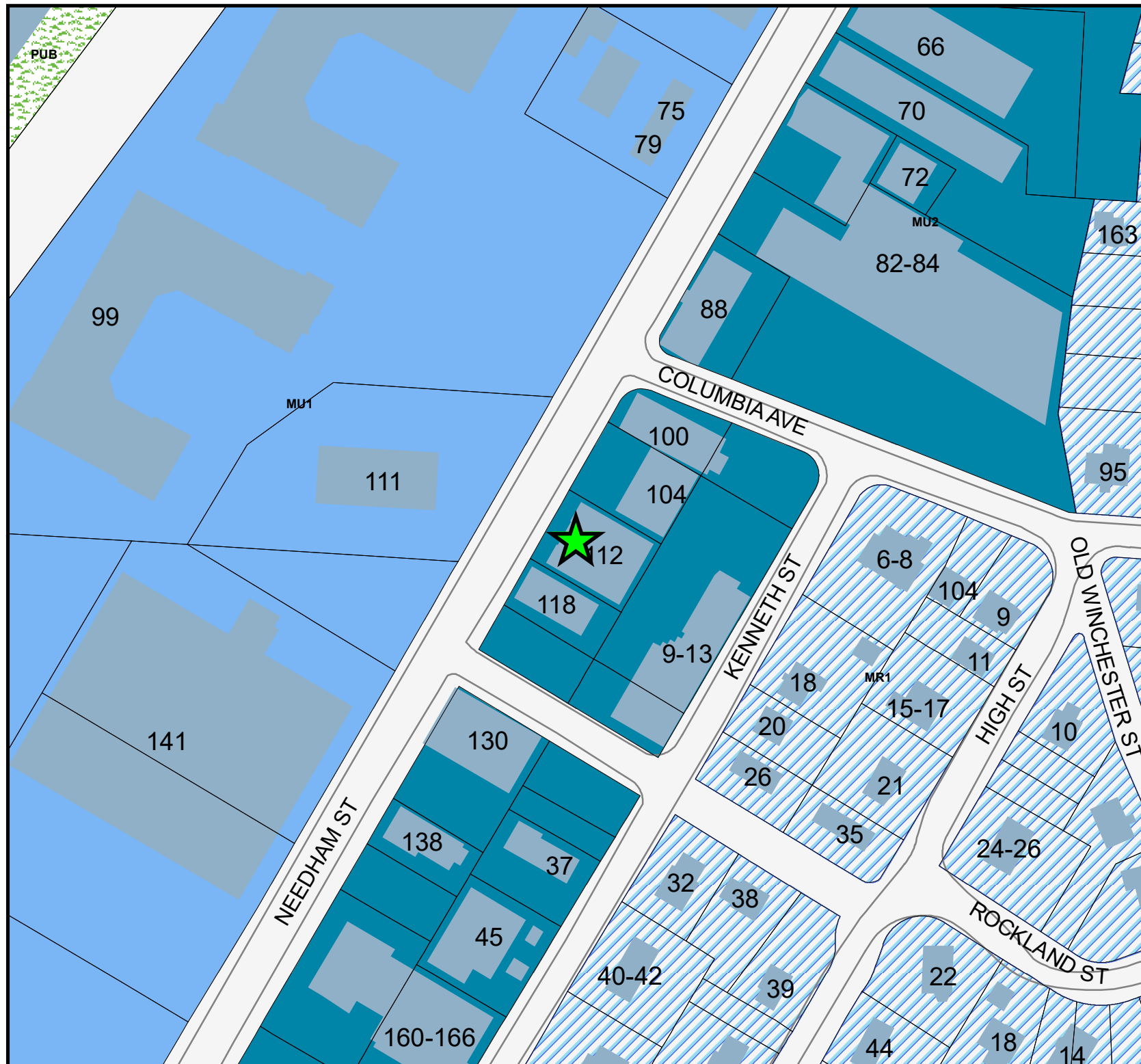


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 21, 2019



ATTACHMENT C






Land Use

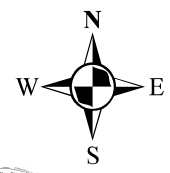
112 Needham St.

*City of Newton,
Massachusetts*

Legend

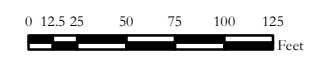
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 21, 2019





Ruthann Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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Attachment D
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 28, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Ronald Cahaly, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request to allow an amendment to Special Permit #360-14 and to allow a free-standing sign**

Applicant: Ronald Cahaly	
Site: 112 Needham Street	SBL: 83012 0007
Zoning: MU2	Lot Area: 7,500 square feet
Current use: Office	Proposed use: No change

BACKGROUND:

The property at 112 Needham Street consists 7,500 square feet improved with a newly reconstructed two-story commercial building and parking allowed by Special Permit #360-14. The special permit authorized the extension of the nonconforming structure, as well as a parking waiver. The petitioner requests an amendment to the existing special permit to allow for the erection of a free-standing sign.

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

- Zoning Review Application, prepared by Ronald Cahaly, applicant, dated 1/16/2019
- Special Permit #360-14, dated 3/16/2015
- Site Plan, signed and stamped by Scott D. Cameron, surveyor, 10/29/2018

ADMINISTRATIVE DETERMINATIONS:

1. Special Permit #360-14 was granted in 2015 to allow for reconstruction of a nonconforming structure and associated parking waivers. The petitioner requests an amendment to this special permit to allow for an 8.14 square foot free-standing sign at the front of the property in a planting bed. Per section 5.2.13, a special permit is required for a free-standing sign.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Special Permit #360-14	
§5.2.13	To allow a free-standing sign	S.P. per §7.3.3



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

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Barney Heath
Director

DATE: March 21, 2019
TO: Jennifer Caira, Chief Planner
FROM: Urban Design Commission
RE: 112 Needham Street – Arin Realty Co., Inc.
CC: Land Use Committee of the City Council
Petitioner

At the request of the Department of Planning and Development, the Urban Design Commission has reviewed and provides the following comments to the Department of Planning and Development and the Land Use Committee of the City Council regarding the existing free-standing sign at 112 Needham Street.

112 NEEDHAM STREET – ARIN REALTY CO., INC.

The Urban Design Commission (UDC) held a meeting on March 13, 2019 to review the existing free-standing signage at 112 Needham Street, Arin Realty Co., Inc. Based on the signage submitted, the Urban Design Commission recommends the existing sign for approval on the condition that it is not illuminated. The applicant mentioned that the sign has never been illuminated in the past and agreed to not illuminate the sign in the future.

112 Needham Street
#360-14 (3)

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, 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, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #360-14 to allow a free standing sign, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the free standing sign because there are other free standing signs along the Needham Street Corridor (§7.3.3.C.1);
2. The free standing sign will not adversely affect the neighborhood due to the presence of signs on Needham Street and the sign provides wayfinding for travelers on Needham Street (§7.3.3.C.2);
3. The free standing sign will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
5. The nature of the use of the premises, the architecture of the building, or its location with reference to the street is such that free-standing signs or exceptions should be permitted in the public interest (§5.2.13).

PETITION NUMBER: #360-14 (3)

PETITIONER: Ronald Cahaly

LOCATION: 112 Needham Street, Section 83, Block 12, Lot 7, containing approximately 7,500 square feet

OWNERS: 112 Needham Street LLC

ADDRESS OF OWNERS: 112 Needham Street
Newton, MA 02464

TO BE USED FOR: Commercial

CONSTRUCTION: No site work

EXPLANATORY NOTES: To amend Council Order #360-14 to allow for a free-standing sign

ZONING: Mixed Use 2 District

The prior special permit for this property is as follows: Council Order #360-14, which authorized a two and a half story building with an FAR of no more than 1.5, a building height of up to 36 feet, and extension of reconstruction of a nonconforming structure, waiver of one parking stall, waiver of end stall maneuvering space requirement, and a waiver of off-loading requirements. The conditions set forth in Council Order #360-14 remain in full force and effect.

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Plot Plan "As Built Sign 112 Needham Street" dated November 1, 2017; revised November 27, 2018 signed and stamped by Scott D. Cameron, Professional Land Surveyor
2. The sign shall not be illuminated at any time.
3. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Board Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
4. No Certificate of Occupancy/Final Inspection for the buildings and uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or surveyor certifying substantial compliance with Condition #1.