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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:

January 5, 2021

DATE: December 31, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Michael Gleba, Senior Planner

SUBJECT: **Petition #319-20**, to rezone two parcels; **1149 Walnut Street** (Section 52 Block 08 Lot 13) and **1151 Walnut Street** (Section 52 Block 08 Lot 14) from BUSINESS USE 2 to MIXED USE 4.

**Petition #320-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing buildings and construct a four-story mixed-use building up to 48' in height, containing 26 units and 23 parking stalls, to waive the minimum lot area per unit, to reduce the side setback requirement, to waive the requirement to use A-B+C formula to determine the parking requirement, to waive 24 parking stalls, to allow 1.25 parking stalls per unit, to allow parking in the side setback, to waive dimensional requirements for parking stalls, to allow restricted end stalls, to allow reduced aisle width, to waive perimeter landscaping requirements, to waive interior landscaping requirements and to waive lighting requirements at 1149-1151 Walnut Street, Ward 6, Newton Highlands, on land known as Section 52 Block 08 Lots 13 and 14, containing 13,200 sq. ft. in a district to be zoned MIXED USE 4 (currently zoned BUSINESS USE 2). Ref: Sec. 7.3.3, 7.4, 4.2.2.B.1, 4.2.2.A.2, 4.2.5.A.3, 4.2.2.B.3, 4.2.5.A.2, 4.2.5.A.4.b, 4.2.5.A.4, 5.1.3.B, 5.1.13, 5.1.4, 5.1.4.A, 5.1.8.A.1, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.C.1, 5.1.9.A, 5.1.9.B, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**1149-1151 Walnut Street**

### EXECUTIVE SUMMARY

The subject site is comprised of two parcels, 1149 and 1151 Walnut Street, located along the west side of Walnut Street just north of Lincoln Street. The combined two-lot site consists of 13,200 square feet improved with two multi-tenanted single-story commercial buildings built in the early 1900s with parking in the front and rear.

The petitioner proposes to demolish the existing buildings, and to construct a 26-unit, four-story, 10,169 square foot mixed-use building with 23 at-grade parking stalls on the assembled site.

The petitioners are seeking to have the subject parcels rezoned from Business 2 (BU2) to Mixed Use 4 (MU4). As with the attached zoning review memorandum, the MU4 provisions will be applied for the purposes of this memorandum.

As the development would contain between 10,000 and 19,999 square feet of gross floor area in a mixed-use district, it is subject to site plan review under Section 4.2.2.B.1 of the Newton Zoning Ordinance (NZO)

In order to construct the proposed project as designed, the petitioner would also require a special permit under MU4 zoning district requirements for several aspects of the project. These include:

- to waive the required minimum of 1,000 square feet of lot area per unit to allow for the proposed 508 square feet of lot area per unit (§§4.2.2.A.2 and 4.2.5.A.3)
- to allow a four-story structure with a FAR of 2.00 in an MU4 district. (§§4.2.2.B.3 and 4.2.5.A.2)
- to allow a structure 48 feet in height in an MU4 district (§§4.2.3 and 4.2.5.A.2)
- to allow a front setback of 10.7 feet, more than the maximum 10 feet allowed by right (§4.2.5.A.4.a)
- to allow a side setback abutting the adjacent (to the north) Multi Residence 1 (MR1) residential district to be 0.0-feet, less than the 20-feet required (§4.2.5.A.4)
- to waive the requirement that any portion of a building greater than 40 feet in height be set back one foot from the adjacent lot line for each additional foot of height (the portions of the proposed 48-foot-tall building greater than 40 feet in height are not set back the required additional eight feet from the rear and side property lines (§4.2.5.A.4.c)
- to waive the requirement to use the so-called “A-B+C” calculation per §5.1.3.B to determine the number of required parking stalls
- to waive 19 parking stalls

Several dimensional aspects of the project’s parking facilities also require a special permit, including the grant of exceptions under §5.1.13 to certain requirements for Parking Facilities Over Five Stalls per §5.1.8, including to:

- allow parking within the 20-foot required setback from the side lot line with 1141-1145 Walnut Street (§5.1.8.A.1)
- allow several reduced sized parking stalls (the smallest measuring 8.5 feet wide by 16 feet deep) (§5.1.8.A.1 and (§5.1.8.A.2)
- allow several stalls restricted by walls with resulting maneuvering space of less than 9 feet in width (§5.1.8.B.6)
- allow two-way access aisles as narrow as 21.5 feet (less than the required 24-feet) (§ 5.1.8.C.1)

and certain requirements pertaining to parking facility landscaping per §5.1.9, including to:

- allow the at-grade parking proposed for under the building and considered to be “outdoor parking” to not have the required perimeter screening (§5.1.9.A) or interior landscaping (§5.1.9.B)
- waive the requirement that requires that outdoor parking used at night maintain a minimum intensity of lighting of one-foot candle on the entire surface (§5.1.10.A.1).

The Planning Department believes the subject property is an appropriate location for a mixed-use development given the mixed-use nature of the surrounding neighborhood.

The petition satisfies several goals found in the Comprehensive Plan of 2007 as well as the Transportation and Housing Strategies such as offering a range of unit types and sizes, providing inclusionary zoning units, and by adhering to Smart Growth principles of locating new development in a mixed use neighborhood and doing so in proximity to transit service.

Given the project’s location and the neighborhood’s mixed-use and “transitional” nature with residential and commercial, as well as proximity to transit, the Planning Department is generally supportive of the proposed project and associated rezoning, subject to certain issues discussed below.

#### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing the requested special permit, the Council should consider whether:

- The specific site is an appropriate location for the proposed twenty-six-unit mixed use building as designed (§7.3.3.C.1)
- The proposed twenty-six-unit mixed use building as developed and operated will adversely affect the neighborhood (§7.3.3.C.2)
- There will be 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)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance (NZO) is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features (§5.1.13)

When reviewing the requested MU4 special permit, the Council should consider whether:

- The proposed structure with 4 stories and 48 feet of building height is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district (§4.2.5.1)
- to waive the lot area per dwelling unit requirement of Sec. 4.2.3, the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in the vicinity, and better achieves the purposes of this district than strict compliance with these standards (§4.2.5.3)
- to waive the applicable setback requirements, the proposed plan can better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of this district than strict compliance with the following standards:
  - a minimum of 75 percent of the frontage of the lot facing a public way shall contain a building or buildings, the first floor façade of which is setback between 0 and 10 feet from lot line.
  - where abutting a residential district, the required side and rear setbacks shall be no less than 20 feet
  - any portion of a building greater than 40 feet in height must be setback 1 foot from the adjacent lot line for each additional foot of height.

When conducting a site plan approval, the City Council shall consider the application in light of the following criteria (§7.4.5.B 1-8)

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged wherever feasible;
2. Adequacy of the methods for disposal of sewage, refuse and other wastes and of the

methods of regulating surface water drainage;

3. Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site;
4. Screening of parking areas and structures on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between the street and existing or proposed structures shall be discouraged;
5. Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas;
6. Location of utility service lines underground wherever possible. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines;
7. Avoidance of the removal or disruption of historic resources on or off-site. Historical resources include designated historical structures or sites, historical architectural elements or archaeological sites; and
8. Significant contribution to the efficient use and conservation of natural resources and energy for projects proposing buildings, structures, or additions to existing buildings or structures, if those proposed buildings, structures, or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area.

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on the west side of Walnut Street between Forest and Lincoln streets. The immediate area features a wide mix of land uses with single-, two-, and multi- family dwellings located throughout, and commercial uses located along Lincoln and Walnut streets, especially extending to the north, west, and south from the MBTA Green Line station located at the intersection of those two streets (**Attachment A**). This mix of uses generally corresponds to the neighborhood's zoning. The site is currently zoned Business 2 (BU2) with other similarly zoned parcels to the east across Walnut Street. Business 1 (BU1) parcels are located to the south and west, and Single Residence 2 (SR2) and Multi-Residence 1, 2 and 3 (MR1, MR2, MR3) areas surrounding the neighborhood village center as well as some Public Use (PU) parcels to the south/southwest (**Attachment B**).

B. Site

The subject site is comprised of two lots on the west side of Walnut Street just north of Lincoln Street which total 13,200 square feet in the aggregate. Two curb cuts on either side of the combined properties currently provide vehicular access. The generally level site is currently entirely occupied by the two commercial buildings and associated asphalt paving. There is little to no landscaping on the property.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site would be a 26-unit mixed use building with either 1,323 square feet of retail space or a 24-seat restaurant on the ground floor and 23 at-grade parking stalls.

B. Building and Site Design

The petitioners are proposing, contingent on the requested rezoning of the site to MU4, to raze the existing structures on the site and construct on the combined parcel a flat-roofed, four story, 26-unit mixed use building with 1,323 square feet of commercial space within a ground level "storefront." Much of the structure would be raised one story to allow for 23 at-grade parking stalls to be located under the structure. As currently planned, the dwelling's 26 units would include eight studios, ten one-bedroom, and eight two-bedroom units.

The project's lot area per unit would be 508 square feet, considerably less than the 1,000 square feet required in an MU4 district. The proposed four-story structure would measure 48 feet in height, with that being the maximum allowed by special permit for a four-story structure in an MU4 district.

The front setback along Walnut Street would be 10.7 feet, slightly more than the maximum 10 feet allowed. The rear ("west") setback which abuts a BU1 district is 0.4 feet where no setback would be required. The left ("south") side setback which also abuts a BU1 district would be remain at 0.5 feet where, again, no setback is required.

Regarding the right ("north") setback which abuts a MR1 district, it would measure as 0 feet where 11.1 feet currently exists and 20 feet would be required per MU4 dimensional standards. Where earlier designs submitted by the petitioner similarly featured a 0-foot setback along this side, that was a result of the building being designed at that time with a blank wall located directly on that side property line. The current modified design has pushed that wall several feet off the property line, with the 0-foot setback now being a result of three small balconies (one each on the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors) projecting out from the shifted wall to that boundary.

The development would have a floor area ratio (FAR) of 2.00. This would be the maximum that can be allowed via special permit and twice the 1.0 that allowed by right in an MU4 district. (The Planning Department notes that a four-story building in a BU2 district would also have a maximum 2.0 FAR, with that number of stories requiring a special permit.)

While the parcel is not subject to requirements for these dimensional characteristics, the Planning Department notes that the building and site design provide for a lot coverage of 77.9%, considerably more than the current 37.5%, and 8.7% of the site to be open space, an increase over the existing 4.3%.

C. Parking, Circulation and Traffic

As detailed in the attached zoning review memorandum, the petitioner is seeking a waiver of 19 parking stalls so as to be allowed to provide only 23 of the otherwise required 42 parking stalls. All stalls would be at-grade and located in an open area below the structure which would be largely supported by columns. Access to the parking stalls would be provided by a curb cut and associated driveway along the left (north) side of the property.

As indicated by the submitted plans, many of the parking stalls would be of substandard sizes and would lack required maneuverability space, especially at the “ends” of parking rows.

While recognizing the need to make sure design choices to fit even the reduced number of stalls on site, the Planning Department has some concerns as to how the proposed parking facility would function for its users. As such, the Planning Department requests that the petitioner provide more information, especially including turning template plans showing how drivers would access the more difficultly located stalls, especially those adjacent to walls and other obstructions. Also, the Planning Department expects to be able to provide input from relevant City staff on the proposed parking facility at the upcoming, or a subsequent public hearing.

The Planning Department also recommends that the petitioner be prepared to discuss expected traffic generation projections for the project and supply appropriate supporting documentation.

D. Landscaping, Screening and Lighting

As indicated in the landscape plan submitted by the petitioner, given the degree to which the proposed structure and the associated parking occupies effectively the entire site, virtually no landscaping is proposed for the site (this reflected in the petitioner’s requests for exceptions to certain parking facility landscaping requirements) Fencing proposed along the right (north) and rear (west) property lines would provide screening of the at-grade parking and driveway areas from abutting

properties.

Regarding lighting, the petitioner is requesting a waiver of the requirement that outdoor parking used at night, such as the proposed open-air parking below the structure, have a minimum intensity of lighting of one-foot candle on the entire surface. While the Planning Department recognizes the desirability of limiting light impacts on adjacent properties, it nevertheless recognizes that the covered parking and the driveway along the right side will nevertheless likely have some lighting. As such, the petitioner should be prepared to discuss how those areas would be lit at the public hearing.

E. Inclusionary Zoning

Per Section 5.11 of the NZO, any residential development resulting in seven or more units is required to provide inclusionary units. As the project is slated to be a 26-unit rental property, it is required to have a total of five Inclusionary Zoning (IZ) units. Of these, four units must be provided at 50-80% AMI (Tier 1), and one unit must be made available at 110% AMI(Tier 2).

The petitioner has submitted an "Inclusionary Housing Plan" that indicates that the Tier 1 units would include one studio, two one-bedrooms and one two-bedroom unit. The Tier 2 unit would be a one-bedroom unit. To the extent that the proposed inclusionary units do not meet the minimum square footage and bathroom requirements, as required by the Department of Housing and Community Development's (DHCD) most current Comprehensive Permit guidelines, the petitioner will seek a waiver from DHCD.

It is expected that the petitioner will continue to work with the Planning Department's Housing staff on this aspect of the project.

F. Accessibility

The project is required to be compliant with Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (MAAB) regulations. All units are expected to be adaptable to those with disabilities and built to ADA and MAAB requirements. As such, all units should be accessible and visitable to those with disabilities. Regarding parking, the submitted plans show one ADA van stall in the at-grade parking area.

G. Signage

The petitioner has not requested waivers from the Ordinance as to the number, size, location, and height of signs. As a result, any signs are expected to be by-right and subject to review and approval by the Urban Design Commission.

H. Sustainability



The petitioner submitted a document entitled “1149-1151 Walnut Street Sustainability Measures” indicating certain strategies it is either “committed to achieve or implement” or “committed to analyze in terms of feasibility.”

Among items in the former category is the building would achieve “at least” LEED certification,” have energy recovery ventilation units (ERVs) with AHSP heating/cooling units on the roof and would use electric heat and electric heat-pump hot water for the residential portions of the building (the commercial space would use natural gas). The latter category includes potentially achieving Passive House certification and monitoring and possibly incorporating new sustainability technologies.

The Planning Department has forwarded this information to City sustainability staff and will be prepared to share any comments received at or in advance of the upcoming or subsequent public hearing(s).

#### IV. REQUEST FOR A CHANGE OF ZONE

Regarding the proposed rezoning of the site from BU2 to MU4, the Planning Department notes some relevant aspects of the proposal. The subject site is located in a village center with a mix of commercial, single-, two-, and multi- family dwellings, including a nearby taller commercial building.

It is important to note that the subject parcel is surrounded on two sides by a Business 1 district and one side by a MR1 district and as such, it is in what could be considered to be in a transitional location straddling nearby commercial and residential uses, appropriate for mixed use development. Also importantly, it is located catercorner to a MBTA Green Line Station and is served by the MBTA’s 59 bus which would give the site’s residents, employees and visitors to the site multiple transportation options.

This aspect of the present petitions is expected to be the subject of additional analysis in memoranda prepared for subsequent public hearings.

#### V. CONSISTENCY WITH COMPREHENSIVE PLAN, TRANSPORTATION & HOUSING STRATEGIES

##### A. Comprehensive Plan

Newton’s Comprehensive Plan seeks to protect the rich choice among the City’s neighborhoods while also relating density to neighborhood character and infrastructure capacity while promoting a range of housing opportunities. The Plan contains relevant goals for residential development, development along nodes and corridors, and smart growth.

The Residential Vision and Goals of the Comprehensive Plan include maintaining a diversity of housing types and maintaining economic diversity of housing. The

proposed mixed-use building would contribute to the diversity of housing and commercial space in the area. The project proposes replacing two commercial structures with 26 residential units consisting of a mix of studios, one- and two-bedroom units as well as some neighborhood commercial space. Of the proposed units, the Inclusionary Zoning Ordinance requires at least five be deed restricted affordable units. The provision of these units within the proposed development would contribute to the diversity of housing and need for affordable housing, without dramatically changing the character of the neighborhood.

The Comprehensive Plan also contains recommendations for nodes and corridors. The subject site is well-suited to act as a transition between and among the mix of uses in the surrounding village area.

The Comprehensive Plan places an emphasis on using the principles of “smart growth” to guide growth in the City to where it is “best served by public transport, where it is closest to businesses which provide services or to the largest employers, and for family housing, where it has safe and close access to public schools.” The Planning Department notes that the project site is served by and MBTA Green Line and 59 bus route.

B. Housing Strategy

The Housing Needs Analysis and Strategic Recommendations from June 2016 contains housing strategy principles which include pursuing diverse housing choices to meet changing housing needs of a diverse population, locating housing to promote access and choice, seeking high-quality design that is responsive to context, and pursuing green design.

The proposed project meets several of these principles. The project would contribute to a diverse housing stock by offering additional studio, one- and two-bedroom units (the Planning Department notes the absence of three-bedroom options) as well as affordable units in an area with a mix of single-family homes, two-family homes, and commercial uses.

Information about “green” technologies to be used on the site is rather limited, so the Planning Department recommends that the petitioner work with City sustainability to more fully identify the project’s sustainability aspects.

C. Transportation Strategy

The Newton Leads 2040 Transportation Strategy contains strategies intended to make it safer and easier for Newtonians to utilize alternative modes of transportation such as walking, biking, and taking transit. These include goals of congestion reduction, which contains strategies to reduce vehicle trips and to create smart developments that do not lead to new congestion. The strategy also seeks to

incentivize development near jobs, housing and public transit as people living or working near mixed-use developments with excellent transit, walking and bicycling amenities regularly choose not to drive.

The proposed project offers considerable proximity to nearby services and commercial uses and, is served directly by the MBTA Green Line and 59 bus route. It would also feature storage for 24 bicycles. Given that the petitioner is seeking significant parking relief, the Planning Department recommends the petitioner identify its proposed approaches to further incentivize the use of alternative transportation modes, including its approach to transportation demand management (TDM).

## VI. TECHNICAL REVIEW

### D. Technical Considerations (Chapter 30, Newton Zoning Ordinance)

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment D**). As detailed in that memorandum, as proposed the project requires:

- the subject parcels to be rezoned from BU2 to MU4
- Site Plan Review (§4.2.2.B.1)
- a Special Permit per §7.3.3:
  - Waive minimum lot area per unit requirement (§4.2.2.A.2, §4.2.5.A.3)
  - To allow four stories (§4.2.2.B.3 §4.2.5.A.2)
  - To allow a building height of 48 feet and a FAR of 2.00 (§4.2.3, §4.2.5.A.2)
  - To allow a front setback greater than 10 feet (§4.2.5.A.4.a, 4.2.5.A.4)
  - To reduce the side setback requirement §4.2.5.A.4.b, §4.2.5.A.4)
  - To waive additional setback requirement for portions of the building greater than 40 feet in height (§4.2.5.A.4.c, 4.2.5.A.4)
  - Waive the requirement to use A-B+C formula to determine the parking requirement (§5.1.3.B, §5.1.13)
  - To allow 1.25 parking stalls per residential unit (§5.1.4, §5.1.4.A)
  - To waive 19 parking stalls (§5.1.4, §5.1.13)
  - To allow parking in the side setback (§5.1.8.A.1, §5.1.13)
  - To waive the minimum dimensions for parking stalls (§5.1.8.B.1, §5.1.8.B.2, §5.1.13)
  - To allow restricted end stalls (§5.1.8.B.6, §5.1.13, §5.1.8.C.1)

- To allow reduced aisle width (§5.1.13, §5.1.9.A)
- To waive perimeter screening requirements (§5.1.13, §5.1.9.B)
- To waive interior landscaping requirements (§5.1.13, §5.1.10)

E. Newton Historical Commission Review

On September 8, 2020, the Newton Historical Commission (NHC) found the existing structure at 1149 Walnut Street as “Not Preferably Preserved” and required no further review. The Planning Department requests the petitioner clarify the status of NHC review of 1151 Walnut Street.

F. Engineering Review

The Associate City Engineer submitted an Engineering Review Memorandum (**Attachment D**), providing an analysis of the proposal with regard to engineering issues. As this memorandum was drafted before subsequent modifications to the proposed design, petitioner should ensure that the Engineering Division reviews the project as currently designed. The petitioner should be prepared to any and all issues raised by Engineering in the memo in advance of the public hearing and/or any subsequent working session(s).

VII. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

**ATTACHMENTS:**

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



# ATTACHMENT A








## Land Use

### 1149-1151 Walnut St.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  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 - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield

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Feet

Map Date: December 23, 2020












# ATTACHMENT B

## Zoning

1149-1151 Walnut St.

*City of Newton,  
Massachusetts*

### Legend

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Business 2
-  Public Use



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

0 12.5 25 50 75 100 125 150 175 Feet

Map Date: December 23, 2020





Ruthanne Fuller  
Mayor

# ATTACHMENT C

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: December 15, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

Cc: Newton Walnut LLC, Applicant  
Alan Schlesinger, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to rezone to MU4 and to allow a 26-unit mixed use building

Applicant: Newton Walnut LLC	
Site: 1149-1151 Walnut Street	SBL: 52008 0013 and 52008 0014
Zoning: MU4	Lot Area: 13,200 square feet
Current use: Mixed commercial	Proposed use: Commercial and 26-unit residential

### BACKGROUND:

The subject site consists of the properties at 1149 and 1151 Walnut Street. The combined site consists of 13,200 square feet and is improved with two multi-tenanted single-story commercial buildings built in the early 1900s with parking in the front and rear. The petitioner proposes to rezone the site to Mixed Use 4, raze the existing buildings, and to construct a four-story mixed-use building with 23 at-grade parking stalls.

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

- Zoning Review Application, prepared by Alan Schlesinger, attorney, dated 4/14/2020, revised 6/9/2020
- Plan of Land- Proposed Conditions, prepared by Everett M. Brooks, surveyor, dated 4/9/2020, revised 5/26/2020, 6/3/2020, revised 12/7/2020
- Floor Plans and Elevations, prepared by The Architectural Team, architects, dated 2/5/2020, revised 6/3/2020, revised 12/7/2020

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The current zoning for the parcels included in the project site is Business Use 2. The petitioner proposes a rezoning of the parcels to Mixed Use 4. For the purposes of this memo, the MU4 provisions will be applied.
2. The petitioner is proposing 10,169 square feet of gross floor area within the proposed structure. Section 4.2.2.B.1 requires site plan review for proposed buildings which contain between 10,000 and 19,999 square feet of gross floor area in a mixed-use district.
3. The petitioner proposes to construct a 26-unit mixed use building on the 13,200 square foot parcel, resulting in a lot area per unit of 508 square feet. Per section 4.2.2.A.2, a minimum of 1,000 square feet of lot area is required per unit, however per section 4.2.5.A.3 the City Council may waive the lot area per unit requirement if it is found that the proposed density is beneficial. The petitioner requests a waiver from the lot area per unit requirements of section 4.2.2.A.2 per section 4.2.5.A.3.
4. Sections 4.2.2.B.3 and 4.2.5.A.2 requires a special permit for four stories in the MU 4 district. The petitioner proposes a four-story structure with an FAR of 2.00, requiring a special permit.
5. Sections 4.2.3 and 4.2.5.A.2 allows the City Council to grant a special permit to allow for up to 48 feet of height in an MU4 district by special permit. The petitioner proposes a height of 48 feet, requiring a special permit.
6. Per section 4.2.5.A.4.a, a minimum of 75 percent of the frontage of the lot facing the public way must contain a building with a first-floor façade which is set back between 0 and 10 feet. The petitioner proposes to construct the building with a front setback of 10.7 feet, requiring a waiver to allow a front setback greater than 10 feet.
7. Section 4.2.5.A.4.b requires no side or rear setback except that no less than a 20-foot setback is required when abutting a residential district, unless waived by special permit per section 4.2.5.A.4. The property to the north is zoned MR1. The petitioner proposes to construct the proposed dwelling directly on the side lot lines with a 0.0-foot setback, requiring a special permit.
8. Per section 4.2.5.A.4.c, any portion of a building greater than 40 feet in height must be set back one foot from the adjacent lot line for each additional foot of height. The petitioner proposes a 48-foot-tall building, requiring an additional eight-foot setback from the sides and rear for those portions of the building greater than 40 feet in height. A special permit is required to waive the additional height within the setbacks.
9. Per section 5.1.3.B, whenever there is an extension of gross floor area or change of use which increases the parking requirements, the parking is to be complied with per the formula found in this section of A-B+C to equal the number of stalls required, where “A” is the proposed number of parking stalls required, “B” is the number of stalls currently required and “C” is the number of stalls that physically exist. The petitioner seeks a special permit to waive the requirement to use this calculation.



10. The petitioner proposes to construct 23 parking stalls. There are 26 residential units proposed, as well as either 1,323 square feet of retail space or a 24-seat restaurant. While no commercial tenants have been confirmed, based on the available information included in the application, the following parking calculation is presumed applying the requirements for a restaurant use, which has the greatest parking demand per the requirements found in section 5.4.1 for anticipated uses:

Use	Parking Regulation	Parking Required
26 Residential units	2 stalls per unit required	52 stalls
Restaurants 24 seats 3 employees	1 stall per 3 seats 1 stall per 3 employees	9 stalls
<b>TOTAL</b>		<b>61 stalls</b>

The residential units require 52 stalls. Applying the larger proposed commercial use of a restaurant requires 9 stalls, for a total requirement of 61 stalls. With a total of 23 stalls proposed, a waiver of 38 stalls is required.

Section 5.1.4.A allows the multi-family residential parking requirement to be reduced, by special permit, from two stalls per unit to 1.25 stalls per unit. Applying this reduction would result in a requirement of 33 stalls, with the overall site requirement reduced to 42. A waiver of 19 stalls would be required.

11. Section 5.1.8.A.1 states that no parking space may be located within any required setback distances from a street or side lot lines and must be a minimum of five feet from the street. The petitioner proposes parking within the 20-foot required setback from the side lot line with 1141-1145 Walnut Street, requiring a special permit per section 5.1.13.
12. Sections 5.1.8.B.1 and 2 require that parking stalls measure 9 feet in width by 19 feet in depth. The petitioner proposes several reduced parking stalls with the smallest measuring 8.5 feet wide by 16 feet deep. To reduce the parking stall dimensions requires a special permit per section 5.1.13.
13. Section 5.1.8.B.6 requires that end stalls restricted on one or both sides by curbs, walls, fences or other obstructions must have maneuvering space at the aisle end of the stall at least 5 feet in depth and 9 feet in width. Several stalls are restricted by walls and the resulting maneuvering space is less than 9 feet in width, requiring a special permit per section 5.1.13.
14. Section 5.1.8.C.1 requires 24-foot wide two-way access aisles in parking facilities. The petitioner proposes aisles as narrow as 21.5 feet, requiring a special permit per 5.1.13.
15. The petitioner proposes to have at-grade parking under the building in an open parking facility. As such, the parking is treated as “outdoor parking” and must meet those design standards. Per section 5.1.9.A, outdoor parking facilities must provide perimeter screening. None is proposed, requiring a waiver per section 5.1.13.

16. Section 5.1.9.B requires outdoor parking facilities with more than twenty stalls provide interior landscaping. As the parking is covered by the building, no landscaping is proposed, requiring a waiver per section 5.1.13.
17. Per section 5.1.10, outdoor parking facilities with more than five stalls must provide security lighting with a minimum intensity of one-foot candle on the entire surface. Per section 5.1.13, the petitioner seeks a waiver from this provision.
18. Section 5.11 of the Zoning Ordinance provides requirements for providing inclusionary units for private residential developments. Rental projects with more than 21 units must designate 15% of the units as available to 50-80% of the Area Median Income (AMI), and an additional 2.5% at 110% AMI. With 26 residential units proposed, four units must be provided at 50-80% AMI, and one unit must be made available at 110% AMI, for a total of five units.
19. To the extent that the proposed inclusionary units do not meet the minimum square footage and bathroom requirements, as required by the Department of Housing and Community Development's most current Comprehensive Permit guidelines, the petitioner will seek a waiver from DHCD.

MU4 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	13,200 square feet	No change
Setbacks			
• Front	0-10 feet	<b>35.9 feet</b>	<b>10.7 feet</b>
• Side abutting BU1	0 feet	0.5 feet	No change
• Side abutting MR1	20 feet	<b>11.1 feet</b>	<b>0 feet</b>
• Rear abutting BU1	0 feet	1.5 feet	0.4 feet
Building Height	48 feet (special permit)	18.3 feet	<b>48 feet</b>
Stories	up to 4 (special permit)	1	<b>4</b>
Lot Area Per Unit	1,200 square feet	N/A	<b>508 square feet</b>
FAR	1.00 (by right) 2.00 (special permit)	0.37	2.00

Zoning Relief Required		
Ordinance	Required Relief	Action Required
	Rezone parcels from BU2 to MU4	
§4.2.2.B.1	Site Plan Review	§7.4
§4.2.2.A.2 §4.2.5.A.3	Waive minimum lot area per unit requirement	S.P. per §7.3.3
§4.2.2.B.3 §4.2.5.A.2	To allow four stories	S.P. per §7.3.3
§4.2.3 §4.2.5.A.2	To allow a building height of 48 feet and an FAR of 2.00	S.P. per §7.3.3
§4.2.5.A.4.a 4.2.5.A.4	To allow a front setback greater than 10 feet	S.P. per §7.3.3

§4.2.5.A.4.b §4.2.5.A.4	To reduce the side setback requirement	S.P. per §7.3.3
§4.2.5.A.4.c 4.2.5.A.4	To waive additional setback requirement for portions of the building greater than 40 feet in height	S.P. per §7.3.3
§5.1.3.B §5.1.13	Waive the requirement to use A-B+C formula to determine the parking requirement	S.P. per §7.3.3
§5.1.4 §5.1.4.A	To allow 1.25 parking stalls per residential unit	S.P. per §7.3.3
§5.1.4 §5.1.13	To waive 24 parking stalls	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	To allow parking in the side setback	S.P. per §7.3.3
§5.1.8.B.1 §5.1.8.B.2 §5.1.13	To waive the minimum dimensions for parking stalls	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	To allow restricted end stalls	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	To allow reduced aisle width	S.P. per §7.3.3
§5.1.9.A §5.1.13	To waive perimeter screening requirements	S.P. per §7.3.3
§5.1.9.B §5.1.13	To waive interior landscaping requirements	S.P. per §7.3.3
§5.1.10 §5.1.13	To waive lighting requirements	S.P. per §7.3.3

# ATTACHMENT D

## CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

### MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 1149-1151 Walnut Street

Date: October 23, 2020

CC: Barney Heath, Director of Planning  
Jennifer Caira, Deputy Director  
Lou Taverna, PE City Engineer  
Nadia Khan, Committee Clerk  
Neil Cronin, Chief Planner  
Michael Gleba, Sr. Planner

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In reference to the above site, I have the following comments for a plan entitled:

Permit Site Plan  
For  
1149 – 1151 Walnut Street  
Residential Redevelopment  
Prepared by: H.W. Moore Associates  
Dated: 10/12/2020

#### Executive Summary:

This permit entails the demolition of an existing garage and spa, and construction of a four-story mixed-use development with retail & parking on the ground floor and apartments on the 2<sup>nd</sup> to 4<sup>th</sup> floors. The site is relative flat with a high point at elevation 159' near the center of the site and a low elevation of 157' at a catch basin in the northwest corner. The site contains two lots having a total area of 13,214 square feet [0.30 acres].

If the special permit is approved an Approval Not Required [ANR] plan will be required in accordance with Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots to be combined into one lot.

The under-building parking entrance is located on the north side of the site off Walnut Street and provides 23 on grade parking stalls. The current site is entirely all impervious cover with roofs and asphalt with no stormwater control or treatment. The engineer of record has designed a storm water collection system to collect and infiltrate stormwater to the maximum practical extent which will improve water quality and will have an overflow connection to the City's drain system. Since the entire site is impervious it would be a nice feature to introduce a "green roof" with some vegetation as an amenity for the residents.

A turning template plan is needed to demonstrate the accessibility of vehicles into and out of the parking stalls. What is the clearance beneath the building for emergency vehicle access? Finally, how will trash and recycling be addressed for this development, and mail distribution for the units?

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters. As the site is very tight delivery and stockpiling of materials will be a challenge.

Drainage:

1. The proposed Operations and Maintenance (O&M) plan for the long-term maintenance of the stormwater management facilities needs to include: sweeping of the driveway & parking stalls and the frequency of this event. Once updated & approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

3. Prior to final approval of the overflow connection, the engineer of record needs to submit hydraulic calculation to ensure that there is adequate capacity in the City's drainpipe in Walnut Street from the point of connection to the next downstream manhole. Additionally, a Closed-Circuit Television (CCTV) inspection will be required for Pre & Post Construction and must be witnessed by the Engineering Division, video copies shall be provided for review.

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.
2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be submitted to the Newton Fire Department for approval, and copies give to the Engineering Division.
2. All water services shall be chlorinated, and pressure tested in accordance to the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
3. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.
4. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.

Infiltration & Inflow:

- Will be addressed in a separate memo.

General:

1. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
4. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
5. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
6. All site work including trench restoration, sidewalk, curb ,apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
7. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.

8. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.