



Ruthanne Fuller
Mayor

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

#s 319-20 & 320-20

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: February 2, 2021
MEETING DATE: February 9, 2021
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner
CC: Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

PETITIONS #319-20 & #320-20

1149-1151 Walnut Street

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.

The Land Use Committee (the "Committee") held a public hearing on January 5, 2021 on this petition. This memo reflects additional information addressed to the Planning Department as of February 4, 2021.

Background

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 construct a 26-unit, four-story, 10,169 square foot mixed-use building with 23 at-grade parking stalls on the assembled site. In order to construct the proposed project, the petitioner is seeking to have the subject parcels rezoned from Business 2 (BU2) to Mixed Use 4 (MU4).

As designed, several aspects of the project would also require a special permit under MU4 zoning district requirements and, as it would contain between 10,000 and 19,999 square feet of gross floor area in a mixed-use district, the development would be subject to site plan review under Section 4.2.2.B.1 of the Newton Zoning Ordinance (NZO).

Rezoning Petition

Context

The subject property, located on the west side of Walnut Street between Forest and Lincoln streets, is zoned Business 2 (BU2). Similarly-zoned parcels to the east across Walnut Street and Business 1 (BU1) parcels are located to the south and west. There are also Single Residence 2 (SR2) and Multi-Residence 1, 2 and 3 (MR1, MR2, MR3) zoned areas surrounding the neighborhood village center as well as some Public Use (PU) parcels to the south/southwest. The neighborhood's zoning generally corresponds to its wide mix of land uses that includes 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 intersection of those two streets which features the MBTA Green Line Newton Highlands station.

The Petitioners seek to rezone the two parcels that comprise the subject property, 1149 Walnut Street (Section 52 Block 08 Lot 13) and 1151 Walnut Street (Section 52 Block 08 Lot 14) from Business 2 (BU2) to Mixed Use 4. Due to recent amendments to Massachusetts General Laws Chapter 40A, the rezoning request and the special permit petition are subject to a majority vote of the City Council. Specifically, the rezoning request is an amendment to the zoning ordinance that would allow an increase in permissible density in a mixed use development and the special permit petition would locate a mixed use development, subject to the Inclusionary Zoning provisions, in a center of commercial activity.

The purposes of the Mixed Use 4 District (Sec. 4.2.1.C) are to:

1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.

4. Expand the diversity of housing options available in the City.
5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

The MU4 zone provisions and requirements were drafted and adopted in light of the City’s Comprehensive Plan, including its so-called “Mixed-Use Element.”

The Comprehensive Plan calls for “enhancing village centers [and] supporting their vitality” by providing “services to nearby neighborhoods,” “housing alternatives,” and “focal areas” to create a “sense of place” while recognizing the unique roles each village plays in the City. The Plan calls for “moderate growth” in the larger village centers and “revis[ing] the zoning rules that presently impose restrictions on residential uses in village centers and other business areas” to “encourage mixed uses in business areas and village commercial centers, particularly where public transportation is available.”

Importantly, the Comprehensive Plan encourages the provision of incentives to spur the “creation of more multifamily housing” and “multi-story buildings;” and that zoning should also be more “proactive” in encouraging desired uses and design features. Also, it should be noted that although the “Mixed-Use Element.” is focused on guiding the development of larger sites, it emphasizes the importance of fine-grained mixed uses, pedestrian appeal, and residential proximity in Newton’s village centers.

Dimensional Standards

The table below compares the dimensional requirements for the site’s existing BU2 zoning with the proposed MU4 zoning. The “Petition” column indicates the relevant dimensions of the proposed mixed-use development.

| | <u><i>Business Use 2</i></u> | <u><i>Mixed Use 4</i></u> | <u><i>Petition</i></u> |
|---|--|-----------------------------------|------------------------|
| Lot Size (SF) | 10,000 | 10,000 | 13,200 |
| Lot Area Per Dwelling Unit (SF)(min) | 1,200 | 1,000, waivable by special permit | 508 |
| Front Setback for 4 or more stories | Lesser of ½ bldg ht or Average | ≥75% of frontage:0-10 feet | 10.7 feet |
| Side Setback abutting BU1 (for 4 or more stories) | ½ bldg ht or equal to abutting side yard setback | 0 feet | 0.5 feet |
| Side Setback abutting MR1 | greater of ½ bldg ht or 15’ | 20 feet | 0.0 feet |
| Rear Setback not abutting residential or Public Use district | 0 feet | 0 feet | 0.4 feet |

| | | | |
|-------------------------------|---|---|---|
| Stories | 4 (by special permit) | 5 (by special permit for mixed use residential) | 4 (by special permit) |
| Building Height | 48 feet (by special permit for 4 stories) | 60 feet (by special permit for 5 stories mixed use residential) | 48 feet (by special permit for 4 stories) |
| Floor Area Ratio (FAR) | | 2.50 (by special permit for 5 stories) | 2.00 |
| | | | |

The chart reflects the “Additional Standards in MU4” provided by Sec. 4.2.5 which pertain to height, mixed uses, residential density, and setbacks. (Additional requirements established by the section for which the petitioner is not seeking relief include those pertaining to accessibility, “transparency and entrances,” “lobbies for low-activity uses,” and open space.)

As indicated in the above chart, the provisions of the MU4 district empowers the City Council to grant a special permit to allow a structure measuring 4 stories and 48 feet, as is proposed by the associated special permit petition, with a “finding that the proposed structure 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.” The Planning Department notes the site is in a transitional location between the village center to the south, marked by the presence of a similarly scaled structures (albeit some with only three stories and/or with sloped roof lines ,as with the nearby building at the northwest corner of Walnut and Lincoln streets), and the more residential neighborhood to the north.

The chart above also indicates that the proposed development’s 26 units would result in a Lot Area Per Dwelling Unit of 508 square feet. This is less than both the 1,200 square feet required under the present BU2 zoning (which would permit 11 units) and the minimum 1,000 square feet) required in a MU4 district (which would permit 13). A notable difference between the two zoning designations is that the latter is waivable by special permit under Sec. 4.2.5.A.3 where the City Council finds that “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.”

As designed, the proposed development would also not meet certain setback requirements established for BU2 and/or MU4 zoning districts. With a proposed front setback of 10.7 feet the proposed development exceeds the MU4 district’s unique maximum front setback of 10 feet for buildings with 4 or more stories. The front setback would also likely be insufficient in the existing BU2 district which has a minimum required setback of the lesser of half the proposed building’s 48 foot height, i.e., 24 feet, or the average of the setbacks of the buildings on the nearest lot on either side, which would appear to be an approximately similar measurement.

Also, at 0.0 feet (as measured from the furthest extent of several balconies that would project from the north façade), the right side setback that abuts the adjacent MR1 zoned parcel would be insufficient

under the existing BU2 zoning, where 24 feet is required. It would also not meet the 20 feet that would be required in a MU4 district.

The Planning Department also notes the MU4 district regulations include a provision unique to it, Sec. 4.2.5.A.4.c, which requires that “(a)ny 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.” This provision would be applicable to the fourth floor of the proposed development, and the associated special permit petition seeks relief from it as the current design does not provide such a setback, which would be approximately 5 feet, for those portions of the building located along the parcel’s boundaries.

In order for the City Council to grant a special permit to grant the requested setback relief(s) for an MU4 zoned property, it would need to find, per Sec. 4.2.5.A.4, that 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” than the requirements the petitioners seek to have waived. The setback requirements e.g., abutting residential districts and the portions of buildings greater than 40 feet tall intend to require soft transitions to residential districts and to minimize the impact of additional stories on the street and on adjacent properties.

When reviewing the context of Newton Highlands, several structures contain three-to four-stories and feature sloped roofs. The Planning Department is supportive of a mixed-use development at this site, however is cognizant that the waivers to the dimensional standards of the MU-4 district, may result in a development that is out of scale with the neighborhood, a concern noted by the Urban Design Commission during their review of the petition. The Planning Department suggests the petitioner continue to refine the bulk and mass of the structure to more closely align with the standards of the MU4 zone and consider presenting revisions to the Urban Design Commission.

Uses

The proposed change in zoning would make some changes to the types of land uses allowed on the site. For example, residential use above the ground floor (as is proposed) and laboratory and research facilities, both of which require a special permit under BU2 zoning, would be allowed by right under MU4 zoning. Some now-precluded uses, including assisted living, animal services, health clubs, offices, multi-level accessory parking, would be allowed by special permit. Other uses that are now permitted by-right would require a special permit, including theaters, offices, and personal services, retail uses and service establishments over 5,000 square feet. Also, business incubators, would go from as of right to prohibited.

In the event one or more of the uses that would require a special permit, Sec. 4.2.5.B establishes that the criteria for granting such a special permit for the uses is that the City Council would need to “make a finding that the proposed use will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed use fills a demonstrated need for the use within the vicinity, and that the proposed use is not inconsistent with the purposes of the Mixed Use 4 district or the City’s Comprehensive Plan.” The petitioner has stated the ground-floor would either be used for a 24-seat restaurant or a retail space, both uses would be allowed as of right in either the BU2 or MU4 district.

The Planning Department notes that in general, the criteria for granting special permits for relief from the requirements established by the MU4 district is fairly detailed. This appears to be especially true, for example, for relief related to the required lot area per unit which, as noted above, is “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.”

Indeed, such relief would have multi-dimensional and interrelated aspects, including concerns regarding the amount of parking, and that in dense, mixed-use areas like Newton’s village centers, parking is an important issue for many high-traffic desirable uses, like restaurants.

Yet, in this case, the sought reduction in parking, which is a result of the greater number of units that would be allowed were the lot area per unit requirement be reduced, would result in diminished parking for residents and, crucially, the elimination of parking for the employees and customers of the proposed commercial space.

While the current emphasis on shared parking in villages and other dense mixed-use areas and the encouragement alternative means of travel such as walking, bicycling, and, especially the nearby availability of transit service could reasonably be expected to mitigate some concerns, it is difficult to project that the already well-used street and public parking facilities in the immediate area could easily absorb the additional parking demand that the proposed development, especially its commercial component, would be expected to generate. The Planning Department will continue to work with the petitioner as well as other City Departments to evaluate the petitioner’s approach to parking, including the Transportation Demand Management plan, which will be addressed in a future working session memorandum.

Additional Information

As the public review process for this proposal continues, the Planning Department recognizes the need for additional information about the project. As the street-level pedestrian experience is an important aspect of the proposal, the Department requests that the petitioner provide a sample seating plan for the potential use of the front setback area for a restaurant as this will give some insight into both the use of the (slightly) excessive setback and a sense of its possible contribution to the village center setting. Alternatively, the petitioner should provide details as to how the space will be used should a retail use occupy the ground floor.

The Department further requests that the petitioner provide information regarding the materials to be used for the structure’s exterior, and that the petitioner revisit the siting of a transformer within the front setback near the sidewalk and the driveway as the Planning Department recommends the petitioner avoid locating it in a visually prominent location and limit its impact on the public realm and abutting properties.

Lastly, the Planning Department also requests that the petitioner be prepared to address concerns regarding the shadow impacts of the proposed structure, especially as they relate directly to the several setback reliefs sought by the special permit petition.