



Land Use Committee Report

City of Newton In City Council

Tuesday, February 23, 2021

Present: Councilors Lipof (Chair), Kelley, Markiewicz, Downs, Bowman, Laredo and one vacancy; also Present: Councilors Wright and Ryan; absent: Councilor Greenberg

City Staff Present: Chief Planner Neil Cronin, Senior Planner Katie Whewell, Senior Planner Michael Gleba

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

Chairs Note: *The Committee will review the post-occupancy transportation conditions as required by Special Permit Council Order #127-16 for 288 Walnut Street.*

Note: In 2016 the petitioner received a special permit to waive the parking relief to locate a daycare at 288 Walnut Street (Special Permit Council Order #127-16). The proposed daycare anticipated an enrollment of up to 60 children supported by 12 staff members. As part of the process, the petitioner committed to a Transportation Demand Management (TDM) plan as well as two lookbacks (at 6 months and 12 months) after final Certificate of Occupancy to review the traffic conditions and site circulation. The final certificate of occupancy was issued in February 2020. Due to the pandemic, enrollment has been operating with 18 children and 6 staff members. Chief Planner Neil Cronin presented details of the lookback but noted that operations have been dulled due to the limit on capacity. The site has frontage on Newtonville Avenue and Bowers Street. As part of the TDM, the petitioner agreed to requiring access from Bowers Street. Mr. Cronin noted that during staff observation, not all pickups and drop-offs are occurring via the Bowers Street access point. The Planning Department recommends that the petitioner reinforce TDM measures and notify existing and new parents of circulation and access to the site via Bowers Street. Mr. Cronin explained that until the facility increases in enrollment, Planning is unable to determine whether the TDM and circulation plan is working. He confirmed that he will continue to work with the petitioner to track enrollment and traffic conditions and the Committee agreed to a six-month extension for the lookback provision.

#54-21 **Petition to amend special permit to allow veterinary use at 180 Needham Street**
BANFIELD PET HOSPITAL petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Orders #91-15 and #182-09(2) to allow a veterinary hospital use on the first floor at 180 Needham Street, Ward 8, Newton Upper Falls, on land known as Section 83, Block 28, Lot 01, containing approximately 9036 sq. ft. of land in a district zoned MULTI USE 1. Ref: 7.3, 7.4, 4.4.1, 6.4.36 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 5-0 (Councilor Laredo not Voting); Public Hearing Closed 02/23/2021**

Note: Attorney Frank Stearns, with law offices at Holland and Knight, 10 St. James Avenue, Boston, MA, represented the petitioner Banfield Pet Hospital and the property owner Crosspoint Associates. Atty. Stearns presented the request to allow a veterinary use at 180 Needham Street (formerly occupied by Anthony's Coal Fired Pizza). He noted that the existing building at 180 Needham Street was subject to a special permit to allow restaurant use and a later amendment to allow a for-profit education center on the second floor. Due to the pandemic, Anthony's Coal Fired Pizza was unable to sustain operations and was forced to close. Atty. Stearns confirmed that Banfield is currently operating an accessory space inside of PetSmart at 215 Needham Street. If the special permit is approved, Banfield will expand their operations at 180 Needham Street and will no longer need the accessory space at 215 Needham. Atty. Stearns noted that the site layout provides sufficient parking and it is anticipated that parking demand will decrease as a result of the change from restaurant to veterinary use.

Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown on the attached presentation. Ms. Whewell confirmed the decrease in parking demand which will decrease from 39 stalls to 17 based on square footage and use.

The Public Hearing was Opened. No member of the public wished to speak. The Committee questioned whether the change in use could have a detrimental impact to the neighborhood, noting the presence of other pet service facilities in the area. Crosspoint Associates Director of Development Kerry McCormack explained that several restaurants have not been successful during the pandemic. It was noted that the two veterinary facilities are complementary as Banfield's services are primarily in preventative care (vaccinations, dentals, behavioral health) and the Emergency Clinic provides after hour emergency care.

The Committee acknowledged the complementary uses and expressed support for the petition. Councilor Downs motioned to close the public hearing which carried 5-0. Councilor Downs motioned to approve the petition. Committee members reviewed the draft findings as shown on the attached presentation and voted 5-0 in favor of approval (Councilor Laredo not Voting).

#33-21 Petition to allow a lab and research facility at 275 Grove Street

ALEXANDRIA REAL ESTATE EQUITIES, INC/ARE-MA REGION NO 76 petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow operation of a laboratory and research facility in 62,531 sq. ft. of space within the building at 275 Grove Street, Ward 4, Auburndale, on land known as Section 43 Block 29 Lot 24, containing approximately 487,578 sq. ft. of land in a district zoned BUSINESS USE 4. Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.5.9.A of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Approved 6-0; Public Hearing Closed 02/09/2021

Note: Atty. Steve Buchbinder, with law offices at Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner; Alexandria Real Estate Equities, Inc/Are-MA Region No 76. Atty. Buchbinder explained that at the public hearing on February 9, 2021 the petition was approved subject to second call pending a review of the draft conditions. Based on additional changes needed to finalize the draft order, the Committee held the item at the Council meeting on February 16, 2021. Atty. Buchbinder explained that he worked with the petitioner and Committee representative Councilor Markiewicz to revise the draft conditions as shown below.

Condition: This Special Permit is being granted in connection with Petitioner's lease of the premises to ~~Corindus~~, a company which develops vascular robotics. In the event that ~~Corindus~~ or its successor ceases to operate at the site, the Petitioner may relet the premises to another party for laboratory, research, and development use provided that the same:

a. is a technical facility consisting of laboratory space, office space, storage space, and/or space for assembly of materials for study, research and development, experimentation, and prototype development in one or more scientific fields including, but not limited to, life sciences, biotechnology, biomedical research, robotics, renewable technology, sustainable technology, computer science, electronic technology, medicine, or similar fields;

b. does not involve recombinant DNA research or technology at Biosafety Level 3 (BSL-3) or above and complies with the Revised Ordinances, Chapter 12, Section 12-21 et. seq. for any other use involving recombinant DNA;

c. does not involve noxious or hazardous substances or processes above the levels permitted by applicable city, state, and federal standards;

d. is such that any and all resulting cinders, dust, flashing, fuses, gases, odors, smoke, noise, vibration, refuse matter, vapor, heat, and any other noxious or hazardous substances that may be produced are effectively contained and confined in the facility or are disposed of in a manner so as not to create a nuisance or hazard to public health and safety of the surrounding neighborhoods;

e. is in compliance with all other applicable city, state, and federal health and safety laws and regulations; and

f. an appropriate ventilation system for such use is installed and approved by the Commissioner of Inspectional Services.

Determinations as to whether a proposed future use at the site complies with this Condition shall be made by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Chief, and the Commissioner of Health and Human Services. Notice will be provided to the Ward 4 Councilors prior to the issuance of a determination by the Commissioner of Inspectional Services.

It was noted that the proposed changes relate specifically to the 60,000 sq. ft. portion of the site as proposed for use by Corindus. While it is anticipated that the Council will have a larger discussion relative to Lab and research, the changes to the conditions for this site are to require notification to the Ward 4 Councilors and to limit the uses/activities as shown above. Atty. Buchbinder noted that the City's Planning, Fire, Health and Fire Departments will also be reviewing the proposed use without the condition, but confirmed the condition is acceptable to the petitioner.

Public Comment

Bruce McVittie, 11 Norumbega Court, expressed concerns relative to the proposal. He suggested that the language relative to the successor uses is broad and not restrictive. He noted that a future use could have a different footprint, traffic/parking/delivery demand that what is currently proposed and suggested the successor uses should be limited. Mr. McVittie noted that the ventilation units at Life Sciences facilities can be very noisy. He recommended a requirement that the ventilation equipment is quiet or constructed in a way to minimize impact to abutters.

Atty. Buchbinder noted that the uses in the draft condition come from the new Lab and Research Ordinance approved by the Council on February 16, 2021. It was confirmed that the City's noise ordinance is in effect and enforceable for any violations. Associate City Solicitor noted that future changes to the Lab and Research Zoning Ordinance will not impact approval on this special permit. The Committee discussed removal of the condition text and replacement with a citation to the ordinance, requiring compliance with any future changes. The Committee agreed to leave the language in the draft condition as written, noting that a future use outside of the scope of the special permit can return for an amendment if needed. With that, the Committee voted 6-0 in favor of approval.

The Committee adjourned at 7:50 pm.

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



PETITION #127-16

288 WALNUT STREET

**SPECIAL PERMIT/SITE PLAN
APPROVAL TO WAIVE THE
PARKING REQUIREMENT OF
A DAY CARE CENTER**

FEBRUARY 23, 2021



Petition Details



- The petitioner received a special permit in 2016 to waive the parking requirement of a day care center for up to 60 children and up to 12 staff members.
- The petitioner committed to a Transportation Demand Management Plan as well as a traffic pattern for parents to access the site via Bowers Street.
- The special permit requires the petitioner to appear before the Land Use Committee at six and at 12 months after receipt of a final certificate of occupancy.

Operation



- Due to Covid-19, the petitioner is operating the center with 18 children and six employees.
- The petitioner indicated the TDM measures are not necessary given the reduced enrollment.
- Staff suggests the petitioner reinforce the TDM measures and notify parents of the traffic pattern as the enrollment increases.

Site Access



Department of Planning and Development



PETITION #54-21
180 NEEDHAM STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO AMEND
SPECIAL PERMITS #212-18,
91-15 TO ALLOW A
VETERINARY HOSPITAL IN A
MIXED USE-1 DISTRICT

FEBRUARY 23, 2021



Requested Relief



- Amend Special Permits #212-18, #91-15
- Allow a veterinary hospital in the Mixed Use 1 (MU-1) zoning district (§4.4.1 and §7.3.3)

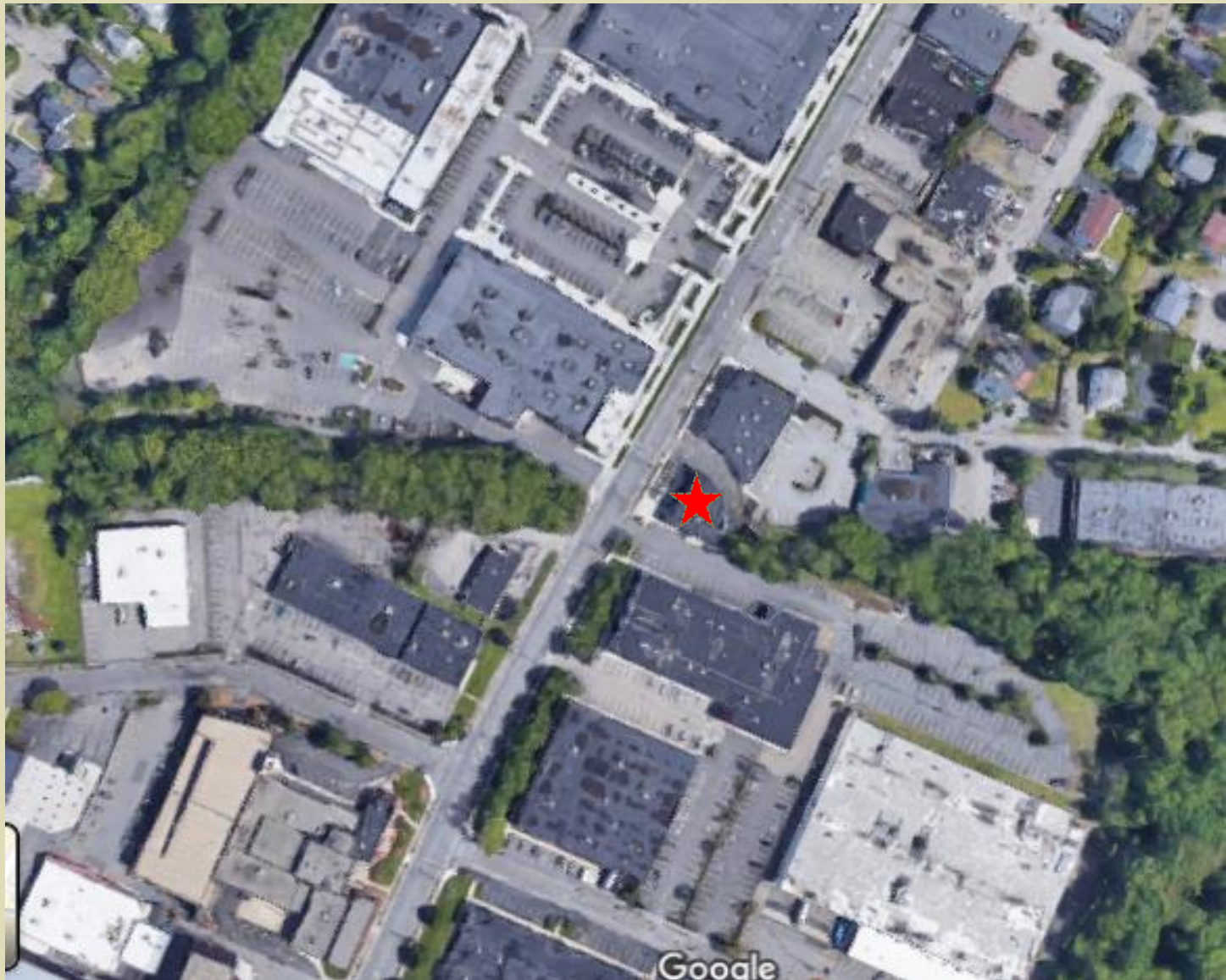
Criteria to Consider



When reviewing this request, the Council should consider whether:

- The specific site in a Mixed Use 1 zone (MU-1) is an appropriate location for the proposed veterinary hospital use (§7.3.3.C.1);
- The proposed veterinary hospital use, as developed and operated, will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed veterinary hospital will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3); and
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4).

AERIAL/GIS MAP




ATTACHMENT A

Zoning

180 Needham St.

*City of Newton,
Massachusetts*

Legend

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

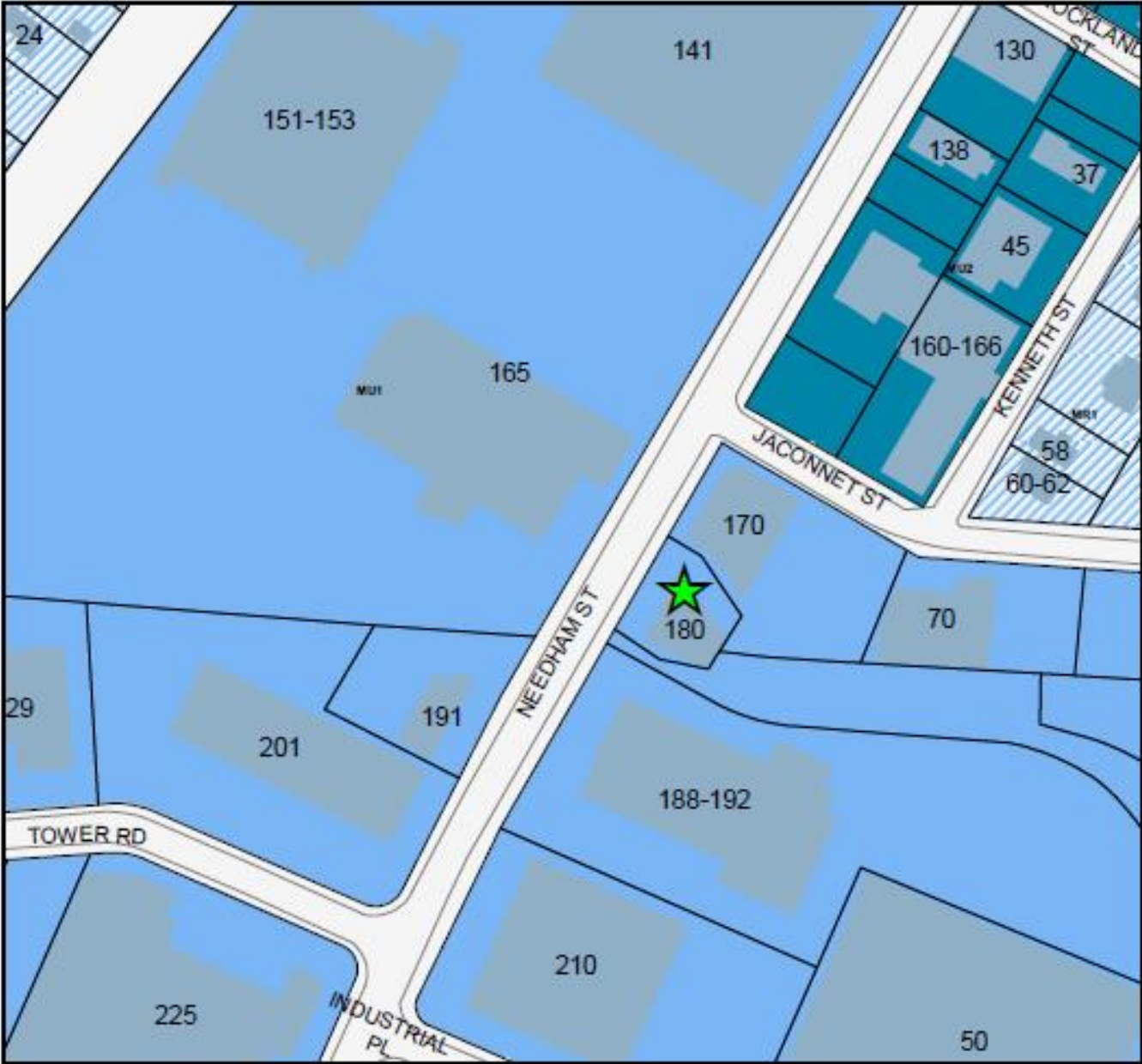


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruffalo Pulos
GIS Administrator - Douglas Greenfield



Map Date: February 10, 2021



ATTACHMENT B

Land Use

180 Needham Street

*City of Newton,
Massachusetts*

Legend

Land Use

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



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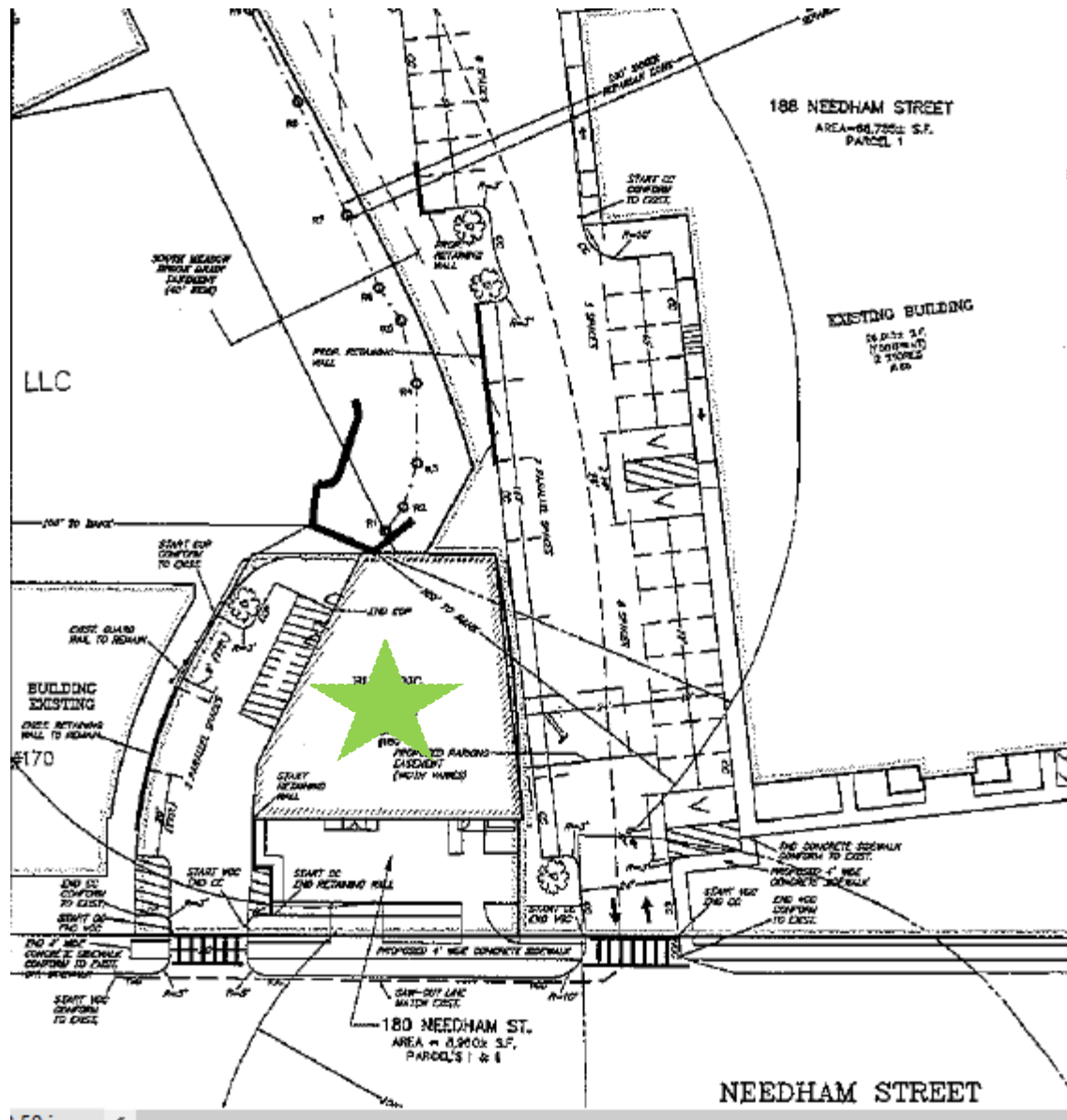
CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: February 10, 2021



Site Plan



Proposed Findings



- The specific site in a Mixed Use 1 zone (MU-1) is an appropriate location for the proposed veterinary hospital because the site is in the Needham Street mixed-use corridor. (§7.3.3.C.1.)
- The proposed veterinary hospital use, as developed and operated, will not adversely affect the neighborhood given the mixed-use nature of the area and the site can accommodate the parking requirement. (§7.3.3.C.2.)
- The proposed veterinary hospital will not create a nuisance or serious hazard to vehicles or pedestrians because the use does not require any alterations to the site. (§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.)

Proposed Conditions



- Standard plan referencing condition
- Standard building permit condition
- Standard Certificate of Occupancy condition
- Consolidate prior conditions from Orders 212-18 and 91-15
 - 212-18
 - ✦ Plan Referencing – second floor space
 - ✦ For profit educational use operations
 - 91-15
 - ✦ Landscaping
 - ✦ Post Occupancy Traffic Study
 - ✦ Trash – use dumpster at 188-210 Needham St.
 - ✦ Undergrounding utilities payment. *This obligation shall run with the land for a period of 25 years from the date of this special permit.*