



Ruthanne Fuller
Mayor

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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 16, 2021

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 25-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, 2/24/2021
- 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, 2/23/2021
- Floor Plans and Elevations, prepared by The Architectural Team, architects, dated 2/5/2020, revised 6/3/2020, revised 12/7/2020, 2/23/2021

ADMINISTRATIVE DETERMINATIONS:

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 26,300 square feet of gross floor area within the proposed structure. Section 4.2.2.B.1 requires a special permit for proposed buildings of 20,000 square feet or more of gross floor area in a mixed-use district.
3. The petitioner proposes to construct a 25-unit mixed use building on the 13,200 square foot parcel, resulting in a lot area per unit of 528 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 44 feet, requiring a special permit.
6. 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.
7. 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 44-foot-tall building, requiring an additional four-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.
8. 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.
9. The petitioner proposes to construct 23 parking stalls. There are 25 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 greater parking demand per the requirements found in section 5.4.1 for anticipated uses:

Use	Parking Regulation	Parking Required
25 Residential units	2 stalls per unit required	50 stalls
Restaurants 24 seats 3 employees	1 stall per 3 seats 1 stall per 3 employees	9 stalls
TOTAL		59 stalls

The residential units require 50 stalls. Applying the larger proposed commercial use of a restaurant requires 9 stalls, for a total requirement of 59 stalls. With a total of 23 stalls proposed, a waiver of 36 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 32 stalls, with the overall site requirement reduced to 41. A waiver of 18 stalls would be required.

10. 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.
11. 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.
12. 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.
13. Section 5.1.8.C.1 requires 24-foot wide two-way access aisles in parking facilities. The petitioner proposes aisles as narrow as 19 feet, requiring a special permit per 5.1.13.
14. 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.
15. 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.
16. 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.

17. 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.

18. 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	35.9 feet	10 feet
• Side abutting BU1	0 feet	0.5 feet	1.7 feet
• Side abutting MR1	20 feet	11.1 feet	0 feet
• Rear abutting BU1	0 feet	1.5 feet	0.8 feet
Building Height	48 feet (special permit)	18.3 feet	44 feet
Stories	up to 4 (special permit)	1	4
Lot Area Per Unit	1,200 square feet	N/A	528 square feet
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	Special permit to allow a building with more than 20,000 square feet	§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 44 feet and an FAR of 2.00	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 18 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