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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: April 6, 2021  
Land Use Action Date: June 22, 2021  
City Council Action Date: July 5, 2021  
90-Day Expiration Date: July 5, 2021

DATE: April 2, 2021

TO: City Council

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

SUBJECT: **Petition #89-21**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit #566-18, to allow for changes to the previously approved parking configuration and to maintain the existing office building; the change in use requires a parking waiver of four stalls Ward 3, West Newton, at **424-432 Cherry Street**, Section 33 Block 11 Lot 02, containing approximately 14, 204 sq. ft. of land in a district zoned BUSINESS USE 1 .Ref: §7.3.3, §7.4, §5.1.3.B, §5.1.4, §5.1.13 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.



**424-432 Cherry Street**

*The applicant requested a continuance on March 31, 2021 due to a discrepancy between submitted plans that indicate the height of the previously approved multifamily increased by five feet. The Newton Historical Commission has been consistent in directing the multifamily structure be subordinate to the existing building. Below is a brief overview of the project and Planning will provide an update at a future public hearing.*

### **EXECUTIVE SUMMARY**

The subject property consists of 14, 204 square feet in the Business Use 1 (BU1) zone in West Newton. The property is improved with a 2.5-story Georgian Style structure constructed circa 1716. The site and structure are one of Newton's 22 designated Local Landmarks and is currently used as office space. Special Permit #566-18 allowed the conversion of the building to six dwelling units and allowed a new building with three dwelling units at the same height of the existing building. The petitioner is now looking to convert the existing building back to office use, while still constructing the new building with three dwelling units and reconfigure the parking. The change in use from six dwelling units to office use requires an additional four parking stalls, which the petitioner is seeking a waiver from.

At the March 25, 2021 meeting of the Newton Historical Commission (NHC), the proposed project changes were approved. However, at the meeting, it was stated that the building height of the multifamily building would not be taller than the existing structure from circa 1716. Upon further review of the plans, while the civil plan showed consistent building heights between the two structures, the architectural plans showed an increase in height of five feet of the approved multifamily structure, making it taller than the existing structure. The petitioner should revise the plans to show the previously approved building height under Special Permit #566-18 and/or return the to NHC for approval of the additional height.

#### **I. SIGNIFICANT ISSUES FOR CONSIDERATION:**

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed reconfiguration of the surface parking and waiver of four parking stalls. (§7.3.3.C.1.)
- The proposed for the reconfiguration of the surface parking and waiver of four parking stalls will not adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no 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 (Ordinance) 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.)

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is a corner lot with frontages on Cherry and Webster Streets in the BU-1 zone in West Newton. The properties to the south along Washington Street are predominantly located in the BU-1 and the Manufacturing zones. However, there are a few Public Use parcels and Multi-Residence 1 parcels as well. To the north of the subject property are Multi-Residence 1 zoned parcels (**Attachment A**). The properties to the south along Washington Street contain commercial and industrial uses, but there are some nonprofit uses and Open Space parcels in the form of Captain Ryan Park, the City of Newton Police Station, and the District Court. To the north are primarily multi-family uses (**Attachment B**). The subject property is located in a transitional zone that buffers the multi-family parcels to the north from the commercial uses to the south.

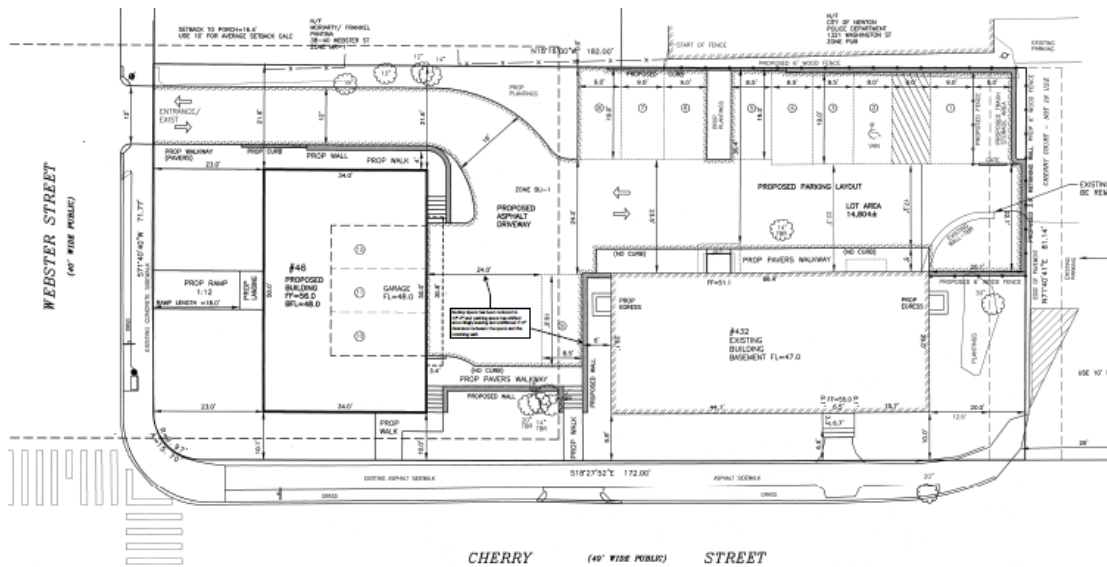
### B. Site

The site totals 14,204 square feet of land and is improved with a 2.5-story structure that is an example of Georgian architecture. The site and structure are one of Newton's 22 designated Local Landmarks. The rear of the site lies at a lower elevation than Cherry and Webster Streets. The site has one twelve-foot wide curb cut from Cherry Street, and one 16-foot wide curb cut from Webster Street. Both curb cuts provide access to the unstriped parking facility at the rear of the site. The site also has a 28-foot wide drive aisle that provides access to the rear of the Newton Police Department parcel. The western and northern boundaries are enclosed with a four-foot tall hedge, while the eastern boundary contains a six-foot stockade fence; mature landscaping is dispersed throughout the site.

### C. Special Permit #566-18

The site is governed by Special Permit #566-18 which allowed the conversion of the existing building into six dwelling units and allowed for the construction of a new multifamily building with three dwelling units and 29.7 feet in height, compared to the existing structure at 29.5 feet. The special permit granted dimensional waivers for the new building, allowed a reduction in the parking requirement to 1.25 stalls per unit, reduced the minimum stall dimensions and waived dimensional and design controls for parking facilities over five stalls.

### Approved Site Plan Special Permit #566-18



### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

If approved, the use of the site will be mixed use with office use and three residential units.

#### B. Site and Building Design

Due to the discrepancy between the submitted civil engineering plans and architectural plans, the petitioner should revise the plans to show the previously approved building height under Special Permit #566-18 and/or return the NHC, to seek approval for the additional height.

#### C. Parking and Circulation

Due to the discrepancy between the submitted civil engineering plans and architectural plans, the applicant needs to submit revised plans.

As the requested relief is for a waiver of four parking stalls due to the change in use, and a reconfiguration of the surface parking facility, the Planning Department will continue to work with the petitioner and the Transportation Division regarding the proposed changes.

### IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum dated February 24, 2021 provides an analysis of the proposal regarding zoning (**Attachment C**).

B. Newton Historical Commission Review

The subject property is one of Newton's 22 designated Local Landmarks which restricts modifications to the building and to the site. The petitioner appeared before the NHC three times: the first appearance was for approval of the dormers on the existing building as well as for approval for the new multifamily building; the second appearance concerned changes to the parking layout and demolition of the retaining wall at the southern portion of the site.

The petitioner returned the NHC for a third time on March 25, 2021 where the site modifications were approved. However, at that time it was not presented that the proposed building height of the new multifamily building increased by five feet. The directive of the NHC has been consistent in that the new building needs to be subordinate to the existing structure from circa 1716. The petitioner should revise the plans to show the previously approved building height under Special Permit #566-18 and/or return the NHC, to seek approval for the additional height.

C. Engineering Review

This petition is currently under review with the Engineering Division.

V. 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.










**ATTACHMENTS:**

- Attachment A:** Zoning Map  
**Attachment B:** Land Use Map  
**Attachment C:** Zoning Review Memorandum, dated February 24, 2021

# Attachment A Zoning Map Cherry St., 424-432

*City of Newton,  
Massachusetts*

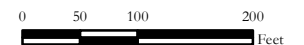
## Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Manufacturing
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries



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



Map Date: April 02, 2021



# Attachment B Land Use Map Cherry St., 424-432

*City of Newton,  
Massachusetts*

## Legend

### Land Use

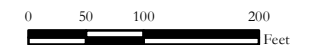
### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Building Outlines
-  Surface Water
-  Property Boundaries



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Map Date: April 02, 2021





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Director

## ZONING REVIEW MEMORANDUM

Date: February 24, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Dennis Cameron, Applicant  
Terrence Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Associate City Solicitor

**RE: Request to amend Special Permit #566-18 to maintain the office use and waive four parking stalls**

Applicant: Dennis Cameron	
<b>Site:</b> 424-432 Cherry Street	<b>SBL:</b> 33011 0002
<b>Zoning:</b> BU1	<b>Lot Area:</b> 14,204 square feet
<b>Current use:</b> Office	<b>Proposed use:</b> office and 3-unit multi-family dwelling in two structures

### BACKGROUND:

The property located at 424-432 Cherry Street consists of a 14,804 square foot lot improved with a commercial building originally constructed as a single-family dwelling circa 1716. The parcel is located in the BU1 zoning district at the corner of Cherry and Webster Streets. The petitioner received Special Permit #566-18 in 2018 to reconfigure the building to accommodate six dwelling units, and to construct a second building with three dwelling units, for a total of nine. The petitioner seeks to amend the special permit to maintain the office use in the existing building.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 12/29/2021
- Existing Conditions Site Plan, prepared by Everett M. Brooks, surveyor, dated 4/3/2018
- Proposed Conditions Site Plan, prepared by Everett M. Brooks, surveyor, dated 4/3/2018



- Architectural Plans and Elevations, signed and stamped by Ronald Jarek, dated 1/7/2020

**ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner seeks to amend Special Permit #566-18 to retain the office use in the existing structure. The petitioner still intends to construct the three-unit multi-family dwelling approved by the special permit. The petitioner proposes to add one parking stall to the approved site plan but intends to maintain the dimensional waivers granted for driveway width, reduced parking requirement for the residential units, aisle and stall width, as well as lighting and perimeter landscape screening.
2. Per section 5.1.4, a business office requires one stall per every 250 square feet requiring a total of 16 stalls for the existing 3,960 square feet of office space. The proposed three-unit multi-family dwelling requires 1.25 stalls per unit per the existing special permit, for a total of four stalls. The combined office and residential uses will require a total of 20 parking stalls. The petitioner intends to construct three garage stalls in the basement of the multi-family dwelling, as well as 12 surface stalls for a total of 15 parking stalls to be available on site. Per section 5.1.3.B, whenever there is a change in use from one to another, the parking requirements must be complied with the formula:

A-B+C=Required number of stalls where

“A” is the number of stalls required for the proposed use (20);

“B” is the number of stalls required for the existing use (16) and;

“C” is the number of stalls physically available (15).

The total number of additional stalls required utilizing  $A(20) - B(16) + C(15)$  is 4. A waiver of four stalls is required per sections 5.1.3.B, 5.1.4 and 5.1.13.

3. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #566-18	S.P. per §7.3.3
§5.1.3.B §5.1.4 §5.1.13	Request to waive four parking stalls	S.P. per §7.3.3