



Land Use Committee Report

City of Newton

In City Council

Thursday, May 13, 2021

Present: Councilors Lipof (Chair), Kelley, Greenberg, Lucas, Markiewicz, Downs, Bowman and Laredo; also Present: Councilor Noel

City Staff Present: Senior Planner Katie Whewell, Senior Planner Michael Gleba, Director of Planning and Development Barney Heath, Associate City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at the following link <https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-1058>. Presentations for each project can be found at the end of this report.

#123-21 Petition to exceed FAR at 9 Old Orchard Road

9 OLD ORCHARD RD LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to extend the ceiling height in a single-story rear addition to create atria space and to enclose an existing breezeway, exceeding the allowable FAR of .28 at 9 Old Orchard Road, Ward 7, Chestnut Hill, on land known as Section 63 Block 16 Lot 21, containing approximately 7,650 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 8-0; Public Hearing Continued**

Note: The petitioner was not present for the discussion. Senior Planner Michael Gleba noted that the petitioner must submit updated plans to move forward with the special permit as there is a discrepancy between the plans that were submitted for zoning review, for the special permit and under an existing building permit.

The Public Hearing was Opened. No member of the public wished to speak. Councilor Bowman motioned to hold the item which carried 7-0 (Councilor Laredo not voting).

#124-21 Petition to allow three-story structure at 28 Harrington Street

DOMENICO TAMBASCIA petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct dormers on the attic level that exceed 50% of the wall plane below and within 3' of the end wall in the attic level, creating a three-story structure in the MR3 zone at 28 Harrington Street, Ward 2, on land known as Section 21 Block 35 Lot 15, containing approximately 9,124 sq. ft. of land in a district zoned MULTI RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.2.3, 1.5.4.G.2.b of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 8-0; Public Hearing Continued**

Note: The petitioner Domenic Tambascia presented the request to allow a three-story structure at 28 Harrington Street by adding dormers to the attic level. The proposed dormers exceed 50% of the wall plane below it. Although the petitioner applied for relief to locate the dormers within less than 3' of the end wall, that relief is not needed.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning proposed plans and photos as shown on the attached presentation.

The Public Hearing was Opened. No member of the public wished to speak. Mr. Gleba confirmed that the only relief necessary is relative to the dormers and three-story structure. Committee members expressed no concerns relative to the request. Councilor Kelley motioned to close the public hearing which carried 7-0 (Councilor Laredo not Voting). Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings as conditions as shown in the attached presentation and voted 7-0-1 in favor of approval (Councilor Laredo abstaining).

#122-21 Petition to extend nonconforming two-family use at 9-11 Noble Street

JOHN CARUSO petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct dormers in the attic level, extending the nonconforming two-family use at 9-11 Noble Street, Ward 3, West Newton, on land known as Section 44 Block 4 Lot 19, containing approximately 6,258 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 8-0; Public Hearing Continued

Note: After a presentation from the Planning Department and petitioner, this item was held 8-0 by the Committee pending revised plans. An amended report reflecting the discussion on this item will be available Monday, May 17, 2021. A copy of the Planning Department's presentation can be found attached to the end of this report.

#125-21 Petition to allow marijuana retailer at 740 Beacon Street

THE GREEN LADY DISPENSARY II, INC/740 BEACON STREET LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a recreational marijuana retail establishment, to allow parking in the side setback, to reduce dimensions for accessible parking stalls, to reduce the minimum aisle width for two-way traffic, to waive perimeter screening requirements and to waive lighting requirements at 740 Beacon Street, Ward 6, Newton Centre, on land known as Section 61 Block 38 Lot 5, containing approximately 10,969 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 6.10.3.D, 4.4.1, 5.1.8.A.1, 5.1.13, 5.1.8.B.4, 5.1.8.C.1, 5.1.9.A, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

Action: Land Use Held 8-0; Public Hearing Continued

Note: Atty. Katherine Braucher Adams, with law offices at Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, The Green Lady Dispensary II, Inc. Atty. Adams presented an overview of the request to operate a marijuana retailer. A copy of the presentation can be found attached to the end of this report. This item was held after public comment and Committee discussion. An amended report reflecting the full discussion will be available on Monday, May 17, 2021.

The Committee adjourned at 9:00 pm.

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



PETITION #124-21

28 HARRINGTON STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT
DORMERS ON THE ATTIC LEVEL
THAT EXCEED 50% OF THE
WALL PLANE BELOW AND
WITHIN 3' OF THE END WALL
IN THE ATTIC LEVEL, CREATING
A THREE-STORY STRUCTURE



MAY 13, 2021

Requested Relief



Special permit per §7.3.3 to:

- allow a three-story structure (§3.2.3)
- allow the oversized dormers (§1.5.4.G.2.b)
- ???

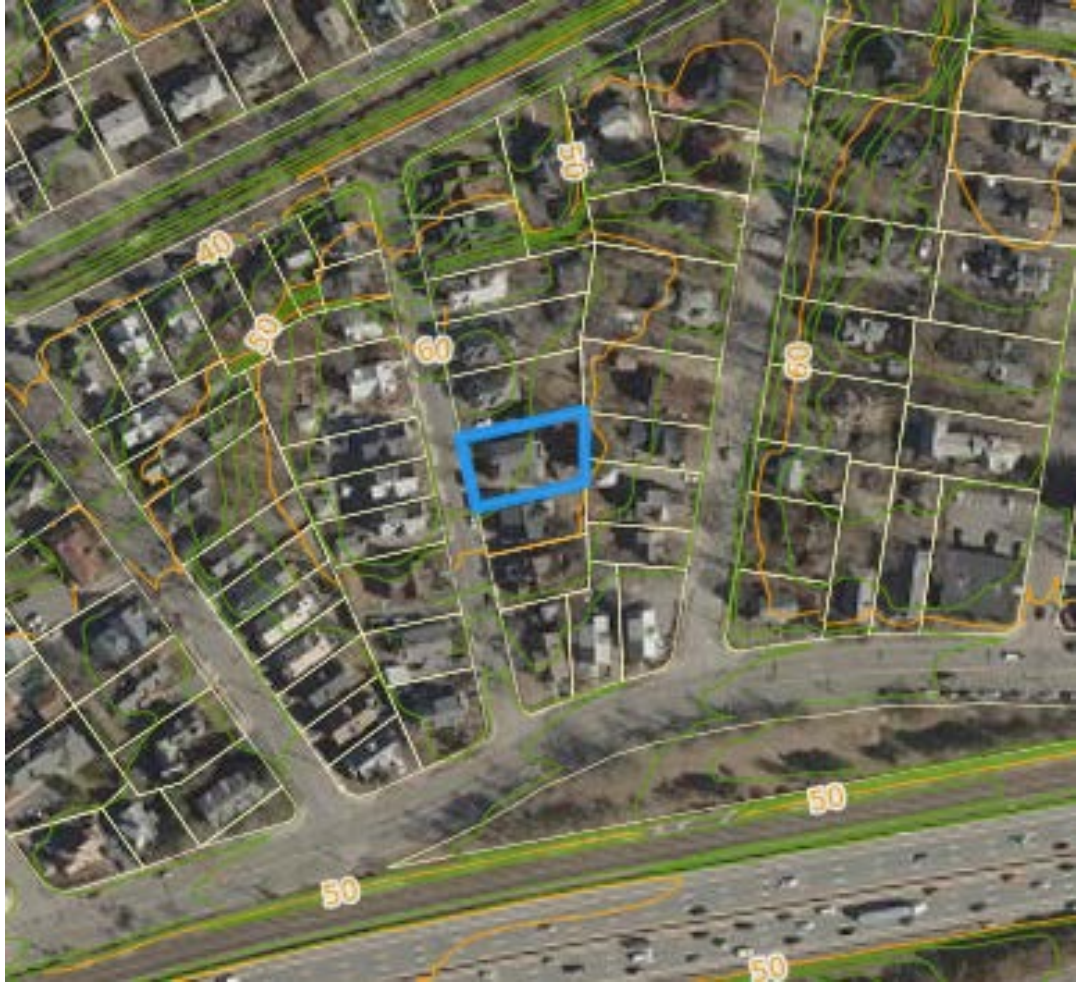
Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The site in a Multi Residence 3 (MR3) district is an appropriate location for a three-story two-family dwelling as designed with oversized dormers (§7.3.3.C.1)
- The three-story two-family dwelling as designed with oversized dormers will adversely affect the neighborhood (§7.3.3.C.2)
- The three-story two-family dwelling as designed with oversized dormers will create 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)

AERIAL/GIS MAP



Zoning




ATTACHMENT B

Zoning

28 Harrington St.

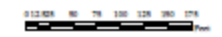
*City of Newton,
Massachusetts*

-  Multi-Residence 1
-  Multi-Residence 3
-  Public Use



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

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



Map Date: May 05, 2021

Land Use



ATTACHMENT A

Land Use

28 Harrington St.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Vacant Land



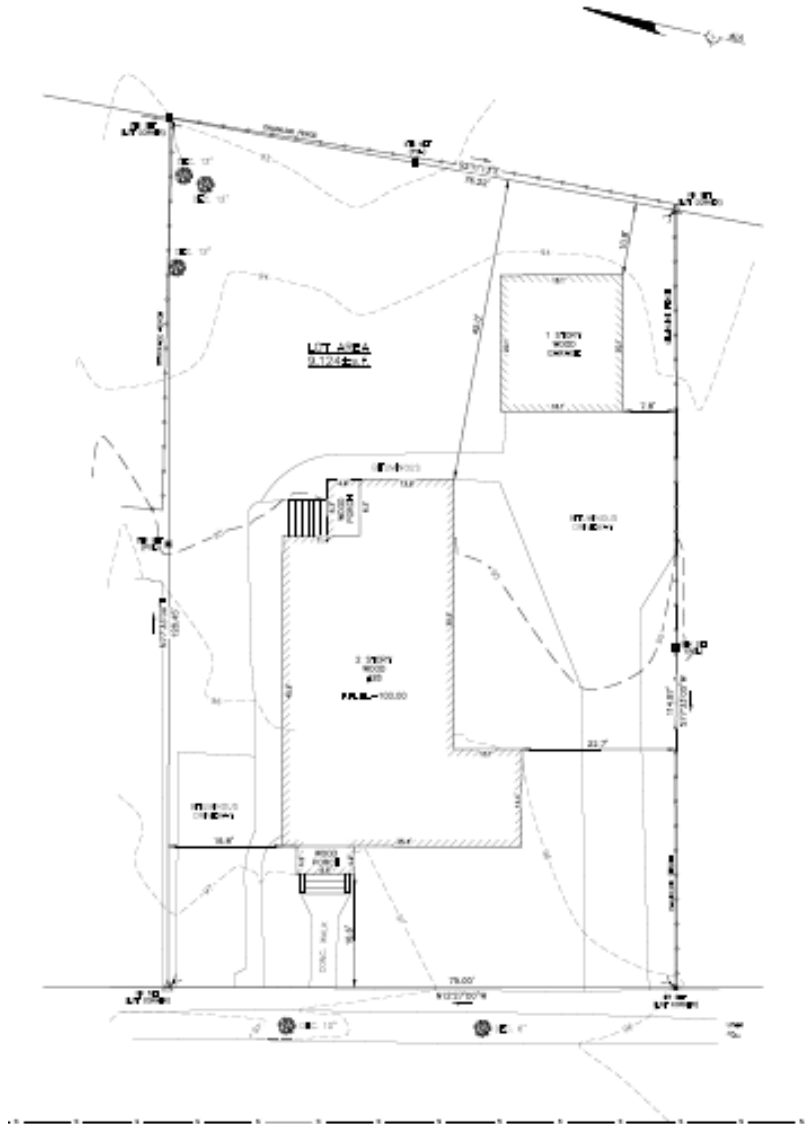
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CITY OF NEWTON, MASSACHUSETTS
Mayor: Ruthanne Flynn
GIS Administrator: Douglas Greenfield

0 25 50 75 100 125
Feet

Map Date: May 05, 2021

Site Plan- existing



Elevations- Existing and Proposed; Front and Rear



Elevations- Existing and Proposed; Right side



Elevations- Existing and Proposed; Left side



Photos



Photos



Photos



Photos



Proposed Findings



1. The site in a Multi Residence 3 (MR3) district is an appropriate location for a three-story two-family dwelling as designed with oversized dormers as it is located in a neighborhood with similarly scaled dwellings (§7.3.3.C.1)
2. The three-story two-family dwelling as designed with oversized dormers will not adversely affect the neighborhood as it will be similar in scale and design to other dwellings in the neighborhood and is compliant with other relevant dimensional standards (§7.3.3.C.2)
3. The three-story two-family dwelling as designed with oversized dormers will not create a nuisance or serious hazard to vehicles or pedestrians because there are no changes to the parking or circulation on site (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

Proposed Conditions



1. *Plan Referencing Condition*
2. *Standard Building Permit Condition.*
3. *Standard Final Inspection/Certificate of Occupancy Condition.*

Photos



Department of Planning and Development



PETITION #122-21
9-11 NOBLE STREET

SPECIAL PERMIT/SITE PLAN
APPROVAL TO FURTHER EXTEND
THE NONCONFORMING TWO-
FAMILY USE

MAY 13, 2021



Requested Relief



Special Permits per §7.3.3, 7.8.2.C.2 of the Newton Zoning Ordinance to:

- Further extend a nonconforming two-family use (§3.4.1, §7.8.2.C.2);

Criteria to Consider



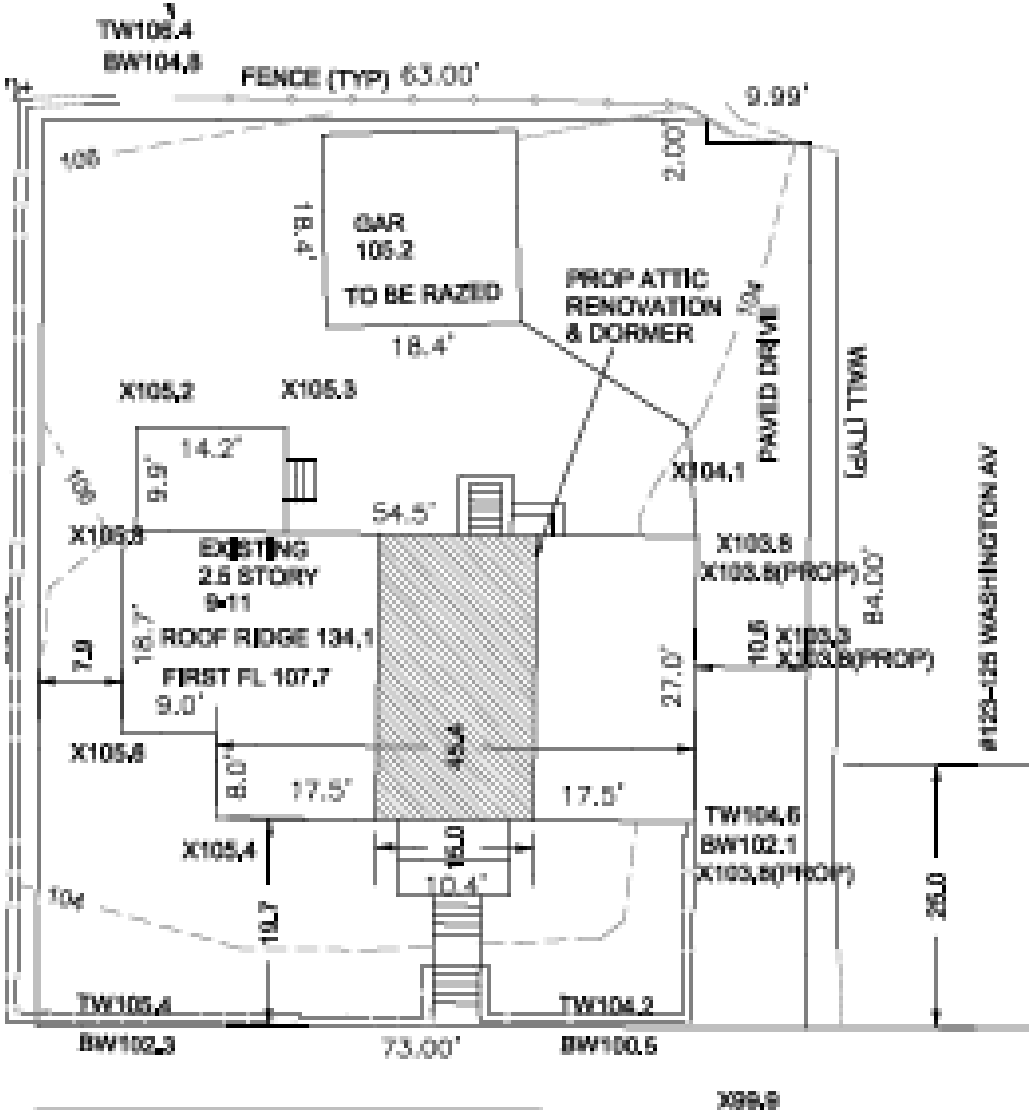
When reviewing this request, the Council should consider whether:

- The proposed extension of the nonconforming two-family use will be substantially more detrimental than the existing nonconforming two-family use is to the neighborhood (§3.4.1, §7.8.2.C.2).

Aerial/GIS Map



Site Plan



NOBLE STREET

Elevations

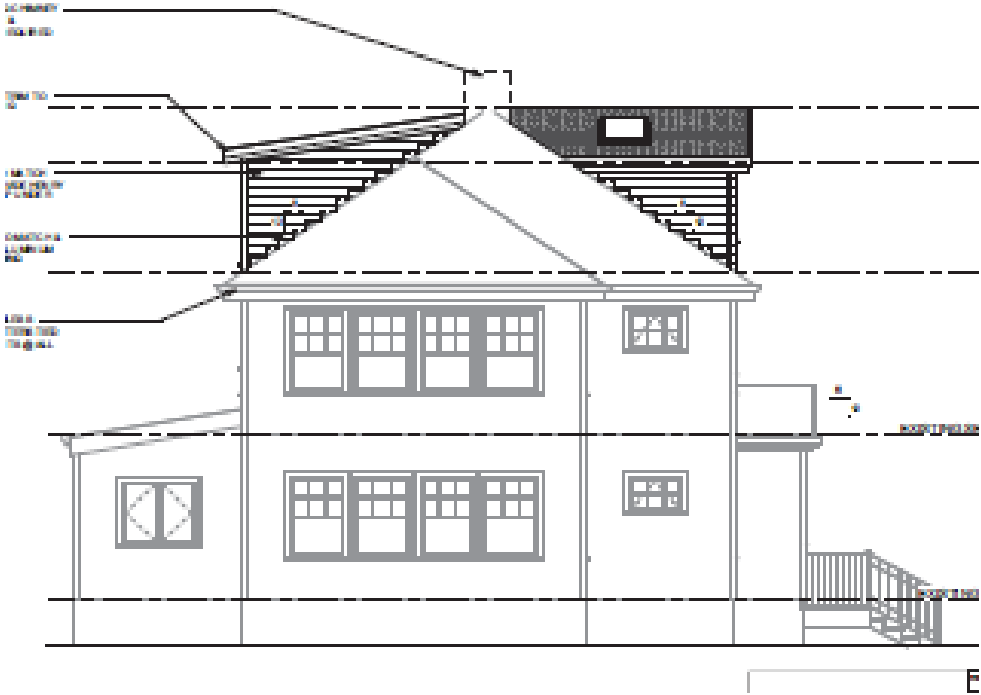


Proposed Front Elevation



Proposed Rear Elevation

Elevations



Noble Street

Proposed Side Elevation

Proposed Findings



1. The proposed extension of the nonconforming two-family dwelling will not be substantially more detrimental than the existing nonconforming two-family dwelling is to the neighborhood because many of the homes on Noble Street are nonconforming two family uses with attic level dormers (§3.4.1, §7.8.2.C.2).

Proposed Conditions



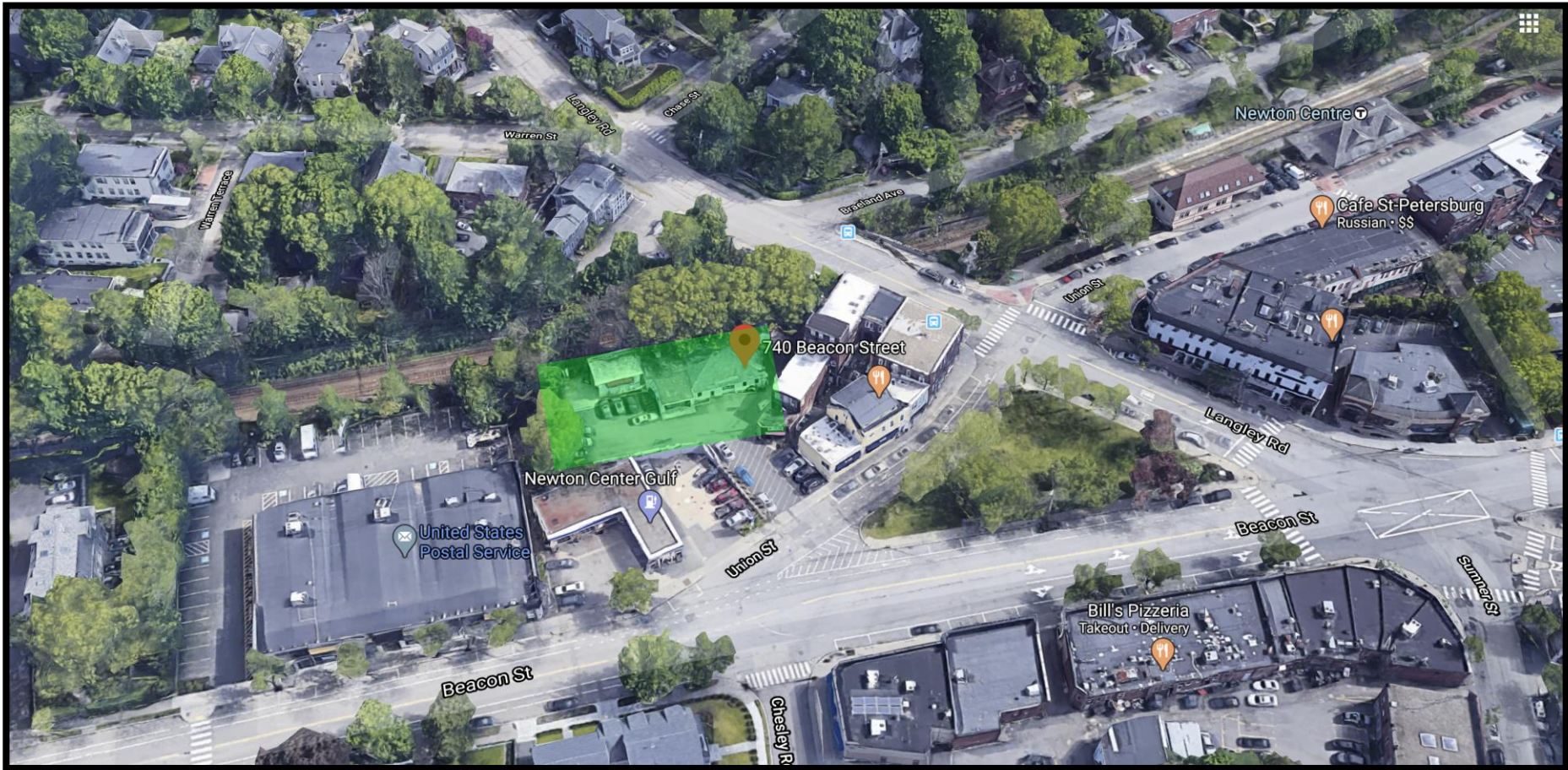
1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.
4. *Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan showing the removal of the detached garage.*



R Roche Collision
Professional Collision Repair

The Green Lady
740 Beacon Street
Land Use Committee, May 13, 2021

740 Beacon Street



Proposed Conditions Site Plan



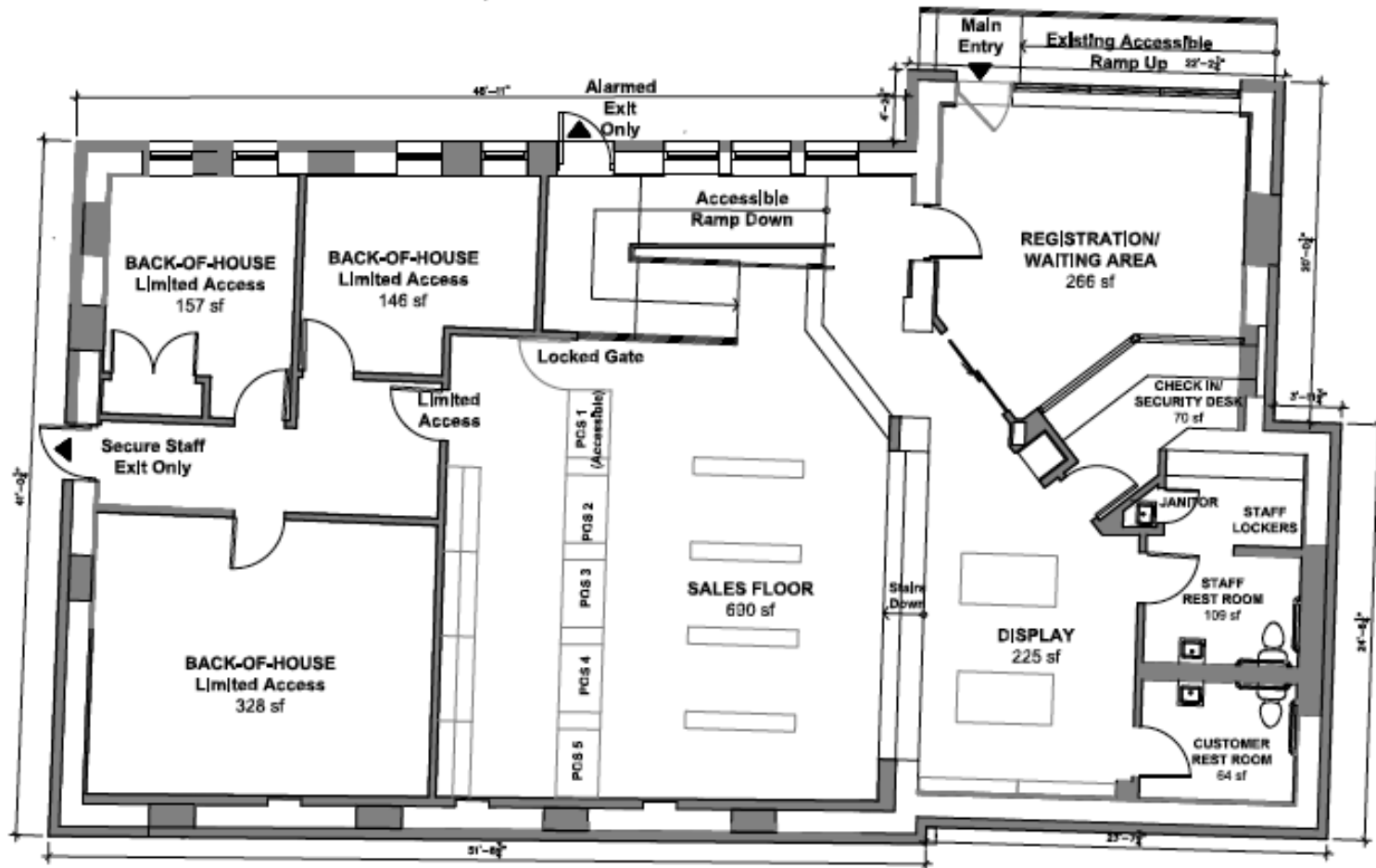
Proposed
Bike Rack



740 Beacon Street Façade Improvements



Proposed Floor Plan



PROPOSED PLAN
SCALE: 1/8"=1'-0"





The
Green Lady
-Dispensary-

The Green Lady, Nantucket



740 Beacon Street – Newton, MA

Preliminary Traffic Evaluation

740 Beacon Street

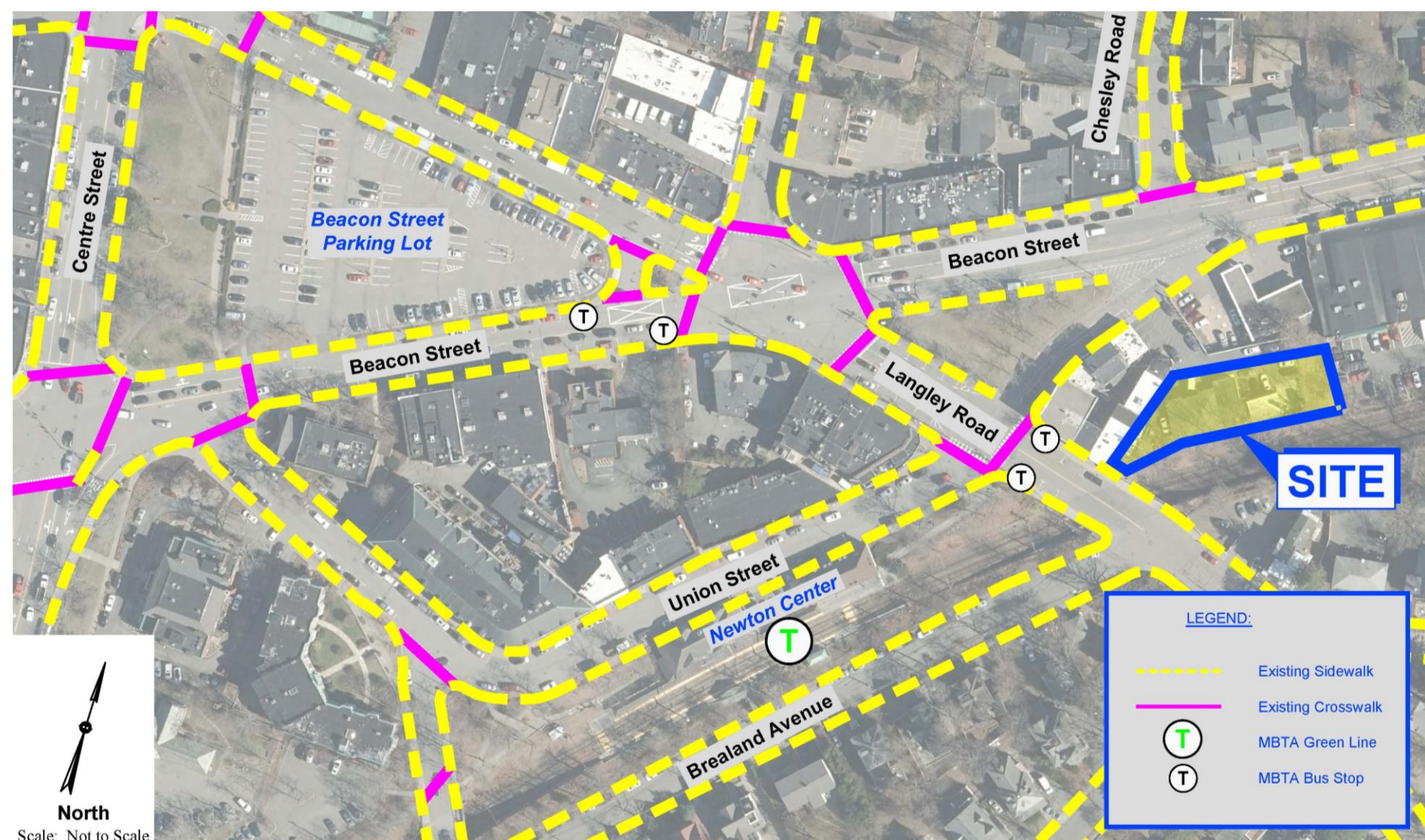
(The Green Lady Dispensary, Newton, MA)

Robert J. Michaud, P.E., Managing Principal

May 13, 2020

MDM

Site Location



Trip Generation Summary

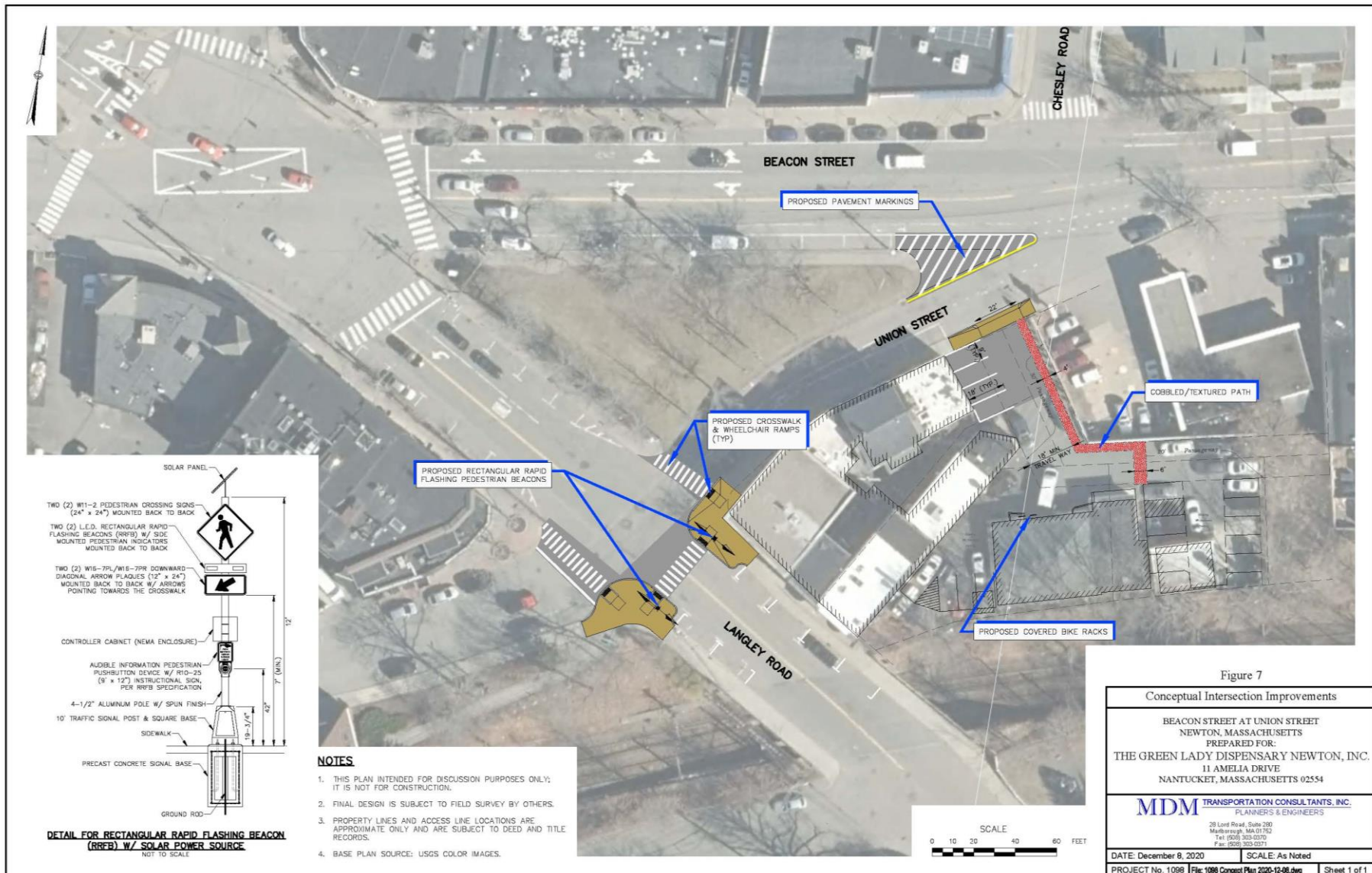
Period	Employee Trips	Patron Trips	Total Trips
<i>Weekday Morning Peak-Hour:</i>			
Enter	1	20	21
<u>Exit</u>	<u>0</u>	<u>20</u>	<u>20</u>
Total	1	40	41
<i>Weekday Evening Peak-Hour:</i>			
Enter	1	20	21
<u>Exit</u>	<u>1</u>	<u>20</u>	<u>21</u>
Total	2	40	42

¹Based on Empirical data assuming 1 employee parking on site and five point of sales with four scheduled appointments per hour with no reduction for patron alternative transportation use.

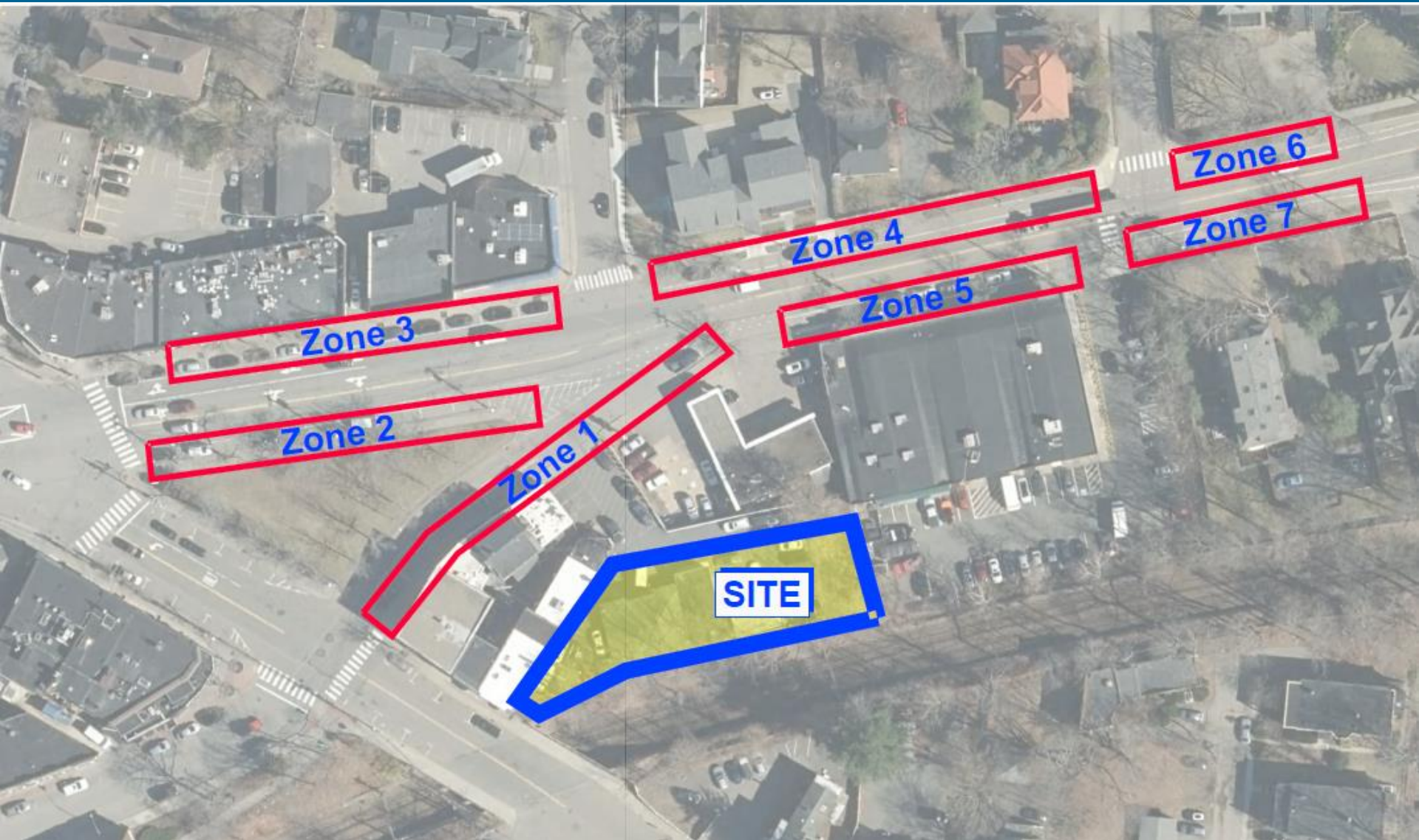
Transportation Demand Management (TDM)

- Immediate orientation to nearby **MBTA Station**
- On-Site Parking Restricted to Patrons
 - one stall reserved for carpooling employees
- Employee Transit Subsidy: **100% Monthly T Pass plus reimbursement for offsite/remote parking and last mile transportation to site.**
- On-Site secure, covered **bicycle parking**
- **Bike share program** for employees
- **Pedestrian Safety Improvements** – Langley Rd Crossing

Conceptual Improvement Plan



Parking Zone Map



Hourly Parking Demand – Friday, April 23rd, 2021



Hourly Parking Demand – Saturday, April 24th, 2021



Relief Requested

Provision	Waiver
6.10.3.D	Allow Marijuana Retailer
5.1.8.A.1	Parking <u>in side</u> setback
5.1.8.B.4	Accessible parking stall width and depth (Ordinance requires minimum stall width of at least 12 feet, silent on access aisle width. AAB requires either a <u>5 or 8 foot wide</u> access aisle. We provide an <u>8 foot wide</u> stall plus an <u>8 foot wide</u> access aisle, which satisfies the AAB requirements).
5.1.8.C.1	Minimum aisle width for <u>2 way</u> traffic
5.1.9.A	Perimeter screening
5.1.10	Lighting requirements



The
Green Lady
-Dispensary-

Department of Planning and Development



**PETITION #125-21
740 BEACON STREET**

**SPECIAL PERMIT TO ALLOW A
MARIJUANA RETAILER AND
WAIVE CERTAIN DIMENSIONAL
STANDARDS FOR PARKING
FACILITIES CONTAINING OVER
FIVE STALLS**

MAY 13, 2021



Requested Relief



Special Permit per §7.3.3 of the Newton Zoning Ordinance to:

- Allow a Marijuana Retailer (§4.4.1, §6.10.3.D)
- Allow parking in the side setback (§5.1.8.A.1, §5.1.13)
- Reduce the minimum aisle width requirement for two-way traffic (§5.1.8.C.1, §5.1.13)
- Waive perimeter screening requirements (§5.1.9.A and §7.3.3)
- Waive the lighting requirements (§5.1.10)
- Reduce dimensions for accessible parking stalls. §5.1.8.B.4, §5.1.13)
 - **Local Ordinance is more stringent than building code, petitioner does not require this relief.**

Criteria to Consider

Standard *Special Permit* Criteria



When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed Marijuana Retailer (§7.3.3.C.1).
- The Marijuana Retailer, as developed and operated, 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 dimensional standards, lighting, landscaping, and screening requirements of parking facilities containing more than five stalls are impracticable due to the nature of the use, 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)

Criteria to Consider - Marijuana Establishments



- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.H.1.a)
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.H.1.b)
- The Marijuana Retailer is designed to minimize any adverse impacts on abutters. (§6.10.3.H.1.c)
- The Marijuana Establishment has satisfied all of the conditions and requirements in this section. (§6.10.3.H.1.d)

Additional Criteria for Marijuana Retailers



- The lot location complies with Sec. 6.10.3.F.1, or the lot is located at a lesser distance if the City Council finds that the lot is sufficiently buffered such that these facilities or uses will not be adversely impacted by the MTC or Marijuana Retailer's operation. (§6.10.3.H.2.a)
- Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses. (§6.10.3.H.2.b)
- The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.H.2.c)
- The building and site are accessible to persons with disabilities. (§6.10.3.H.2.d)
- The lot is accessible to regional roadways and public transportation. (§6.10.3. H.2.e)
- The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.H.2.f)
- The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses. (§6.10.3.H.2.g)

AERIAL/GIS



ATTACHMENT A

Zoning

740 Beacon Street

City of Newton,
Massachusetts

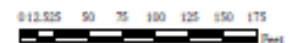
Zoning

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



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



Map Date: May 05, 2021



ATTACHMENT B

Land Use

740 Beacon Street

City of Newton,
Massachusetts

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Vacant Land



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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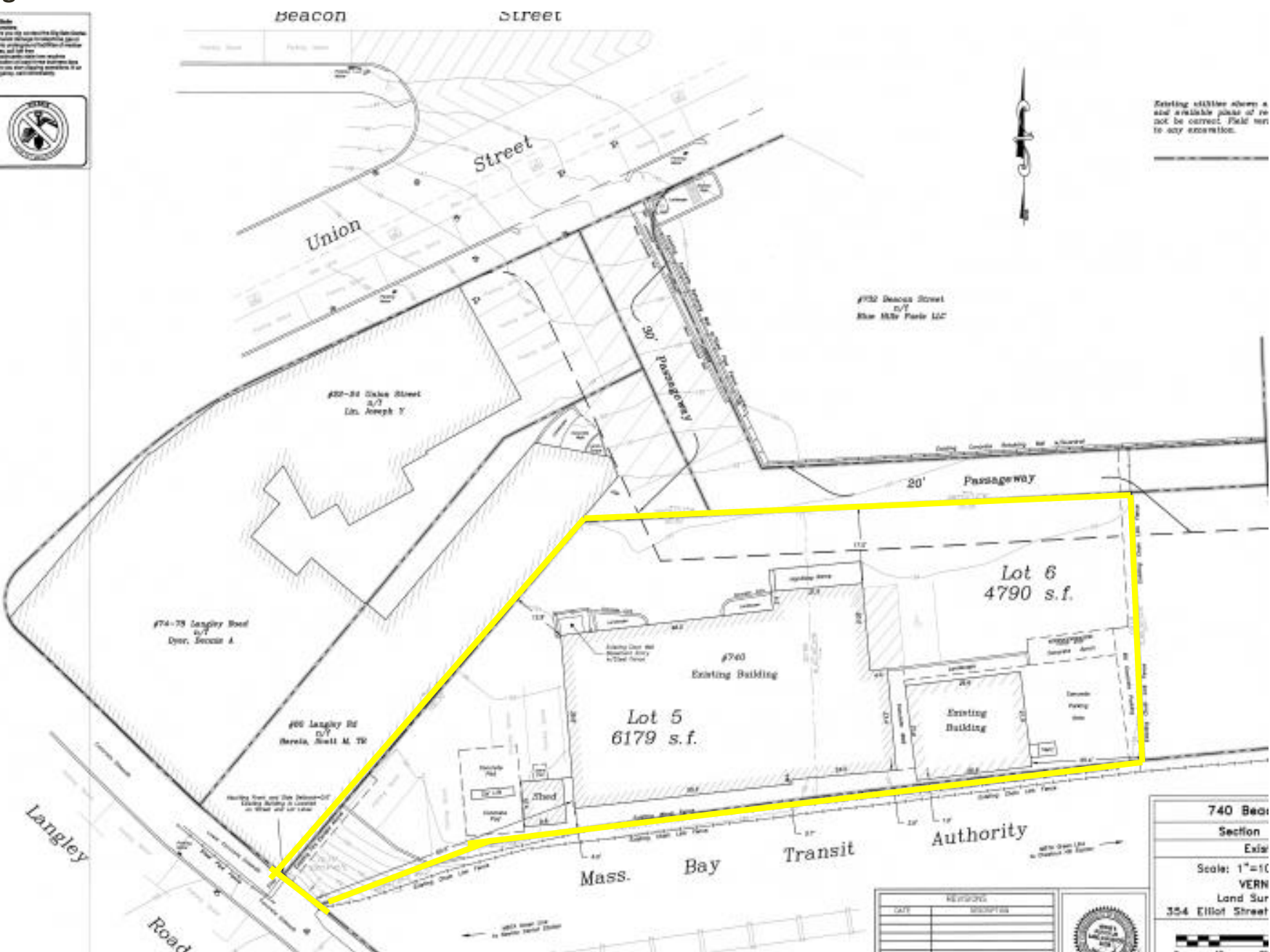


Map Date: May 05, 2021





Existing Conditions

Site Note:
 Owners are to submit by date shown to obtain change in zoning and other applicable regulations. All other information shown on this plan is for information only and does not constitute a guarantee of any kind. No warranty is made by the engineer for any use of the information shown on this plan.

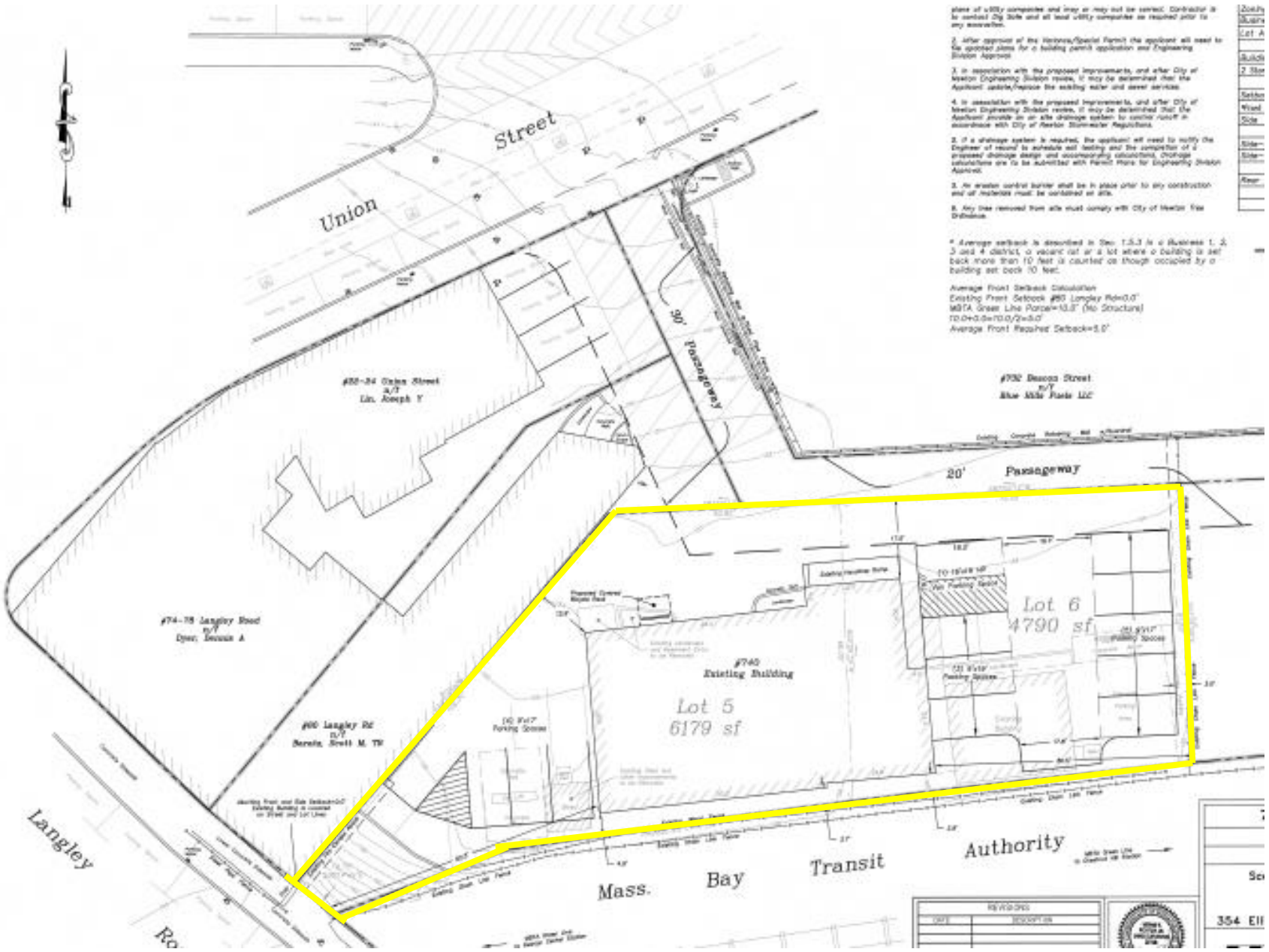
Existing utilities shown are not available plans of record. Field men to any excavation.

740 Beacon Street
 Section
 Existing
 Scale: 1"=10'
 VERN
 Land Sur
 354 Elliot Street

REVISIONS	
DATE	DESCRIPTION

Proposed Site Plan



1. Plans of utility companies and may or may not be correct. Contractor is to contact City Office and all work utility companies as required prior to any excavation.
 2. After approval of the Reviewer/Special Permit the applicant will need to file application plans for a building permit application and Engineering Division Approval.
 3. In association with the proposed improvements, and after City of Newton Engineering Division review, it may be determined that the Applicant install/replace the existing water and sewer services.
 4. In association with the proposed improvements, and after City of Newton Engineering Division review, it may be determined that the Applicant provide an on site drainage system to control runoff in accordance with City of Newton Stormwater Regulations.
 5. If a drainage system is required, the applicant will need to notify the Engineer of record to schedule soil testing and the completion of a proposed drainage design and accompanying calculations. CHANGE submissions are to be submitted with Permit Plans for Engineering Division Approval.
 6. An erosion control barrier shall be in place prior to any construction and all materials must be contained at all times.
 7. Any trees removed from site must comply with City of Newton Tree Ordinance.
- * Average setback is described in Sec. 1.5.3 in a Business 1, 2, 3 and 4 district, a vacant lot or a lot where a building is set back more than 10 feet is counted as though occupied by a building set back 10 feet.
- Average Front Setback Calculation
 Existing Front Setback #50 Langley Rd=0.0'
 MBTA Green Line Porpo=13.3' (No Structures)
 10.0+0.0=10.0/2=5.0'
 Average Front Required Setback=5.0'

Zone	
Block	
Sheet	
Section	
Wind	
Site	
Side	
Side	
Area	
Area	

354 EII

REVISED

DATE

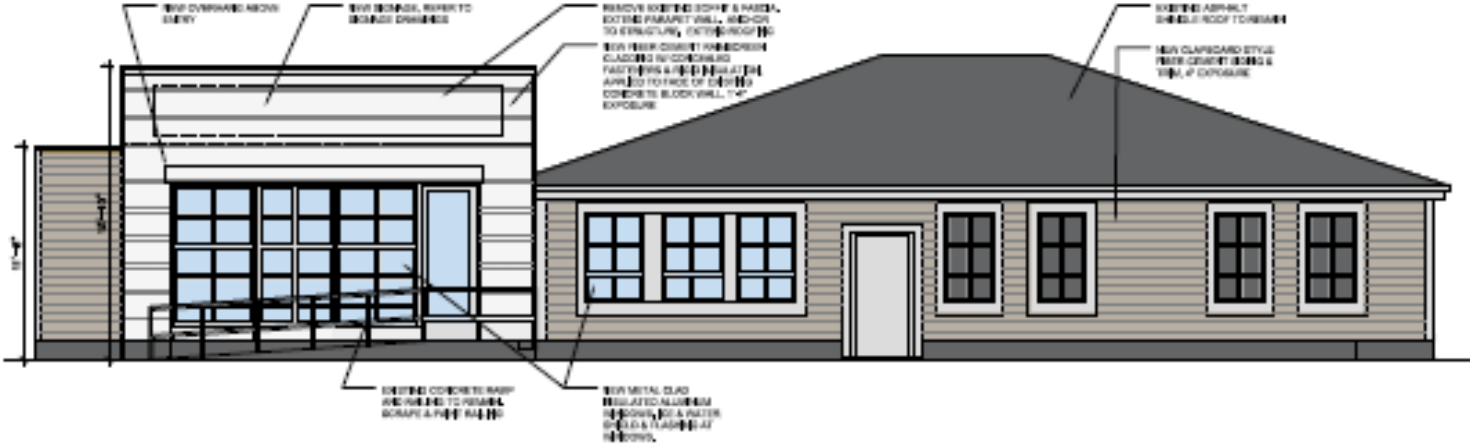
DESCRIPTION

Proposed Landscape Plan

various trees	Japanese Forest Maple	1.5 ft	Cont.
various trees	Ferns Bed	1.5 ft	Cont.
various trees	Camellia	1.5 ft	Cont.
SHRUBS			
various shrubs	Philadelphus	1.5 ft	Cont.
various shrubs	Deutzia	2 ft	Cont.
various shrubs	Japanese Climbing hydrangea	2 ft	Cont.



Front Elevation

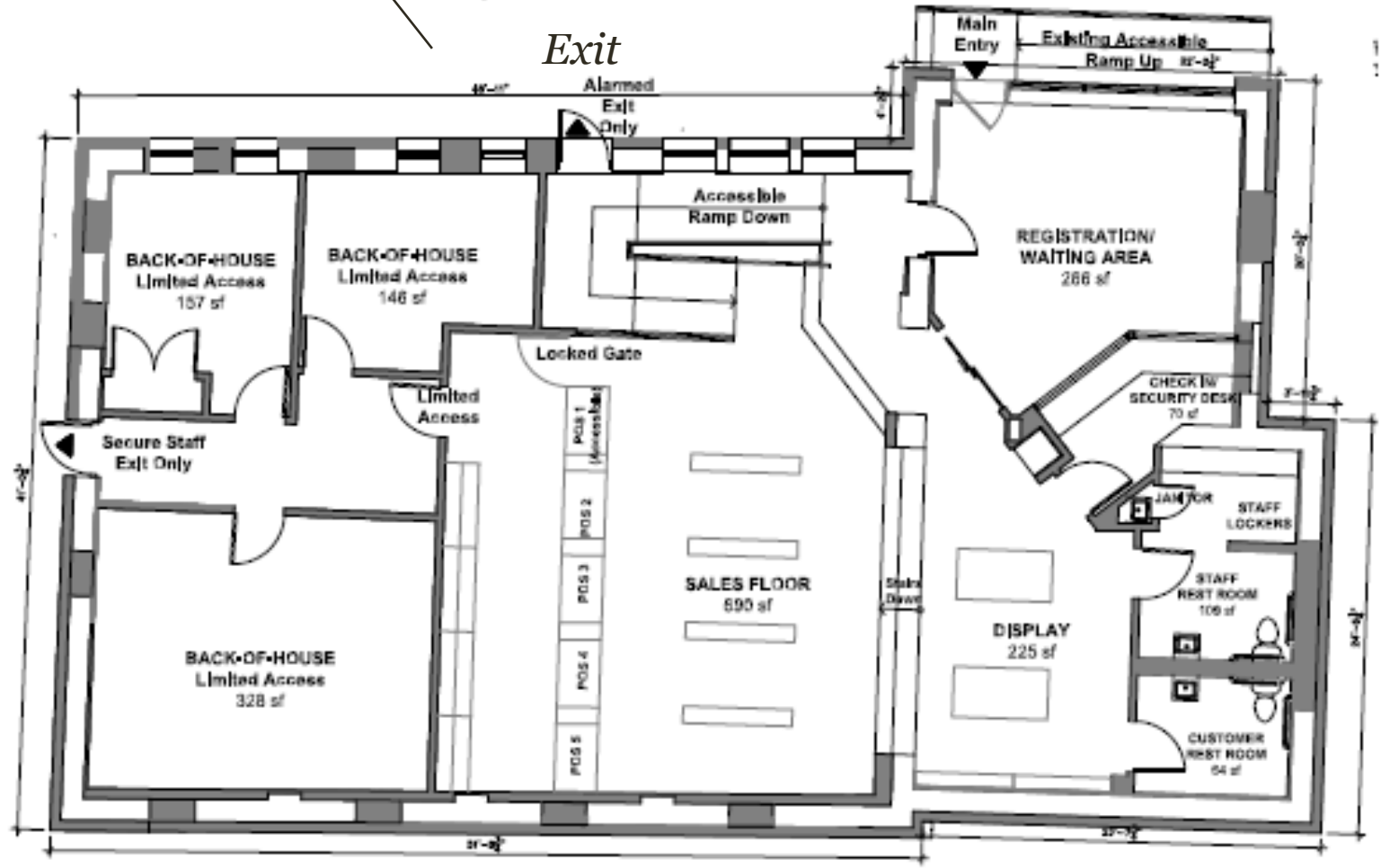


1 PROPOSED FRONT ELEVATION (FACING BEACON STREET)

Floor Plan

Beacon Street

Entrance



1 PROPOSED PLAN
SCALE: 1/8"=1'-0"



Proposed Signage



BEACON STREET ELEVATION
SCALE: 1/8" = 1'-0"

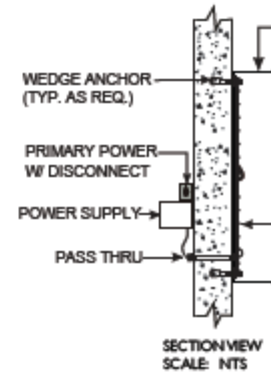
Exterior
Furnish as letters on the day, ill green at r returns as with reme mechanic; non-corr;
Signage is
Total: 54



SIGN DETAIL
SCALE: 1/2" = 1'-0"



COMP
SCALE: NTS



SECTION VIEW
SCALE: NTS

Outstanding Items

- City's Peer Reviewer, BSC, currently reviewing Petitioner's Traffic Memorandum
- Detail of access path from Beacon Street
- Associate City Engineer suggested the petitioner install a raingarden or an on-site infiltration system to decrease runoff and recharge the groundwater.