



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#217-21**

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Barney S. Heath  
Director

## PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 13, 2021  
Land Use Action Date: September 28, 2021  
City Council Action Date: October 4, 2021  
90- Day Expiration Date: October 11, 2021

DATE: July 9, 2021

TO: City Council

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

SUBJECT: **Petition #217-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to alter a nonconforming retail use to allow a retail drive-in business, to allow parking in the side and front setbacks and within five feet of the street, to allow a reduced required aisle width, to waive perimeter screening requirements and to waive outdoor lighting requirements at **1021 Boylston Street**, Ward 5, Newton Highlands, on land known as Section 51 Block 26 Lot 03, containing approximately 17,280 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 7.8.2.C.2, 6.4.11 of the City of Newton Rev Zoning Ord, 2017.

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.



**1021 Boylston Street**

## EXECUTIVE SUMMARY

The subject property at 1021 Boylston Street consists of an approximately 17,280 square foot lot in a Multi Residence 2 (MR2) zoning district improved with a one-story, 3,050 square foot building constructed in 1949 currently occupied by a retail use, and six surface parking stalls.

The petitioner proposes to alter the property by razing a rear deck and reconfiguring the parking area to allow for the establishment of a “drive-in” business, defined by Section 6.4.11 of the Newton Zoning Ordinance (NZO) as “a retail use in which all or part of the business is conducted by a customer from with a motor vehicle ... (including) drive-in food establishments.” As the property is located in the Multi Residence 2 zoning district, rendering the existing retail use nonconforming, a special permit per Sec. 7.8.2.C.2, is required to allow for the alteration of the existing nonconforming retail use into the proposed nonconforming drive-in business use.

As designed, the proposed use requires several exceptions per Sec. 5.1.13 to the NZO’s parking standards. Parking stalls may not be located in any required front and side setbacks and/or within five feet of the street (Sec.5.1.8.A.1). The petitioner proposes nine parking stalls within side setbacks- four in the right (east) setback and five in the left (west) setback, and of the latter, the front most space, an accessible stall, would also be located within the front setback and five feet of the street, requiring a special permit. Section 5.1.8.C.1 requires a minimum 24-foot aisle width adjacent to 90-degree parking stalls. Three such stalls located immediately to the rear of the building would be served by a 13-foot wide aisle width, requiring a special permit.

Also, while perimeter screening meeting the required dimensions per section 5.1.9.A, for outdoor parking facilities containing more than five stalls is proposed at the rear and northeastern property lines, the western lot line and the front section of the eastern property boundary lack the required screening, requiring a waiver per Sec. 5.1.13.

Lastly, the proposal requires an exception per Sec. 5.1.13 to Section 5.1.10.A’s requirement that outdoor parking facilities used at night provide lighting with a minimum intensity of one-foot candle on the entire surface (and not spill onto neighboring properties).

The Planning Department has engaged a peer reviewer to analyze the transportation and traffic aspects of this petition and its findings will be presented at a later public hearing.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- the proposed drive-in business as designed would be substantially more detrimental than the existing nonconforming retail use to the neighborhood (§3.4.1, §7.8.2.C.2)
- literal compliance with certain requirements for parking facilities related to:
  - parking in the side and front setbacks, and within five feet of the street (§5.1.8.A.1)
  - minimum required aisle width (§5.1.8.C.1)
  - perimeter screening requirements (§5.1.9.A), and

- outdoor lighting requirements (§5.10.A)

is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that exceptions to one or more of said requirements 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 located on the north side of Boylston Street/Route 9 just west of its intersection with Woodward and Elliot streets. The site is developed with a commercial building, as are other properties located to the east on either side of Boylston Street. The surrounding area to the north, west and south is predominantly occupied by single- and two- family dwellings. The site is located within a MR2 district that includes the property that abuts to the east and as well as the area to the south across Boylston Street. The immediate area contains several other zoning districts, including a Single Residence 2 (SR2) district directly to the north, Multi Residence 1 (MR1) parcels to the west and east and a Business 2 (BU2) to the east/southeast (**Attachments A & B**).

### B. Site

The subject property at 1021 Boylston Street consists of a 17,280 square foot lot improved with a 3,050 square foot, one-story commercial building, The site generally slopes downward towards the rear of the lot, with grades varying by as much as ten feet across the property.

The parcel is currently accessed via paved driveways on its left and right sides and there are six parking stalls and associated paved maneuvering areas. The rear of the property features mature vegetation.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

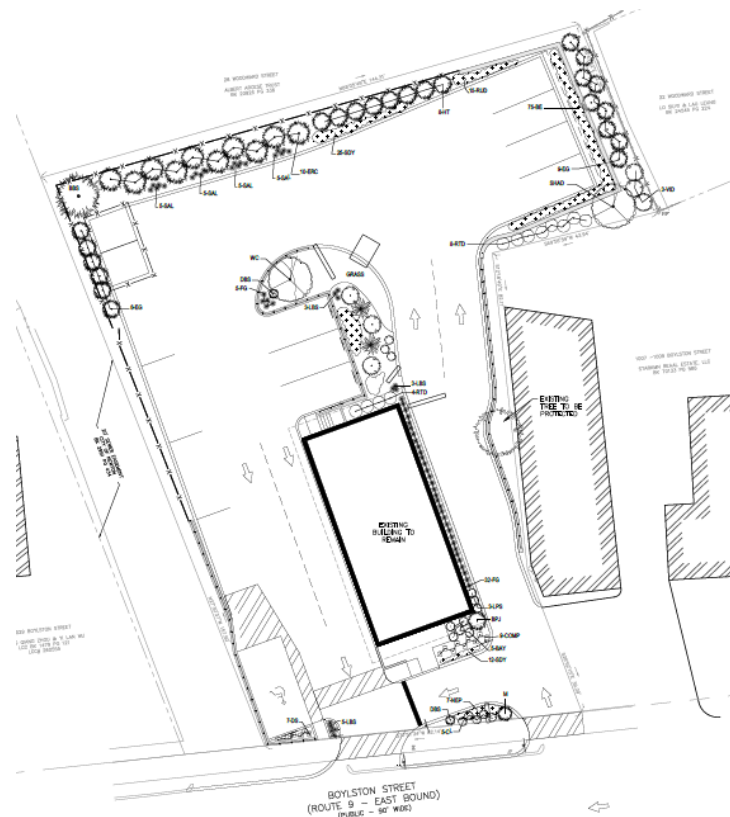
The principal use of the site would be a “drive-in business,” defined by Section 6.4.11 of the NZO as “a retail use in which all or part of the business is conducted by a customer from with a motor vehicle ... (including) drive-in food establishments.”

### B. Building and Site Design

The petitioner proposes to alter the existing structure by razing a rear deck and installing a “drive through window” to serve customers, a canopied order point and a menu board. The former would be located at the front left of the building, the latter two would be located in the rear of the property. A pick-up window would also be located on the front elevation of the building, as would a doorway.

The site would be modified to provide 12 stalls which would entail the removal of wooded

vegetation in the rear of the property adjacent to abutting residential parcels. Also, a dumpster would be located in the rear left corner of the site, screened by a six-foot fence.



**Proposed Site Plan (with landscaping)**

C. Traffic, Parking and Circulation

As designed, autos would enter the property via a curb cut on the right side of the property by making a right turn off the westbound side of Boylston Street/Route 9. Drivers would proceed to the rear right (east) of the property to place orders via an ordering point (and menu board) and then circle around the building to reach the pick-up window on the left (west) side of the building. They would then proceed to exit the property by making a right turn onto westbound Boylston Street/Route 9. Drivers who do not intend to make a purchase via the drive thru window would have the option to bypass the service queue via second lanes at the rear right and left sides of the property; there would also be an exit lane across the front of the property to allow cars that just entered the property to immediately reenter Boylston Street.

Pedestrians and parkers would be served via a pick-up window (and door) at the front of the building.

The on-site parking facility would be reconfigured to provide a total of 12 stalls. Four would be located in the far right rear portion of the property that extends beyond the rear property line of the abutting property to the east (left); three would be located directly behind the building; and an additional five stalls would be located along the left (west) side property line

(including one accessible stall within five feet of the front of the property).

As detailed in the attached zoning review memorandum, per Sec. 5.1.4 the existing 3,050 square foot retail use requires 11 parking stalls (one stall per every 300 square feet and one stall per every three employees). Per Sec. 5.1.4, a drive-in establishment requires one parking stall per every 600 square feet, resulting in a parking requirement of five stalls. As such, seven more stalls than the minimum required would be provided.

That said, the proposed design does require relief from certain parking facility dimension requirements. As parking stalls may not be located in any required front and side setbacks and/or within five feet of the street (Sec. 5.1.8.A.1), an exception to this regulation would be required to allow the nine parking stalls within side setbacks- four in the right (east) setback and five in the left (west) setback. Of the latter, the front most space (an accessible stall), would also be located within the front setback and five feet of the street, a condition that also requires a special permit.

Section 5.1.8.C.1 requires a minimum 24-foot width for maneuvering aisles serving 90-degree parking stalls. Three such stalls located immediately to the rear of the building would be served by a 13-foot wide aisle width, requiring a special permit.

The Planning Department has engaged a peer reviewer to analyze the transportation and traffic aspects of this petition and its findings will be presented at a later public hearing.

D. Landscaping, Screening, and Lighting

Perimeter screening meeting the required dimensions for outdoor parking facilities containing more than five stalls per Sec. 5.1.9.A is proposed at the rear (north) and northeastern property lines. That said, there does appear to be a gap at the right end of the rear property line. The petitioner should be prepared to discuss this as well as the height of the walls shown on the site plans at this and other locations on the property.

The western lot line and the front sections of the property lack the required screening, requiring a waiver per Sec. 5.1.13.

The submitted lighting plan indicates that portions of the parking area would not meet the requirement per Sec. 5.1.10.A that outdoor parking facilities used at night provide lighting with a minimum intensity of one-foot candle on the entire surface. As such, the proposal requires an exception per Sec. 5.1.13 (please note that it does not appear that the proposed lighting would “spill” onto neighboring properties).

The Planning Department notes that issues related to screening and lighting, as well as the function and volume of the ordering system speakers, are of concern considering that the subject property is located within a residential zoning district and directly abuts three residential properties with several more located in close proximity. The petitioner should be prepared to address how negative impacts on nearby homes would be appropriately mitigated.

#### IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

➤ Special Permit per §7.3.3 to:

- alter an existing nonconforming retail use to allow a drive-in business (§6.4.11, §7.8.2.C.2)
- allow parking in the side and front setbacks, and within five feet of the street (§5.1.8.A.1, §5.1.13)
- allow a reduced required aisle width (§5.1.8.C.1, §5.1.13)
- waive the perimeter screening requirements (§5.1.9.A, §5.1.13)
- waive the outdoor lighting requirements (§5.10.A, §5.1.13)

##### B. Engineering Review

The attached Engineering Division Memorandum (**Attachment D**) provides an analysis of the proposal with regard to engineering issues. Among other comments, the memo notes some discrepancies between the submitted drainage report and site plans and that the former indicates that an abutting property would be impacted by “standing surface water during the 25- & 100-year events.” The memo states that drainage system will need to be increased to avoid that outcome. Also, an Operations and Management (O&M) plan and a construction management plan will need to be submitted for review and approval. Information regarding an Infiltration & Inflow (I&I) fee will be provided in a separate memorandum.

##### C. Historical Commission Review

The proposed work is not subject to review by the Newton Historical Commission.

#### V. PETITIONER’S RESPONSIBILITIES

The petitioner should be prepared to address the issues raised in this and the attached memorandum.

**ATTACHMENTS:**

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** Engineering Division Memorandum



# ATTACHMENT A







## Land Use

1021 Boylston St.

*City of Newton,  
Massachusetts*

### Land Use

#### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Nonprofit Organizations
-  Vacant Land



The information on this map is 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  
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150 175  
Feet

Map Date: July 08, 2021



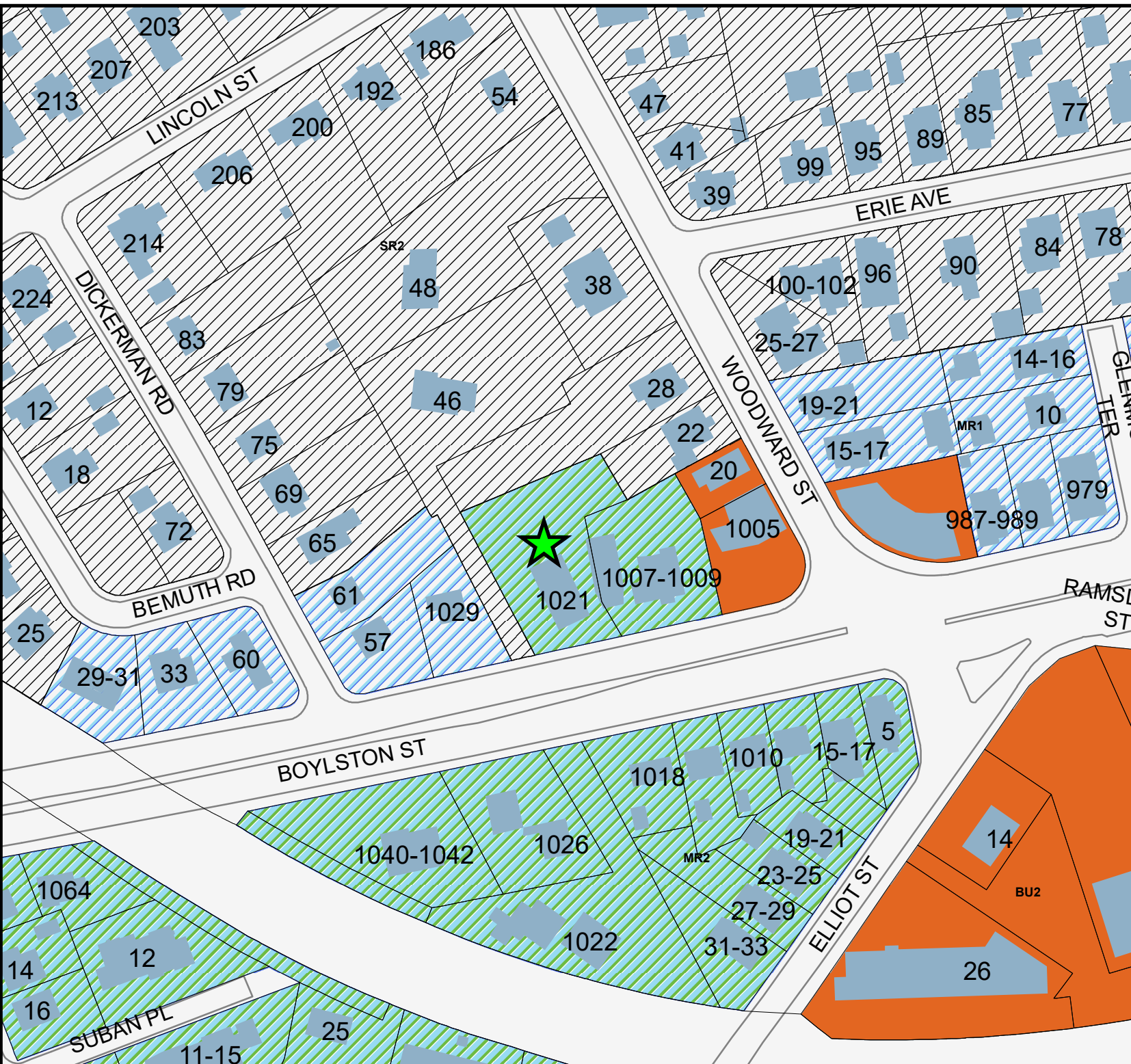



# ATTACHMENT B

## Zoning

1021 Boylston St.

*City of Newton,  
Massachusetts*

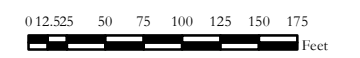


-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 2



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: July 08, 2021



Ruthann Fuller  
Mayor

ATTACHMENT C

**City of Newton, Massachusetts**  
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Barney S. Heath  
Director

**ZONING REVIEW MEMORANDUM**

Date: May 12, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: 1021 Boylston Street LLC, Applicant  
Jennifer R. Shultz, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah temple, Assistant City Solicitor

**RE: Request to alter a nonconforming use to allow a drive-in business and associated parking waivers**

Applicant: 1021 Boylston Street LLC	
Site: 1021 Boylston Street	SBL: 51026 0003
Zoning: MR2	Lot Area: 17,280 square feet
Current use: Retail	Proposed use: Drive-in business

**BACKGROUND:**

The property at 940 Boylston Street consists of 17,280 square feet improved with a one-story building constructed in 1949 currently occupied with a retail use and six surface parking stalls. The petitioner proposes to reconfigure the parking area and to construct a drive-in window for a drive-in business, requiring a special permit.

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

- Zoning Review Application, prepared by Jennifer Schultz, Attorney, submitted 3/26/2021
- Existing Conditions Site Survey, signed and stamped by Francis L. Struble, surveyor, dated 9/25/2020
- Proposed Conditions Site Survey, prepared by Pare Corporation, dated 3/24/2021
- Drive-Thru Plan, signed and stamped by Katie Enright, Civil Engineer, dated 3/19/2021
- Layout and Materials Plan, signed and stamped by Katie Enright, Civil Engineer, dated 3/19/2021
- Elevations, submitted 3/26/2021

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The property is located in the Multi Residence 2 zoning district, rendering the existing retail use nonconforming. The petitioner proposes to raze a rear deck and reconfigure the parking area to allow for construction of a drive-in window for a drive-in business within the building. Per section 6.4.11, a drive-in business is a retail use in which all or part of the business is conducted by a customer from with a motor vehicle, including drive-in food establishments. Per sections 6.4.11 and 7.8.2.C.2, a special permit is required to allow for the alteration of the existing nonconforming retail use into a drive-in business in the Multi Residence 2 zoning district.
2. The existing retail use occupies all 3,050 square feet of the building, requiring 11 parking stalls per section 5.1.4 with one stall per every 300 square feet and one stall per every three employees. Per section 5.1.4, a drive-in establishment requires one parking stall per every 600 square feet, resulting in a parking requirement of five stalls. The petitioner proposes to reconfigure the parking area, eliminating stalls to accommodate the queuing lane for the drive-in. The reconfiguration results in twelve parking stalls with a queuing lane for twelve vehicles. No waiver is required.
3. Per section 5.1.8.A.1 required parking stalls may not be located in any required front and side setbacks and may not be within five feet of the street. The petitioner proposes a total of nine parking stalls within the side setback, of which the accessible stall is located within the front setback within five feet of the street, requiring a special permit per section 5.1.13.
4. Section 5.1.8.C.1 requires a minimum aisle width of 24 feet for 90-degree parking. The three parking stalls directly behind the building are at 90 degrees with a 13-foot aisle width, requiring a special permit per section 5.1.13.
5. Per section 5.1.9.A, outdoor parking facilities containing more than five stalls are required to provide perimeter screening from abutting properties. Perimeter screening meeting the required dimensions is proposed at the rear and northeastern property lines but is limited on the western lot line and the front section of the eastern property boundary, requiring a waiver per section 5.1.13.
6. Section 5.1.10.A requires outdoor parking facilities used at night provide lighting with a minimum intensity of one-foot candle on the entire surface and that the lighting does not spill onto neighboring properties. No lighting is indicated on the proposed site plan, requiring a waiver per section 5.1.13.

### Zoning Relief Required

<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§6.4.11 §7.8.2.C.2	Request to alter an existing nonconforming retail use to allow a drive-in business	S.P. per §7.3.3
§5.1.8.A.1 §5.1.13	Request to allow parking in the side and front setbacks, and within five feet of the street	S.P. per §7.3.3
§5.1.8.C.1 §5.1.13	Request to allow a reduced required aisle width	S.P. per §7.3.3
§5.1.9.A §5.1.13	Request to waive the perimeter screening requirements	S.P. per §7.3.3
§5.10.A §5.1.13	Request to waive the outdoor lighting requirements	S.P. per §7.3.3

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 1021 Boylston Street

Date: July 8, 2021

CC: Barney Heath, Director of Planning  
Jennifer Caira, Deputy Director  
Lou Taverna, PE City Engineer  
Nadia Khan, Committee Clerk  
Neil Cronin, Chief Planner  
Michael Gleba, Sr. Planner

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In reference to the above site, I have the following comments for a plan entitled:

Site Plan for Drive Through Business  
1021 Boylston Street  
Prepared by: Howard Stein Hudson  
Dated: 3/25/2021  
Revised: 5/14/2021

Executive Summary:

This permit entails an existing commercial building sited on a 17,280 square foot lot with associated parking and an existing one-story building to be razed to make space available for a driveway/access and to be converted into a *drive through* business. The site has a large portion of pavement and roof with some grassy wooded space that will be converted to parking. The topography of the property has a high point at Boylston Street (MassDOT controlled state highway) at elevation 129-feet and slopes down towards the center of the lot at elevation 119-feet. The property is bound by Boylston Street along the southern property line and residential homes along the north & western property lines, and a commercial property along the east.

Two curb cuts provide access off Route 9 and will be maintained for the proposed business with slight modifications that will include a by-pass turnout driveway at the front of the building. The east side driveway will be expanded with the construction of a proposed retaining wall approximately 80 feet long and 2 feet high.

The engineer of record has designed a stormwater collection system for the roof and driveway runoff and to infiltrate for all storms up to and including the 10-year storm event, however; the City's standard is the 100-year storm event for both volume (acre-feet) and rate (cubic feet per second). There is a discrepancy between the drainage report and the site plan, the report indicates a 56-chamber system will be installed labeled as "IC3"; however, the site plan indicates only 49 chambers. Additionally, the report indicates that during the 25- & 100-year storm events "*water will stage up on the abutting property and slowly draw down as the chambers infiltrate stormwater*"; meaning that the neighboring property will have standing surface water during the 25- & 100-year events up to elevation 121.70. The City ordinance clearly states that stormwater runoff cannot negatively impact abutting property. The design needs to be increased to fully accommodate the 100-year storm volume and rate so that there is no standing water on the abutting property to the east [# 1007-1009 and 1015 Boylston Street]. The design also has an overflow connection to the drainpipe that is within a City Drain and Sewer easement which runs parallel to the western property line.

A long-term Operations and Plan (O&M) Plan is needed for the proposed stormwater improvements that should include at a minimum inspection of underground chambers, cleaning intervals of catch basins, sweeping of driveways and parking lots, etc....

Water and sewer services shall be updated to current standards, the State Building code & Newton Fire Department may require a fire suppression system which will require a separate dedicated water service.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.



3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. A Pre & Post Construction drainage analysis is required. All stormwater runoff from the site shall be captured on-site and infiltrated in accordance with the Massachusetts Department of Environmental Protection standards and the City of Newton Department of Public Works policy. This policy states that stormwater runoff shall be retained from the 100-year storm event of 8.78-iches over a 24-hour period and shall be infiltrated to the maximum practicable extent. Pre & Post watershed maps (at a proper scale that is legible) are required that delineate control points and limits of the sub-basins. On-site soil evaluation is required to determine the seasonal high groundwater elevation, soil types and to identify any and all unsuitable soils (such as ledge, clay, peat, fill and others). On site soil testing that will include test pit(s) within 25 -feet of each proposed system and percolation test(s) must be schedule and witnessed by a representative of the Engineering Division. Soil logs shall be submitted on the site plan or drainage report and shall be certified by a Massachusetts Licensed Soil Evaluator and/or Professional Civil Engineer.
2. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).
4. Prior to final approval of the overflow connection, the engineer of record needs to submit hydraulic calculation to ensure that there is adequate capacity in the City's drainpipe in City easement from the point of connection to the next downstream manhole. Additionally, a Closed-Circuit Television (CCTV) inspection will be required for Pre & Post Construction and must be witnessed by the Engineering Division, video copies shall be provided for review.

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.
2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
2. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
4. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".

5. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be submitted to the Newton Fire Department for approval, and copies give to the Engineering Division.
6. For water quality issues a fire hydrant will be required at the end of the proposed water main/service. This hydrant will be utilized for flushing out the main as required.
7. All water services shall be chlorinated, and pressure tested in accordance to the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
8. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

Infiltration & Inflow:

- Will be addressed via a separate memo.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
3. All tree removal shall comply with the City's Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system

installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*

5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb ,apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

*I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.*

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Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.