



Ruthanne Fuller  
Mayor

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

**#216-21**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: July 27, 2021  
Land Use Action Date: October 12, 2021  
City Council Action Date: October 18, 2021  
90-Day Expiration Date: October 25, 2021

DATE: July 23, 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 #216-21**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three story, 12-unit multi-family dwelling with an FAR of 1.5, to allow a ground floor residential use, to allow a building with more than 20,000 sq. ft., to allow a three-story structure with 36' in height, to alter and extend a nonconforming side setback, to waive two parking stalls, to reduce the width of parking stalls, ~~to allow a driveway width exceeding 25 feet~~ and to allow a retaining wall greater than four feet in height within the setback at 50 Jackson Street/383-387 Boylston Street, Ward 6, Newton Centre, on land known as Section 65 Block 11 Lot 4, containing approximately 14,866 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.13, 5.1.8.B.1, 5.1.8.D.2, 5.4.2 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.



**383-387 Boylston Street**

### **EXECUTIVE SUMMARY**

The subject property consists of 14,866 square feet in the Business 1 (BU-1) zone in Thompsonville. The property is improved with two commercial buildings containing retail and restaurant uses. The petitioner is proposing to raze the structures and construct a 12-unit, multifamily dwelling. To construct the proposed multi-family dwelling, the petitioner requires special permit relief which consists of allowing a residential use with ground floor units, allowing development exceeding 20,000 square feet, allowing a floor area ratio (“the FAR”) of 1.5 in a three-story structure with 36 feet in height, to alter a nonconforming side setback and to construct retaining walls exceeding four feet in height within the side setback. Parking relief includes a request to waive two parking stalls, and to waive the minimum stall width requirements. Relief was identified for the driveway entrance width exceeding 25 feet, however revised plans were submitted showing the driveway entrance width at 22 feet. As such, relief for the driveway entrance width is no longer required and should be withdrawn.

The Planning Department believes the site is an appropriate location for residential development. The site is close to neighborhood amenities, including a grocery store, restaurants, and other local businesses. While Planning Staff believes the site is an appropriate location, there are aspects of the project as proposed that require additional review and consideration. Planning has concerns with the proposed retaining wall that reaches heights of 10-12 feet to accommodate the driveway and underground garage. Planning suggests the petitioner explore screening along the driveway from the abutting two-family residential property. Planning also questions whether the petitioner can bring the nonconforming eastern side setback further into compliance to the 18-foot requirement, where 8 feet is proposed and 4.2 feet is existing. The Planning Department is conducting a transportation peer review and will provide an update from this review at a future meeting. The Planning Department will also have City Staff from the Sustainability Division review the proposed sustainability plan and provide comments.

### **SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family dwelling as designed. (§7.3.3.C.1.)
- The proposed multi-family dwelling as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- There will be 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)
- The proposed floor area ratio of 1.5 in a three-story structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§4.1.2.B.3, §4.1.3 and §7.3.3)

- The site and buildings as designed, constructed, and operated will contribute significantly to the efficient use and conservation of natural resources and energy, including through some or all of the following: (a) minimizing operating energy; (b) minimizing the use of fossil fuels; (c) implementing a transportation plan that will minimize carbon footprint. (§7.3.3.C.5)
- Literal compliance with the dimensional parking requirements 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)
- Literal compliance with the required number of parking stalls 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)
- The proposed extension of a nonconforming side setback is substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§7.8.2.C.2)

## I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on Boylston Street in the BU-1 zoning district. The BU-1 zone encompasses the properties to the east and northeast on Langley Road. Aside from the business zones surrounding the parcel and to the southeast across Boylston Street, most of the surrounding area is comprised of multi residential zones (**Attachment A**). The site abuts a retail use at 30-34 Boylston to the east, and a two-family residential use at 62 Jackson Street. There are a mix of uses nearby including multi residential in all directions, commercial and nonprofit organization uses (**Attachment B**).

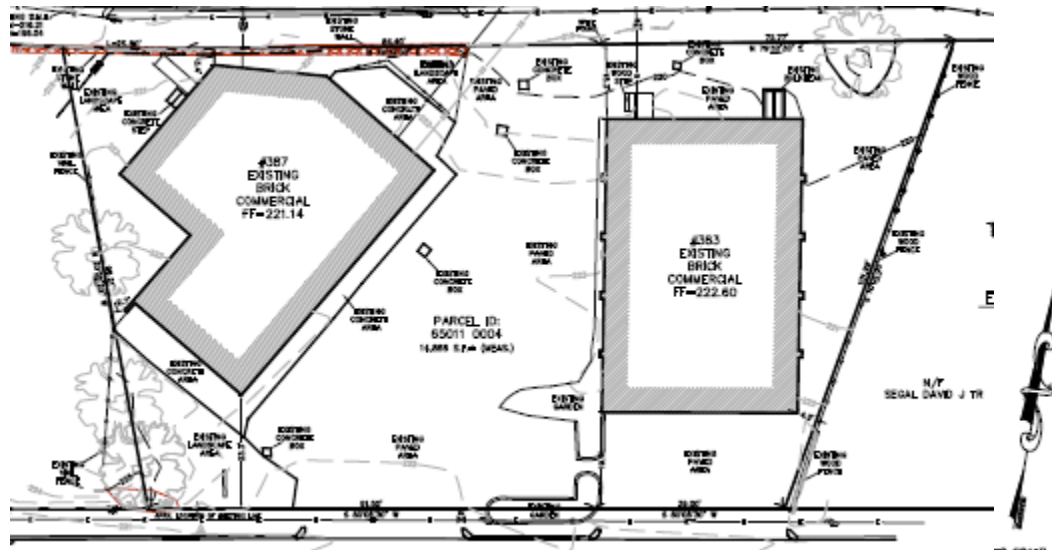
### B. Site

The site is bound by Boylston Street to the south and Jackson Street to the north and contains 14,866 square feet of land improved with two commercial buildings constructed in 1930 with associated parking. 387 Boylston Street houses two restaurants, 383 Boylston is a retail use. The site is relatively flat and mostly impervious aside from landscaping on the western side of 387 Boylston Street. Due to the placement of the buildings and parking in between there are nonconforming setbacks. 387 Boylston Street has a nonconforming front setback of 3.4 feet from Jackson Street, and a nonconforming side setback of 2.7 feet from the western boundary. 383 Boylston has a nonconforming side setback from the eastern boundary

of 4.2 feet.

## Existing Conditions

Jackson Street



Boylston Street

## II. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principal use of the site will change from a mix of commercial uses to a 12-unit multi-family structure, should the petition be approved.

### B. Site and Building Design

The petitioner is proposing to raze the structures to construct a three-story, 12-unit multi-family dwelling with 22,276 square feet in new gross floor area. The proposed structure will contain three stories and measure 36 feet tall where two stories and 24 feet is allowed as of right. The proposed building will alter the nonconforming side setback at the eastern boundary from 4.2 feet to 8 feet, where 18 feet is required, requiring a special permit. The Planning Department recommends the petitioner further improve the nonconforming eastern side setback without affecting the proposed conforming setback at the western boundary. The side setback from the western boundary is substantially improving from 2.7 feet to 18.1 feet, where 18 feet is required.

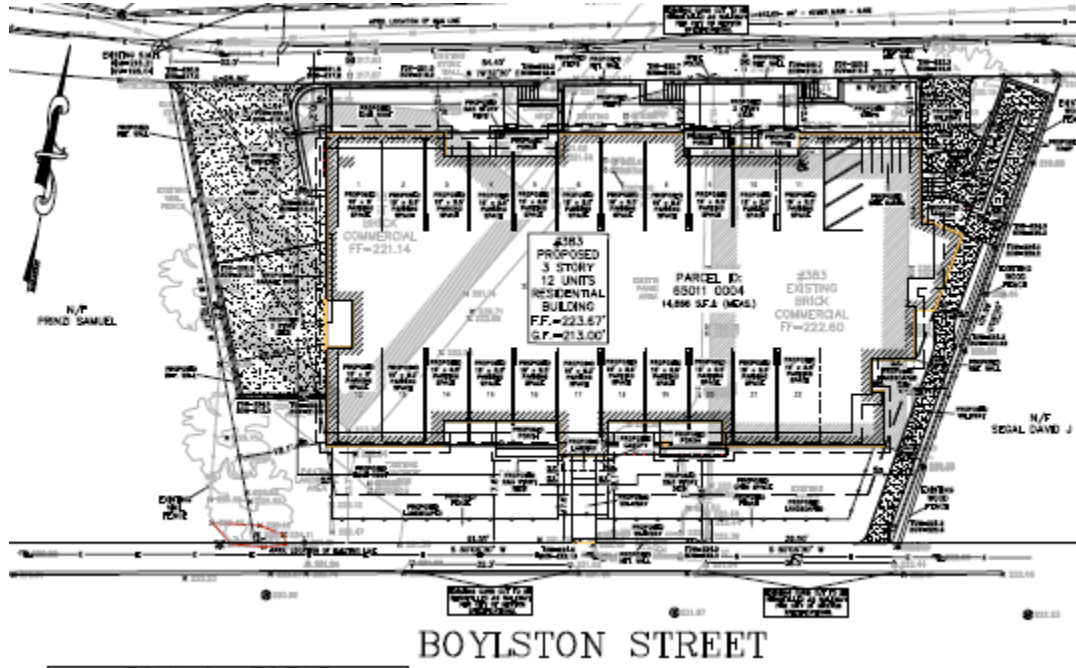
The front setbacks as proposed are 14.9 feet from Boylston Street and 10.1 feet from Jackson Street, where 10 feet is required.

The site would be accessed by one 22-foot-wide curb cut from Jackson Street. The entrance to the underground garage is accessed via the drive aisle along the western property line from Jackson Street. The petitioner proposes to construct a retaining wall along the western property line that starts at a height of three feet and reaches a height of ten feet, and then a maximum height of 12 feet where the entrance to the garage is located. The proposed retaining wall along the western property line to accommodate the grade change to the garage requires a special permit for its location within the side setback. Another retaining wall is proposed along the eastern property line that reaches a maximum height of 3.8 feet. The Planning Department understands the necessity of the retaining wall to accommodate the driveway and garage entrance, however staff suggests the petitioner consider measures that may reduce the height of the 10–12-foot wall. Plans show dumpsters at the end of the driveway that extends beyond the garage entrance. Planning questions whether trash pickup could be accommodated internally via a trash room which may result in a shorter driveway and a shorter retaining wall.

In Business districts, the FAR corresponds to the number of stories. The zoning ordinance allows an FAR of 1.0 for a two-story structure, and up to 2.0 for a four-story structure. The proposed FAR of 1.5 for a three-story structure requires a special permit. In Business zones, the required density control for lot area per unit is 1,200 square feet. The project as designed proposes 1,239 square feet, meeting the lot area per unit requirement. Of the 12 units, five units are located on the ground floor, requiring a special permit.

The petitioner submitted a landscaping plan showing landscaping throughout the site and along the Boylston Street and Jackson Street frontages. Planning Staff notes there is no proposed landscaping to screen the driveway and retaining wall from the residential abutter to the west at 62 Jackson Road. The petitioner should explore measures that would allow for increased buffering and/or distance of the driveway from the abutting property, especially considering the proposed height of the retaining wall within the setback.

### Proposed Site Plan



Jackson Street

### Proposed Boylston Street Elevation



### Proposed West Elevation *Driveway side*



### Proposed Jackson Street Elevation



C. Urban Design

This petition was before the Urban Design Committee (the “UDC”) in Spring 2021. The UDC issued recommendations (**Attachment C**) regarding the design such as deeper balconies, creating a clear expression of the second entrance from Boylston Street such as a balcony, and to finalize façade materials. The petitioner should continue to work with the UDC on these items.

D. Traffic, Parking and Circulation

The Petitioner is proposing 22 parking stalls in the underground garage. The stalls are all 19 feet long, but they will measure 8.5 feet wide, requiring a special permit. With a total of 22 parking stalls on site for the 12-unit building, where 24 stalls are required, the petitioner is seeking a waiver of two parking stalls.

As the project is subject to section 5.13, the Sustainable Development Design section of the Ordinance, 10% of the parking is required to be designated for electric vehicle charging stations. The petitioner stated in a project description within the architectural plans that 10 of the 22 stalls will have charging outlets. The plans do not indicate specifically which stalls are dedicated for electric vehicle charging.

The petitioner is proposing bicycle parking next to the accessible stall, stall 11, in the underground garage. Planning Staff questions whether there is a suitable location elsewhere on site for covered, secure bicycle parking that does not have the potential to conflict with the use of the accessible stall. The petitioner should also provide more details as to the number of bikes that can be accommodated.

The City engaged a Peer Reviewer, Green International Affiliates, Inc. to review the petitioner's Traffic Impact and Access Study, staff will provide an update at a future hearing. Planning will also review the location of the bicycle parking with the peer reviewer.

E. Affordable and Fair Housing Policy

The Petitioner is proposing 12 condominium units in the multi-family dwelling. As the project is creating new dwelling units, the petitioner will be required to comply with the Inclusionary Zoning section of the Ordinance. Because the units are designated as condominium/ownership unit, the petitioner is required to provide at least 10% of Tier 1 units at 80% area median income, and an additional 7.5% Tier 2 units at 110% area median income.

The building will consist of 12 three-bedroom units. The unit sizes range from 1,186 square feet to 2,077 square feet. Inclusionary units will have assigned parking stalls, per the Inclusionary Housing Ordinance. Planning Staff from the Housing Division are currently reviewing the Inclusionary Housing Plan for compliance with the zoning ordinance. Staff will provide an update at a future hearing.



Proposed Units and Unit Sizes

<b>Unit</b>	<b>Bedrooms</b>	<b>Stories</b>	<b>Area S.F.</b>
<u>102</u>	<u>3</u>	<u>1</u>	<u>1,186 S.F.</u>
<u>202</u>	<u>3</u>	<u>1</u>	<u>1,186 S.F.</u>
<u>PH4</u>	<u>3</u>	<u>1</u>	<u>1,197 S.F.</u>
- <u>104</u>	<u>3 (Affordable)</u>	<u>1</u>	<u>1,200 S.F.</u>
<u>204</u>	<u>3 (Affordable)</u>	<u>1</u>	<u>1,200 S.F.</u>
<u>PH2</u>	<u>3</u>	<u>1</u>	<u>1,214 S.F.</u>
<u>105</u>	<u>3</u>	<u>1</u>	<u>1,463 S.F.</u>
<u>205</u>	<u>3</u>	<u>1</u>	<u>1,463 S.F.</u>
<u>PH1</u>	<u>3</u>	<u>1</u>	<u>1,684 S.F.</u>
<u>PH3</u>	<u>3</u>	<u>1</u>	<u>1,692 S.F.</u>
<u>101</u>	<u>3 + office</u>	<u>2</u>	<u>1,962 S.F.</u>
<u>103</u>	<u>3 + office</u>	<u>2</u>	<u>2,077 S.F.</u>
<b>TOTAL</b>			<b>15,524 S.F.</b>

F. Signage

The petitioner has not requested relief from the zoning ordinance regarding the number, size or type of signs. As a result, all signs are expected to be as of right and will be reviewed by the Urban Design Commission, should this petition be approved.

G. Accessibility

The project is required to be compliant with Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (MAAB) regulations. All units are expected to be adaptable to those with disabilities and built to ADA and MAAB requirements. As such, all units should be accessible and visitable to those with disabilities. Regarding parking, the submitted plans show one ADA van stall in the underground garage. The petitioner should confirm that the height of the garage entrance can accommodate an accessible van.

H. Sustainability and Conservation of Natural Resources

The proposed multi-family structure will exceed 20,000 square feet thereby triggering the fifth special permit criterion which states the site and buildings as designed, constructed, and operated will contribute significantly to the efficient use and conservation of natural resources and energy, including through some or all of the following: (a) minimizing operating energy; (b) minimizing the use of fossil fuels; (c) implementing a transportation plan that will minimize carbon footprint. The

Petitioner is also subject to the Sustainable Development Design ordinance adopted in December 2019. Based on the square footage, the structure is required to achieve the Silver Level of the Leadership in Energy and Environmental Design rating system.

The Petitioner provided a sustainability narrative, that is under review. Planning Staff will provide an update at a future hearing regarding the proposed sustainability measures in accordance with the fifth special permit criteria.

III. TECHNICAL REVIEW

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

The Zoning Review Memorandum dated May 10, 2021 provides an analysis of the proposal regarding zoning (**Attachment D**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

<i>Ordinance</i>	<i>Relief</i>
§4.4.1	Request to allow ground floor residential use
§4.1.2.B.1	Request to allow a building with more than 20,000 square feet
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height
§4.1.3	Request to allow an FAR of 1.50
§4.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming side setback
§5.1.4 §5.1.13	Request to waive two parking stalls
§5.1.8.B.1 §5.1.13	Request to reduce the width of parking stalls
§5.4.2	Request to allow a retaining wall greater than four feet in height within the setback

B. Newton Historical Commission Review

The petitioner applied for the total demolition of both structures. On March 22, 2018, the project was administratively deemed not historically significant, and no further review was required.

C. Engineering Review

Associate City Engineer John Daghlian reviewed the plans and issued a memorandum (**Attachment E**) providing an analysis of the proposal with regard to engineering issues. Mr. Daghlian notes that both a Construction Management Plan and O&M plan will be required. Mr. Daghlian also pointed out an existing utility pole at the location of the proposed driveway that will need relocation. Any work within Route 9 will also

require MassDOT approval.

D. Fire Department Review

The plans will be reviewed prior to the issuance of any building permits, should this project be approved.

IV. 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. The Planning Department will prepare an updated memo prior to any future public hearings.

**ATTACHMENTS:**

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





# ATTACHMENT A

## Zoning

### 383-387 Boylston Street

City of Newton,  
Massachusetts

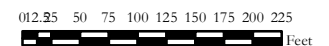
#### Legend

-  Single Residence 1
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Business 2
-  Public Use

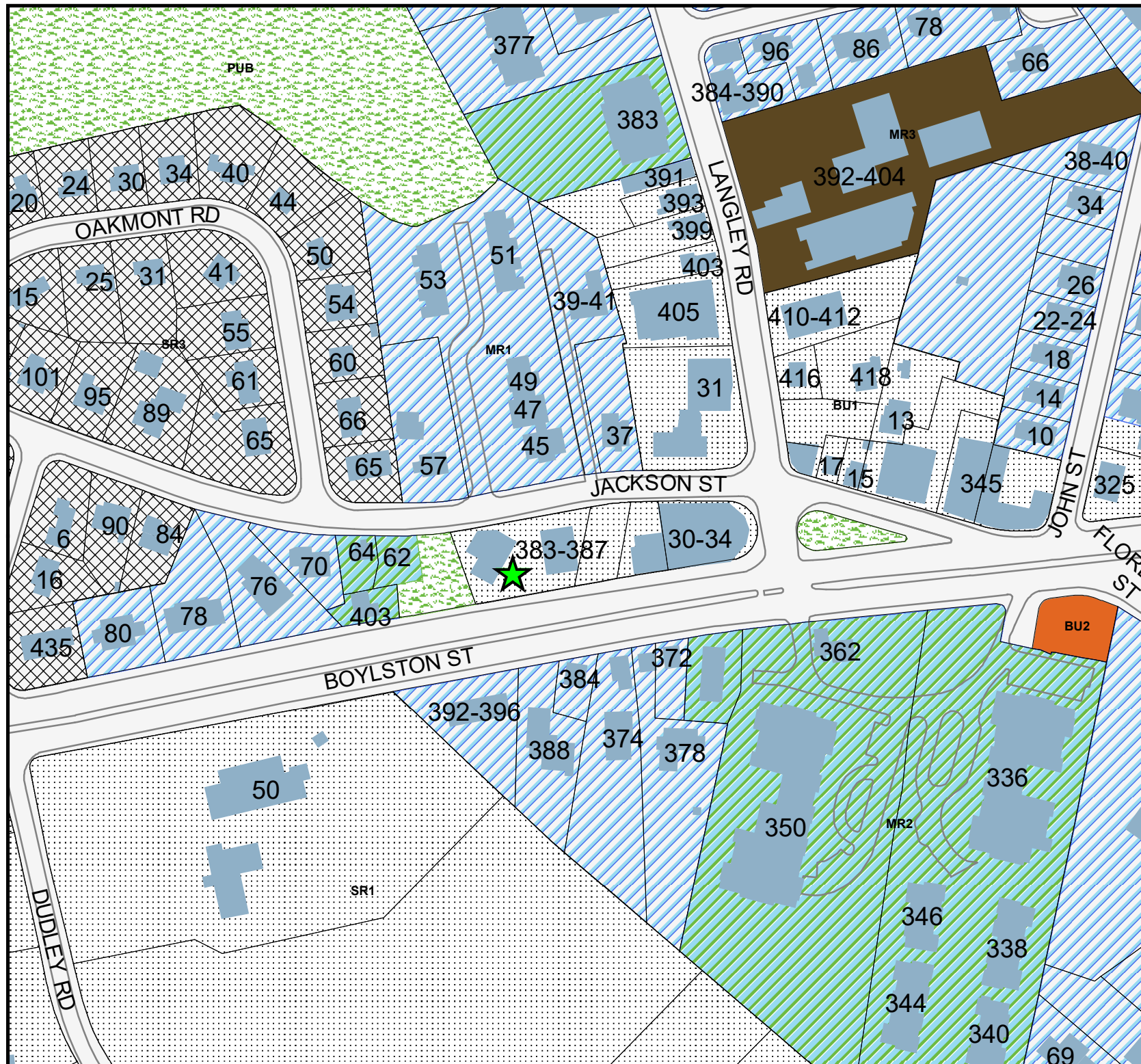


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: July 13, 2021





# ATTACHMENT B









## Land Use

### 383-387 Boylston Street

City of Newton,  
Massachusetts

## Land Use

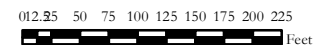
### Land Use

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

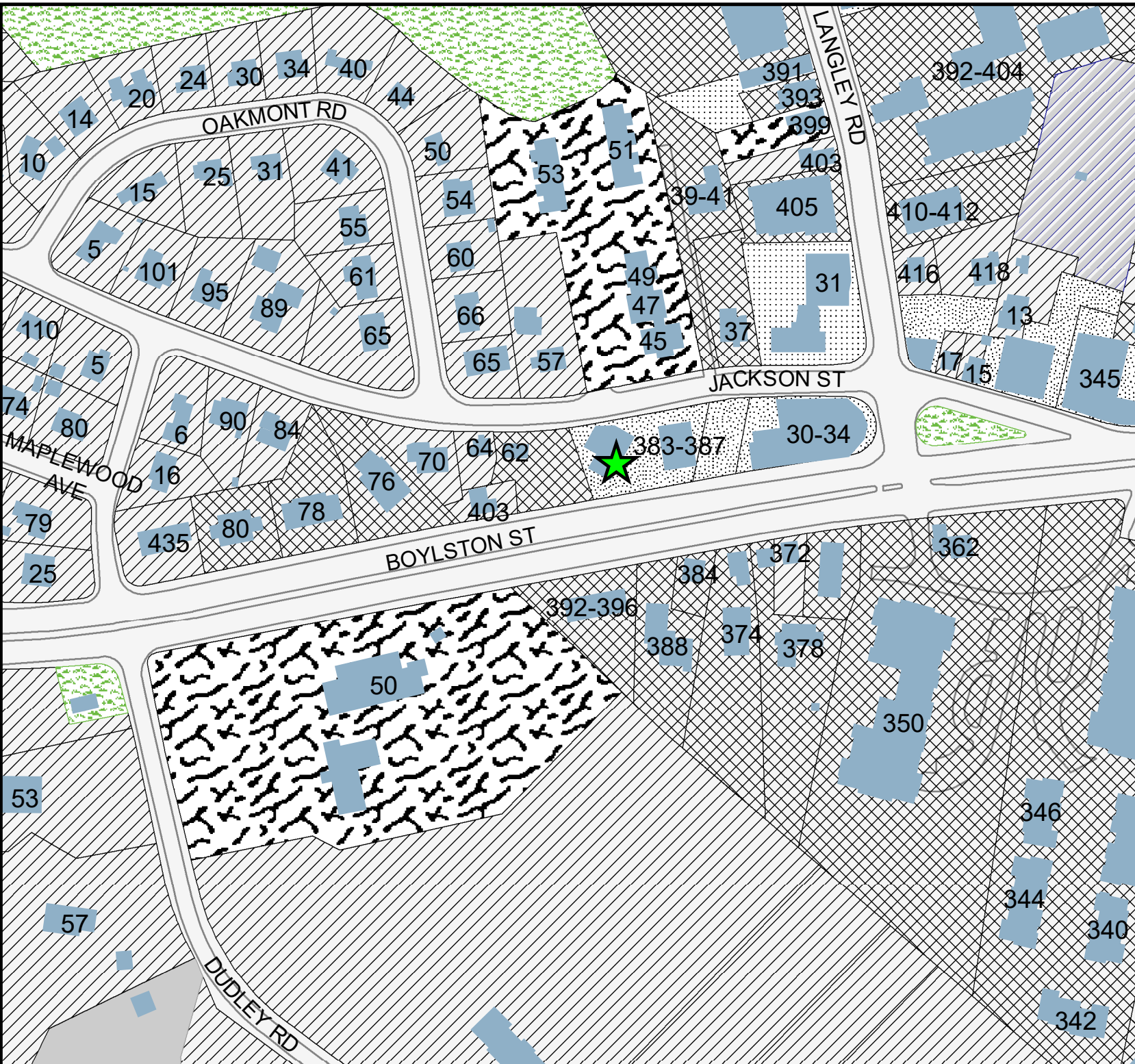


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
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Map Date: July 13, 2021





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Mayor

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**Barney Heath**  
Director

**DATE:** March 30, 2021

**TO:** Neil Cronin, Chief Planner

**FROM:** Urban Design Commission

**RE:** 383-387 Boylston Street

**CC:** Land Use Committee of the City Council  
Barney Heath, Director of Planning and Community Development  
Jennifer Caira, Deputy Director  
Michael Gleba, Senior Planner  
Katie Whewell, Senior Planner  
Petitioner

Section 22-80 of the Newton City Ordinances authorizes the Urban Design Commission to act in an advisory capacity on matters of urban design and beautification. At their regular meeting on February 10, 2021, the Newton Urban Design Commission reviewed the proposed project at 383-387 Boylston Street for design. The Urban Design Commission had the following comments and recommendations:

The Urban Design Commission (UDC) commented that the building fits nicely on the site. It is a nice breakdown of massing. It is a huge improvement as compared to existing conditions. The proposal is an appropriate solution for this site and UDC is looking forward to seeing more design development.

### **Site Plan, Circulation and Connectivity**

- The UDC commented that the issue of having two fronts (Jackson and Boylston Streets) has been solved well by putting the lobby on the side and connecting the lobby to both the streets by a walkway.

### **Building Massing, Height and Architecture**

- The UDC recommended to create a clear expression for the second entrance door on Boylston Street side, maybe a canopy above the door (like a main entrance). It was also recommended to make the square window above the door a little bigger to help get more daylight in the stairwell.

- The UDC recommended to provide deeper balconies so there is enough space to provide table and chairs, especially facing Jackson Street.
- The UDC commented that according to the Jackson Street elevation, the grade drops from west to east however, the project's wall appears to be at one level. It was recommended that the applicant investigate the level change again. It appears that the grade is on the same level with the street at the east side versus the west side.
- There was discussion about the materials. The applicant commented that they haven't finalized the materials yet. They would like to have contrast. The applicant commented that they would like to have a different material for the entry, maybe metal siding to give an accent to the entry. The applicant indicated they will be working more on the material choices.
- Based on changes with building code, the UDC recommended to investigate having 1 stairwell instead of 2.

### **Landscape, Streetscape and Public Open Space**

- The UDC recommended to provide some street trees on Jackson Street side between the sidewalk and the curb.
- The UDC recommended to provide landscaping in front of the building along Jackson street. It will be good to provide landscaping next to the entries to the units if there is enough space.
- The UDC recommended to provide more landscape buffer on Boylston Street side, maybe a stone wall, more greenery. A pergola may also help to provide more separation from Boylston street.



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TDD/TTY  
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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: May 10, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Barbara & Gerald Baratz Revocable Trusts, Applicant  
Laurance Lee, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to allow a 12-unit multi-family dwelling**

**Applicant: Barbara and Gerald Baratz Revocable Trusts**

<b>Site:</b> 383-387 Boylston Street	<b>SBL:</b> 65011 0004
<b>Zoning:</b> BU1	<b>Lot Area:</b> 14,866 square feet
<b>Current use:</b> Mixed commercial	<b>Proposed use:</b> 12-unit multi-family dwelling

### BACKGROUND:

The subject site consists of a 14,866 square foot lot improved with two multi-tenanted single-story commercial buildings built in 1930 with surface parking. The petitioner proposes to raze the buildings and construct a 12-unit three-story multi-family dwelling with underground garage parking.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, dated 3/18/2021
- Existing Conditions Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 12/4/2020
- Proposed Plot Plan, prepared by Spruhan Engineering, dated 3/15/2021
- FAR worksheet, signed and stamped by Mark L. Dooling, architect, submitted 3/18/2021
- Floor Plans and Elevations, prepared by Mark L. Dooling, architect, submitted 3/15/2021



## **ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner intends to raze the two mixed commercial buildings and construct a three-story 12-unit multi-family dwelling with underground parking. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor in a Business 1 zoning district.
2. Per section 4.1.2.B.1, a special permit is required for any development in a Business district of over 20,000 square feet or more of new gross floor area. The proposed building is 22,276 square feet, requiring a special permit.
3. The petitioner intends to construct a three-story multi-family dwelling. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 35.99 feet in height.
4. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, up to 1.50 by special permit. The building is proposed with a total of 22,276 square feet resulting in an FAR of 1.50, requiring a special permit.
5. The building known as 383 Boylston has a nonconforming side setback of 4.2 feet where 9.9 feet is required for the 19.73-foot tall building. The petitioner proposes to construct a 35.99-foot tall building, which requires an 18-foot side setback per section 4.1.3. The petitioner seeks a special permit per sections 4.1.3 and 7.8.2.C.2 to alter and extend the nonconforming side setback on the easterly side to allow for an 8-foot side setback where 18 feet is required.
6. The petitioner proposes to construct twelve residential units with 22 parking stalls in an underground garage. Per section 5.1.4, two parking stalls are required per dwelling unit, resulting in a requirement of 24 stalls for the twelve units. A waiver of two parking stalls is required per sections 5.1.4 and 5.1.13.
7. Per section 5.1.8.B.1, the minimum required stall width is 9 feet. The petitioner proposes parking stalls with an 8.5-foot width, requiring a special permit per section 5.1.13.
8. The maximum width allowed for a driveway is 25 feet per section 5.1.8.D.2. The petitioner proposes a driveway width of 25.8 feet, requiring a special permit per section 5.1.13.
9. Section 5.4.2 requires a special permit for retaining walls within the setback of four feet in height or greater. The petitioner proposes to construct a retaining wall on the westerly side of the property reaching a maximum height of 10.7 feet. A special permit per section 5.4.2 is required to construct the retaining wall as proposed.
10. Per section 5.11.4.B.5, 15% of the twelve proposed ownership units must be affordable to 80% Area Median Income. The petitioner intends meet the requirement by providing two inclusionary units.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	14,866 square feet	No change
Setbacks			
• Front (Boylston St)	10 feet	19.7 feet	14.9 feet
• Front (Jackson St)	10 feet	<b>3.4 feet</b>	10.1 feet
• Side (west)	18 feet	<b>2.7 feet*</b>	18.1 feet
• Side (east)	18 feet	<b>4.2 feet**</b>	<b>8 feet</b>
Building Height	24 feet (36 feet by SP)	17.5 feet/19.73 feet	<b>35.66 feet</b>
Max Number of Stories	2 (3 by SP)	1	<b>3</b>
Lot Area Per Unit	1,200 square feet	NA	1,239 square feet
FAR	1.00 (1.50 by SP)	.33	<b>1.50</b>

\*The building known as 387 Boylston is 17.5 feet tall, requiring an 8.75 foot side setback

\*\* The building known as 383 Boylston is 19.73 feet tall, requiring a 9.9 foot setback

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use	S.P. per §7.3.3
§4.1.2.B.1	Request to allow a building with more than 20,000 square feet	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.50	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming side setback	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive two parking stalls	S.P. per §7.3.3
§5.1.8.B.1 §5.1.13	Request to reduce the width of parking stalls	S.P. per §7.3.3
§5.1.8.D.2 §5.1.13	Request to allow a driveway width exceeding 25 feet	S.P. per §7.3.3
§5.4.2	Request to allow a retaining wall greater than four feet in height within the setback	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 – #383-387 Boylston Street

Date: July 13, 2021

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

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

383-387 Boylston Street  
Newton, MA  
Prepared by: Spruhan Engineering P.C.  
Dated: 12/4/2020

Executive Summary:

This application entails the demolition of two commercial buildings on a 14,866 square foot [0.34 acre] lot and the construction of a 3 story (12 residential units) with an underground garage. The existing site has 130-foot frontage on Boylston Street along the south with two existing curb cuts that will be closed and remodeled as sidewalks: residential homes to the west, a commercial building to the east, and approximately 183 feet of frontage on Jackson Road. A new access driveway will be provided from Jackson Road approximately centered on the following photo.

*Jackson Road view looking towards south*



*New access driveway centered approximately with existing utility pole that will need relocation.*

The underground parking garage will provide 22 parking stalls a turning template plan should be provided to demonstrate turning maneuvers; additionally where will trash & recycling be located within this space?

The property has a high point at elevation 223-feet and slopes towards the north and south to Jackson Road & Boylston Street respectively. The site currently has no stormwater collection nor controls. Stormwater sheds off to each street with no treatment and enters either the state highway or City's drainage system. The engineer of record has designed a stormwater collection and infiltration system in accordance with the DEP and DPW Stormwater policy, however; an Operations and Maintenance plan is required for the design.

Pedestrian circulation is provided along the eastern property line via an ADA ramp system and walkway between the two streets, it may be prudent to have this ramp heated to avoid the requirements for ice/snow melt. New cement concrete sidewalks and granite curbing will be

installed as part of the project to current City/State Standards. Any work within Rte. 9 will require MassDOT permits.

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. 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.
2. 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).

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 to 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 & Date

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.