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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: December 10, 2021
MEETING DATE: December 14, 2021
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner
CC: Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #89-21

424-432 Cherry Street

Special Permit/Site Plan Approval to amend Special Permit #566-18, to construct the previously approved three-unit building and maintain the existing office use, to allow for changes to the previously approved parking configuration, and to waive four parking stalls.

Executive Summary

The subject property consists of 14,204 square feet in the Business Use 1 (the "BU-1") zone in West Newton. The property is improved with a 2.5-story Georgian Style structure constructed circa 1716. The site and structure are one of Newton's designated Local Landmarks, currently used as office space. Special Permit #566-18 allowed the conversion of the office building to six dwelling units and allowed a new building with three dwelling units. The petitioner is seeking to amend Special Permit #566-18 to retain the office use, construct the previously approved three-unit building, and reconfigure the parking facility. Using the formula set forth in the Ordinance which governs parking requirements when there is a change in use that increases the parking requirement, the change in use from six dwelling units to office use requires an additional four parking stalls, which the petitioner is seeking a waiver from.

This petition was last before the Land Use Committee (the "Committee") on April 6, 2021. The applicant requested a continuance on March 31, 2021, due to a discrepancy concerning the building

heights. The petitioner submitted revised plans which were approved by the Newton Historical Commission (the "NHC") on September 27, 2021.

Planning has reviewed iterations of this project with the Transportation Division of Public Works, with the most recent site plan submitted December 3, 2021. While the petitioner incorporated feedback regarding increasing the driveway width, City Staff have requested additional information regarding maneuverability within the site. Otherwise, Staff are unconcerned with the proposed mix of uses on the site and parking waiver of four stalls due its location near the West Newton Village Center.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

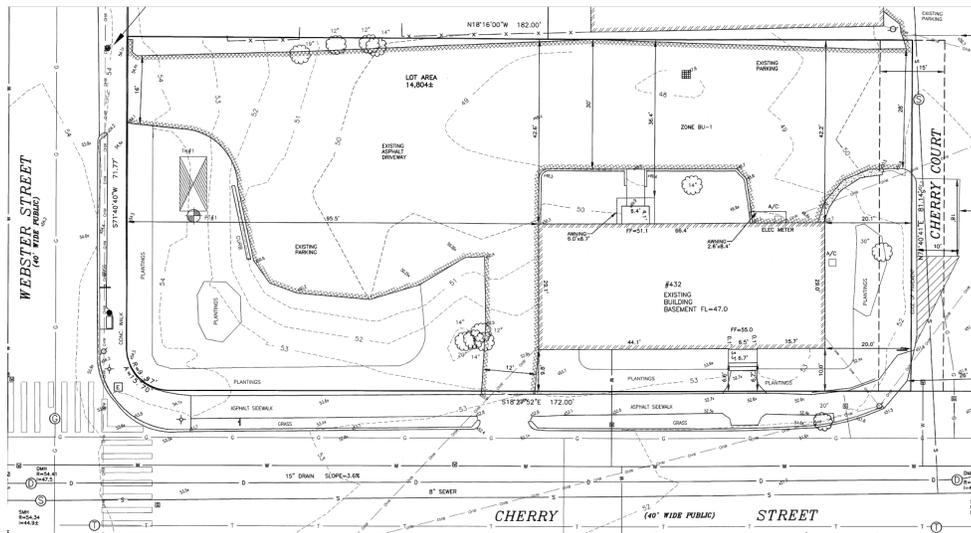
- The specific site is an appropriate location for the proposed amendment to the special permit which would allow a mix of office and residential uses and waiver of four parking stalls. (§7.3.3.C.1.)
- The proposed for the proposed amendment to the special permit which would allow a mix of office and residential uses and waiver of four parking stalls will not adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3.)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)
- Literal compliance with the required number of parking stalls of the Newton Zoning Ordinance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13.)

II. EXISTING CONDITIONS AND BACKGROUND

A. Existing Conditions

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

Existing Conditions

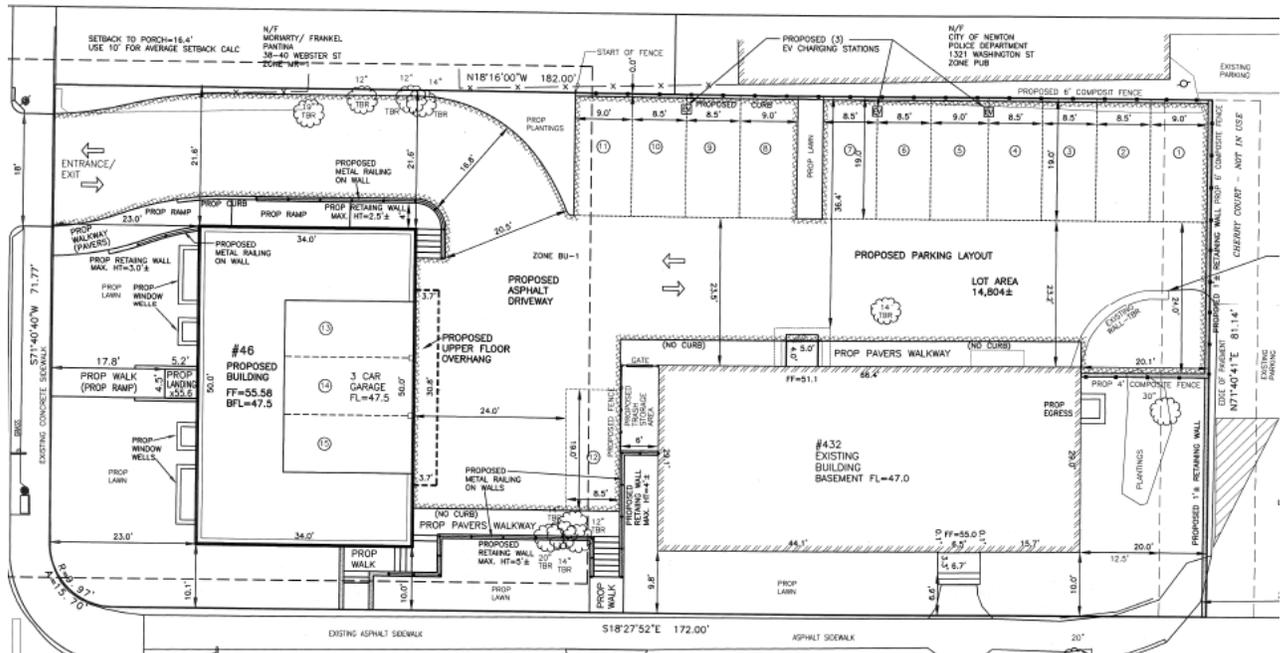


B. Special Permit #566-18

The site is governed by Special Permit #566-18 which allowed the conversion of the existing building into six dwelling units and allowed for the construction of a new multifamily building with three dwelling units. The special permit granted waivers for the new building to allow ground floor units in the BU-1 zone with 30 feet in height, allowed a reduction in the parking requirement to 1.25 stalls per unit, reduced the minimum stall dimensions and waived dimensional and design controls for parking facilities over five stalls.

The approved site plan shows a retaining wall at the southern boundary separating the parcel from the Police Station parcel. As a result, the sole point of vehicular access to the lot would be from the existing Webster Street curb cut. The existing curb cut would be narrowed from approximately 21 feet to 18 feet leading to a driveway accessing a 12-stall surface parking lot.

Proposed Site Plan



Staff requested the petitioner demonstrate truck maneuverability within the site to avoid impacts to Webster Street. The petitioner should also provide turning movements for the trash truck exiting the driveway, as only entry was provided. The petitioner should also confirm that the residential trash pickup will be handled by a private entity, as conditioned in Council Order 566-18. City Staff recommends this condition be carried forth in the amended Council Order, should this project be approved.

D. Parking

The petitioner is seeking to construct three additional parking stalls for a total of 15 stalls, where 12 stalls were previously approved. Many of the proposed changes pertain to the row of parking stalls that runs along the northeastern property line. The row of stalls is increasing to 11 stalls from eight stalls by relocating the trash area and reducing the width of seven of the proposed stalls to a minimum of 8.5 feet, which is consistent with the approved special permit relief. Three of the stalls will comply with the required stall width of 9 feet.

The prior special permit granted a reduction in stalls per unit to 1.25 stalls per unit. The change in use follows a formula to be used which accounts for the existing use (office) requirement at 16 stalls, proposed use (mixed use) at 20 stalls and existing number of stalls on site (15). The required parking waiver using the formula is four parking stalls.

The petitioner stated that while the commercial tenants will use surface parking stalls 1-12 during normal business hours, those stalls can be utilized as visitor parking on nights, weekends,

and holidays. The petitioner should submit information on how they will be communicating this and encouraging compliance with this arrangement.

E. Landscaping

The landscape plan differs from the previously approved landscape plan in that includes a 6-foot composite fence is proposed at the southeast corner, where a 6-foot wood stockade fence was previously approved. The petitioner is still proposing boxwoods along the perimeter along the Cherry Street and Webster Street frontages as well as wrought iron fencing within the site. The landscape plan in the current filing does not provide details for the retaining wall, where a stone veneer retaining wall was previously approved. The petitioner should clarify the materials that will be used for the retaining wall.

IV. TECHNICAL REVIEW

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

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

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

B. Newton Historical Commission Review

The subject property is one of Newton’s designated Local Landmarks which restricts modifications to the building and to the site.

The directive of the NHC has been consistent in that the new building needs to be subordinate to the existing structure. Initial plans showed the building heights with a five-foot discrepancy which did not align with previously approved plans. The revised plans were reviewed and approved by the NHC on September 27, 2021. The Chief Preservation Planner will review this project prior to the issuance of a building permit, should this project be approved.

C. Engineering Review

Associate City Engineer, John Daghlian, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment E**). Mr. Daghlian noted that the property slopes down towards the center of the lot and is the low point of the neighboring properties. Mr. Daghlian states that utilities for the new building will need to be provided from Cherry Street. The driveway apron from Webster Street as well as frontage along Cherry Street must also be reconstructed to meet ADA & City Standards. Additionally, Mr. Daghlian stated an Operation and Maintenance Plan is required for the long-term operation of the drainage system; the Planning Department has relayed this information to the petitioner.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Special Permit #566-18
- Attachment D:** Zoning Review Memorandum, dated February 24, 2021
- Attachment E:** Engineering Memorandum, dated April 15, 2021
- Attachment F:** DRAFT Council Order

Attachment A Zoning Map Cherry St., 424-432

*City of Newton,
Massachusetts*

Legend

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



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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: April 02, 2021



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

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

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



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: April 02, 2021



#566-18
424-432 Cherry Street

CITY OF NEWTON

IN CITY COUNCIL

March 4, 2019

2019 MAR -6 PM 2:30
CITY OF NEWTON

ORDERED:

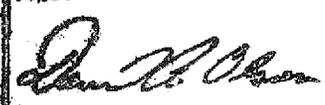
That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to convert office space into six residential units, including ground floor units and to allow three stories, to construct a second multi-family dwelling on site containing three stories and 30 feet in height, to reduce the parking requirement from two stalls per unit to 1.25 stalls per unit, to reduce the minimum stall dimensions, to waive the dimensional and design controls for parking facilities containing more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

Property Address: 432 Cherry Street, Newton

- 1) The site is an appropriate location for the multi-family dwellings given the presence of other multi-family structures in the neighborhood and the site's location within West Newton Square. (§7.3.3.C.1)
- 2) The proposed project as developed and operated will not adversely affect the neighborhood because the project's density is compatible with other multi-family developments in the neighborhood. (§7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner will remove a landscape hedge, thereby increasing sight distances and will update the sidewalks along the property's frontage to be compliant with City Standards and Massachusetts Architectural Access Board regulations. (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's location within West Newton Square. (§7.3.3.C.4)
- 5) Exceptions to the parking requirements, including reducing the parking requirement to 1.25 stalls per unit, waving the dimensional standards of parking stalls, reducing the minimum aisle width, reducing the minimum driveway width, and waiving the dimensional and design controls for parking facilities containing more than five stalls are in the public interest for the following reasons:

- a. Reducing the parking requirement to 1.25 stalls per unit is appropriate given the project's location within West Newton Square and its proximity to bus stop options.

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 Dan H. Olson
 City Clerk of Newton, Mass.

- b. Reducing the minimum parking stall dimensions, the minimum width of maneuvering aisles, and the minimum driveway width, makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
- c. Fencing and a retaining wall with landscaping will screen the surface parking facility from abutting properties. Additionally, lighting will be minimized to mitigate trespass onto neighboring properties and to ensure the site's lighting is consistent with the adjacent residences while still lighting the facility to promote safety.

(§5.1.4.A, §5.1.8.B.1, §5.1.8.C, §5.1.8.D.1, §5.1.9.A, §5.1.10.A and §5.1.13)

PETITION NUMBER: #566-18

PETITIONER: CRM Management, LLC C/O Dennis Cameron

ADDRESS OF PETITIONER: 432 Cherry Street
Newton, MA 02465

LOCATION: 424-432 Cherry Street

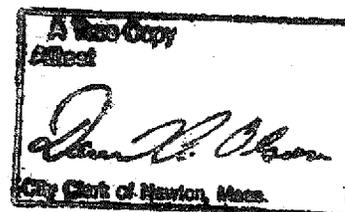
OWNER: CRM Management, LLC C/O Dennis Cameron

ADDRESS OF OWNER: 432 Cherry Street
Newton, MA 02465

TO BE USED FOR: A multi-family development consisting of nine units, including ground-floor units, in two separate structures, and a surface parking facility containing nine stalls, hereinafter the "Project."

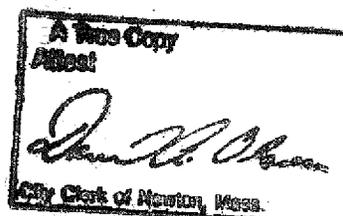
EXPLANATORY NOTES: Special permits per §7.3.3: To allow a nine-unit multi-family development with ground-floor units, in two structures of three-stories and 30 feet in height (§4.4.1, §4.1.2.B.3, §4.1.3); To reduce the parking requirement to 1.25 stalls per unit (§5.1.4.A and §5.1.13); To waive the parking stall dimensional requirements (§5.1.8.B.1, and §5.1.13); To waive the minimum width of maneuvering aisles (§5.1.8.C, and §5.1.13); To waive the minimum driveway width (§5.1.8.D.1, and §5.1.13); To waive the perimeter screening requirements of parking facilities containing more than five stalls (§5.1.9.A and §5.1.13); To waive the lighting and surfacing requirements of parking facilities containing more than five stalls (§5.1.10.A and §5.1.13).

ZONING: Business Use 1

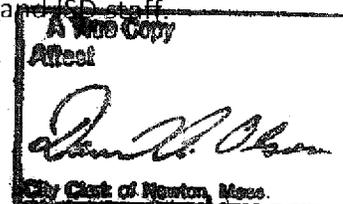


Approved subject to the following conditions:

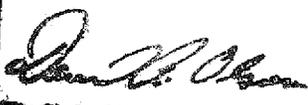
1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by Everett M. Brooks Co., signed and stamped by Bruce R. Bradford, Professional Land Surveyor, and Mike S. Kosmo, Professional Engineer, consisting of the following four (4) sheets:
 - Existing Conditions Plan, dated April 3, 2018, revised April 25, 2018, September 26, 2018, and December 19, 2018.
 - Proposed Layout Plan, dated April 3, 2018, revised April 25, 2018, September 26, 2018, December 19, 2018, January 3, 2019, and January 30, 2019.
 - Utility Plan, dated April 3, 2018, revised April 25, 2018, September 26, 2018, December 19, 2018, January 3, 2019, and January 30, 2019.
 - Detail Sheet, dated April 3, 2018, revised April 25, 2018, September 26, 2018, December 19, 2018, January 3, 2019, and January 30, 2019.
 - b. Architectural Plans entitled, "432 Cherry Street and 46 Webster Street" signed and stamped by Ronald P. Jarek, Registered Architect, consisting of ten (10) sheets as follows:
 - Sheet A-4 Cherry Street Proposed Basement and First Floor Plans, dated September 12, 2018, Revised September 22, 2018 and December 26, 2018.
 - Sheet A-5 Cherry Street Proposed Second Floor and Attic Plans, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-6 Webster Street Proposed Basement and First Floor Plans, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-7 Webster Street Proposed Second Floor and Attic Plans, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-8 Cherry Street Proposed Elevations, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-9 Webster Street Proposed Elevations, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-10 Webster Street and Cherry Street View, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-11 Webster Street View, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-12 3D views, dated September 12, 2018, Revised September 22, 2018.
 - Sheet A-15 Typical Sections, dated September 12, 2018, Revised September 22, 2018.



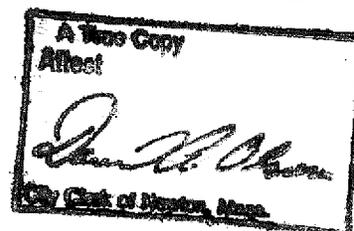
- c. Landscape Plan, entitled, "432 Cherry Street and 46 Webster Street" signed and stamped by Ronald P. Jarek, Registered Architect, dated February 1, 2019.
 - d. Lighting Plan, entitled, "432 Cherry Street and 46 Webster Street" signed and stamped by Ronald P. Jarek, Registered, dated February 1, 2019.
2. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), one (1) of the residential units in the new three-unit dwelling shall be made an ownership unit available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA. This unit (Unit 8 in the IHP) shall be made available to households earning at or below 80% AMI and shall be priced to be affordable to a household having an income of not more than 70% of AMI. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. The Inclusionary Unit shall comply with the provisions of the City's Inclusionary Zoning Ordinance (§5.11.4).
 3. The inclusionary unit shall be a three-bedroom, duplex unit, located within the new three-unit dwelling on the second and third floors, as proposed in the Preliminary Inclusionary Housing Plan dated February 22, 2019, on file with the City Clerk.
 4. To the extent permitted by applicable regulations of the Massachusetts Department of Housing and Community Development (DHCD), the Inclusionary Unit shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as a Local Action Unit through DHCD's Local Initiative Program. Prior to the issuance of any occupancy certificates (temporary or final), the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Unit in perpetuity.
 5. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the Inclusionary Unit will be affirmatively marketed and sold through a lottery.
 6. No dwelling unit shall be constructed to contain, and/or marketed and/or sold to contain more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1(b).
 7. The Petitioner shall preserve the existing proportions, substrate and architectural details that contribute to the historic significance of the existing structure including but not limited to all exterior walls, roof structure, and window openings. Any replacement in kind or deviation shall be by prior approval only by Preservation Planning and ISD Staff.



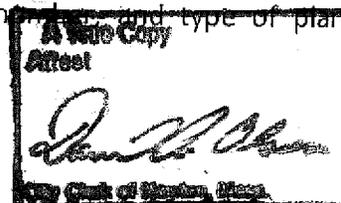
8. The cost of parking stall(s) shall be sold separately from the cost of a unit, provided, however that the cost of one parking stall shall be included in the price for the Inclusionary Unit. Prior to the issuance of any certificate of occupancy for a market rate unit (temporary or final), the Petitioner shall provide evidence of such separation to the Director of Planning and Development.
9. The Petitioner shall provide space for not less than ten bicycles in the below grade garage of the proposed three-unit, multi-family structure. Additionally, the petitioner shall provide five electric vehicle (EV) charging stations on site.
10. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
11. The Petitioner shall remove all snow from site.
12. The Petitioner shall comply with the City's Tree Preservation Ordinance.
13. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
14. At the Petitioner's sole expense, the petitioner shall locate all utility service lines on site underground from the right of way into the site.
15. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
16. The Petitioner shall update all sidewalks along the Project's frontage on Cherry and Webster streets to comply with City Design Standards and Massachusetts Architectural Access Board Standards. This work shall be completed to the satisfaction of the Engineering Division of Public Works prior to the issuance of a temporary Certificate of Occupancy for the Project. The petitioner shall also be responsible for repairing all damage to public ways and property by any construction vehicles.
17. Prior to the issuance of a building permit, the petitioner shall meet on site with a representative from the City of Newton Engineering Division to determine whether the grass strip along the Webster Street frontage can be removed to allow for the sidewalk to extend from the petitioner's property line to the curb. Should the representative determine such removal is feasible, the petitioner shall incorporate such work as part of this Order. Prior to the issuance of any building permit for the Project, the Petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, Fire Department, and Inspectional Services.
18. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:

Attent

City Clerk of Newton, Mass.

- a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
19. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Submitted a final Inclusionary Housing Plan and Affirmative Fair Housing and Resident Selection Plan for review and approval by the Director of Planning and



- Development with the information required to be included in such Plan pursuant to §5.11.9. of the Newton Zoning Ordinance.
- e. Submitted final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
20. Prior to the issuance of any certificates of occupancy for the Project (temporary or final), the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
 21. Prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall, at its own expense, offer a permanent easement to the City, in a form approved by the Law Department and the Engineering Division of Public Works, providing the City with the right to install a foundation for a pole and mast arm for a new traffic signal, as well as the right to maintain the equipment, at the intersection of Cherry and Webster Streets. The petitioner shall be responsible for preparing all necessary documentation and plans. If accepted by the City, such easement shall be incorporated in the Master Deed for the property.
 22. No occupancy certificate (temporary or final) for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and a professional land surveyor certifying compliance with Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #20.
 - d. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant.



- materials, final landscape features, fencing, and parking areas.
- f. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Unit has been completed to the Director of Planning and Development for review and approval.
- g. Entered into, and recorded at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants for the Inclusionary Unit with the City of Newton and DHCD, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Unit in perpetuity.
- h. The Inclusionary Unit shall be constructed and available for occupancy coincident with market rate units such that no more than four market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
- i. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans as long as all other conditions of this order have been met. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.

Under Suspension of Rules
Readings Waived and Approved

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on March 6, 2019. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the City Council



I, David A. Olson, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on 3/6/19 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
acting Clerk of the Council





Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 24, 2021

To: John Lojek, Commissioner of Inspectional Services

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

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

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

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

BACKGROUND:

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

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

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

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

ADMINISTRATIVE DETERMINATIONS:

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

A-B+C=Required number of stalls where

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

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

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

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

3. See “Zoning Relief Summary” below:

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

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 – 424-432 Cherry Street

Date: April 15, 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
Katie Whewell, Sr. Planner

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

*Site Plan of Land in Newton, MA 423-432 Cherry Street
Sheets 1-4
Dated: April 3, 2018
Revised: 1/6/2021
Prepared By: Everett M. Brooks Company*

Executive Summary:

This project entails the renovation of an existing building [#432] fronting on Cherry Street and the construction of a new building fronting on Webster Street on a 0.32-acre (14,199 sf) lot.

The site topography is like a “depress bowl” having highpoints at Webster Street at elevation 54’ that slopes down towards the northeast portion of the lot, as does a high point of 53’ along Cherry Street to the same low point. The site is essentially the low point of the neighboring properties; everything drains from the property limits towards the center of the lot. Portions of the site are currently paved as a parking lot, some grassy landscaped areas and the existing building.

The engineer of record shows a stormwater collection & infiltration system however, no drainage report was provided at the time of review. As required by DPW test pits shall be performed with 25-feet of the proposed infiltration system, the test pit shown is beyond 100-feet, therefore additional soil investigation is required. Additionally, an Operations and Maintenance plan is need for the long-term maintenance of the proposed systems.



View of existing parking lot & building

Utilities for the new building will to be provided from Cherry Street. If the existing building is to be renovated by more than 50% then both water and sewer services need to be update.



Driveway apron off Webster Street

This driveway apron must be reconstructed to meet ADA & City Standards. The existing apron is approximately 16 feet due to the limits of Webster Street; I recommend that the curb cut be widened to a maximum of 22' as allowed by City Standards which would facilitate better maneuvering of vehicles into and out of the parking lot. The sight distance towards the west is

limited; it is recommended that these high bushes be removed for safe egress for proposed conditions, and to see pedestrians within the sidewalk; the proposed conditions plan does not indicate if these bushes will be removed.



These overhanging bushes need to be trimmed back to allow adequate ADA access.



#432 Cherry Street existing apron & sidewalk

The existing apron on Cherry Street is to be closed off, this apron and the sidewalk along this entire frontage is in poor condition and needs to be updated to current standard of cement concrete sidewalk with granite curbing in compliance with ADA and City standards to match the sidewalks across the street.



Discharge pipe from Police Dept. garage

Based on a site visit a storm drainpipe discharges from the roof of the Police Department garage onto to this lot, this needs to be redirected.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.
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 Stormwater Management Facilities needs to be submitted for review. Once approved the O&M must be adopted by applicant, 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, and pipes are the sole responsibility of the property owner(s).

Environmental:

4. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
5. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
2. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance with the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. 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 and a written report is received by the City Engineer. This note must be added to the final approved plans.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.

3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval.
4. 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.

Infiltration & Inflow:

- This 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 contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. This note shall be incorporated onto the plans.
3. No excavation within City Streets are permitted between November 15th to April 15th unless approved by the Commissioner of the DPW.
4. All tree removal shall comply with the City's Tree Ordinance.
5. The contractor 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 service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. This note should be incorporated onto the plans.

6. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. This note must be incorporated onto the site plan.
7. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
8. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. This note must be incorporated onto the final contract plans.
9. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. This note must be incorporated onto the site plan.
10. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, 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 @ 617-796-1023.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Council Order #566-18 to maintain the office use in the existing structure,, construct the previously approved three unit multi-family building, and to waive four parking stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed amendment to the special permit which would allow a mix of office and residential uses and waiver of four parking stalls due to its location near West Newton Village Center. (§7.3.3.C.1.)
2. The proposed amendment to the special permit which would allow a mix of office and residential uses and waiver of four parking stalls will not adversely affect the neighborhood because the office use is existing on site and it's proximity to the West Newton Village Center. (§7.3.3.C.2.)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because sole vehicular access to the site will be from Webster Street with two access points being closed. (§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.)
5. Literal compliance with the required number of parking stalls of the Newton Zoning Ordinance is in the public interest due to its location near the West Newton Village Center and the flexible parking arrangement between uses. (§5.1.13.)

PETITION NUMBER: #89-21

PETITIONER: CRM Management, LLC C/O Dennis Cameron

ADDRESS OF PETITIONER: 432 Cherry Street
Newton, MA 02465

LOCATION: 424-432 Cherry Street

OWNER: CRM Management, LLC C/O Dennis Cameron

ADDRESS OF OWNER: 432 Cherry Street
Newton, MA 02465

TO BE USED FOR: Mixed Use consisting of office use and 3 unit residential building
and 15 parking stalls, hereinafter the "Project."

EXPLANATORY NOTES: To amend special permit #566-18 to maintain the office use in the
existing structure and to waive four parking stalls. Relief as set
forth in Special Permit #566-18: To allow a three unit building with
ground-floor units (§4.4.1, §4.1.2.B.3, §4.1.3); To reduce the
parking requirement to 1.25 stalls per unit (§5.1.4.A and §5.1.13);
To waive the parking stall dimensional requirements (§5.1.8.B.1,
and §5.1.13); To waive the minimum width of maneuvering aisles
(§5.1.8.C, and §5.1.13); To waive the minimum driveway width
(§5.1.8.D.1, and §5.1.13); To waive the perimeter screening
requirements of parking facilities containing more than five stalls
(§5.1.9.A and §5.1.13); To waive the lighting and surfacing
requirements of parking facilities containing more than five stalls
(§5.1.10.A and §5.1.13).

ZONING: Business Use 1

The prior Special Permit for this property is Special Permit #566-18 which allowed a nine unit residential development in two buildings with dimensional waivers for parking facilities over five stalls. This special permit supersedes Special Permits #566-18 and consolidates and incorporates herein those conditions and provisions from the prior special permit that remain applicable and are set forth in this special permit.

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by Everett M. Brooks Co., signed and stamped by Bruce R. Bradford, Professional Land Surveyor, and Mike S. Kosmo, Professional Engineer, consisting of the following four (4) sheets:
 - Existing Conditions Plan, dated April 3, 2018, most recently revised December 3, 2021.
 - Proposed Layout Plan, dated April 3, 2018, most recently revised December 3, 2021.
 - Utility Plan, dated April 3, 2018, most recently revised December 3, 2021.
 - Detail Sheet, dated April 3, 2018, most recently revised December 3, 2021.
 - b. Architectural Plans entitled, “432 Cherry Street and 46 Webster Street” signed and stamped by Ronald P. Jarek, Registered Architect, consisting of nine (9) sheets as follows:
 - SD.03 - Proposed Basement Plan, dated December 7, 2020, Revised April 5, 2021
 - SD.04 – Proposed First Floor Plan, dated December 7, 2020, Revised April 5, 2021
 - SD.05 – Proposed Second Floor Plan, dated December 7, 2020, Revised April 5, 2021
 - SD.06 – Proposed Attic Plan, dated December 7, 2020, Revised April 5, 2021
 - SD.07 – Proposed Front Elevation from Webster Street, dated December 7, 2020, Revised April 5, 2021
 - SD.08 – Proposed Left Elevation, dated December 7, 2020, Revised April 5, 2021
 - SD.09 – Proposed Rear Elevation, dated December 7, 2020, Revised April 5, 2021
 - SD.10 – Proposed Right Elevation, dated December 7, 2020, Revised April 5, 2021
 - SD.14 – Webster St. and Cherry St. Buildings, dated December 7, 2020, Revised July 8, 2021
 - c. Landscape Plan, entitled, “432 Cherry Street and 46 Webster Street” signed and stamped by Ronald P. Jarek, Registered Architect, dated December 20, 2021, most recently revised July 8, 2021.
 - d. Lighting Plan, entitled, “432 Cherry Street and 46 Webster Street” signed and stamped by Ronald P. Jarek, Registered, dated February 1, 2019.
2. The Petitioner shall preserve the existing proportions, substrate and architectural details that contribute to the historic significance of the existing structure including but not limited to all exterior walls, roof structure, and window openings. Any replacement in kind or deviation shall be by prior approval only by Preservation Planning and ISD staff.
3. The cost of parking stall(s) shall be sold separately from the cost of a unit.

4. The Petitioner shall provide space for not less than ten bicycles in the below grade garage of the proposed three-unit structure. Additionally, the petitioner shall provide five electric vehicle (EV) charging stations on site.
5. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
6. The Petitioner shall remove all snow from site.
7. The Petitioner shall comply with the City's Tree Preservation Ordinance.
8. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
9. At the Petitioner's sole expense, the petitioner shall locate all utility service lines on site underground from the right of way into the site.
10. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
11. The Petitioner shall update all sidewalks along the Project's frontage on Cherry and Webster streets to comply with City Design Standards and Massachusetts Architectural Access Board Standards. This work shall be completed to the satisfaction of the Engineering Division of Public Works prior to the issuance of a temporary Certificate of Occupancy for the Project. The petitioner shall also be responsible for repairing all damage to public ways and property by any construction vehicles.
12. The Petitioner shall do the following in order to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition permit, the petitioner shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity prior to demolition, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Planning and Development Department, Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.

- d. Prior to issuance of any temporary certificate of occupancy, the Pest Control Operator shall file a final report with the Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site and neighborhood assessment.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final) the petitioner shall offer rodent abatement services on an as needed basis for all properties within a 300 foot radius of the site, subject to owner authorization of such properties and a waiver of liability.
13. Prior to the issuance of a building permit, the petitioner shall meet on site with a representative from the City of Newton Engineering Division to determine whether the grass strip along the Webster Street frontage can be removed to allow for the sidewalk to extend from the petitioner's property line to the curb. Should the representative determine such removal is feasible, the petitioner shall incorporate such work as part of this Order. Prior to the issuance of any building permit for the Project, the Petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, Fire Department, and Inspectional Services.
14. Prior to the issuance of any building permit for the Project, the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
- a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-

- site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
- g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
15. Prior to the issuance of any building permit for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
16. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Submitted final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - e. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
17. Prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall provide the City with a permanent easement, in a form approved by the Law Department, providing the City with the right to install a foundation for a pole and mast arm for a new traffic signal, as well as the right to maintain the equipment, at the intersection of Cherry and Webster Streets. The petitioner shall be responsible for

preparing all necessary documentation and plans. Such easement shall be incorporated in the Master Deed for the property.

18. No occupancy certificate (temporary or final) for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and a professional land surveyor certifying compliance with Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - e. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans as long as all other conditions of this order have been met. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.