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#357-22 & #358-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: July 19, 2022
Land Use Action Date: October 11, 2022
City Council Action Date: October 17, 2022
90-Day Expiration Date: October 17, 2022

DATE: July 15, 2022

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #357-22** for SPECIAL PERMIT/SITE PLAN APPROVAL to rezone 3 parcels as follows: **1314 Washington Street** (Section 33 Block 10 Lot 01), **31 Davis Street** (Section 33 Block 10 Lot 11) and **33 Davis Street** (Section 33 Block 10 Lot 12) from BUSINESS 1 TO MIXED USE 4.

Petition #358-22 for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a building in excess of 20,000 sq. ft., to allow a mixed-use residential building with five stories and 60 feet in height, to allow reduced lot area per unit, to exceed the maximum front setback, to allow a FAR of 2.45 in a five-story building, to waive the setback requirement for the portions of the building exceeding 40 ft. in height, to waive entrance and façade transparency requirements, to allow a restaurant with more than 50 seats with extended hours of operation, to allow ground floor residential use, to waive the requirement of using the A+B+C parking formula, to waive 115 parking stalls, to allow assigned parking, to allow reduced parking stall width and depth, to allow reduced accessible stall depth, to waive end stall maneuvering space requirements, to allow reduced aisle width at **1314 Washington Street** and **31, 33 Davis Street**, Ward 3, Newton, on land known as Section 33 Block 10 Lots 01, 11, 12 containing approximately 30,031 sq. ft. of land in a district zoned BUSINESS USE 1 (rezone to MIXED USE 4 proposed). Ref: Sec. 7.3.3, 7.4, 4.2.2.A.2, 4.2.5.A.3, 4.2.2.B.1, 4.2.3, 4.2.5.A.4, 4.2.2.B.3, 4.2.5.A.2, 4.2.5.A.4.c, 4.2.5.A.6.a, 4.2.5.A.6.b, 4.4.1, 6.4.29.B.1, 6.4.29.C.6, 6.2.4, 5.1.3.B, 5.1.13, 5.1.4, 5.1.3.E, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.B.6, 5.1.8.C.1, 5.1.8.C.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.



**1314 Washington Street, 31
Davis Street and 33 Davis Street**

EXECUTIVE SUMMARY

The subject property is comprised of three lots, 1314 Washington Street, 31 Davis Street, and 33 Davis Street, totaling 30,031 square feet in a Business 1 (BU1) zoning district.

Bound by Washington Street to the north, Highland Street to the west and Davis Street to the south, the parcel is currently improved with a bank building constructed circa 1915 and a surface parking lot with 60 stalls and many dimensional parking nonconformities.

The petitioner proposes to construct a five-story rear addition containing 50 residential units to the south side of the existing building and convert the existing bank space into a restaurant and lobby area. As currently designed, the development would have a total of 69 parking stalls for the two uses in two separate parking facilities, one at surface level, the other below-grade.

To do so, the petitioner is seeking to have the three parcels' zoning designation changed from BU1 to Mixed Use (MU4). As such, the administrative determinations and relief requested by this memo assume that the entire project site is zoned MU4. That said, even in the event the requested rezoning is granted, to develop the project as proposed would require significant zoning relief, including that related to certain dimensional standards, design standards, proposed uses, and required parking and parking stall and facilities dimensions.

Also, as the proposed 50-unit multi-family dwelling would be subject to the inclusionary zoning provisions of Sec. 5.11.4.B.4.c, the petitioner would be required to provide eight (15%) of the dwelling units to households earning 50%-80% of the Area Median Income (AMI) and one (2.5%) of the units to households earning up to 110% of the AMI for a total of nine required inclusionary units. The petitioner would also be required to provide a fractional cash payment equivalent to 0.3 units.

Lastly, as the proposed development would include construction or substantial reconstruction of one or more buildings totaling 20,000 square feet or more of gross floor area and also requires a special permit, it would be subject to the sustainable development requirements provided Sec. 5.13.3.A.

Due to the size of the project, plans can be found here by searching the project address: <https://newtonma.viewpointcloud.com/search>

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether allowing:

Special Permit criteria

- a FAR of 2.44 in a five-story building (§4.2.2.B.3, §4.2.3)
- a restaurant with more than 50 seats with extended hours of operation (§4.4.1, §6.4.29.B.1, §6.4.29.C.6), *and*
- ground floor residential use (§4.4.1, §6.2.4),

is appropriate as:

- The specific site is an appropriate location for such use, structure (§7.3.3.C.1)
- The use as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4),

and as the proposed building is in excess of 20,000 square feet (§4.2.2.B.1), whether 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 (§7.3.3.5)

Regarding additional standards in an MU4 zoning district, whether:

- by allowing reduced lot area per unit, the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in the vicinity, and better achieves the purposes of this district than strict compliance with these standards (§4.2.2.A.2, §4.2.5.A.3).
- by allowing the development to exceed the maximum front setback, the proposed plan does not create shadows or blocked views that have material and adverse effects on its surroundings, supports pedestrian vitality, and advances the purposes of the MU4 district (§4.2.3, §4.2.5.A.4)
- the proposed building with five stories and 60 feet in height is compatible in visual scale to its surroundings, does not create shadows or blocked views that have material and adverse effects on its surroundings, and advances the purposes of the MU4 district (§4.2.3, §4.2.2.B.3, §4.2.5.A.2)
- with the requested waiver of the setback requirement for the portions of the building exceeding 40 feet in height, the proposed plan does not create shadows or blocked views that have material and adverse effects on its surroundings, supports pedestrian vitality, and advances the purposes of the MU4s district (§4.2.5.A.4.c)

- with the requested waiver of entrance requirements, the proposed design better enables appropriate use of the site, supports pedestrian vitality, and achieves the purposes of this district than strict compliance with that standard (§4.2.5.A.6.a)
- with the requested waiver of façade transparency requirements, the proposed design better enables appropriate use of the site, supports pedestrian vitality, and achieves the purposes of this district than strict compliance with that standard (§4.2.5.A.6.b)

Regarding exceptions to parking requirements:

and, whether granting exceptions to certain parking facility requirements to:

- use the A-B+C parking formula (§5.1.3.B, §5.1.13), and
- provide 115 required parking stalls (§5.1.4, §5.1.13)

and, further, to allow:

- assigned parking (§5.1.3.E, §5.1.13)
- reduced parking stall width (§5.1.8.B.1, §5.1.13)
- reduced parking stall depth (§5.1.8.B.2, §5.1.13)
- allow reduced accessible stall depth (§5.1.8.B.4, §5.1.13)

is appropriate as literal compliance with said 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.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is three adjacent lots located in West Newton Square at the eastern corner of Washington Street and Highland Street; it also has frontage along Davis Street. The neighborhood has a mix of commercial, municipal and institutional uses as well as residential uses, which are mostly to the north and south (the latter being beyond the Massachusetts Turnpike which it directly to the south), but also includes a single-family dwelling that is directly abuts the property to the east along Davis Street (**Attachment A**). The site and immediately surrounding area are generally zoned Business 1 (BU1) or Public Use (PUB), with an exception being a Multi-Residence 2 (MR2) property directly across Highland Street occupied by a church. There are also various Single- and Multi- Residence districts located several hundred feet to the north and south, including along Webster Street and south of the Turnpike (**Attachment B**).

B. Site

The subject property is comprised of three lots, 1314 Washington Street, 31 Davis Street, and 33 Davis Street, totaling 30,031 square feet in a Business 1 (BU1) zoning district.

Bordered by Washington Street to the north, Highland Street to the west and Davis Street to the south, the lot slopes approximately 10 feet downward from Davis Street towards Washington Street, it is improved with the existing bank building. The property's 60 stall surface parking area has many nonconformities and is accessed via several curb cuts along Highland and Davis streets. The only vegetation on the site is some shrubbery along the bank's Washington Street and Highland Street facades.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If approved, principal use of the site will be a mix of residential and restaurant/retail uses. Specific aspects of the proposed uses include that require zoning relief is that the petitioner has indicated that the proposed first floor restaurant would have 160 indoor and 65 outdoor seats, for a total of 225 seats, thus requiring a special permit for a restaurant in a MU4 district to have more than 50 seats per Secs. 4.4.1 and 6.4.29.B.1. The petitioner is also seeking a special permit per Sec. 6.4.29.C.6 to allow a restaurant in a MU4 district to have extended hours of operation.

Also, per Secs. 4.4.1 and 6.2.4, in a MU4 zoning district ground floor residential uses, including amenities and/or a possible residential leasing office, would require a special permit, and on the ground floor.

B. Building and Site Design

The petitioner proposes to construct a five-story, 59.9-foot-high addition the rear of the existing two-story building (on and above the existing 60 stall surface parking lot) that would contain 50 rental residential units. The resulting expanded structure would contain a total of 73,601 square feet of gross square footage area, including 69,482 square feet of residential space.

As presently indicated by the petitioner, the existing one-story bank space would be converted into two spaces- into lobby area for the dwellings and 4,119 square foot, 225-seat (160 indoors and 65 outdoors) restaurant. The first floor would contain 10,313 square feet of area, and the second through fifth floor would range from approximately 14,500 to 17,500 square feet of area.

The Planning Department notes that the immediate abutters to the proposed addition include a windowless brick wall approximately 9.5 feet from the subject property and a two-story single-family home, one of several homes along Davis Street.

Regarding dimensional standards, which are discussed in more detail in the attached Zoning Memorandum, as the petitioner proposes to construct 50 residential units, this would result in a lot area per unit of 601 square feet, considerably less than the minimum 1,000 square feet in an MU4 district. The property's floor area ratio (FAR) would be 2.45, less than the 2.50 allowed for special permit approved five-story buildings.

The property has frontage on three streets: Washington, Highland and Davis streets. The existing structure has a 10.9-foot front setback from Washington Street. The proposed

addition is set back between 6.6 and 25.6 feet from Highland Street and between 6.1 and 19.2 feet from Davis Street, therefore, exceeding, in some locations, the maximum by-right front setback of 10 feet in an MU4 district.

The 59.9-foot addition is proposed with as little as a 5-foot setback. As such, it does not meet the requirement that in an MU4 district any portion of a building greater than 40 feet in height must be set back one foot from the adjacent lot line, for each additional foot of height, which would require a 20-foot setback on those portions exceeding 40 feet. The Planning Department notes that this condition would exist along portions of the parcel's Highland and Davis street frontages.

The proposed structure also does not meet the MU4 district requirement that there be at least one entrance for every 50 feet of building frontage facing a public way and that a minimum of 60 percent of the street-facing building façade between 2 feet and 8 feet in height above the street-level floor consist of clear windows that allow views of indoor space.

The petitioner has submitted a shadow study showing expected conditions at three times (9:00 PM, 12 noon, 3:00 PM) on the 21st of March, June, September, and December. Of these twelve times of the year depicted in the study, it appears that the project's most extensive shadow impacts would occur, not unexpectedly, on December afternoons with shadow being cast to the north and east.

C. Traffic, Parking and Circulation

The Planning Department has engaged an on-call transportation consultant to conduct a peer-review of the petitioner's materials on transportation/traffic issues. The Planning Department anticipates receiving a Peer Review Memorandum from its consultant in advance of a future public meeting. The Planning Department shall review such information in conjunction with other relevant departments upon its submission and be prepared to discuss it in a working session memorandum.

The Department makes the following initial observations on some of the issues that will be addressed by the peer review.

The subject site currently contains 60 surface parking stalls which are largely nonconforming with regard to setback, dimensional, and landscaping requirements.

Regarding the number of parking stalls required for the proposed redevelopment of the site, as detailed in the attached Zoning Review Memorandum, Sec. 5.1.3.B provides that when the gross floor area of a building is increased or a change in use increases the parking requirements, the petitioner shall use the so-called "A-B+C formula" to determine the number of parking stalls required after the change, where "A" is the number of stalls required per §5.1 and "B" is the number of stalls that would have been required under §5.1 prior to the date of enlargement or change of use and "C" is the number of off-street parking stalls located on the premises prior to the date of enlargement or change of use. The petitioner requests a waiver from that requirement and requests in the alternative to determine the required number of parking stalls based on the proposed uses.

Toward that end, per Sec. 5.1.4 of the NZO, the proposed 50 residential dwelling units requires 100 stalls (two per unit) and the 225-seat restaurant with 27 employees on the largest shift requires 84 stalls (1 per 3 seats plus 1 per 3 employees). As such, the proposal requires a total of 184 required stalls.

The petitioner proposes to provide only 69 parking stalls, thus requiring a waiver of 115 required stalls.

As designed, the proposed 69 parking stalls onsite would be located in two separate parking facilities. Nineteen would be in an at-grade facility (below the upper floors of the proposed addition) and accessed from Davis Street, while fifty would be located in a below-grade garage accessed from Highland Street.

Furthermore, the petitioner seeks to assign the 19 at-grade stalls to the restaurant use and the 50 stalls located on the lower parking level to the residential use (one per unit), requiring a special permit to waive the prohibition on the assignment of parking stalls to specific tenants.

The Planning Department notes that the applicant will provide at least 50 biking parking stalls, which is considerably in excess of the seven required.

The proposed parking facility as proposed would also require various dimensional exceptions, including allowing parking stalls widths as narrow as eight feet and stall depths of 16 feet where 9 and 19 feet, respectively, are required.

Regarding maneuverability issues, where parking facilities with 90-degree parking require a minimum aisle width of 24 feet for two-way traffic, the proposed two-level garage facility would have aisle widths in some locations of less than 23 feet wide. It would also be nonconforming as there are end stalls that are not provided with required end-of -aisle maneuvering space of at least five feet in depth and nine feet in width. The Planning Department suggests the petitioner consider alternative configurations for the parking area, including the habitable space on the ground level, the depth of which seem to constrain both the parking stall depths and aisle width, so as to allow the site's parking to better comply with applicable requirements.

Also, the Planning Department requests that the petitioner how deliveries would be made to the property, especially if it expected that they would be made curbside via Washington and/or Highland streets.

D. Landscaping and Lighting

The petitioner provided a landscape plan. As the proposed building would occupy the vast majority if not effectively all of the lot, the landscaping is by necessity focused on street trees and ground level vegetation along the property's three street frontages. The Planning Department recommends that the petitioner make best efforts to address conditions at the property line shared with the abutting property on Davis Street. It also notes that transformers are generally not allowed in setback and the one shown on the site plans is located close to the Davis Street front and side property lines.

The petitioner has submitted a photometric plan showing very little, if any “spillage” of light onto adjacent sidewalk, public ways, and properties.

E. Inclusionary Zoning

Also, as the proposed 50-unit multi-family dwelling would be subject to the inclusionary zoning provisions of Sec. 5.11.4.B.4.c, the petitioner would be required to provide eight (15%) of the dwelling units to households earning 50%-80% of the Area Median Income (AMI) and one (2.5%) of the units to households earning up to 110% of the AMI for a total of nine required inclusionary units. The petitioner would also be required to provide a fractional cash payment equivalent to 0.3 units.

The petitioner submitted an Inclusionary Housing Plan (dated May 25, 2022) that will be reviewed by the Planning Department’s Housing staff.

F. Sustainability

As the proposed development would include construction or substantial reconstruction of one or more buildings totaling 20,000 square feet or more of gross floor area and also requires a special permit, it would be subject to the sustainable development requirements provided Sec. 5.13.3.A. The City’s Climate and Sustainability Team has reviewed the proposal and its comments can be found in its attached memorandum (**Attachment C**).

IV. TECHNICAL REVIEW

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

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

- to rezone to MU4
- a Special Permit per §7.3.3 to:
 - allow reduced lot area per unit (§4.2.2.A.2, §4.2.5.A.3)
 - allow a building in excess of 20,000 square feet (§4.2.2.B.1)
 - exceed the maximum front setback (§4.2.3, §4.2.5.A.4)
 - allow a mixed-use residential building with five stories and 60 feet in height (§4.2.3, §4.2.2.B.3, §4.2.5.A.2)
 - allow an FAR of 2.44 in a five-story building (§4.2.2.B.3, §4.2.3)
 - waive the setback requirement for the portions of the building exceeding 40 feet in height (§4.2.5.A.4.c)
 - waive entrance requirements (§4.2.5.A.6.a)
 - Request to waive façade transparency requirements (§4.2.5.A.6.b)
 - allow a restaurant with more than 50 seats with extended hours of operation

(§4.4.1, §6.4.29.B.1, §6.4.29.C.6)

- allow ground floor residential use (§4.4.1, §6.2.4)
- waive the requirement of using the A-B+C parking formula (§5.1.3.B, §5.1.13)
- waive 115 required parking stalls (§5.1.4, §5.1.13)
- allow assigned parking (§5.1.3.E, §5.1.13)
- allow reduced parking stall width (§5.1.8.B.1, §5.1.13)
- allow reduced parking stall depth (§5.1.8.B.2, §5.1.13)
- to allow reduced accessible stall depth (§5.1.8.B.4, §5.1.13)
- waive end stall maneuvering space requirements (§5.1.8.B.6, §5.1.13)
- allow reduced aisle width (§5.1.8.C.1, §5.1.8.C.2, §5.1.13)

B. Engineering Review

The Engineering Division Memorandum (**Attachment E**) provides an analysis of the proposal with regard to engineering issues. It notes that the petitioner's proposed Operations and Maintenance (O&M) plan for Stormwater Management Facilities is appropriate, and a construction management plan (CMP) will be required for this project.

Also, per a memorandum dated April 25, 2022, the Engineering Division has calculated a required Infiltration & Inflow issues payment of \$385, 741.

The Engineering Division will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit should this petition be approved.

C. Newton Historic Commission

The existing building is listed on the National Register. At the time of the granting of a previous special permit (SP #294-18) for the redevelopment of the property for a smaller mixed-use building, was found by the Newton Historic Committee to also be 'preferably preserved' for architectural integrity and historic context but waived the demolition delay based upon the plans for the smaller project that were reviewed and approved at that time.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should provide any further information referenced above and should continue to work with the Planning Department on any issues raised above or the upcoming public hearing.

ATTACHMENTS:

Attachment A: Land Use Map

Attachment B: Zoning Map

Attachment C: City of Newton Climate and Sustainability Team- 1314 Washington Street Special

Attachment D: Permit Sustainability Review, dated July 12, 2022
Zoning Review Memorandum
Attachment E: Engineering Division Memorandum



City of Newton, Massachusetts Climate and Sustainability Team



Date: July 12, 2022

To: Councilor Richard Lipof, Land Use Committee Chair

CC: Stephen J. Buchbinder, Attorney; Mark Development, Developer; New Ecology, Sustainability Consultant; Michael Gleba, Senior Planner

From: Ann Berwick, Co-Director of Climate and Sustainability; Bill Ferguson, Co-Director of Climate and Sustainability; Liora Silkes, Energy Coach

RE: 1314 Washington Street Special Permit Sustainability Review

The Climate and Sustainability Team has reviewed the materials submitted by the project team and found the plans for 1314 Washington Street to be in compliance with the Sustainability Requirements as set forth by Zoning Ordinance Chapter 5 Section 13.

By planning to build 1314 Washington Street to LEED Gold certifiable standards, this project is on track to meet the requirements of Section 5.13.4.A of the Newton Zoning Ordinance. By planning to install EV charging stations for 10% of parking spaces and making another 10% EV charger ready, the project is on track to meet the requirements of Section 5.13.4.B of the Newton Zoning Ordinance. However, we see in the Green Building Rating System Narrative that EV charging equipment is listed at only 2% — if the project plans to install EV charging equipment at only 2% of parking spots that would not meet requirements. If this is a typo and should read 20% then the project is on track.

We are seeing substantial growth in EV adoption and would encourage the project team to install even more chargers than required.

The City Climate and Sustainability Team is pleased to see this project is committing to all-electric HVAC for the residential spaces and electric hot water when feasible, as well as conducting a Passive House feasibility study. We encourage the project team to follow through on the recommendations of the feasibility study to make this project as efficient as possible, and to use electricity for as much of the project's energy needs as possible.

We are glad to see the project team is exploring potential solar strategies and suggest the project become at least solar-ready, with careful consideration given to the location of mechanicals on the roof to leave room for a future solar installation if solar is not installed during construction. We suggest doing a solar analysis to evaluate potential costs and benefits of installing solar during construction.

Finally, we are happy to see mention of embodied carbon through revitalizing the existing bank building and using wood-framed construction as much as possible.



Ruthanne Fuller
Mayor

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Attachment D
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 25, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney
HQ, LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to rezone to Mixed Use 4, to allow a building with more than 20,000 square feet, a restaurant with more than 50 seats, to extend a nonconforming structure, to allow five stories and various waivers for parking

Applicant: HQ, LLC	
Site: 1314 Washington St, 31 Davis St & 33 Davis St	SBL: 33 10 01, 33 10 11 & 33 10 12
Zoning: BU1 (rezone to MU4 proposed)	Lot Area: 30,031 square feet
Current use: Bank	Proposed use: Residential and restaurant

BACKGROUND:

The property 1314 Washington Street is comprised of three lots totaling 30,031 square feet in the Business 1 zoning district currently improved with a bank constructed in 1915 and a surface parking lot with 60 stalls and many dimensional parking nonconformities. The property is bound by Washington Street to the north, Highland Street to the west and Davis Street to the south. There has been a bank in the existing building since original construction in 1920. The petitioner proposes to consolidate and rezone the parcels to Mixed Use 4 and construct a five-story rear addition to the existing building. The petitioner intends to convert the bank space into a restaurant. The addition will accommodate 50 residential units. As proposed, there will be 69 parking stalls available for the two uses in two separate surface and below-grade facilities.

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

- Zoning Review Application, prepared by Stephen J Buchbinder, attorney, dated 3/31/2022, revised 5/11/2022
- Parking Calculation, submitted 3/31/2022, revised 5/4/2022
- Existing Conditions Plan, prepared by Gerry L. Holdright, surveyor, dated 8/1/2017
- Average Grade Plane, prepared by Bohler Engineering, dated 3/22/2022

- Proposed Site Plan, signed and stamped by Joshua Swerling, Engineer, dated 5/2/2022
- Floor Plans and Elevations, signed and stamped by David M. Schwarz, architect, submitted 5/4/2022

ADMINISTRATIVE DETERMINATIONS:

1. The existing project site is compromised of three parcels containing 30,031 square feet in the BU1 zoning district. The petitioner proposes to combine the three parcels into one and requests to rezone to MU4.

The administrative determinations and relief requested by this memo assume that the entire project site is zoned MU4.

2. Per section 4.2.2.A.2, the minimum lot area per unit in the MU4 district is 1,000 square feet. The petitioner proposes to construct 50 residential units in the rear addition, resulting in a lot area per unit of 601 square feet. Per section 4.2.5.A.3, the lot area per unit may be waived by special permit as the City Council finds appropriate.
3. The petitioner proposes to construct a five-story addition to the rear of the existing building, resulting in a total of 73,333 square feet of gross floor area. Per section 4.2.2.B.1, a special permit is required for any development in the MU4 district of 20,000 square feet or more gross floor area.
4. The property has frontage on three streets; Washington, Highland and Davis streets. The existing structure has a 10.9 foot front setback from Washington Street. The proposed addition is set back between 6.6 and 25.6 feet from Highland Street and between 6.1 and 19.2 feet from Davis Street. Per section 4.2.3, the maximum by-right front setback allowed in the MU4 district is ten feet. Section 4.2.5.A.4 allows the Council to waive the front setback requirement if found to be beneficial for pedestrian vitality, protection from shadows and encouraging the goals of the district.
5. Section 4.2.5.A.2 allows for the City Council to grant a special permit to allow up to five stories and 60 feet in height for buildings that meet the definition of mixed-use residential. As the proposal is to include a restaurant and a 50-unit multi-family dwelling, the petitioner seeks a special permit from the height and story limitations of sections 4.2.2.B.3 and 4.2.3 to allow the proposed five-story building with 60 feet in height.
6. Section 4.2.3 allows for an FAR of 2.50 for five-story buildings. To the extent that a special permit is required to allow for five stories per section 4.2.2.B.3, a special permit is required to allow an FAR of 2.44.
7. Section 4.2.5.A.4.c requires that any portion of a building greater than 40 feet in height must be set back one foot from the adjacent lot line for each additional foot of height. The proposed 59.9 foot addition would require a 20-foot setback on those portions exceeding 40 feet. The building is proposed with as little as a 5-foot setback, requiring a special permit.
8. Section 4.2.5.A.6.a requires that there is at least one entrance for every 50 feet of building frontage facing a public way. The petitioner seeks a special permit to waive this requirement.

9. Section 4.2.5.A.6.b requires a minimum of 60 percent of the street-facing building façade between 2 feet and 8 feet in height above the street-level floor must consist of clear windows that allow views of the indoor space. The petitioner seeks a special permit to waive this requirement.
10. Sections 4.4.1, 6.4.29.B.1 require a special permit for a restaurant with more than 50 seats. Additionally, section 6.4.29.C.6 requires special permit relief for a restaurant specifically in the MU4 district with more than 50 seats and extended hours of operation. The petitioner proposes a first floor restaurant with up to 225 seats and extended hours of operation, requiring a special permit.
11. Per sections 4.4.1 and 6.2.4, ground floor residential uses require a special permit in the MU4 zoning district. While no dwelling units are proposed on the ground floor, the leasing office and amenities for the dwelling units are proposed. A special permit is required to allow the residential leasing office and amenities on the ground floor.
12. The petitioner is proposing 50 residential dwelling units in the rear addition and a 225-seat restaurant in the existing bank space.

Proposed Use	Zoning Ordinance §5.1.4	Parking Requirement
Restaurant Use	225 seats @ 1 stall /3 seats = 75 stalls 27 Employees @ 1 stall/3 employees = 9 stalls	84 stalls
Residential Use	50 units@ 2 stalls/unit	100 stalls
TOTAL		184 STALLS

The petitioner requires a total of 184 parking stalls, per the requirements of section 5.1.4.

There are 69 parking stalls proposed on the site in two separate parking facilities. The 19 parking stalls for the restaurant will be in an at-grade facility covered by the upper floors of the building and accessed from Davis Street. There will be 50 stalls dedicated to the residential uses located in a below-grade garage accessed from Highland Street. The petitioner requires a waiver of 115 stalls per section 5.1.13.

13. Section 5.1.3.B states that when an enlargement or extension of the gross floor area of a building, or a change in use increases the parking requirements, the petitioner shall use the A-B+C formula to determine the number of parking stalls required after the change. In this formula, “C” represents the number of off-street parking stalls that exist prior to the enlargement, extension or change. The petitioner requests a waiver from the requirements of section 5.1.3.B and requests to determine the parking based on the proposed uses’ requirements and the proposed number of parking stalls.
14. The petitioner intends to assign the 50 below grade stalls to the residential units and the 19 at grade stalls will be dedicated to the restaurant use. The petitioner seeks a special permit to waive the prohibition on the assignment of parking stalls to specific tenants per sections 5.1.3.E and 5.1.13.
15. Section 5.1.8.B.1 requires a parking stall width of at least 9 feet. The petitioner proposes parking stalls that are either 8 or 8.5 feet wide, requiring a special permit per section 5.1.13.

16. Section 5.1.8.B.2 requires a parking stall depth of at least 19 feet. The petitioner proposes some parking stalls that are 16 feet deep, requiring a special permit per section 5.1.13.
17. The accessible stalls are all 18 feet deep where section 5.1.8.B.4 requires 19 feet. The petitioner requires a special permit per section 5.1.13 to reduce the required depth of the accessible stalls.
18. Section 5.1.8.B.6 requires that end stalls restricted on one or both sides have maneuvering space at the end of the aisle of at least five feet in depth and nine feet in width. The petitioner is proposing parking with limited maneuvering space at the end of the aisle, requiring a special permit per section 5.1.13.
19. Per section 5.1.8.C.1 and 2, parking facilities with 90 degree parking require a minimum aisle width of 24 feet for two-way traffic. The proposed below grade garage facility has aisle widths between 22.7 and 24 feet wide. A special permit is required for a reduced aisle width per section 5.1.13.
20. Per section 5.11.4.B.4.c a 50-unit multi-family dwelling is required to provide 15% of the dwelling units at 50%-80% AMI and 2.5% at 110% AMI. The petitioner must provide eight units at 50-80% AMI and one unit at 110% AMI, for a total of nine required inclusionary units. The petitioner must also provide a fractional cash payment for 0.3 units.
21. Per section 5.13.3.A the sustainable development requirements apply to any proposed development that includes construction or substantial reconstruction of one or more buildings totaling 20,000 square feet or more of gross floor area that also requires the issuance of a special permit. The proposed development must meet the sustainable development requirements by submitting the materials outlined at the special permit application stage or request a waiver per section 5.13.7.

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
	Request to rezone to MU4	
§4.2.2.A.2 §4.2.5.A.3	Request to allow reduced lot area per unit	S.P. per §7.3.3
§4.2.2.B.1	Request to allow a building in excess of 20,000 square feet	S.P. per §7.3.3
§4.2.3 §4.2.5.A.4	Request to exceed the maximum front setback	S.P. per §7.3.3
§4.2.3 §4.2.2.B.3 §4.2.5.A.2	Request to allow a mixed-use residential building with five stories and 60 feet in height	S.P. per §7.3.3
§4.2.2.B.3 §4.2.3	Request to allow an FAR of 2.44 in a five-story building	S.P. per §7.3.3
§4.2.5.A.4.c	Request to waive the setback requirement for the portions of the building exceeding 40 feet in height	S.P. per §7.3.3

§4.2.5.A.6.a	Request to waive entrance requirements	S.P. per §7.3.3
§4.2.5.A.6.b	Request to waive façade transparency requirements	S.P. per §7.3.3
§4.4.1 §6.4.29.B.1 §6.4.29.C.6	Request to allow a restaurant with more than 50 seats with extended hours of operation	S.P. per §7.3.3
§4.4.1 §6.2.4	Request to allow ground floor residential use	S.P. per §7.3.3
§5.1.3.B §5.1.13	Request to waive the requirement of using the A-B+C parking formula	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 115 required parking stalls	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking	S.P. per §7.3.3
§5.1.8.B.1 §5.1.13	Request to allow reduced parking stall width	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	Request to allow reduced parking stall depth	S.P. per §7.3.3
§5.1.8.B.4 §5.1.13	Request to allow reduced accessible stall depth	S.P. per §7.3.3
§5.1.8.B.6 §5.1.13	Request to waive end stall maneuvering space requirements	S.P. per §7.3.3
§5.1.8.C.1 §5.1.8.C.2 §5.1.13	Request to allow reduced aisle width	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 Daghljan, Associate City Engineer

Re: Special Permit – 1314 Washington Street

Date: July 1, 2022

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director of Planner
Katie Whewell, Chief Planner
Lou Taverna, PE City Engineer
Jennifer Breslouf, Committee Clerk

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

*Special Permit/Zoning Change Plans
1314 Washington Street
Prepared by: Bohler Engineering
Dated: May 2, 2022*

Executive Summary:

This project entails the redevelopment of the existing building which is currently a bank and adding a five-story addition to the rear of the structure. The site currently comprises of three lots, if the special permit is approved an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the separate lots be combined into one lot.

The property has frontage along Washington Street, Highland Avenue and Davis Street, the one of the existing curb cuts (driveway aprons) along Davis Street will be closed off and remodeled as ADA compliant sidewalks. The second curb cut on Davis Street will provide access to the underground parking lot. The existing curb cut on Highland Street will serve as a secondary ramp down to the residential parking below grade. In concert with the sidewalk repairs the applicant wishes to remove an existing metal guard rail, this

office has no records of who installed this guard rail. If it was installed by the previous owner as a barrier to separate the parked cars and the sidewalk, then I would recommend that an ornamental wrought iron fence be installed in lieu of the guard rail. If the guard rail was installed per the City Police Department's requirement as a safety barrier for vehicles parked in the lot from vehicles that travel northerly on Highland Avenue, then the applicant should replace the guard rail for public safety. I recommend that the applicant meet with the Police Department for input.

The site is essentially all impervious with roof and paved parking lot, only a small area of vegetation exists.



View of parking lot Highland Avenue towards the left & Davis Street at the rear of the photo.

The site generally slopes from a high point near Davis Street at elevation 59-feet towards the rear of the building at elevation approximately 55-feet. The only stormwater system is a catch basin it is unclear if this is functioning.

The engineer of record has designed a storm water collection system to enhance stormwater quality from the site for a 100-year storm, however; the City standard is 8.78 inch not 8.73-inches over a 24-hour period. The design shows reduced rate of runoff from the site but need to include a computation for volume. The designed system has an overflow connection to the City drainage system connecting at a catch basin, this is not allowed any overflow must be made to the closest drain manhole. The proposed operations and maintenance plan is appropriate for the design intent if this permit is approved the O&M shall be recorded at the Registry of Deeds.

Water and sanitary sewer services are being upgrade to current standards as well.

All sidewalks and curbing shall be updated in accordance with the City Ordinance B-42.

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.

Drainage:

1. 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).
2. When a connection to the City's drainage system is proposed, prior to approval of the Building Permit a Closed Circuit Television (CCTV) inspection shall be performed and witnessed by the Engineering Division, the applicant shall retain a contractor that specializes in CCTV inspection. The applicant shall contact the Engineering Division 48 hours in advance to schedule an appointment. At the end of the inspection the video or CD shall be given to the inspector. Furthermore, upon completion of the connection to the drainage system a Post – Construction video inspection shall also take place and witnessed as described above. This is required regardless of the connection point, the intent is to ensure that there are no downstream blockages or damaged pipe so that the contractor of record is not held accountable for preexisting conditions.

Environmental:

1. 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.
2. 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. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. Washington Street was reconstructed last year and is under a moratorium. Any utility work within the street will require full restoration in accordance with the DPW Restoration Policy.
3. 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.
4. 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 to 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.***
5. All sewer manholes shall be vacuum tested in accordance to 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.***
6. A detailed profile will be needed for the proposed sewer connection.

Infiltration & Inflow:

Will be addressed via a separate memo.

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

General:

1. 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*
2. All tree removal shall comply with the City's Tree Ordinance.
3. 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 in 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*
4. 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.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. 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.***

7. 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.*
8. 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.