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#s 394-22 & 395-22

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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 20, 2022
Land Use Action Date: December 13, 2022
City Council Action Date: December 19, 2022
90-Day Expiration Date: December 19, 2022

DATE: September 16, 2022

TO: City Council

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

SUBJECT: **Petition #394-22**, to rezone ~~parts of the following 2 parcels: 136-144 Hancock Street (Section 43 Block 31 Lot 01) and 169 Grove Street (Section 43 Block 31 Lot 16)~~ from SINGLE RESIDENCE 3 TO MULTI RESIDENCE 2.

Petition #395-22, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow multi-family dwellings, to allow single-family attached dwellings, to allow a reduced rear setback, to allow reduced lot area per unit, to alter and extend a nonconforming side setback, to waive parking stalls, to waive perimeter screening requirements and to waive lighting requirements at **136-144 Hancock Street and 169 Grove Street** Ward 4, Newton, on land known as Section 43 Block 31 Lots 01 and 16 containing approximately 58,492 sq. ft. of land in a district zoned SINGLE RESIDENCE 3 (rezone to MULTI RESIDENCE 2 proposed). Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.13, 5.1.9.A.1.ii, 5.1.10.A 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.



136-144 Hancock St.

EXECUTIVE SUMMARY

The proposed subject site consists of a 58,492 square foot lot at the intersection of Grove and Hancock streets. Located in a Single Residence 3 (SR3) district, the property is improved with multiple buildings constructed between 1850 and 1957 known as the Walker Center, a nonprofit ecumenical retreat and inn.

The petitioner proposes to demolish a single-family dwelling on site and convert the two existing main Walker Center buildings into multi-family dwellings containing twelve residential units and to construct four single-family attached dwellings in two new structures along the Grove Street frontage. In total, the petitioner proposes 16 residential units in four buildings and 27 parking stalls (13 surface and 14 garaged).

To do so, the petitioner is seeking to have the subject parcels rezoned to Multi Residence 2 (MR2) and to be granted a special permit under MR2 zoning to allow for the proposed development. As such, for the purposes of this memo the MR2 provisions will be applied.

In order to construct the proposed development as designed, the petitioner requires a special permit per Section 3.4.1 of the Newton Zoning Ordinance (NZO), to construct multi-family dwellings and single-family attached dwellings. Several aspects of the proposed project also require a special permit.

Both multi-family dwelling and single-family attached dwellings are proposed for the site. The appropriate dimensional requirements per Section 3.2 are applicable to each building according to its proposed building type within the district. Multi-family dwellings require 3,000 square feet of lot area per unit per Sec. 3.2.6; attached single-family dwellings require 4,000 square feet of lot area per unit per Sec. 3.2.4. The proposal's lot area per unit based on the total number of units (16) for the entire parcel is 3,656 square feet. Section 3.2.4 allows the City Council to waive the minimum required lot area per unit for single-family attached dwellings. While the proposed project meets the lot area per unit requirement for a multi-family dwelling use, to the extent that the requirement for single-family attached dwellings is more restrictive, a special permit is required to allow for the lot area per unit of 3,656 square feet.

One of the proposed attached single family dwelling structures has a rear setback of 18.2 feet, less than the 25 feet minimum required for that building type, requiring a special permit per Sec. 3.2.4.

The petitioner is also requesting several exceptions under Sec. 5.1.13 to requirements related to parking, including:

- to waive five required parking stalls to allow the development to have only 27 spaces (13 surface and 14 garaged stalls), rather than the 32 (two per each of the 16 proposed dwellings) required by Sec. 5.1.4
- Sec. 5.1.9.A requires perimeter screening for outdoor parking facilities containing five or

more surface parking stalls; Sec. 5.1.9.A.1.ii requires a landscape strip with a minimum width of three feet between the base of the fence and the abutting property. While the petitioner proposes a six-foot fence along the eastern property line abutting the surface parking, no landscape strip is provided, requiring a special permit per Sec. 5.1.13.

- Sec. 5.1.10.A requires that outdoor parking used at night have a minimum intensity of lighting of one-foot candle on its entire surface. As no parking facility lighting has been proposed by the petitioner, a waiver of such would be required per Sec. 5.1.13.

Also, per section 5.11, as a residential development resulting in seven or more units, the petitioner would be required to provide several inclusionary zoning units.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed development as designed with 12 units with multi-family dwellings and four attached single-family dwellings in two structures and a reduced rear setback and a reduced lot area per unit (§7.3.3.C.1)
- The proposed development as designed with 12 units with multi-family dwellings and four attached single-family dwellings in two structures and a reduced rear setback and a reduced lot area per unit 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)
- The site planning building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy (§7.3.3.C.5)
- The proposed altered and extended nonconforming side setback would be substantially more detrimental than the existing nonconforming use to the neighborhood §7.8.2.C.2)
- Literal compliance with certain parking requirements of the Newton Zoning Ordinance (NZO) regarding the number of required parking stalls, perimeter screening requirements, and lighting, 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. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The immediate area features a wide mix of land uses including single-, two-, and multi-family residential as well as mixed use, commercial, and educational properties (**Attachment A**). The subject lot is currently zoned Single Residence 3 as are the nearby properties west of Grove Street, with the exceptions of two Public Use (PU) zoned school properties to the north. As noted above, the petitioners propose rezoning the subject parcels to Multi Residence 3 (MR3). The properties to the east across Grove Street are zoned Single Residence 1 (SR1). A Single Residence 2 (SR2) district is located approx. 500 feet to the northeast (**Attachment B**).

B. Site

The subject site consists of a 58,492 square foot lot at the intersection of Grove and Hancock streets. The property is improved with multiple buildings constructed between 1850 and 1957 and used as a nonprofit ecumenical retreat and inn.

The lot is generally level, sloping upward approx. six feet from south to north. Vehicular access is provided via curb cut on Grove Street serving the existing parking between that public way and the center's structures. The property features lawn areas and mature trees.

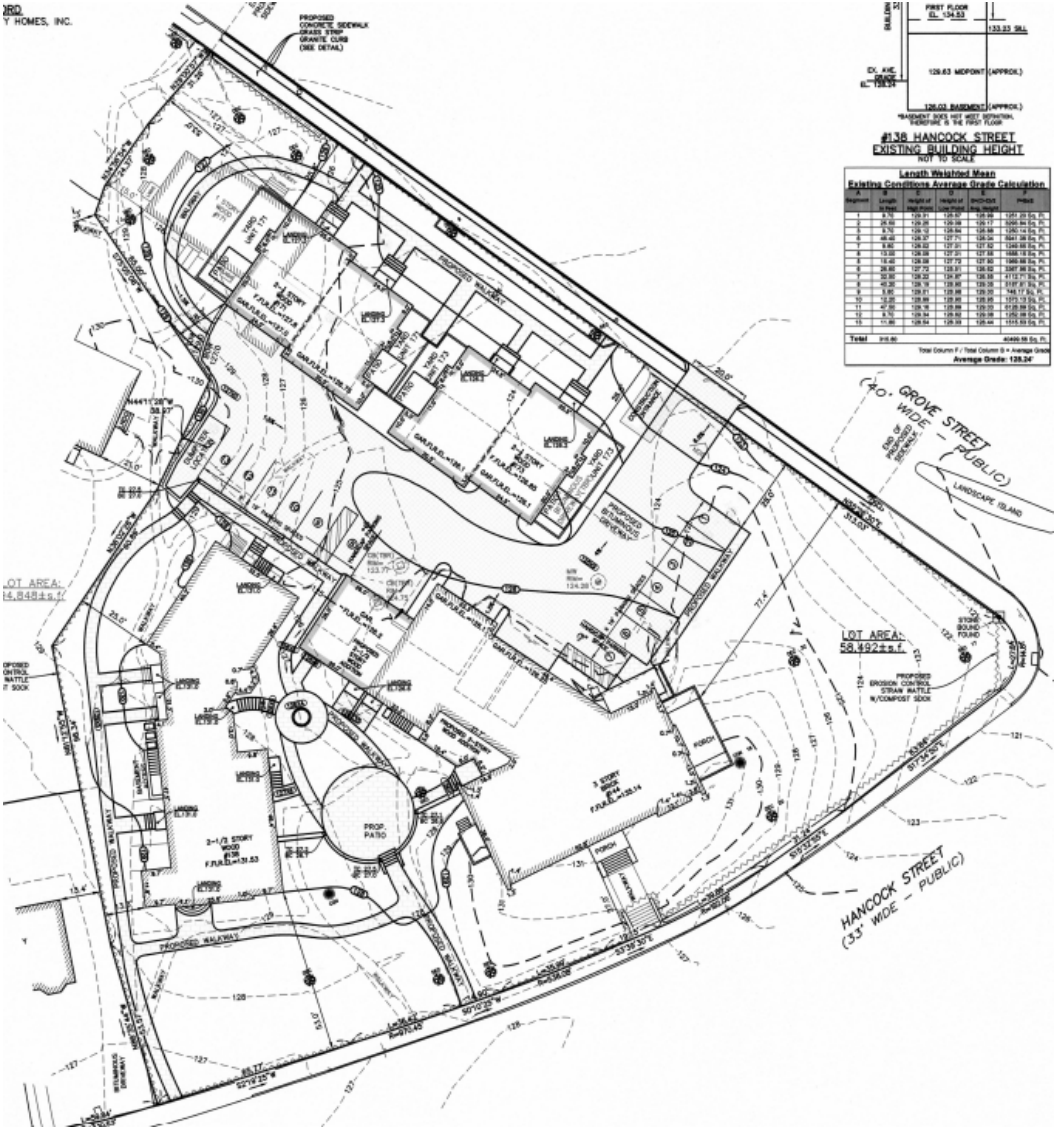
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site would change from a nonprofit ecumenical retreat and inn to a 16-unit residential development.

B. Building and Site Design

The petitioner proposes to demolish a single-family dwelling on site and convert the two existing main Walker Center buildings into multi-family dwellings containing twelve residential units, and to construct four single-family attached dwellings in two new structures along the Grove Street frontage. In total, the petitioner proposes 16 residential units in four buildings and 27 parking stalls (13 surface and 14 garaged). As detailed in the attached zoning review memorandum, the lot area per unit would be approximately 3,900 square feet which meets the lot area per unit requirement for a multi-family dwelling use, but less than the requirement of 4,000 square feet for single-family attached dwellings.



Proposed site plan

The existing structures' heights would remain unchanged, as would their number of stories (three, the maximum allowed by right). The two proposed attached single-family structures, each with two units, would each have 2 ½ stories, the maximum allowed by right, and measure 35.9 feet, just below the maximum 36 feet allowed.

The existing structures' conforming setbacks would remain unchanged. The two attached single-family dwellings would comply with all but one of the 25-foot setbacks required for that building type, with one having an 18.2-foot front setback along Grove Street.



Proposed attached single-family dwellings- front elevations

The proposed site design provides for a lot coverage of 23.6%, considerably lower than the 30% maximum allowed. The design also provides for 60.6% of the site to be open space, more than the required 50%.

C. Parking and Circulation

The project's design calls for a single 20-foot-wide curb cut on Grove Street in the general area of an existing curb cut that would serve all the parking on-site.

The petitioner is requesting several exceptions under Sec. 5.1.13 to requirements related to parking, including a waiver to the requirement that two stalls per each dwelling unit be provided, so as to have only 27 parking spaces (13 surface and 14 garaged stalls)- approx. 1.7 stalls per dwelling unit- five fewer than the 32 required by the NZO.

Also, outdoor parking facilities containing five or more surface parking stalls are required to have perimeter screening composed of fencing and a landscape strip with a minimum width of three feet between the base of the fence and the abutting property. While the petitioner proposes a six-foot fence along the eastern property line abutting the surface parking, no landscape strip is provided, requiring an exception to that requirement.

Lastly, an outdoor parking facility used at night is required to have lighting with a minimum intensity of one-foot candle on its entire surface. As no parking facility lighting has been proposed by the petitioner, an exception to that requirement would be needed.

D. Landscaping, Screening and Lighting

The petitioner submitted a landscape plan for the subject parcel. The plan indicates that in addition to extensive shrubbery and other vegetation, approximately 27 new trees would be installed. These would include Redbuds (10), Sentinel Flowering Crab Apples (8), Amelanchiers (6), and Swamp White Oaks (3).

As detailed in the attached zoning review, the petitioner is seeking a waiver from the perimeter screening requirements so as to install a six-foot high fence along portions of the property line but not the required related planting strip.

Lastly, the petitioner seeks a waiver from §5.1.10.A.1's requirement that outdoor parking used at night maintain a minimum intensity of lighting of one-foot candle on the entire surface. The petitioner has not submitted a photometric study showing what lighting, if any, is planned for the site. The Planning Department recommends that the petitioner do so to allow for a review of the proposed lighting conditions, and that any provided lighting should be appropriate for the residential nature of the parking and limit light impacts on adjacent properties, especially residences.

E. Inclusionary Zoning

As the project is creating new dwelling units, the petitioner will be required to comply with the Inclusionary Zoning provisions of the NZO. Per Sec. 5.11, any residential development resulting in seven or more units is required to provide inclusionary units.

As indicated by the petitioner, the development would provide two Inclusionary Units and a cash payment in accordance with Sec. 5.11.5.B.

The petitioner has submitted an "Inclusionary Housing Plan" that is currently being reviewed by the Planning Department's Housing staff. At the time of the writing of this memorandum the Planning Department is awaiting its response and will be prepared to discuss any comments received at the Public Hearing on this petition.

F. Accessibility

The project should be compliant with ADA and Massachusetts Architectural Access Board (MAAB) regulations. All units should be adaptable to those with disabilities and built to ADA and MAAB requirements and be accessible and visitable to those with disabilities. Regarding parking, the submitted plans show two ADA stalls in the outside parking area.

G. Signage

The petitioner has not requested waivers from the Ordinance as to the number, size, location, and height of signs. As a result, any signs are expected to be by-right and subject to review and approval by the Urban Design Commission.

H. Sustainability and Conservation of Natural Resources

The proposed multi-family structure will exceed 20,000 square feet thereby triggering the fifth special permit criteria to ensure the site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy.

The City's sustainability team has given an initial review to the plans and appreciated the petitioner's commitment to the project being all-electric. The Planning Department recommends that the petitioner coordinate with the sustainability team to discuss other aspects of the proposal.

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**). As detailed in that memorandum, as proposed the project requires:

- the subject parcel to be rezoned from SR3 to MR2
- a Special Permit per §7.3.3 to:
 - allow multi-family dwellings (§3.4.1)
 - allow single-family attached dwellings (§3.4.1)
 - allow a reduced rear setback (§3.2.4)
 - allow reduced lot area per unit (§3.2.4)
 - alter and extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)
 - waive 5 parking stalls (§5.1.4, §5.1.13)
 - waive perimeter screening requirements (§5.1.9.A.1.ii, §5.1.13)
 - Request to waive lighting requirements (§5.1.10.A, §5.1.13)

B. Historical Review

The petitioner should ensure that it continues to pursue the historical review process as appropriate and required.

C. Engineering Review

The Associate City Engineer submitted an Engineering Review Memorandum (**Attachment D**), providing an analysis of the proposal with regard to engineering issues. The petitioner should be prepared to any and all issues raised in the memo in advance of the public hearing and/or any subsequent working session(s).

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

ATTACHMENTS:

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








Land Use

136-144 Hancock St
and
169 Grove St

City of Newton,
Massachusetts

Land Use

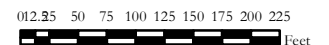
Land Use

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



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

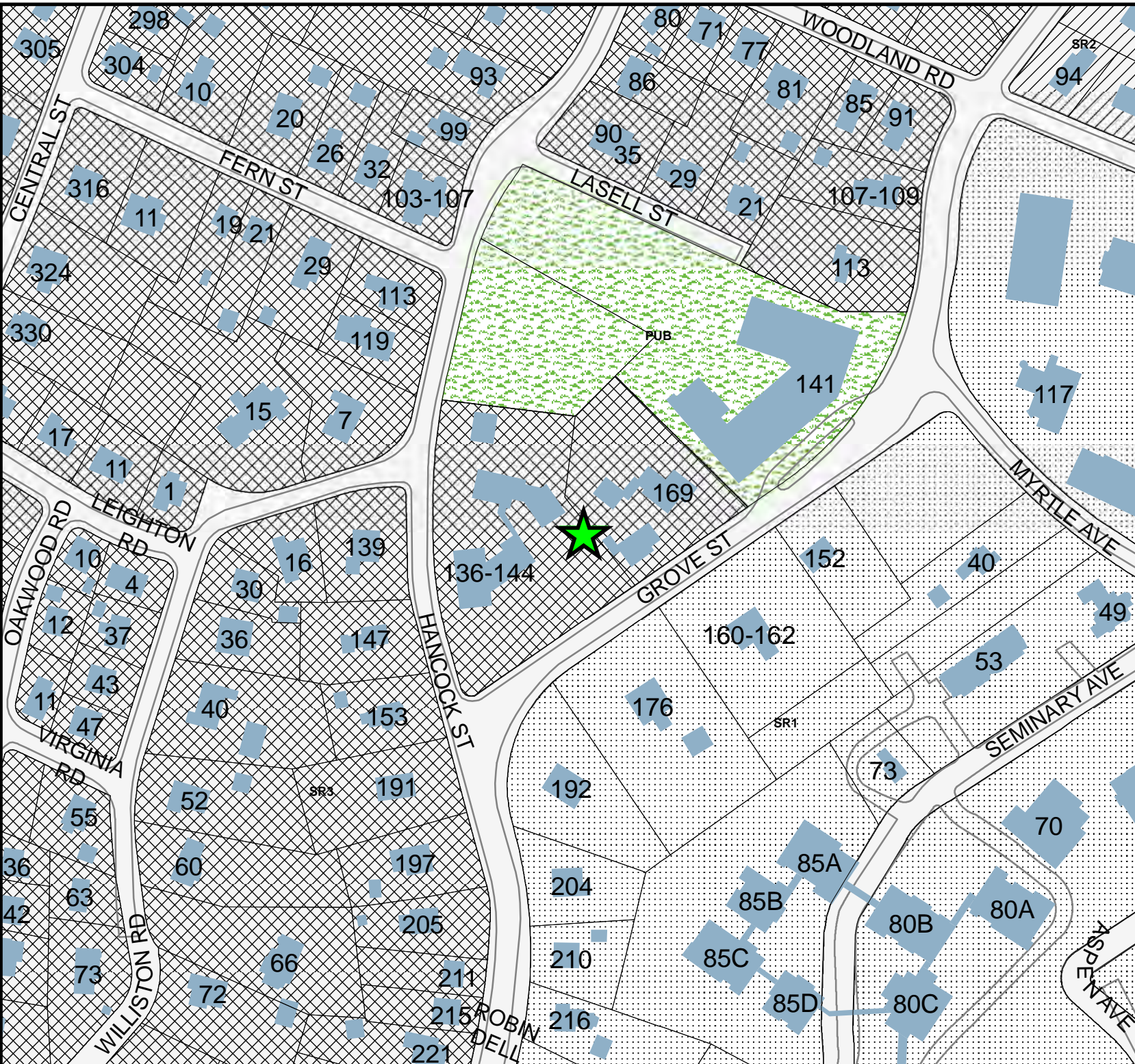
CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield






Zoning

136-144 Hancock St and 169 Grove St

*City of Newton,
Massachusetts*

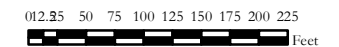


-  Single Residence 1
-  Single Residence 2
-  Single Residence 3
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
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ATTACHMENT C



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 30, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to rezone to MR2 and to 16 residential units

| Applicant: Terence P. Morris | |
|---|--|
| Site: 136-144 Hancock Street & 169 Grove Street | SBL: 43031 0001 & 43031 0016 |
| Zoning: SR3 (to be rezoned to MR2) | Lot Area: 58,492 square feet |
| Current use: Nonprofit education center | Proposed use: 16 residential units in four buildings |

BACKGROUND:

The subject site consists of two lots totaling 58,492 square feet at the corner of Grove and Hancock Streets and improved with multiple buildings constructed between 1850 and 1957 known as the Walker Center, a nonprofit ecumenical retreat and inn. The petitioner proposes to raze a single-family dwelling on site, convert the existing main buildings into eleven residential dwelling units, and to construct four townhouses in two buildings. In total, the petitioner proposes 16 residential units in four buildings and a surface parking facility.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, dated 5/5/2022
- Existing Conditions Plan, signed and stamped by Joseph R. Porter, surveyor, dated 2/2/2021
- Proposed Conditions Plan, signed and stamped by Joseph R. Porter, surveyor, dated 5/4/2022
- FAR worksheet, dated 5/5/2022
- Floor Plans and Elevations, prepared by Civico Development, dated 3/30/2022
- Floor Plans and Elevations, prepared by Sustainable Comfort, dated 6/10/2022

ADMINISTRATIVE DETERMINATIONS:

1. The property is zoned Single Residence 3. The petitioner proposes to rezone the parcel to Multi-Residence 2. For the purposes of this memo, the MR2 provisions will be applied.
2. The petitioner proposes to convert the two existing Walker Center buildings into multi-family dwellings with twelve residential units total as well as to construct a total of four single-family attached dwellings in two buildings along the Grove Street frontage, for a total of 16. Per section 3.4.1 multi-family dwellings and single-family attached dwellings require special permits.
3. Section 3.2 provides the dimensional controls for the building types allowed within the district. As two separate building types are being proposed (multi-family dwelling and single-family attached dwellings), the appropriate dimensional requirements are applied to each building according to its building type.
4. Per section 3.2.4, single-family attached dwellings require a 25 foot rear setback. The proposed attached dwelling has a rear setback of 18.2 feet, requiring a special permit.
5. Section 3.2.6 requires 3,000 square feet of lot area per unit for multi-family dwellings. Per section 3.2.4, single-family attached dwellings require 4,000 square feet of lot area per unit. The proposed lot area per unit based on the total number of units for the entire parcel is 3,656 square feet. Section 3.2.4 allows the City Council to waive the minimum required lot area per unit for single-family attached dwellings. While the proposed project meets the lot area per unit requirement for a multi-family dwelling use, to the extent that the more restrictive lot area per unit requirement of 4,000 square feet for single-family attached dwellings is applied, a special permit is required to allow for the lot area per unit of 3,656 square feet.
6. The petitioner proposes 16 residential units in four buildings. Per section 5.1.4 two parking stalls per unit are required per dwelling unit, resulting in a requirement of 32 stalls. The petitioner proposes to construct 13 surface parking stalls and 14 garage stalls for a total of 27 stalls, requiring a waiver of five stalls per section 5.1.13.
7. Section 5.1.9.A requires perimeter screening for outdoor parking facilities containing five or more surface parking stalls. The petitioner proposes to construct a six-foot fence along the eastern property line abutting the surface parking. Section 5.1.9.A.1.ii requires a landscape strip with a minimum width of three feet between the base of the fence and the abutting property. While the petitioner is providing the fence, no landscape strip provided, requiring a special permit per section 5.1.13.
8. Per section 5.1.10.A all parking facilities used at night shall maintain a minimum intensity of one-foot candle on the entire surface of the facility. No lighting is shown on the plan, requiring a special permit per section 5.1.13.

| MR2 Zone | Required | Existing | Proposed |
|--|--|---------------------------------|---|
| Lot Size | 10,000 square feet | 14,866 square feet | No change |
| Setbacks – Building 1 (138 Hancock St) <ul style="list-style-type: none"> • Front (Hancock St) • Side • Rear | 25 feet 7.5 feet 15 feet | 53 feet 13.3 feet 25 feet | No change No change No change |
| Setbacks – Building 2 (144 Hancock St) <ul style="list-style-type: none"> • Front (Hancock St) • Front (Grove St) | 25 feet 25 feet | 27 feet 77.4 feet | No change No change |
| Setbacks – Building 3 (171 Grove St) <ul style="list-style-type: none"> • Front (Hancock St) • Side • Rear | 25 feet 25 feet 25 feet | | 25.8 feet 53 feet 18.2 feet* |
| Setbacks – Building 4 (173 Grove St) <ul style="list-style-type: none"> • Front (Hancock Street) | 25 feet | | 26 feet |
| Building Height <ul style="list-style-type: none"> • Building 1 • Building 2 • Building 3 • Building 4 | 36 feet 36 feet 36 feet 36 feet | 34 feet 43.2 feet | No change No change 35.9 feet 35.9 feet |
| Max Number of Stories <ul style="list-style-type: none"> • Building 1 • Building 2 • Building 3 • Building 4 | 3 3 2.5 (3 by SP) 2.5 (3 by SP) | 3 3 | No change No change 2.5 2.5 |
| Lot Area Per Unit | 3,000 sq ft (4,000 sf for sfa) | NA | 3,900 square feet* |
| Maximum Lot Coverage | 30% (25% for sfa) | 17.8% | 23.6% |
| Minimum Open Space | 50% | 56.7% | 60.6% |

*Requires relief

See “Zoning Relief Summary” below:

| Zoning Relief Required | | |
|-------------------------------|--|------------------------|
| <i>Ordinance</i> | | <i>Action Required</i> |
| §3.4.1 | Request to allow multi-family dwellings | S.P. per §7.3.3 |
| §3.4.1 | Request to allow single-family attached dwellings | S.P. per §7.3.3 |
| §3.2.4 | Request to allow a reduced rear setback | S.P. per §7.3.3 |
| §3.2.4 | Request to allow reduced lot area per unit | S.P. per §7.3.3 |
| §4.1.3 §7.8.2.C.2 | Request to alter and extend a nonconforming side setback | S.P. per §7.3.3 |
| §5.1.4 §5.1.13 | Request to waive 5 parking stalls | S.P. per §7.3.3 |
| §5.1.9.A.1.ii §5.1.13 | Request to waiver perimeter screening requirements | S.P. per §7.3.3 |
| §5.1.10.A §5.1.13 | Request to waive lighting requirements | S.P. per §7.3.3 |

ATTACHMENT D

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 – 169 Grove Street & 144 Hancock Street

Date: September 9, 2022

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Lou Taverna, PE City Engineer
Dominic Warren, Committee Clerk
Michael Gleba, Sr. Planner

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

Topographic Site Plan
Showing Proposed Conditions at 169 Grove Street
Prepared by: VTP Associates Inc.
Dated: May 4, 2022
Revised: July 29, 2022

Executive Summary:

The proposed permit entails the construction of four new residential units along Grove Street and an addition to an existing building. The site currently has two buildings (one 2-1/2 story and one 3 story) known as the Walker Center; an addition is planned onto the 3-story brick building. A large, paved parking lot is accessed off Gove Street that will be modified, the driveway apron will shift 15 feet to the south, this driveway will provide surface parking as well as access to the garage under for each of the four units. New municipal utilities will be provided off Grove Street.



Existing site view form Grove Street

The engineer of record has designed a stormwater collection system to capture all the new impervious runoff and part of the existing roof runoff from a portion of the existing 2-1/2 story building. The calculation however needs to be updated to reflect the phosphorous reduction required by the City Ordinance and what is being provided by the proposed infiltration systems.

A series of new on campus walkways and patio area is proposed between the two existing buildings along with landscaped areas.

The existing asphalt sidewalks along Hancock Street are non-compliant, these should be updated to cement concrete in accordance with the City B-42 Ordinance. The sidewalk along Grove Street although are cement concrete these would have to be updated as well in association with the installation of the new utilities.



Hancock Street asphalt sidewalk

As there was no narrative provided, clarification is needed for the use of the project, and its impact on Infiltration and Inflow contribution. Clarification is need for any renovation of the two existing buildings as the extent may require new municipal utilities to include fire suppression systems.

When the utilities are being installed on Grove Street a minimum of two Police Officers will be required due to the proximity of the Williams School and volume of traffic. A Pedestrian detour plan will be required when the sidewalk along the west side of Grove Street is closed for utility construction, this will have to be in accordance with the DPW check list and approved before implemented.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.
4. As the site disturbance will be greater than 1 -acre a Stormwater Pollution Prevention Plan (SWPPP) will be required prior to any construction, in addition to a NPDES Construction General Permit.

Drainage:

1. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.

2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
2. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
3. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
4. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
5. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

Infiltration & Inflow:

- Will be addressed via a separate memo.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
3. All tree removal shall comply with the City's Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the as built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*

7. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

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

Signature

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

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



Ruthanne Fuller
Mayor

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Barney Heath
Director

MEMORANDUM

To: Planning & Development Board

From: Barney Heath, Director of Planning & Development

Date: September 29, 2022

Subject: Planning Board Determination on Voting Threshold for Rezoning Petition #395-22
Request to Rezone two parcels (136-144 Hancock Street and 169 Grove Street) from
Single Residence 3 to Multi-Residence 2

As part of the so-called "Housing Choice" legislation enacted in early 2021, several amendments were made to Chapter 40A known as the Zoning Act. Among those changes most germane to Planning Boards was the recommendation that the Planning Board, as part of their overall rezoning recommendation to the City Council, include whether the location of a rezoning request met the specified criteria for a simple majority vote (as opposed to a two-thirds majority vote for all other zoning amendments) of the City Council.

The rezoning petition #395-22 for rezoning 136-144 Hancock Street and 169 Grove Street is an eligible location by virtue of being .4 miles (8 minute walk) from both the Riverside MBTA and Auburndale commuter rail stations.

Therefore, as part of its overall rezoning recommendation for these sites, it is recommended that the Planning Board include a determination that this petition meets the qualifications for the City Council to hold a simple majority vote.



Ruthanne Fuller
Mayor

Barney Heath
Director
Planning & Development

Cat Kemmett, Senior Planner

Members

Peter Doeringer, Chair
Kelley Brown, Vice Chair
Jennifer Molinsky, Member
Kevin McCormick, Member
Lee Breckenridge, Member
Barney Heath, *ex officio*
Laxmi Rao, Alternate
Amy Dain, Alternate

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CITY OF NEWTON

Planning and Development Board

October 4, 2022

To: The Honorable City Council President, Susan Albright
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

CC: Honorable Newton City Councilors
Planning & Development Board

SUBJ: Planning & Development Board Recommendation on Petition #357-22
Request to Rezone 3 parcels (1314 Washington Street, 31 & 33 Davis Street) from Business Use 1 to Mixed-Use 4

Dear Honorable Council President Albright:

The Planning and Development Board joined with the City Council Land Use Committee for the July 19th opening public hearing on the above petition. Subsequently, the Planning and Development Board met on August 1st to take additional public testimony, after which it closed the public hearing. On September 12th, the Planning and Development Board met again to consider this and submit to the full City Council the following recommendation on the rezoning request.

On the matter of the request to change the current zoning from its current Business Use 1 to Mixed-Use 4, the Planning and Development Board was persuaded that such a change was appropriate and voted in favor to recommend this change 6-0-1 (Director Heath abstaining) for the following reasons:

The site is particularly well-suited to respond to the purpose and intent of the Mixed-Use 4 zoning district which seeks to:

- Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
- Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.

- Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
- Expand the diversity of housing options available in the City.
- Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

The Board also find the site and Mixed-Use 4 zoning are consistent with the Washington Street Vision Plan in the following respects:

- Unique and Vital Village Centers
 - The villages of Newtonville and West Newton both represent opportunities to strengthen and expand the local economy relying on the unique business mix and the competitive advantages of walkable and transit served mixed-use villages. Growth, focused on serving local needs and building on existing strengths, can support a stronger commercial tax base and reduce the share of residential taxes in the city
- Use buildings and trees to make a more comfortable environment
- Streets and sidewalks with defined edges created by close-by buildings and trees is an essential component of designing comfortable walking environments. The physiology of the human species means that there are some universal principles to creating comfortable environments for people – among them is a near universal preference for spaces with edges.
- Incorporate opportunities for outdoor dining
- Actively manage village parking
 - Develop and implement a public parking management strategy
 - Shape where and how much parking is in private developments
- Housing Diversity
 - Without multi-family housing options, households that would choose to live in an apartment, most frequently down-sizing seniors and young professionals, would not find opportunities in the community
- Ensure availability of accessible units
- Link Housing and Transportation
 - Focus housing where residents have transportation options
 - Pair housing near transit with new commercial and retail space
- Mitigate Mass Pike Effects

- Planning and Design Principles
 - Protect iconic buildings
 - Develop standards and guidelines for human-scale design
 - Encourage variety in building size and shape
 - Limit visible parking
 - Allow form to follow function
 - Encourage traditional New England roof diversity
 - Promote energy-efficient, human-scaled and durable construction

The Board feels strongly that the Washington Street Vision recommendation to “Develop and implement a public parking management strategy” is essential to support the kind of mixed-use development that is essential to keeping West Newton village an attractive and lively place for everyone.

In addition, as part of their upcoming recommendation, the Planning and Development Board wishes to include a further recommendation on the appropriate City Council voting threshold that should be invoked under Section 5 of Chapter 40. In a vote of 6-0-1 (Director Heath abstaining), the Planning and Development Board determined that a City Council simple majority vote should apply to this rezoning petition because of the following factors:

- The rezoning is to enable mixed-use development in an eligible location by virtue of both its location adjacent to the West Newton Commuter Rail Station and its location in the heart of the West Newton Square village center.

Sincerely,

Peter B. Doeringer, Chair

PLANNING & DEVELOPMENT BOARD MEETING MINUTES

September 12, 2022



Ruthanne Fuller
Mayor

Barney Heath
Director
Planning & Development

Cat Kemmett, Senior Planner

Members

Peter Doeringer, Chair
Kelley Brown, Vice Chair
Kevin McCormick, Member
Jennifer Molinsky, Member
Barney Heath, *ex officio*
Lee Breckenridge, Member
Laxmi Rao, Alternate
Amy Dain, Alternate

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Members present:

Peter Doeringer, Chair
Kelley Brown, Vice-Chair
Kevin McCormick, Member
Jen Molinsky, Member
Lee Breckenridge, Member
Amy Dain, Alternate
Barney Heath, *ex officio*

City Staff:

Amanda Berman, Director of Housing & Community Development
Shaylyn Davis, Senior Community Development Planner
Nika Sandal, Community Development Planner
Malcom Lucas, Housing Planner
Cat Kemmett, Senior Planner

Meeting held virtually by Zoom Meeting

1. FY22 Consolidated Annual Performance and Evaluation Report (CAPER) Public Hearing Presentation and Vote

Chair Doeringer opened the meeting and the public hearing at 7:00 pm. Director of Housing & Community Development Amanda Berman and Senior Community Development Planner Shaylyn Davis gave a presentation on the FY22 Consolidated Annual Performance and Evaluation Report (CAPER).

The Annual Action Plan and Consolidated Plan describe the proposed use of CDBG, ESG and HOME program funds for housing and community development activities in Newton and the WestMetro HOME Consortium and the CAPER details efforts to address the needs and priorities identified in the Annual Action Plan and Consolidated Plan. The CAPER outlines programmatic expenditures made in the fiscal year. A total of \$3,122,230.09 in funds were expended for FY22 from July 1, 2021 through June 30, 2022.

CDBG-CV and ESG-CV funds must be used to prevent, prepare for, and respond to COVID-19 through eligible activities. \$600,575.35 of CARES Act Funds were expended in FY22, and there is a program balance of \$152,434.14. The programming for that funding includes the CDBG-CV Emergency Housing Relief Program, CDBG-CV Small Business Recovery Grant Program, CDBG-CV Human Service Program, and Emergency Solutions Grant CARES Program.

Ms. Berman provides information about the progress made this year toward goals highlighted in the FY21-25 Consolidated Plan and FY22 Annual Action Plan.

City of Newton Planning and Development Board

Production of new affordable housing units and preservation and rehab of housing includes work done on Haywood House, a Newton Housing Authority project. This includes 55 new affordable units for seniors using \$875,000 of CDBG funds. The Golda Meir Expansion, a project lead by 2Life Communities, will have 68 new affordable units for seniors, anticipated to be completed in spring of 2023. This project used \$255,143 of HOME funds. There will also be rehab done by Cascap at Nonantum Village Place, including a roof, siding replacement and energy upgrades. This will use \$ 100,000 of CDBG funds. Additionally, in FY23, the City began rehabilitation work on 18-20 Coyne Road, a group home for adults with cognitive and developmental disabilities. In fall 2022 progress will be commencing on the rehabilitation of the former CAN-DO portfolio (this includes 16 units rental units for low-income households across 7 properties.)

To support new homeownership, 7 households were assisted in FY22, with each granted \$10,000 to first-time homebuyers of deed-restricted affordable ownership units. To increase awareness of fair housing policies and practices, the FY21-25 Analysis of Impediments to Fair Housing Choice on behalf of WestMetroHOME Consortium completed. Subsequently working groups were formed by the Consortium members continue to focus on advancing the recommendations in the Analysis of Impediments. Other efforts include collaborating with the MAPC and Consortium on looking at parking data.

FY22 ESG funds were awarded to three subrecipients in the Brookline-Newton-Waltham-Watertown (BNWW) region including the Community Day Center of Waltham, the Brookline Community Mental Health Center, and REACH Beyond Domestic Violence, which allocated \$164,708 in FY22 ESG funds. 165 people were assisted in FY22 by ESG.

FY22 CDBG Human Service funds were awarded to 13 subrecipients in Newton which were allocated \$295,205 in FY22 Human Service funds. 1,704 people were served by Human Services in the fiscal year.

Implementation of Architectural Access Improvements include installations of ADA accessible curb cuts at Watertown St. at Edinboro St. and Watertown St. at West St and installation of the Marty Sender Trail and McGrath Pathway.

The WestMetro HOME Consortium facilitated the rehab of 7 HOME-assisted rental units and served 81 families through TBRA/Security Deposit Assistance across the Consortium.

Written comments on the CAPER will be accepted through September 26.

No members of the public chose to speak. Upon a motion by Ms. Molinsky and unanimously approved, the public hearing as then closed.

Mr. McCormick asked what the MAPC parking study had to do with fair housing. Ms. Berman said that in the analysis of impediments, the high cost of parking and high parking ratios was identified as a barrier to affordable housing. The consortium has since committed to looking more into parking data in the region, and the MAPC is in the process of analyzing that data and creating a report.

Ms. Molinsky asked for clarification on the share of households served in these programs by race, income, and other factors that are not listed in the report. Ms. Berman did not have that breakdown available in the moment, but the department can look at the data and report back at a later time. She said that the subrecipients generally do a good job meeting the needs of a diverse group of folks, but there is always improvement that can be made to more inclusive and far-reaching engagement and outreach.

Chair Doeringer asked for more information about the composition of recipients as well, noting the large percentage of white individuals served by CDBG funds. Ms. Berman said that the department can look at the breakdown of people served by these programs and the composition of the city as a whole.

Mr. Brown shared his appreciation for the staff and subrecipients moving quickly to use CARES act funding quickly and effectively. He also asked for information about the timeline of the CAN-DO work. Ms. Berman said that it has been a long and complicated process. Some of the properties had multiple mortgages with varied funding sources, which required working with legal teams and different state authorities, which complicated the process of even acquiring the properties. It has been a protracted timeline, but staff is excited to continue pushing forward with it.

Chair Doeringer asked for more information about the composition of recipients for the small business programs.

Upon a motion by Mr. Brown and approved 6-0-1 with Director Heath abstaining, the Board voted to recommend the plan as presented for approval by the Mayor.

2. Petition #357-22 Request to Rezone three parcels (1314 Washington Street/31 Davis Street/33 Davis Street) to Mixed Used 4

Director Heath said a few words about the voting threshold for this petition. As part of the “Housing Choice” legislation enacted in early 2021, several amendments were made to Chapter 40A, the Zoning Act. Among those changes was a recommendation that the Planning Board, as part of their overall rezoning recommendation to the City Council, include an opinion on whether the specific location of the rezoning request meet the criteria for a simple majority vote (as opposed to a two-thirds majority vote for all other zoning amendments) of the City Council.

The rezoning petition #357-22 for rezoning 1314 Washington Street, 31 & 33 Davis Street are clear examples of the kind of project that was envisioned for this legislation. Its location in the heart of West Newton square and adjacent proximity to the commuter rail bus lines make it a good candidate for the simple majority vote.

Chair Doeringer asked for information about how the mismatch between what the Washington Street Vision plan calls for and the height proposed for this project. Director Heath said that the Vision Plan is not meant to be a strict guidance, and this project in his opinion does align with the spirit of what the Vision Plans calls for in many other ways.

Attorney Buchbinder noted that the project team is also planning to keep the historic façade, which comes with significant compromises on the site. He noted that last week there was a community meeting about the project, and many attendees were in support of the project.

Ms. Molinsky said that in general she is in favor of this rezoning but expressed concern for abutters nearby who will be impacted by loading and unloading and the sharp transition from smaller buildings to a larger one.

Mr. Brown voiced support for the project and said the mixed-use zoning makes sense for that area. Ms. Breckenridge agreed with Mr. Brown. She said that some of her concerns with projects like this cannot be adequately addressed on a project-by-project basis and require a more holistic view to ensure that parking and visiting village centers needs to be addressed at a higher level as we move forward.

Mr. McCormick also voiced support for the rezoning.

Mr. Brown offered to draft a letter summarizing the concerns, thoughts, and sentiments of the Board to bring to the next Board meeting.

Atty. Buchbinder and Kathryn Winters provided detail about the specifics of the simple majority voting threshold and explained the ways in which this project should qualify for the lower threshold vote. Specifically, the site of the project, in close proximity to rapid transit, makes it eligible.

Upon a motion by Mr. Brown and approved 6-0-1 with Director Heath abstaining, the Board voted to recommend approving the rezoning of 1314 Washington Street/31 Davis Street/33 Davis Street) to Mixed Used 4.

Upon a motion by Ms. Molinsky and approved 6-0-1 with Director Heath abstaining, the Board voted in favor of recommending that this petition be subject to a simple majority vote rather than the 2/3 voting threshold at City Council.

3. Village Center Zoning Update

Director Heath said that the zoning exhibit is now open in the Newton Free Library and recommended that Board members visit if they have the chance. There is also a PDF version available online. Additionally, there is a feedback tool to solicit thoughts and opinions on the proposals for village center zoning from members of the community. The Long Range team continues to work on the zoning text itself, with the goal of having that available publicly in the fall.

Mr. Brown asked for clarification on how the village center zoning changes will work in light of the requirements of the MBTA communities. Director Heath said that he anticipates the village center work will bring us closer to compliance with those rules, but likely not all the way there. This will be addressed in more detail at ZAP in October.

4. Minutes

Upon a motion by Mr. Brown and unanimously approved (with Ms. Molinsky abstaining on the minutes from August 1), the minutes from July 19, 2022 and August 1, 2022 were approved.

5. Adjournment

Upon a motion by Director Heath and unanimously approved, the meeting was then adjourned.