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**From:** John Neufeld <neufelds@gmail.com>  
**Sent:** Monday, July 18, 2022 11:31 AM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Rezoning of 11 Florence Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

Dear Newton City Council Members:

1. The building Sunrise is proposing for 11 Florence Street is simply too large for the land's lot size and location.
2. In a mass emergency situation (fire, gas leak, etc) evacuation and/or treatment of 120 partially disabled residents, could be problematic. While sheltering in place may be reasonable for many residents, additional personnel would still be needed to care for the residents. The traffic flow of emergency vehicles and personnel presents a problem. The proposed access to the rear of the property is a dead end two way street. Traffic flow on Florence is two lane and access to Route 9 is not ideal.
3. Blasting and excavation for an underground garage and other building construction can cause structural damage to the abutters. We live in Building 336 which is a Low-rise condominium of concrete and steel construction. While it may be at relatively low risk from construction damage, it is not impossible. A portion of the building was built on fill and may be at increased risk of damage. Cracks have been noted in the foundation. The cost of repairing our building (and other abutters) could be very high. Sunrise has a poor record for fully settling damage claims.
4. In the event the City Counsel chooses to approve the Zoning changes, a fully funded escrow account needs to be established before construction begins. The fund would be controlled by an independent arbitrator and would fully compensate residents for any damage. Residences need to be inspected pre-construction and monitored during and after completion.
5. We oppose the rezoning proposal.

Cheryl and John Neufeld

336 Boylston St. Apt. 305  
Newton Centre

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**From:** peter mebel <petermebel@yahoo.com>

**Sent:** Monday, July 18, 2022 11:28 AM

**To:** City Council <citycouncil@newtonma.gov>; Cassidy Flynn <cflynn@newtonma.gov>; John Oliver <joliver@newtonma.gov>; Susan Albright <salbright@newtonma.gov>; Tarik Lucas <tlucas@newtonma.gov>; Pamela Wright <pwright@newtonma.gov>; Leonard J. Gentile <lgentile@newtonma.gov>; Marc C. Laredo <mlaredo@newtonma.gov>; David Kalis <dkalis@newtonma.gov>; Holly Ryan <hryan@newtonma.gov>; Alison M. Leary <aleary@newtonma.gov>; Maria Scibelli Greenberg <msgreenberg@newtonma.gov>; Emily Norton <enorton@newtonma.gov>; Andrea W. Kelley <akelley@newtonma.gov>; Julia Malakie <jmalakie@newtonma.gov>; jkrintsman@newtonma.gov; Deborah J. Crossley <dcrossley@newtonma.gov>; Andreae Downs <adowns@newtonma.gov>; Bill Humphrey <bhumphrey@newtonma.gov>; Vicki Danberg <vdanberg@newtonma.gov>; Alicia Bowman <abowman@newtonma.gov>; Brenda Noel <bnoel@newtonma.gov>; Rebecca Walker Grossman <rwgrossman@newtonma.gov>; R. Lisle Baker <lbaker@newtonma.gov>; Richard Lipof <rlipof@newtonma.gov>

**Subject:** Vote NO on the rezoning of 11 Florence Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Dear City Councilors:**

**My name is Peter Mebel. I live at the Residences at the Chestnut Hill Condominium Association, unit 342A Boylston Street. I request that you vote NO on the proposed rezoning of 11 Florence Street from Multi-Residence 1 to Business 2, Petition 304-21. This parcel is being singled out for rezoning, which I understand is questionable from a legal standpoint. The obvious reason for the rezoning is to allow a much taller and more dense building area than would be allowed under current zoning. The proposal is for 4 stories and almost full lot coverage. It is too big and out of place with the surrounding area and community. In fact, it's so big that not only does Sunrise need a rezoning, but they also need numerous dimensional variances, which further serves to highlight how this project does not fit the site. I am not opposed to development of 11 Florence Street or elderly housing. I always expected that the lot would be developed, just that it would be developed consistent with current zoning and the density guidelines established by the City.**

**Why Sunrise? Just because they asked? I have done extensive research into the world of senior housing and I cannot find anyone who has one positive assessment of Sunrise. From the way they treat their residents and employees to the awful neighbors they are, I cannot understand why they haven't been banned from building another facility in Newton.**

**After what happened at the Washington Street facility, which is well-documented and some of you worked on the settlement, I'm appalled and outraged that they're possibly going to be rewarded with another project.**

**Why aren't you worried that they'll repeat the same atrocities they committed on Washington Street? What have you done to insure that won't happen?**

**They've already started off terribly. A last minute notice to The Residences notifying us of the Land Use meeting while wanting credit for meeting with The Towers, a distant neighbor that would not be affected by their construction and aftermath. Setting up a well-used bait and switch strategy they've used before regarding placement of dumpsters and transformers to appear they're making concessions.**

**Neighbors have pointed out several potential hazards of this project:**

- 1. Drastically changing the neighborhood with a dense overall large structure that is zoned as residential land.**
- 2. A highly questionable traffic study that claims their facility would generate fewer cars than Winston's flowers that never has more than a few cars in its parking lot at a time. Wegman's was refused a driveway on Florence Street due to traffic issues it would cause and Sunrise is asking for three!**
- 3. Building next to a gas line.**
- 4. A history of causing structural damage to neighbors' houses during construction such as the Sunrise facility on Washington Street in Newton.**
- 5. Creating a rat infestation that neighbors are still dealing with.**
- 6. Taking away ALL or most of the sunlight from abutters' homes while drastically reducing their value.**
- 7. During construction on the Washington Street, when neighbors pointed**

out to construction crews that they were breaking promises they had made around when they would work, they shrugged their shoulders, said they would pay the fines, and kept working. No fines were ever levied, promises never enforced.

Annoyances abound after construction, too. A loading dock operating 24/7 with trucks coming and going and lights flooding into our units, a dumpster that will bring odors and unwanted animals, a transformer in our backyard, and trucks making deliveries 24/7 on Florence Street which is already a dangerously hazardous corner with cars speeding off Route 9. There was just an accident there recently. Crossing the street is treacherous now.

With all these reservations and fears that we've presented, wouldn't you be vehemently opposed to this project if it was being proposed next to your home? What motives could you possibly have to support a project fraught with a history of outrageous disregard for the community in which it's being built?

I also do not understand how the City Council can even consider a Special Permit to construct this type of housing with dimensional requirements under a Business 2 zone, while the property is still zoned MR1. Shouldn't the property owner at least have to wait to see if the Property is re-zoned until a Special Permit is filed under the rules in that zone? Isn't that premature?

Thank you for your time and consideration. We would like to believe that you're representing the people who live in our neighborhood and looking out for our best interests. Isn't that why we voted for you?

**Peter Mebel**

**342A Boylston Street**

**Newton 02459**

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**From:** Cyrisse Jaffee <cjaffee102@gmail.com>  
**Sent:** Monday, July 18, 2022 1:30 PM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Petition to rezone 1314 Washington Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

Dear Councilors, I am writing today to voice my strong disapproval of the petition to rezone 1314 Washington Street and surrounding parcels. I have used the former Santander bank for many years (and the previous banks housed there). The 1920s building is an impressive building, inside and out, typical of the way banks used to be built in previous years: classical and imposing. I had always assumed it would be reused in some way eventually, but with its structure intact.

In addition to the loss of the building (even if it is used as an entrance way and/or restaurant), building a 5-story, 50-residence behind it will further erode West Newton square, which has undergone a very unpopular traffic redesign recently. Already congested at many times of the day, adding residential and commercial space (with rather limited parking) is surely a recipe for disaster.

Surely this desirable location can be better used without losing its character.

**Sincerely,  
Cyrise Jaffee  
Hallron Road**

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*Cyrise Jaffee*

**To: Newton City Councilors (CC)**

**July 18, 2022**

**From: Ernie Glickman**

**Subject: Due diligence regarding Sunrise's request to rezone  
(Petitions #355-22 and #356-22 Land Use Committee 7/19/22)**

**I am Ernie Glickman a life time Newton resident who has been a close abutter for over 20 years to 11 Florence St.**

**WHY WOULD CITY COUNCILORS ALLOW A SECOND SUNRISE SENIOR LIVING FACILITY IN NEWTON BASED ON SUNRISE'S POOR PERFORMANCE?**

**At 431 Washington St: building is only 41% occupied and only 2 of 3 affordable beds are filled. Abutters had rats and foundation damage to five homes. Sunrise denied accountability and paid small % of damages only if NDA signed.**

**At 11 Florence St: Sunrise did not include any abutter owners in their initial survey. We sent you on Oct.27, 2021 "Abutters' Opposition to Rezone 11 Florence St" signed by 139 residents. Our 59 unit condo Board and Sunrise Committee met with Sunrise on Jan. 3 and proposed a smaller MR-3 senior living facility. Sunrise did not respond for 6 months and has shown they cannot be trusted.**

**Please do your due diligence on Sunrise and oppose the rezoning of 11 Florence St.**

**If the Land Use Committee votes to rezone 11 Florence St, it will force us to file an appeal and litigate.**

**MARCUS, ERRICO,  
EMMER & BROOKS, P.C.**

Attorneys At Law



Edmund A. Allcock  
781.849.3637  
eallcock@meeb.com  
admitted in: MA, NH and RI

July 19, 2022

**SENT VIA EMAIL (citycouncil@newtonma.gov) and nkhan@newtonma.gov**

Richard A. Lipof, Chair  
Land Use Committee  
Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02549

**RE: Request to Rezone 11 Florence Street  
Petition to construct elderly housing with services at 11 Florence and 318 Boylston  
Street**

Dear Mr. Lipof and Members of the Land Use Committee:

Please be advised that this firm represents the Board of Trustees of the Residences at Chestnut Hill Condominium Trust (the "Condominium Trust"), which is the organization of unit owners of the Residences at Chestnut Hill Condominium (the "Condominium") which is a 58 unit residential condominium that directly abuts the proposed project (we are by and far the largest group of abutters, the entire rear border of the proposed project abuts the condominium). A public hearing is scheduled for July 19, 2022 to rezone the larger of two parcels of the Property from Multi Family 2 to Business 2 and for a Special Permit to allow for a use of Elderly Housing with services and with various waivers.

The Condominium Trust **OPPOSES** the proposed rezoning of 11 Florence Street and the issuance of a Special Permit (with waivers) and respectfully requests that the Land Use Committee deny the Applicant, Sunrise Development, Inc.'s request for rezoning and special permit (with waivers) for the following reasons.

**11 Florence Street Rezoning**

As the Committee is aware, the property was most recently used as a flower shop and garden center. The property contains two distinct parcels, 11 Florence Street on which the flower shop and garden center is located and 318 Boylston Street, which is a satellite parking lot for the flower shop. According to the proposed plans, Sunrise will keep 318 Boylston as a satellite parking lot, while the Elderly Housing will be located on 11 Florence Street. The two lots together are approximately 83,000 square feet, which is less than two acres. The proposed



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project is comprised of 95 housing or dwelling units containing 120 beds (Sunrise contends in its materials that there really are no dwelling units, because the units do not contain kitchens as meals are served in a central dining area).

11 Florence Street is currently zoned MR1, which **prohibits** multi-family dwellings (including Elderly Housing with Services) on the Property. The Condominium Property is zoned MR2. The remainder of the community is primarily zoned MR1. Florence Street contains a number of three story multi-residential units and has developed a unique character in that regard.

However, Sunrise has chosen to seek a rezoning to Business 2 because it would allow for greater height and density of its project.

Zoning the project to Business 2 would enable Sunrise to construct a building that is 4 stories (48 feet in height) versus 3 stories (36 feet or 30 feet depending on roof pitch) if the Project were rezoned to MR2 (like some of the surrounding properties). Also, the grade of the property is higher than street level according to the submitted plans having a base elevation of 192 feet. Furthermore, the building is actually going to be 53 feet in height as the end caps on the proposed building are five feet in height taller than the roof line and that exceeds zoning even if the property is re-zoned. The total height with baseline elevation from street level will be 245 feet, making this project inconsistent with the surrounding community.

Also there is no maximum lot coverage in Business 2, whereas MR2 has a 30% maximum lot coverage. There are other favorable density calculations with a Business 2 use as opposed to a MR 1 or even an MR 2 use.

The proposed rezoning of 11 Florence is clearly calculated to allow Sunrise to build the biggest, tallest and most dense project on the site. The Condominium Trust respectfully submits that rezoning 11 Florence to allow Sunrise to subvert density and height requirements in manner that is inconsistent with the surrounding community would constitute illegal spot zoning.

The fact that the satellite parking lot is zoned business 2 is irrelevant, as that smaller parcel is located directly on Route 9 and when these properties were re-zoned it was likely the concept that the parcels would be separated for future development. There is no logical basis for the larger distinct parcel to become Business 2 because the smaller parcel bordering route 9 is zoned Business 2. Moreover, zoning districts are supposed to be carefully thought out by the City, and not zoned individually to fit each project and/or maximize the profits and density of a proponent developer.

The rezoning and redevelopment of 11 Florence Street as Business 2 is not only spot zoning but is inconsistent with the surrounding community and creates possible adverse downstream impacts. For example, the rezoning of the parcel does not mean that the elderly housing project is actually going to get built. The special permit could get denied or even withdrawn. The project could run into difficulty down the road and not get built. Yet the parcel would have been rezoned Business 2, which would open up pandora's box in terms of possible permitted uses,

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including retail, marijuana dispensary, office, storage facility, hotel, among numerous others. None of those uses would be consistent with the zoning in this area, which is primarily residential.<sup>1</sup> It is precisely why zoning is typically done pursuant to a comprehensive plan as opposed to a project by project basis as proposed here. Accordingly, and for those reasons, the Condominium Trust respectfully **OPPOSES** the re-zoning of 11 Florence to Business 2.

**The Special Permit**

**A. The Special Permit Is Premature Absent Re-zoning.**

We believe that the Special Permit Application should either be withdrawn or immediately denied, as it is premature. The Special Permit application seeks permission for the use of elderly housing with services, with specific reference to Section 4.4.1 of the City of Newton Zoning Ordinance, which section is the table of use for properties zoned BUSINESS. Furthermore, the application references Section 4.1.2.B.1 as the basis for the allowance of a four story structure. That section of the City of Newton Zoning Ordinance is the density and height limitations for properties that are zoned BUSINESS.

As you are aware, as noted above and as even noted on the Special Permit application and the Petition to Rezone the parcel, the parcel of land in question is currently zoned MR1. Accordingly, it follows that the Special Permit Application in question is premature, as it presumes and/or relies entirely upon the City Council’s passage of the accompanying proposed zoning amendment. I presume that you would agree that the focus of the Land Use Committee when reviewing Special Permit Applications is to consider the zoning in effect at the time the application is filed, in fact that is how it was noticed to the abutters and advertised to the public. Under current zoning the proposed use and building height are not allowed by special permit in a MR1 zone. Yet the Land Use Committee has opened public hearing on the same in conjunction with a proposed rezoning.

In MP Corp. v. Planning Bd. Of Leominster, 27 Mass. App. Ct. 812 (1989) the Appeals Court expressed the same logic when it held:

Under G.L. c. 40A § 5...the earlier 1985 zoning ordinance was in effect until the new ordinance was ordained.

If that were not enough, Newton’s own City Ordinance proscribes the legal status of its zoning ordinance and zoning map at Section 1.3.2 and 1.4. G.L. c. 40A § 5 provides the basis for change or amendment to zoning ordinances and how and when those changes or amendments become effective. Zoning changes become effective upon (in this case) on the date of a City Council vote approving the amendment by two-thirds of its members.

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<sup>1</sup> Arguably a rezoning to MR-2 would be more palpable, as it would still allow for elderly housing with services, but with stricter density and height controls.

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The zoning in effect at the time a special permit is applied for is crucial, as it serves the basis and baseline for notification and for deliberation at public hearing. See, G.L. c. 40A § 9 (“zoning ordinances shall provide for specific uses which shall only be permitted in specific districts upon the issuance of a special permit)(“each application for a special permit shall include the date and time of the filing certified by the city of town clerk”).

**B. The Special Permit Should Be Denied On The Merits.**

Even assuming the Special Permit is properly before the Land Use Committee, the Condominium Trust also Opposes the issuance of the Special Permit, which is a discretionary permit. As noted above, the combination of the Special Permit, the Re-zoning and the requested waivers (which really seem more akin to dimensional variances) demonstrate that Sunrise is looking to construct the tallest and most dense project possible.

The Condominium Trust respectfully submits that 11 Florence Street was re-zoned MR1 for a reason, as part of a comprehensive plan to promote residential development in this area. Florence Street is a flourishing triple decker community. The character of the area is primarily residential.

The Condominium Trust and its 58 units (and over 100 residents) are going to be severely impacted by the proposed leviathan of a project. The excessively tall building is going to cast shadows on the nearby condominium units, which is demonstrated by the shadow study that was submitted by Sunrise. The Condominium Trust disagrees that shadows cast during winter will dissipate by 10AM and believes the time to be closer to noon.

The exit for the Condominium property is adjacent to the proposed parking area for the project onto route 9, which the Condominium Trust submits will cause further congestion and possible danger for residents exiting the property due to the incoming traffic to the facility. The Condominium Trust does not concur with the traffic study submitted by Sunrise suggesting that this project is actually going to “decrease” traffic. At a minimum, the Condominium Trust suggests that the Council commission its own independent traffic study.

The Condominium disagrees with the parking calculations submitted by Sunrise. In its materials Sunrise coyly suggests that its project does not meet the definition of the term “residential units” (even though it has 95 units and 120 beds) and therefore does not need to meet parking guidelines, and can get away with just 45 parking spaces. Putting aside whether the elderly residents will have vehicles, that does not take into account employee parking as this facility is supposed to have services, including dining services. It is woefully inadequate, which further demonstrates that Sunrise is simply trying to shoehorn a large facility on a parcel of land that is too small. Even with such a small number of parking spaces, Sunrise is seeking waivers as to the size of the parking spaces and the location (within otherwise defined zoning setbacks) which setbacks are designed to protect abutters from development intrusion and interference. The Condominium is further concerned about the location of a loading dock (presumably for food, dining and other services to be provided at the facility) which directly abuts some of the

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condominium units. The plans seems to show that the loading dock is within five feet of the condominium property line as is the transformer. The garbage disposal area appears to be within ten (10) feet. Also there is an inconsistency with the Sunrise materials, which speak of 84 foot backyard area, when they are asking for a setback of only 25 feet. This is all based on the plans and materials submitted, which appear inconsistent with the application. Many of the condominium units directly face the proposed project. The residents of the condominium presumed that one day they would be looking out single family homes, condominiums, townhouses or other residential uses with similar density and space requirements. These residents relied upon the zoning in place and trust in their councilors that it will remain in place. They are rightly concerned that this project will impact the value of their condominium units.

The Condominium also submits that the largesse and scope of the facility on such a tight parcel and in close proximity to the Condominium will be a nuisance and create noise and general disturbance to the condominium and its residents. Along these lines it is worth noting that Sunrise also seeks to waive perimeter screening requirements, presumably, because the project is so dense on the site that it will not have enough room for screening. Screening would be needed at a minimum for all of the reasons articulated above.

Bottom line, the project as proposed, is not compatible with and will not be harmonious with the surrounding community. This project is not appropriate for this site, which is zoned MR1. This Project will irrevocably change the nature of the surrounding community and have a negative impact on the use and value of the surrounding properties. Accordingly, the Condominium Trust respectfully requests that the Special Permit with waivers and/or variances and the rezoning of 11 Florence Street to accommodate the same be **denied**.

**C. The Application Requires Additional Zoning Relief, in the form of additional Special Permits or Variances.**

My clients have additional legal concerns with the Special Permit Application. First and foremost, even assuming *arguendo* that the Special Permit is properly before the committee, and we believe that it is *not yet ripe*, the maximum height limitation for a building in a Business 2 Zone is 48 feet and that is only allowable by issuance of a separate special permit. See, Newton Zoning Ordinance § 4.1.2(B)(3) and 4.1.3(G). The plans submitted with the Special Permit show maximum height of the proposed structure at some points as being 53 feet in height. That would seemingly require a variance from the Newton Zoning Board of Appeals. As no variance application has been filed and approved, that would require denial of the Special Permit Application as submitted, again, assuming that the Special Permit Application is even ripe for consideration, given that it was filed and being considered prior to the re-zoning of the parcel.

Additionally, the Special Permit Application seeks the following “exceptions” to parking density requirements as follows:

1. Exception to allow parking in the front yard set-back (which is otherwise prohibited);

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2. Exception to reduce required parking stall length;
3. Waiver of permitting parking screening requirements; and
4. Waiver of the one foot candle lighting requirements.

The Newton Zoning Ordinance provides a standard of basis for “exceptions” of the above parking density requirements. See, Section 5.1.13. While styled “exceptions”, the Zoning Ordinance says that actually a special permit may be granted to allow for said “exceptions, if it is determined that literal compliance 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. Accordingly, the above four (4) density “exceptions” sought by Sunrise are an additional four (4) special permit applications. Sunrise’s application has not addressed any of the standards set forth in Section 5.1.13 as to why these 4 parking density exceptions should be granted. As such they should be denied.

Furthermore, the Condominium Trust believes that Section 5.1.13 (and Section 5.2.13 governing sign exceptions) which provide for the issuance of special permits as a workaround to density and dimensional regulations are illegal and violative of the Massachusetts Zoning Act, M.G.L. c. 40A § 9 and 10. G.L. c. 40A § 9 governs special permits and § 10 governs variances, which typically apply to use or dimensional criteria.

Sections 5.1.13 and 5.2.13 of the zoning ordinance come close to adopting the variance standard for its so-called exceptions, which demonstrates knowledge by the City that what is calling “special permit exceptions” are really variances. Furthermore, the zoning ordinance deviates enough from the statutory language for the issuance of a variance so as to change and lessen the statutory standard for the issuance of what really is a variance. Finally, the use of the special permit as a mechanism to alter dimensional regulations for the above 4 identified parking variances is contrary to the Special Permit enabling authority relative to parking set forth as G.L. c. 40A § 9. To that end, G.L. c. 40A § 9 states:

Zoning ordinances or by-laws may also provide that special permits may be granted for reduced parking space to residential unit ratio requirements after a finding by the special permit granting authority that the public good would be served and that the area in which the development is located would not suffer a substantial adverse effect from such diminution in parking. See, G.L. c. 40A § 9 (7<sup>th</sup> par).

The so-called special permit exceptions in this case are not related to space to unit ratio requirements as allowable by G.L. c. 40A § 9. They relate to specific dimensional requirements. As noted above, the only statutory authority in the Massachusetts Zoning Act for certain dimensional requirement exceptions to be given by special permit are for space/unit to ratio requirements. As such the requested special permit exceptions (and the provisions of the City

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of Newton Zoning Ordinance under which they are being processed) are improper and should be denied (absent a variance from the Newton Zoning Board of Appeals).

The Condominium Trust, myself and many of the condominium residents intend to appear and voice our concerns during the July 19, 2022 public hearing.

Thank you for your time and consideration. Please contact me if you have any questions.

Very truly yours,

MARCUS, ERRICO, EMMER  
& BROOKS, P.C.

*Edmund A. Allcock*

Edmund A. Allcock

/EAA

cc: Residences at Chestnut Hill Condominium Trust

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**From:** Ellen Jacobs <ellenjacobs22@gmail.com>  
**Sent:** Monday, July 18, 2022 4:59 PM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Hearing re rezoning 11 Florence Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**To: Newton City Council**

**Last fall we presented a petition voicing objections to Sunrise building an overly large, commercial facility at the current site of Winston's Flowers on Florence Street We had 139 abutters signatures.**

**Now Sunrise/ Seltzers Garden City have submitted their petitions to the Newton Land Use Committee and the Planning and Development Board for rezoning so Sunrise can build the facility they want.**

Since last Fall, the building's shape has been modified but the scale is unchanged. We continue to oppose the rezoning proposal for the following reasons:

1. The building Sunrise is proposing is much too large for the land's lot size. The latest proposal is for a 5-story building towering about 65 feet.
2. It would shift the neighborhood more towards commercial than residential use. The Farm and Hampton Place resulted from the courts deciding that the south side of Florence St. should be residential. The Comprehensive Plan for Newton's zoning calls for the south side to remain residential and discourages commercial use.
3. Construction of such a large structure with blasting for an underground garage can cause serious structural damage to our units. We are also concerned about damage to the gas regulator which is just a few yards away, complete with a sign that says "do not dig". Sunrise built a similar facility on Washington St. in Newton and the neighbors are still dealing with everything from foundation issues to a major rodent problem. City councilors needed to intercede to secure some (pennies on the \$) compensatory payment from Sunrise. They have proven to be horrible neighbors to many, forcing those who did accept a settlement to sign strict non-disclosure agreements.

4. In January, we discussed with Sunrise our list of changes we felt were most important, namely reducing the building's scale - height and number of units - and damage payments. So far, Sunrise has only offered up a few relatively minor changes to their original proposal including increased height. At the last meeting, Sunrise didn't even recall the priorities we discussed with them at a meeting in January.

5. Taking the tiny lot on route 9 (currently houses 0-2 cars) and shoehorning many employees cars into it will cause disruption to routes 9 traffic during rush hours and could create a danger. The entrance/ exit from this tiny lot is directly next to and just a few feet away from the exit from our complex, The Residences, at 336-350 Boylston Street.

**IT IS VERY IMPORTANT WE KEEP OUR NEIGHBORHOOD A RESIDENTIALLY SCALED PLACE TO LIVE. THE ALTERNATIVE SUBJECTS US TO A FUTURE WITH SUNRISE - AN OVER-SIZED AND UNTRUSTWORTHY (based on experiences at Washington St. in Newton) NEIGHBOR.**

Thank you for your consideration of the above

Ellen Jacobs

Sent from my iPhone



Sent from my iPhone



-----Original Message-----

From: Faye Romm <fayeromm@icloud.com>

Sent: Monday, July 18, 2022 5:03 PM

To: citycouncil@newtonma.gov.

Subject: Sunrise proposal to rezone.

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I am completely against the rezoning to commercial from residential on this property I live at 336 boylston street and have been a Newton resident for over60 years.

-----Original Message-----

From: Richard Price <rhprice@icloud.com>

Sent: Monday, July 18, 2022 8:33 PM

To: City Council <citycouncil@newtonma.gov>

Subject: against granting zoning changes 11 St.Florence

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Why would Newton want to change the zoning of 11 Florence St. to allow a large commercial hospital complex to be built on the busiest non-light corner turn (Rt9 to Florence) in the city.

**From:** [laurence.alberts@gmail.com](mailto:laurence.alberts@gmail.com)  
**Cc:** "Yvonne Alberts"  
**Subject:** Local resident input regarding agenda item #358-22 (1314 Washington Street waivers)  
**Date:** Tuesday, July 19, 2022 8:16:26 PM

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To the Land Use Committee,

I'm writing to provide input to agenda item #358-22, specifically regarding the requested waivers regarding parking, from the perspective of a West Newton resident and to request that building plans be revised to incorporate a more reasonable number of parking spaces (e.g., at a minimum, the number of spaces determined by the A+B+C parking formula, and ideally, extra spaces that would accommodate for the current shortfall of spaces in the area). Additionally, construction plans should be required to specify how and where vehicles needed by construction site staff and vendors (e.g., concrete, steel, and other building materials) will be accommodated. Lastly, a traffic study should be conducted to determine the impact on traffic flow with further modifications to the design to be made if necessary in light of the potential traffic impact.

Following modifications to traffic signals along Washington St. made in the past year, there are now frequent backups heading Westbound from Chestnut Street through Elm Street, as well as northbound from Highland St. toward Washington Street. The proposed development will likely exacerbate these issues, and modifications to the signaling, flow and size of the proposed development may be in order and should be evaluated.

The more fundamental issue is the paucity of parking spaces proposed relative to the size of this mixed-use project. This area is not well-served by public transportation, and the MBTA's proposed reduction in bus service to this area will only make this issue even more critical. Unless there are plans for a new large-scale parking lot or garage for West Newton, the proposal simply does not make sense.

If there is any possibility to expand parking capacity by building additional basement levels, I would urge the developer to consider that. I would then ask the developer to work with the city to propose modifications to the design and existing traffic signaling and flow so as to improve and not worsen current traffic issues.

Lastly, I would ask the developer to consider staging construction projects in the area so as to mitigate if not entirely eliminate the negative impact that will result from vehicles associated with the construction project.

Thank you for your consideration.

**Larry Alberts**  
[laurence.alberts@gmail.com](mailto:laurence.alberts@gmail.com)  
(617) 682-2111



**From:** [Jennifer Breslouf](#)  
**To:** [Cat Kemmett](#)  
**Subject:** FW: Proposed 50-apartment development 1314 Washington St. in West Newton  
**Date:** Wednesday, July 20, 2022 8:37:21 AM

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Hi Cat – Just received this email also, Jenn

Jenn Breslouf  
Office of the City Council  
617-796-1218

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**From:** Cassidy Flynn <cflynn@newtonma.gov>  
**Sent:** Wednesday, July 20, 2022 8:34 AM  
**To:** Jennifer Breslouf <jbreslouf@newtonma.gov>  
**Subject:** FW: Proposed 50-apartment development 1314 Washington St. in West Newton

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**From:** Palepu, Krishna <[kpalepu@hbs.edu](mailto:kpalepu@hbs.edu)>  
**Sent:** Tuesday, July 19, 2022 9:37 PM  
**To:** City Council <[citycouncil@newtonma.gov](mailto:citycouncil@newtonma.gov)>  
**Subject:** Proposed 50-apartment development 1314 Washington St. in West Newton

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Dear Newton City Councilors**

**I am writing to oppose the special permit requested for the proposed 50-apartment development at 1314 Washington St. in West Newton.**

**It appears to be far beyond what the zoning allows in terms of density, lack of parking, and lack of open space. By putting so many units in a small lot, it will effectively off-load requirements for many city services onto the surrounding neighborhood and city taxpayers.**

**If developers want to develop that amount of density, they should be responsible for paying the city for the additional demand on city parking, sewer, utilities, schools and other public services.**

**The planning department should routinely assess the incremental cost of infrastructure and services and determine how much additional property taxes, if any, are required to offset those costs. Based on the planning department memo, it does not appear that that has been done.**

**Best regards,  
Krishna Palepu  
[170 Chestnut St, Newton, MA 02465](#)**



**From:** [Jennifer Breslouf](#)  
**To:** [Cat Kemmett](#)  
**Subject:** FW: Opposition to 1314 Washington St. special permit  
**Date:** Wednesday, July 20, 2022 8:36:58 AM

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Hi Cat – Just received this email, thanks, Jenn

Jenn Breslouf  
Office of the City Council  
617-796-1218

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**From:** Cassidy Flynn <cflynn@newtonma.gov>  
**Sent:** Wednesday, July 20, 2022 8:34 AM  
**To:** Jennifer Breslouf <jbreslouf@newtonma.gov>  
**Subject:** FW: Opposition to 1314 Washington St. special permit

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**From:** Laurie Palepu <lpalepu@gmail.com>  
**Sent:** Tuesday, July 19, 2022 9:29 PM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Opposition to 1314 Washington St. special permit

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**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

Dear City Councilors,

I am writing in opposition to granting the special permit for the 50-unit apartment complex at 1314 Washington St.

The proposed project vastly exceeds what is permitted under current zoning. If the developer wants something else, they should wait until the current village zoning reforms are complete and re-submit plans based on the regulations that are passed through the normal democratic process. I do not approve of anyone trying to end run this process.

Should the new zoning allow a development like the one that is proposed, I would support it. It looks very attractive. But the developer needs to go through the regular process like everyone else and not get special zoning changes just because they ask for it.

Thank you,  
Laurie Palepu  
170 Chestnut St, Newton, MA 02465

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**From:** John Neufeld <neufelds@gmail.com>  
**Sent:** Monday, July 18, 2022 11:31 AM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Rezoning of 11 Florence Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

Dear Newton City Council Members:

1. The building Sunrise is proposing for 11 Florence Street is simply too large for the land's lot size and location.
2. In a mass emergency situation (fire, gas leak, etc) evacuation and/or treatment of 120 partially disabled residents, could be problematic. While sheltering in place may be reasonable for many residents, additional personnel would still be needed to care for the residents. The traffic flow of emergency vehicles and personnel presents a problem. The proposed access to the rear of the property is a dead end two way street. Traffic flow on Florence is two lane and access to Route 9 is not ideal.
3. Blasting and excavation for an underground garage and other building construction can cause structural damage to the abutters. We live in Building 336 which is a Low-rise condominium of concrete and steel construction. While it may be at relatively low risk from construction damage, it is not impossible. A portion of the building was built on fill and may be at increased risk of damage. Cracks have been noted in the foundation. The cost of repairing our building (and other abutters) could be very high. Sunrise has a poor record for fully settling damage claims.
4. In the event the City Counsel chooses to approve the Zoning changes, a fully funded escrow account needs to be established before construction begins. The fund would be controlled by an independent arbitrator and would fully compensate residents for any damage. Residences need to be inspected pre-construction and monitored during and after completion.
5. We oppose the rezoning proposal.

Cheryl and John Neufeld

336 Boylston St. Apt. 305  
Newton Centre



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**From:** peter mebel <petermebel@yahoo.com>

**Sent:** Monday, July 18, 2022 11:28 AM

**To:** City Council <citycouncil@newtonma.gov>; Cassidy Flynn <cflynn@newtonma.gov>; John Oliver <joliver@newtonma.gov>; Susan Albright <salbright@newtonma.gov>; Tarik Lucas <tlucas@newtonma.gov>; Pamela Wright <pwright@newtonma.gov>; Leonard J. Gentile <lgentile@newtonma.gov>; Marc C. Laredo <mlaredo@newtonma.gov>; David Kalis <dkalis@newtonma.gov>; Holly Ryan <hryan@newtonma.gov>; Alison M. Leary <aleary@newtonma.gov>; Maria Scibelli Greenberg <msgreenberg@newtonma.gov>; Emily Norton <enorton@newtonma.gov>; Andrea W. Kelley <akelley@newtonma.gov>; Julia Malakie <jmalakie@newtonma.gov>; jkrintsman@newtonma.gov; Deborah J. Crossley <dcrossley@newtonma.gov>; Andreae Downs <adowns@newtonma.gov>; Bill Humphrey <bhumphrey@newtonma.gov>; Vicki Danberg <vdanberg@newtonma.gov>; Alicia Bowman <abowman@newtonma.gov>; Brenda Noel <bnoel@newtonma.gov>; Rebecca Walker Grossman <rwgrossman@newtonma.gov>; R. Lisle Baker <lbaker@newtonma.gov>; Richard Lipof <rlipof@newtonma.gov>

**Subject:** Vote NO on the rezoning of 11 Florence Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Dear City Councilors:**

**My name is Peter Mebel. I live at the Residences at the Chestnut Hill Condominium Association, unit 342A Boylston Street. I request that you vote NO on the proposed rezoning of 11 Florence Street from Multi-Residence 1 to Business 2, Petition 304-21. This parcel is being singled out for rezoning, which I understand is questionable from a legal standpoint. The obvious reason for the rezoning is to allow a much taller and more dense building area than would be allowed under current zoning. The proposal is for 4 stories and almost full lot coverage. It is too big and out of place with the surrounding area and community. In fact, it's so big that not only does Sunrise need a rezoning, but they also need numerous dimensional variances, which further serves to highlight how this project does not fit the site. I am not opposed to development of 11 Florence Street or elderly housing. I always expected that the lot would be developed, just that it would be developed consistent with current zoning and the density guidelines established by the City.**

**Why Sunrise? Just because they asked? I have done extensive research into the world of senior housing and I cannot find anyone who has one positive assessment of Sunrise. From the way they treat their residents and employees to the awful neighbors they are, I cannot understand why they haven't been banned from building another facility in Newton.**

**After what happened at the Washington Street facility, which is well-documented and some of you worked on the settlement, I'm appalled and outraged that they're possibly going to be rewarded with another project.**

**Why aren't you worried that they'll repeat the same atrocities they committed on Washington Street? What have you done to insure that won't happen?**

**They've already started off terribly. A last minute notice to The Residences notifying us of the Land Use meeting while wanting credit for meeting with The Towers, a distant neighbor that would not be affected by their construction and aftermath. Setting up a well-used bait and switch strategy they've used before regarding placement of dumpsters and transformers to appear they're making concessions.**

**Neighbors have pointed out several potential hazards of this project:**

- 1. Drastically changing the neighborhood with a dense overall large structure that is zoned as residential land.**
- 2. A highly questionable traffic study that claims their facility would generate fewer cars than Winston's flowers that never has more than a few cars in its parking lot at a time. Wegman's was refused a driveway on Florence Street due to traffic issues it would cause and Sunrise is asking for three!**
- 3. Building next to a gas line.**
- 4. A history of causing structural damage to neighbors' houses during construction such as the Sunrise facility on Washington Street in Newton.**
- 5. Creating a rat infestation that neighbors are still dealing with.**
- 6. Taking away ALL or most of the sunlight from abutters' homes while drastically reducing their value.**
- 7. During construction on the Washington Street, when neighbors pointed**

out to construction crews that they were breaking promises they had made around when they would work, they shrugged their shoulders, said they would pay the fines, and kept working. No fines were ever levied, promises never enforced.

Annoyances abound after construction, too. A loading dock operating 24/7 with trucks coming and going and lights flooding into our units, a dumpster that will bring odors and unwanted animals, a transformer in our backyard, and trucks making deliveries 24/7 on Florence Street which is already a dangerously hazardous corner with cars speeding off Route 9. There was just an accident there recently. Crossing the street is treacherous now.

With all these reservations and fears that we've presented, wouldn't you be vehemently opposed to this project if it was being proposed next to your home? What motives could you possibly have to support a project fraught with a history of outrageous disregard for the community in which it's being built?

I also do not understand how the City Council can even consider a Special Permit to construct this type of housing with dimensional requirements under a Business 2 zone, while the property is still zoned MR1. Shouldn't the property owner at least have to wait to see if the Property is re-zoned until a Special Permit is filed under the rules in that zone? Isn't that premature?

Thank you for your time and consideration. We would like to believe that you're representing the people who live in our neighborhood and looking out for our best interests. Isn't that why we voted for you?

**Peter Mebel**

**342A Boylston Street**

**Newton 02459**

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**From:** Cyrisse Jaffee <cjaffee102@gmail.com>  
**Sent:** Monday, July 18, 2022 1:30 PM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Petition to rezone 1314 Washington Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

Dear Councilors, I am writing today to voice my strong disapproval of the petition to rezone 1314 Washington Street and surrounding parcels. I have used the former Santander bank for many years (and the previous banks housed there). The 1920s building is an impressive building, inside and out, typical of the way banks used to be built in previous years: classical and imposing. I had always assumed it would be reused in some way eventually, but with its structure intact.

In addition to the loss of the building (even if it is used as an entrance way and/or restaurant), building a 5-story, 50-residence behind it will further erode West Newton square, which has undergone a very unpopular traffic redesign recently. Already congested at many times of the day, adding residential and commercial space (with rather limited parking) is surely a recipe for disaster.

Surely this desirable location can be better used without losing its character.

**Sincerely,  
Cyrise Jaffee  
Hallron Road**

--

*Cyrise Jaffee*

**To: Newton City Councilors (CC)**

**July 18, 2022**

**From: Ernie Glickman**

**Subject: Due diligence regarding Sunrise's request to rezone  
(Petitions #355-22 and #356-22 Land Use Committee 7/19/22)**

**I am Ernie Glickman a life time Newton resident who has been a close abutter for over 20 years to 11 Florence St.**

**WHY WOULD CITY COUNCILORS ALLOW A SECOND SUNRISE SENIOR LIVING FACILITY IN NEWTON BASED ON SUNRISE'S POOR PERFORMANCE?**

**At 431 Washington St: building is only 41% occupied and only 2 of 3 affordable beds are filled. Abutters had rats and foundation damage to five homes. Sunrise denied accountability and paid small % of damages only if NDA signed.**

**At 11 Florence St: Sunrise did not include any abutter owners in their initial survey. We sent you on Oct.27, 2021 "Abutters' Opposition to Rezone 11 Florence St" signed by 139 residents. Our 59 unit condo Board and Sunrise Committee met with Sunrise on Jan. 3 and proposed a smaller MR-3 senior living facility. Sunrise did not respond for 6 months and has shown they cannot be trusted.**

**Please do your due diligence on Sunrise and oppose the rezoning of 11 Florence St.**

**If the Land Use Committee votes to rezone 11 Florence St, it will force us to file an appeal and litigate.**

**MARCUS, ERRICO,  
EMMER & BROOKS, P.C.**

Attorneys At Law

**MEEB**

Edmund A. Allcock  
781.849.3637  
eallcock@meeb.com  
admitted in: MA, NH and RI

July 19, 2022

**SENT VIA EMAIL (citycouncil@newtonma.gov) and nkhan@newtonma.gov**

Richard A. Lipof, Chair  
Land Use Committee  
Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02549

**RE: Request to Rezone 11 Florence Street  
Petition to construct elderly housing with services at 11 Florence and 318 Boylston  
Street**

Dear Mr. Lipof and Members of the Land Use Committee:

Please be advised that this firm represents the Board of Trustees of the Residences at Chestnut Hill Condominium Trust (the "Condominium Trust"), which is the organization of unit owners of the Residences at Chestnut Hill Condominium (the "Condominium") which is a 58 unit residential condominium that directly abuts the proposed project (we are by and far the largest group of abutters, the entire rear border of the proposed project abuts the condominium). A public hearing is scheduled for July 19, 2022 to rezone the larger of two parcels of the Property from Multi Family 2 to Business 2 and for a Special Permit to allow for a use of Elderly Housing with services and with various waivers.

The Condominium Trust **OPPOSES** the proposed rezoning of 11 Florence Street and the issuance of a Special Permit (with waivers) and respectfully requests that the Land Use Committee deny the Applicant, Sunrise Development, Inc.'s request for rezoning and special permit (with waivers) for the following reasons.

**11 Florence Street Rezoning**

As the Committee is aware, the property was most recently used as a flower shop and garden center. The property contains two distinct parcels, 11 Florence Street on which the flower shop and garden center is located and 318 Boylston Street, which is a satellite parking lot for the flower shop. According to the proposed plans, Sunrise will keep 318 Boylston as a satellite parking lot, while the Elderly Housing will be located on 11 Florence Street. The two lots together are approximately 83,000 square feet, which is less than two acres. The proposed

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Land Use Committee, Newton City Council  
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project is comprised of 95 housing or dwelling units containing 120 beds (Sunrise contends in its materials that there really are no dwelling units, because the units do not contain kitchens as meals are served in a central dining area).

11 Florence Street is currently zoned MR1, which **prohibits** multi-family dwellings (including Elderly Housing with Services) on the Property. The Condominium Property is zoned MR2. The remainder of the community is primarily zoned MR1. Florence Street contains a number of three story multi-residential units and has developed a unique character in that regard.

However, Sunrise has chosen to seek a rezoning to Business 2 because it would allow for greater height and density of its project.

Zoning the project to Business 2 would enable Sunrise to construct a building that is 4 stories (48 feet in height) versus 3 stories (36 feet or 30 feet depending on roof pitch) if the Project were rezoned to MR2 (like some of the surrounding properties). Also, the grade of the property is higher than street level according to the submitted plans having a base elevation of 192 feet. Furthermore, the building is actually going to be 53 feet in height as the end caps on the proposed building are five feet in height taller than the roof line and that exceeds zoning even if the property is re-zoned. The total height with baseline elevation from street level will be 245 feet, making this project inconsistent with the surrounding community.

Also there is no maximum lot coverage in Business 2, whereas MR2 has a 30% maximum lot coverage. There are other favorable density calculations with a Business 2 use as opposed to a MR 1 or even an MR 2 use.

The proposed rezoning of 11 Florence is clearly calculated to allow Sunrise to build the biggest, tallest and most dense project on the site. The Condominium Trust respectfully submits that rezoning 11 Florence to allow Sunrise to subvert density and height requirements in manner that is inconsistent with the surrounding community would constitute illegal spot zoning.

The fact that the satellite parking lot is zoned business 2 is irrelevant, as that smaller parcel is located directly on Route 9 and when these properties were re-zoned it was likely the concept that the parcels would be separated for future development. There is no logical basis for the larger distinct parcel to become Business 2 because the smaller parcel bordering route 9 is zoned Business 2. Moreover, zoning districts are supposed to be carefully thought out by the City, and not zoned individually to fit each project and/or maximize the profits and density of a proponent developer.

The rezoning and redevelopment of 11 Florence Street as Business 2 is not only spot zoning but is inconsistent with the surrounding community and creates possible adverse downstream impacts. For example, the rezoning of the parcel does not mean that the elderly housing project is actually going to get built. The special permit could get denied or even withdrawn. The project could run into difficulty down the road and not get built. Yet the parcel would have been rezoned Business 2, which would open up pandora's box in terms of possible permitted uses,



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including retail, marijuana dispensary, office, storage facility, hotel, among numerous others. None of those uses would be consistent with the zoning in this area, which is primarily residential.<sup>1</sup> It is precisely why zoning is typically done pursuant to a comprehensive plan as opposed to a project by project basis as proposed here. Accordingly, and for those reasons, the Condominium Trust respectfully **OPPOSES** the re-zoning of 11 Florence to Business 2.

**The Special Permit**

**A. The Special Permit Is Premature Absent Re-zoning.**

We believe that the Special Permit Application should either be withdrawn or immediately denied, as it is premature. The Special Permit application seeks permission for the use of elderly housing with services, with specific reference to Section 4.4.1 of the City of Newton Zoning Ordinance, which section is the table of use for properties zoned BUSINESS. Furthermore, the application references Section 4.1.2.B.1 as the basis for the allowance of a four story structure. That section of the City of Newton Zoning Ordinance is the density and height limitations for properties that are zoned BUSINESS.

As you are aware, as noted above and as even noted on the Special Permit application and the Petition to Rezone the parcel, the parcel of land in question is currently zoned MR1. Accordingly, it follows that the Special Permit Application in question is premature, as it presumes and/or relies entirely upon the City Council’s passage of the accompanying proposed zoning amendment. I presume that you would agree that the focus of the Land Use Committee when reviewing Special Permit Applications is to consider the zoning in effect at the time the application is filed, in fact that is how it was noticed to the abutters and advertised to the public. Under current zoning the proposed use and building height are not allowed by special permit in a MR1 zone. Yet the Land Use Committee has opened public hearing on the same in conjunction with a proposed rezoning.

In MP Corp. v. Planning Bd. Of Leominster, 27 Mass. App. Ct. 812 (1989) the Appeals Court expressed the same logic when it held:

Under G.L. c. 40A § 5...the earlier 1985 zoning ordinance was in effect until the new ordinance was ordained.

If that were not enough, Newton’s own City Ordinance proscribes the legal status of its zoning ordinance and zoning map at Section 1.3.2 and 1.4. G.L. c. 40A § 5 provides the basis for change or amendment to zoning ordinances and how and when those changes or amendments become effective. Zoning changes become effective upon (in this case) on the date of a City Council vote approving the amendment by two-thirds of its members.

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<sup>1</sup> Arguably a rezoning to MR-2 would be more palpable, as it would still allow for elderly housing with services, but with stricter density and height controls.

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The zoning in effect at the time a special permit is applied for is crucial, as it serves the basis and baseline for notification and for deliberation at public hearing. See, G.L. c. 40A § 9 (“zoning ordinances shall provide for specific uses which shall only be permitted in specific districts upon the issuance of a special permit)(“each application for a special permit shall include the date and time of the filing certified by the city of town clerk”).

**B. The Special Permit Should Be Denied On The Merits.**

Even assuming the Special Permit is properly before the Land Use Committee, the Condominium Trust also Opposes the issuance of the Special Permit, which is a discretionary permit. As noted above, the combination of the Special Permit, the Re-zoning and the requested waivers (which really seem more akin to dimensional variances) demonstrate that Sunrise is looking to construct the tallest and most dense project possible.

The Condominium Trust respectfully submits that 11 Florence Street was re-zoned MR1 for a reason, as part of a comprehensive plan to promote residential development in this area. Florence Street is a flourishing triple decker community. The character of the area is primarily residential.

The Condominium Trust and its 58 units (and over 100 residents) are going to be severely impacted by the proposed leviathan of a project. The excessively tall building is going to cast shadows on the nearby condominium units, which is demonstrated by the shadow study that was submitted by Sunrise. The Condominium Trust disagrees that shadows cast during winter will dissipate by 10AM and believes the time to be closer to noon.

The exit for the Condominium property is adjacent to the proposed parking area for the project onto route 9, which the Condominium Trust submits will cause further congestion and possible danger for residents exiting the property due to the incoming traffic to the facility. The Condominium Trust does not concur with the traffic study submitted by Sunrise suggesting that this project is actually going to “decrease” traffic. At a minimum, the Condominium Trust suggests that the Council commission its own independent traffic study.

The Condominium disagrees with the parking calculations submitted by Sunrise. In its materials Sunrise coyly suggests that its project does not meet the definition of the term “residential units” (even though it has 95 units and 120 beds) and therefore does not need to meet parking guidelines, and can get away with just 45 parking spaces. Putting aside whether the elderly residents will have vehicles, that does not take into account employee parking as this facility is supposed to have services, including dining services. It is woefully inadequate, which further demonstrates that Sunrise is simply trying to shoehorn a large facility on a parcel of land that is too small. Even with such a small number of parking spaces, Sunrise is seeking waivers as to the size of the parking spaces and the location (within otherwise defined zoning setbacks) which setbacks are designed to protect abutters from development intrusion and interference. The Condominium is further concerned about the location of a loading dock (presumably for food, dining and other services to be provided at the facility) which directly abuts some of the

Richard A. Lipof, Chair  
Land Use Committee, Newton City Council  
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condominium units. The plans seems to show that the loading dock is within five feet of the condominium property line as is the transformer. The garbage disposal area appears to be within ten (10) feet. Also there is an inconsistency with the Sunrise materials, which speak of 84 foot backyard area, when they are asking for a setback of only 25 feet. This is all based on the plans and materials submitted, which appear inconsistent with the application. Many of the condominium units directly face the proposed project. The residents of the condominium presumed that one day they would be looking out single family homes, condominiums, townhouses or other residential uses with similar density and space requirements. These residents relied upon the zoning in place and trust in their councilors that it will remain in place. They are rightly concerned that this project will impact the value of their condominium units.

The Condominium also submits that the largesse and scope of the facility on such a tight parcel and in close proximity to the Condominium will be a nuisance and create noise and general disturbance to the condominium and its residents. Along these lines it is worth noting that Sunrise also seeks to waive perimeter screening requirements, presumably, because the project is so dense on the site that it will not have enough room for screening. Screening would be needed at a minimum for all of the reasons articulated above.

Bottom line, the project as proposed, is not compatible with and will not be harmonious with the surrounding community. This project is not appropriate for this site, which is zoned MR1. This Project will irrevocably change the nature of the surrounding community and have a negative impact on the use and value of the surrounding properties. Accordingly, the Condominium Trust respectfully requests that the Special Permit with waivers and/or variances and the rezoning of 11 Florence Street to accommodate the same be **denied**.

**C. The Application Requires Additional Zoning Relief, in the form of additional Special Permits or Variances.**

My clients have additional legal concerns with the Special Permit Application. First and foremost, even assuming *arguendo* that the Special Permit is properly before the committee, and we believe that it is *not yet ripe*, the maximum height limitation for a building in a Business 2 Zone is 48 feet and that is only allowable by issuance of a separate special permit. See, Newton Zoning Ordinance § 4.1.2(B)(3) and 4.1.3(G). The plans submitted with the Special Permit show maximum height of the proposed structure at some points as being 53 feet in height. That would seemingly require a variance from the Newton Zoning Board of Appeals. As no variance application has been filed and approved, that would require denial of the Special Permit Application as submitted, again, assuming that the Special Permit Application is even ripe for consideration, given that it was filed and being considered prior to the re-zoning of the parcel.

Additionally, the Special Permit Application seeks the following “exceptions” to parking density requirements as follows:

1. Exception to allow parking in the front yard set-back (which is otherwise prohibited);

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2. Exception to reduce required parking stall length;
3. Waiver of permitting parking screening requirements; and
4. Waiver of the one foot candle lighting requirements.

The Newton Zoning Ordinance provides a standard of basis for “exceptions” of the above parking density requirements. See, Section 5.1.13. While styled “exceptions”, the Zoning Ordinance says that actually a special permit may be granted to allow for said “exceptions, if it is determined that literal compliance 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. Accordingly, the above four (4) density “exceptions” sought by Sunrise are an additional four (4) special permit applications. Sunrise’s application has not addressed any of the standards set forth in Section 5.1.13 as to why these 4 parking density exceptions should be granted. As such they should be denied.

Furthermore, the Condominium Trust believes that Section 5.1.13 (and Section 5.2.13 governing sign exceptions) which provide for the issuance of special permits as a workaround to density and dimensional regulations are illegal and violative of the Massachusetts Zoning Act, M.G.L. c. 40A § 9 and 10. G.L. c. 40A § 9 governs special permits and § 10 governs variances, which typically apply to use or dimensional criteria.

Sections 5.1.13 and 5.2.13 of the zoning ordinance come close to adopting the variance standard for its so-called exceptions, which demonstrates knowledge by the City that what is calling “special permit exceptions” are really variances. Furthermore, the zoning ordinance deviates enough from the statutory language for the issuance of a variance so as to change and lessen the statutory standard for the issuance of what really is a variance. Finally, the use of the special permit as a mechanism to alter dimensional regulations for the above 4 identified parking variances is contrary to the Special Permit enabling authority relative to parking set forth as G.L. c. 40A § 9. To that end, G.L. c. 40A § 9 states:

Zoning ordinances or by-laws may also provide that special permits may be granted for reduced parking space to residential unit ratio requirements after a finding by the special permit granting authority that the public good would be served and that the area in which the development is located would not suffer a substantial adverse effect from such diminution in parking. See, G.L. c. 40A § 9 (7<sup>th</sup> par).

The so-called special permit exceptions in this case are not related to space to unit ratio requirements as allowable by G.L. c. 40A § 9. They relate to specific dimensional requirements. As noted above, the only statutory authority in the Massachusetts Zoning Act for certain dimensional requirement exceptions to be given by special permit are for space/unit to ratio requirements. As such the requested special permit exceptions (and the provisions of the City

Richard A. Lipof, Chair  
Land Use Committee, Newton City Council  
July 19, 2022  
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of Newton Zoning Ordinance under which they are being processed) are improper and should be denied (absent a variance from the Newton Zoning Board of Appeals).

The Condominium Trust, myself and many of the condominium residents intend to appear and voice our concerns during the July 19, 2022 public hearing.

Thank you for your time and consideration. Please contact me if you have any questions.

Very truly yours,

MARCUS, ERRICO, EMMER  
& BROOKS, P.C.

*Edmund A. Allcock*

Edmund A. Allcock

/EAA

cc: Residences at Chestnut Hill Condominium Trust

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**From:** Ellen Jacobs <ellenjacobs22@gmail.com>  
**Sent:** Monday, July 18, 2022 4:59 PM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Hearing re rezoning 11 Florence Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**To: Newton City Council**

**Last fall we presented a petition voicing objections to Sunrise building an overly large, commercial facility at the current site of Winston's Flowers on Florence Street We had 139 abutters signatures.**

**Now Sunrise/ Seltzers Garden City have submitted their petitions to the Newton Land Use Committee and the Planning and Development Board for rezoning so Sunrise can build the facility they want.**

Since last Fall, the building's shape has been modified but the scale is unchanged. We continue to oppose the rezoning proposal for the following reasons:

1. The building Sunrise is proposing is much too large for the land's lot size. The latest proposal is for a 5-story building towering about 65 feet.
2. It would shift the neighborhood more towards commercial than residential use. The Farm and Hampton Place resulted from the courts deciding that the south side of Florence St. should be residential. The Comprehensive Plan for Newton's zoning calls for the south side to remain residential and discourages commercial use.
3. Construction of such a large structure with blasting for an underground garage can cause serious structural damage to our units. We are also concerned about damage to the gas regulator which is just a few yards away, complete with a sign that says "do not dig". Sunrise built a similar facility on Washington St. in Newton and the neighbors are still dealing with everything from foundation issues to a major rodent problem. City councilors needed to intercede to secure some (pennies on the \$) compensatory payment from Sunrise. They have proven to be horrible neighbors to many, forcing those who did accept a settlement to sign strict non-disclosure agreements.

4. In January, we discussed with Sunrise our list of changes we felt were most important, namely reducing the building's scale - height and number of units - and damage payments. So far, Sunrise has only offered up a few relatively minor changes to their original proposal including increased height. At the last meeting, Sunrise didn't even recall the priorities we discussed with them at a meeting in January.

5. Taking the tiny lot on route 9 (currently houses 0-2 cars) and shoehorning many employees cars into it will cause disruption to routes 9 traffic during rush hours and could create a danger. The entrance/ exit from this tiny lot is directly next to and just a few feet away from the exit from our complex, The Residences, at 336-350 Boylston Street.

**IT IS VERY IMPORTANT WE KEEP OUR NEIGHBORHOOD A RESIDENTIALLY SCALED PLACE TO LIVE. THE ALTERNATIVE SUBJECTS US TO A FUTURE WITH SUNRISE - AN OVER-SIZED AND UNTRUSTWORTHY (based on experiences at Washington St. in Newton) NEIGHBOR.**

Thank you for your consideration of the above

Ellen Jacobs

Sent from my iPhone



Sent from my iPhone

-----Original Message-----

From: Faye Romm <fayeromm@icloud.com>

Sent: Monday, July 18, 2022 5:03 PM

To: citycouncil@newtonma.gov.

Subject: Sunrise proposal to rezone.

[DO NOT OPEN links/attachments unless you are sure the content is safe. ]

I am completely against the rezoning to commercial from residential on this property I live at 336 boylston street and have been a Newton resident for over60 years.



-----Original Message-----

From: Richard Price <rhprice@icloud.com>

Sent: Monday, July 18, 2022 8:33 PM

To: City Council <citycouncil@newtonma.gov>

Subject: against granting zoning changes 11 St.Florence

[DO NOT OPEN links/attachments unless you are sure the content is safe. ]

Why would Newton want to change the zoning of 11 Florence St. to allow a large commercial hospital complex to be built on the busiest non-light corner turn (Rt9 to Florence) in the city.

**From:** [laurence.alberts@gmail.com](mailto:laurence.alberts@gmail.com)  
**Cc:** "Yvonne Alberts"  
**Subject:** Local resident input regarding agenda item #358-22 (1314 Washington Street waivers)  
**Date:** Tuesday, July 19, 2022 8:16:26 PM

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**[DO NOT OPEN** links/attachments unless you are sure the content is safe. ]

To the Land Use Committee,

I'm writing to provide input to agenda item #358-22, specifically regarding the requested waivers regarding parking, from the perspective of a West Newton resident and to request that building plans be revised to incorporate a more reasonable number of parking spaces (e.g., at a minimum, the number of spaces determined by the A+B+C parking formula, and ideally, extra spaces that would accommodate for the current shortfall of spaces in the area). Additionally, construction plans should be required to specify how and where vehicles needed by construction site staff and vendors (e.g., concrete, steel, and other building materials) will be accommodated. Lastly, a traffic study should be conducted to determine the impact on traffic flow with further modifications to the design to be made if necessary in light of the potential traffic impact.

Following modifications to traffic signals along Washington St. made in the past year, there are now frequent backups heading Westbound from Chestnut Street through Elm Street, as well as northbound from Highland St. toward Washington Street. The proposed development will likely exacerbate these issues, and modifications to the signaling, flow and size of the proposed development may be in order and should be evaluated.

The more fundamental issue is the paucity of parking spaces proposed relative to the size of this mixed-use project. This area is not well-served by public transportation, and the MBTA's proposed reduction in bus service to this area will only make this issue even more critical. Unless there are plans for a new large-scale parking lot or garage for West Newton, the proposal simply does not make sense.

If there is any possibility to expand parking capacity by building additional basement levels, I would urge the developer to consider that. I would then ask the developer to work with the city to propose modifications to the design and existing traffic signaling and flow so as to improve and not worsen current traffic issues.

Lastly, I would ask the developer to consider staging construction projects in the area so as to mitigate if not entirely eliminate the negative impact that will result from vehicles associated with the construction project.

Thank you for your consideration.

**Larry Alberts**  
[laurence.alberts@gmail.com](mailto:laurence.alberts@gmail.com)  
(617) 682-2111



**From:** [Jennifer Breslouf](#)  
**To:** [Cat Kemmett](#)  
**Subject:** FW: Proposed 50-apartment development 1314 Washington St. in West Newton  
**Date:** Wednesday, July 20, 2022 8:37:21 AM

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Hi Cat – Just received this email also, Jenn

Jenn Breslouf  
Office of the City Council  
617-796-1218

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**From:** Cassidy Flynn <cflynn@newtonma.gov>  
**Sent:** Wednesday, July 20, 2022 8:34 AM  
**To:** Jennifer Breslouf <jbreslouf@newtonma.gov>  
**Subject:** FW: Proposed 50-apartment development 1314 Washington St. in West Newton

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**From:** Palepu, Krishna <[kpalepu@hbs.edu](mailto:kpalepu@hbs.edu)>  
**Sent:** Tuesday, July 19, 2022 9:37 PM  
**To:** City Council <[citycouncil@newtonma.gov](mailto:citycouncil@newtonma.gov)>  
**Subject:** Proposed 50-apartment development 1314 Washington St. in West Newton

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Dear Newton City Councilors**

**I am writing to oppose the special permit requested for the proposed 50-apartment development at 1314 Washington St. in West Newton.**

**It appears to be far beyond what the zoning allows in terms of density, lack of parking, and lack of open space. By putting so many units in a small lot, it will effectively off-load requirements for many city services onto the surrounding neighborhood and city taxpayers.**

**If developers want to develop that amount of density, they should be responsible for paying the city for the additional demand on city parking, sewer, utilities, schools and other public services.**

**The planning department should routinely assess the incremental cost of infrastructure and services and determine how much additional property taxes, if any, are required to offset those costs. Based on the planning department memo, it does not appear that that has been done.**

**Best regards,  
Krishna Palepu  
[170 Chestnut St, Newton, MA 02465](#)**



**From:** [Jennifer Breslouf](#)  
**To:** [Cat Kemmett](#)  
**Subject:** FW: Opposition to 1314 Washington St. special permit  
**Date:** Wednesday, July 20, 2022 8:36:58 AM

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Hi Cat – Just received this email, thanks, Jenn

Jenn Breslouf  
Office of the City Council  
617-796-1218

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**From:** Cassidy Flynn <cflynn@newtonma.gov>  
**Sent:** Wednesday, July 20, 2022 8:34 AM  
**To:** Jennifer Breslouf <jbreslouf@newtonma.gov>  
**Subject:** FW: Opposition to 1314 Washington St. special permit

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**From:** Laurie Palepu <lpalepu@gmail.com>  
**Sent:** Tuesday, July 19, 2022 9:29 PM  
**To:** City Council <citycouncil@newtonma.gov>  
**Subject:** Opposition to 1314 Washington St. special permit

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**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Dear City Councilors,**

**I am writing in opposition to granting the special permit for the 50-unit apartment complex at 1314 Washington St.**

**The proposed project vastly exceeds what is permitted under current zoning. If the developer wants something else, they should wait until the current village zoning reforms are complete and re-submit plans based on the regulations that are passed through the normal democratic process. I do not approve of anyone trying to end run this process.**

**Should the new zoning allow a development like the one that is proposed, I would support it. It looks very attractive. But the developer needs to go through the regular process like everyone else and not get special zoning changes just because they ask for it.**

**Thank you,  
Laurie Palepu  
170 Chestnut St, Newton, MA 02465**