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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 18, 2022
Land Use Action Date: December 27, 2022
City Council Action Date: January 2, 2023
90-Day Expiration Date: January 16, 2023

DATE: October 14, 2022

TO: City Council

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

SUBJECT: **Petition #448-22**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three-story structure with 36 feet in height; to allow an FAR of 1.48; to vertically extend a nonconforming front setback; to waive 4 parking stalls and to allow assigned parking at 1 Jackson Street, Ward 6, Newton, on land known as Section 65 Block 10 Lot 19, containing approximately 12,512 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.13, 5.1.3.E of Chapter 30 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.



1 Jackson Street

EXECUTIVE SUMMARY

The subject property consists of a 12,512 square foot lot in the Business 1 (BU-1) zone in Thompsonville. The property is improved with a two-level parking garage built in 1973 which provides parking for the abutting office building at 345 Boylston Street. The applicant proposes to keep the existing parking structure and construct a four-unit, multifamily dwelling over it. To construct the proposed multi-family dwelling, the petitioner requires the following special permits: allowing a three-story structure with 36 feet in height, allowing a floor area ratio of 1.48, a waiver of four parking stalls, a dimensional waiver to extend the nonconforming front setback, and allowing assigned parking stalls.

The Planning Department believes that 1 Jackson Street is an appropriate location for the proposed four-unit multifamily dwelling due to the mix of uses surrounding the site. The site is close to several neighborhood amenities, including a grocery store, drugstore and pharmacy, and restaurants. While Planning Staff believes the site is appropriate for this use, Planning Staff suggests considering how the design can be made less car-centric and activate the frontage on Jackson Street. Staff suggest the applicants present the proposed design to the Urban Design Commission (“UDC”) for review. Planning Staff also acknowledges the limitations of designing around the existing nonconforming garage structure but believe a meeting with the UDC may garner useful suggestions and feedback on how to activate the front of the building on Jackson Street.

SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family dwelling as designed. (§7.3.3. C.1.)
- The proposed multi-family dwelling as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- There will be 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 proposed floor area ratio of 1.48 in a three-story structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§4.1.2.B.3, §4.1.3 and §7.3.3)
- The vertical extension of the nonconforming front setback by adding two additional stories is not substantially more detrimental to the neighborhood than the existing nonconforming structure. (§7.8.2.C.2)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance (Ordinance) is impracticable due to the nature of the use, or the location, size, width,

depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13)

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Jackson Street in the BU-1 zone in Thompsonville. The buildings on this stretch of Jackson Street are mostly zoned BU1, with some parcels zoned Multi-Residence 1 to the north and Multi-Residence 2 to the south across Boylston Street. The site abuts the associated office building at 345 Boylston Street and single-family homes to the immediate north and west of the parcel, and an industrial building to the north. Overall, this area features a mix of commercial, single family, multifamily, and mixed uses. **(Attachments A and B)**. The site is close to Route 9 with several amenities further east in Chestnut Hill. The site is located within close proximity of several stops on the MBTA 60 bus, which terminates at the Chestnut Hill mall going west and Kenmore going east.

B. Site

The site consists of 12,512 square feet of land and is improved with a two-level parking garage built in 1973 with 24 parking stalls. While there are two levels of parking, the garage structure is one story plus a basement level.

The site is largely impervious with some grass and a tree to the west of the existing building. There is access to the lower-level parking garage from one wide curb cut on Jackson Street. The site features a shared easement along the eastern driveway with 345 Boylston Street that provides access to the upper-level garage parking. Additionally, there are ten surface parking stalls located behind the office building on that parcel accessed by the shared driveway.

The existing structure has a nonconforming front setback of 4.9 feet, where 10 feet is required. It meets all other setback requirements for the BU-1 district. The site slopes up significantly from the front to the rear of the parcel.

II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will change from a parking facility to a parking facility and four dwelling units, should the petition be approved.

B. Building and Site Design

The applicant proposes to maintain the existing parking structure and construct two additional floors on top to make space for a four-unit multifamily dwelling with 9,014 feet in new gross floor area. According to the exterior plans, the proposed structure will feature a flat roof, stucco exterior cladding on the residential floors, and metal louvers on the two levels of parking.

Proposed Site Plan:



The proposed addition would be constructed within the existing building footprint. The structure will contain three stories in total and measure 35.8 feet tall, where two stories and 24 feet is allowed by right in the BU-1 district. To exceed the by-right FAR and building height requires special permit relief. The new structure will vertically extend the nonconforming 4.9-foot front setback. To alter the front setback requires a special permit as it is nonconforming. All other proposed setbacks are conforming.

The structure will consist of four residential units on the upper two stories. Along the frontage of the site on the south elevation facing Jackson Street is the entrance for cars to the lower-level parking, with no pedestrian access. While the structure is considered a three-story structure due to the grade of the site, the building will present as four stories from Jackson Street. The architectural plans showed the south

(front) elevation as having a pedestrian door, however the petitioner stated that was a drawing error from an earlier iteration of the project. It is anticipated the petitioner will provide revised drawings.

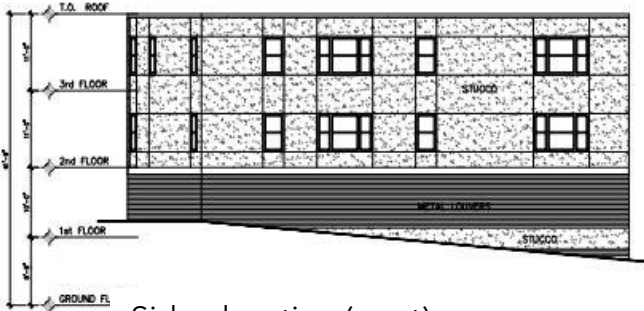
Access to the residences is available only at the rear of the building on the north side. The floorplans indicate a chairlift at the rear of the building that will be accessible to the first residential floor.

In the BU-1 district, FAR corresponds to the number of stories. The ordinance allows an FAR of 1.0 buildings in the BU-1 zone up to two stories, and up to two stories by-right. Up to three stories and an FAR of 1.50 is allowed by special permit. The proposed FAR of 1.48 for a three-story structure requires a special permit.

Proposed Elevations



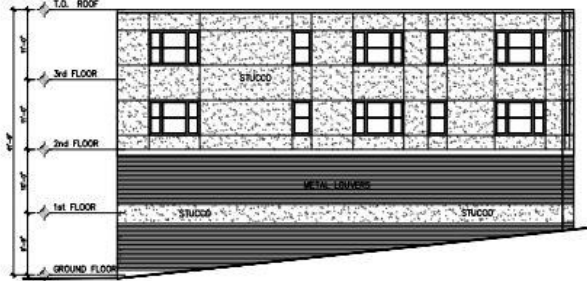
Front elevation (south)



Side elevation (west)



Rear elevation (north)



Side elevation (east)

The Planning Department is unconcerned with the proposed extension of the nonconforming front setback and increase in FAR. The addition will be located within the footprint of the existing building, and at a total of three stories, the building will not be out of scale with other structures in the area. The project is close to neighborhood amenities and a mix of different uses commercial and multi-family

uses, making this area appropriate for new housing. The Planning Department is also unconcerned with the requested parking waivers due to the availability of nearby transit options.

C. Parking and Circulation

The petitioner is not proposing any additional parking stalls. Four of the existing 24 parking stalls in the parking structure will be reserved for the proposed residential units. The applicant seeks a waiver to allow assigned parking. With a total of four parking stalls on site for four dwelling units, the applicant is seeking a waiver for the four additional stalls required by zoning. No bicycle parking is proposed, and none is required because the project includes fewer than 20 dwelling units.

The design proposes maintaining the existing curb cut on Jackson Street to provide access to the ground level parking stalls and leaving a 24.7-foot-wide opening in the back on the north side for access to the upper level of parking. Access to the lower level of parking is provided on Jackson Street via a curb cut, and the upper parking level is accessed on the north side of the building via a shared driveway with 345 Boylston Street on the east side of the parcel.

Building residents and visitors would enter on the north side with stairs or the chair lift providing access to the two levels of residences. No pedestrian access is available from Jackson Street. The chair lift next to the pedestrian entrance is proposed to provide access to the first level of residences but would not provide access to the top floor.

The Planning Department acknowledges that because the applicant is retaining the existing parking garage, this design inherently has a car-centric focus. However, staff suggest incorporating elements to make the design more welcoming and pedestrian oriented than what is currently proposed. This could include reconfiguring the design to enable resident access from the front of the building, plantings on the frontage on Jackson Street, etc. Staff suggest the applicant present the proposed plan to the Urban Design Commission for review on this matter.

III. TECHNICAL REVIEW

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

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

Zoning Relief Required		
Ordinance		Action Required
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.48	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to vertically extend a nonconforming front setback	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 4 parking stalls	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking	S.P. per §7.3.3

B. Historic Preservation Review

The project does not require historic preservation review.

C. Engineering Review

Engineering Review is not required at this time.

D. Fire Department Review

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

IV. PETITIONER'S RESPONSIBILITIES

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

ATTACHMENTS:

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








ATTACHMENT A

Zoning

1 Jackson Street

*City of Newton,
Massachusetts*

Zoning

-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Multi-Residence 4
-  Business 1
-  Business 2
-  Public Use

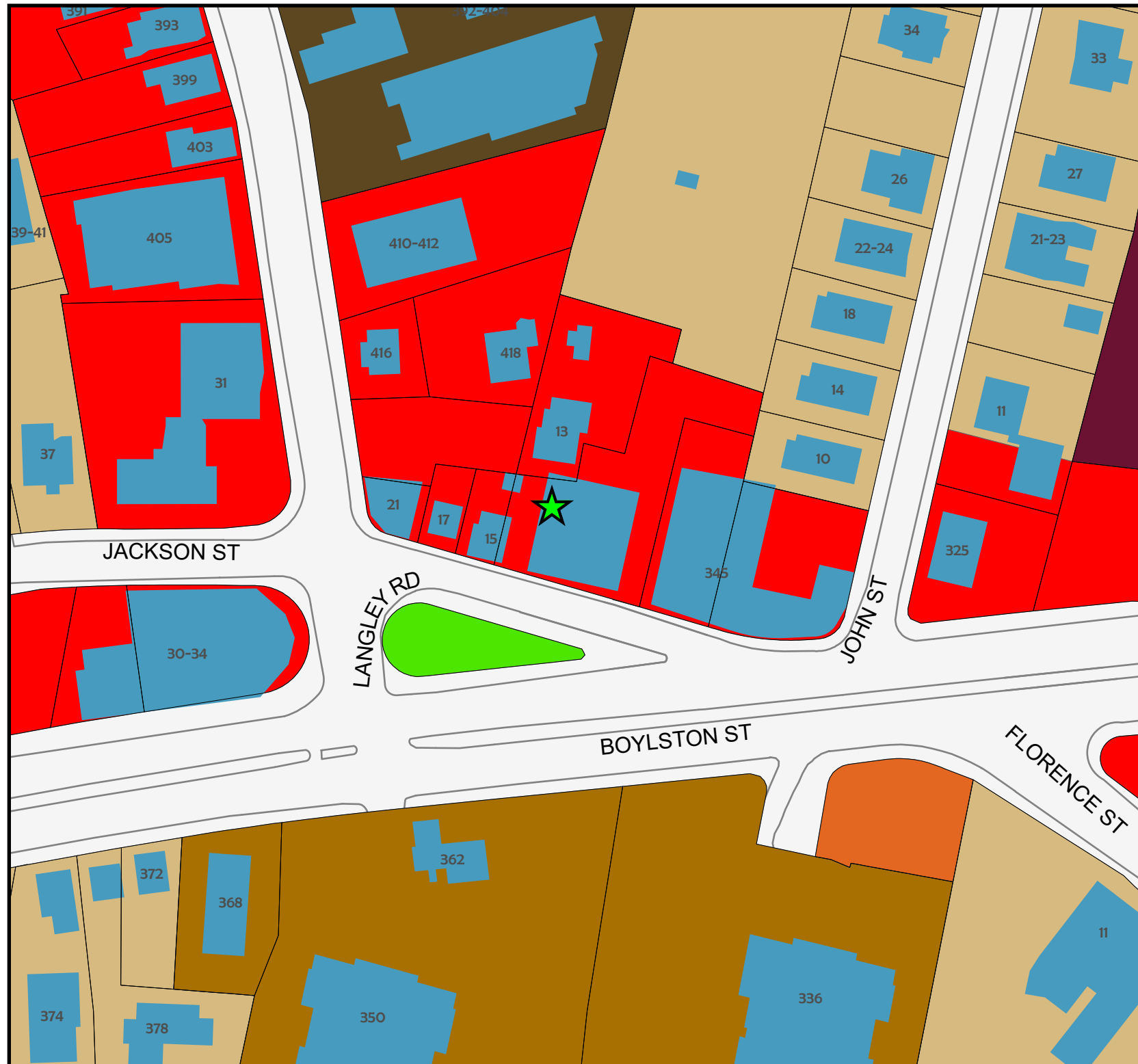


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100 125 Feet

Map Date: October 03, 2022



ATTACHMENT B

Land Use

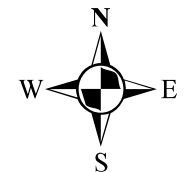
1 Jackson Street

*City of Newton,
Massachusetts*

Land Use

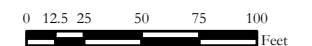
Land Use

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



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Director

ZONING REVIEW MEMORANDUM

Date: July 11, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: 345 Boylston LLC, Applicant
Franklin Schwarzer, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to extend a nonconforming parking structure to construct four dwelling units above

Applicant: 345 Boylston LLC

Site: 1 Jackson Street	SBL: 65010 0019
Zoning: BU1	Lot Area: 12,512 square feet
Current use: Parking facility	Proposed use: Parking facility and four dwelling units

BACKGROUND:

The subject site consists of a 12,512 square foot lot improved with a two-level parking garage built in 1973 to service the abutting office building at 345 Boylston Street. The petitioner proposes to construct four dwelling units atop and maintain the existing two level, 24-car parking facility.

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

- Zoning Review Application, prepared by Franklin J. Schwarzer, attorney, dated 4/28/2022
- Site Plan, signed and stamped by Richard A. Salvo, engineer, dated 6/3/2021, revised 4/11/2022
- Floor Plans and Elevations, signed and stamped Paul R. Lessard, architect, dated 6/16/2022

ADMINISTRATIVE DETERMINATIONS:

1. The existing two-level, 24-stall parking garage was built by right in 1972 to provide parking for the abutting office building at 345 Boylston Street. At the time, the office building required 30 parking stalls. As such, there are ten surface parking stalls located behind the office building on that parcel accessed by a shared driveway. The petitioner proposes to construct two stories with four residential units above the parking garage. The surface parking on the adjacent parcel will remain unchanged, and there will continue to be 34 parking stalls between the two parcels.
2. While there are two levels of parking, the garage structure is one story plus a basement level. The petitioner proposes to construct a four-unit, two-story multi-family dwelling on top of the existing garage structure, maintaining the footprint. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 33.8 feet in height.
3. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, up to 1.50 by special permit. The building is proposed construction results in an FAR of 1.48, requiring a special permit.
4. The structure has a nonconforming front setback of 4.9 feet where 10 feet is required. The proposed construction vertically extends the nonconforming front setback with the additional two stories, requiring a special permit per sections 4.1.3 and 7.8.2.C.
5. The petitioner proposes four residential units. Per section 5.1.4 two parking stalls per unit are required in a multi-family dwelling, resulting in a requirement of eight additional stalls. The petitioner does not propose any new parking but intends to provide four parking stalls within the existing garage for use by the dwelling units. The proposed four dwelling units require a waiver of four stalls per section 5.1.13.

Per the 1972 building permit, the office building is required to provide 30 parking stalls. With 34 parking stalls available between the garage and the surface parking, 30 stalls will continue to be available for use by the office building.

6. Per section 5.1.3.E, required parking stalls may not be assigned to specific persons or tenants so as to render them unavailable to the persons whom the facility are designed to serve. Four of the garage stalls will be made available for exclusive use by the tenants of the residential dwelling units, requiring a waiver from this provision per section 5.1.13

BU1 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	12,512 square feet	No change
Setbacks			
• Front	10 feet	4.9 feet	No change*
• Side	2.7 feet	16.2 feet	No change
• Side	16.9 feet	25.4 feet	No change
• Rear	0 feet	2.4 feet	No change
Building Height	24 feet (36 feet by SP)	10.5 feet	33.8 feet
Max Number of Stories	2 (3 by SP)	1	3*
Lot Area Per Unit	1,200 square feet	NA	3,128 square feet
FAR	1.00 (1.50 by SP)	.74	1.48*

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
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§5.1.4 §5.1.13	Request to waive 4 parking stalls	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking	S.P. per §7.3.3