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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: January 6, 2023
MEETING DATE: January 10, 2023
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planner
CC: Petitioner

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

PETITION #448-22

1 Jackson Street

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.

Background

The Land Use Committee (the "Committee") last held a public hearing on this petition on October 14, 2022. The Committee voted to hold the item based on the discussion at the hearing and a directive for the petitioner to apply for review from the Urban Design Commission (UDC).

Site and Building Design

The previous iteration of the project presented to the Committee in October proposed constructing four dwelling units above the existing parking facility. The petitioner has submitted revised site and architectural plans and now proposes to construct six dwelling units above the parking structure. These revised plans maintain much of the same dimensions including the same building footprint, proposed setbacks, building height of 33.8 feet, and FAR of 1.48.

Because the revised plan adds two new residential units without altering these other dimensions, the resulting units are smaller overall. With this new configuration, the lot area per unit would be reduced from 3,128 square feet to 2,085 square feet. A minimum lot area per unit of 1,200 square feet is required in the BU-1 district, so this reduction does not require relief. With this new six-unit design, the petitioner has increased the requested parking relief from a waiver for four parking stalls to a waiver for eight parking stalls. The Planning Department has provided a revised zoning review memo reflecting this change in requested relief (**ATTACHMENT A**).

In the revised plan the petitioner proposes to remove some of the concrete paving on either side of the garage entrance on Jackson Street and install a total of six arborvitae in two mulch beds. The petitioner also proposes to remove and replace the existing stairs at the southwest corner of the site which would lead to a new stone path providing access to the building via a door connecting to the main entrance vestibule at the back of the building. This pathway as proposed would not be ADA accessible.

At their regular meeting on November 9, 2022, the UDC reviewed the revised project and raised several concerns about the design of the building (**ATTACHMENT B**). Members noted that the window spacing is irregular on the revised elevations, and suggested design alternatives for a more balanced window configuration. They requested more detailed drawings of the façade and for details about wayfinding and pedestrian safety. Members echoed feedback shared from their previous review of the four-unit plan that having the main entrance to the residence be shared at the back of the building was counterintuitive, confusing, and potentially dangerous to pedestrians.

Access and Circulation

Planning staff have raised the following concerns related to accessibility and circulation on the site with the petitioner, which the revised plans do not substantially address.

Elevator access

The petitioner proposes to construct a limited use limited application elevator (LULA), which is a hybrid that combines features of a traditional commercial elevator and a wheelchair lift. The site plan indicates the LULA will serve from the upper level of parking up through to the top floor of the residences but will not provide access to the lower level of parking. This is likely in part because LULAs are limited to about 25 feet of vertical travel. In reviewing this plan, the City's ADA Coordinator Jini Fairley noted that LULAs have significant limitations in comparison to commercial elevators that should be taken into consideration. LULAs are roughly half the size of traditional elevators with a car size of roughly 18 square feet. This restriction limits the capacity to only one or two people at a time. Ms. Fairley raised a concern that the LULA would be too small to accommodate a stretcher in case of an emergency.

Parking

The petitioner proposes to designate the lower-level garage parking and most of the upper level of garage parking as dedicated to the office building at 345 Boylston Street. Four parking spaces on the

upper level of parking would be dedicated for the exclusive use of the residents of the building. The site plan shows two accessible stalls in the whole parking facility, both on the lower level of the garage. This means that if someone traveling to the residences above the parking facility were to park in one of the accessible stalls on site, they would not be able to access the LULA from where they parked. They would need to leave the lower level of parking, go up the sidewalk along the east of the site which has a fairly steep grade, and all the way to the back of the building through the shared garage entrance at the rear. The proposed configuration creates challenges for those who may need accommodation in accessing the site.

Planning staff acknowledge that the petitioner is not legally required to provide accessible parking or elevator access on this site. The petitioner's decision in overall design proposal to add units atop a parking garage and retain the parking facility in its current configuration does constrain design and accessibility options. However, Planning recommends the petitioner consider design alternatives more responsive to accessibility concerns that have been raised. Planning suggests the petitioner be mindful in not creating situations that exclude or create significant hardships for those with mobility issues in accessing and navigating the site.

Pedestrian access

UDC members raised concerns about the pedestrian experience on the site as well. The front entrance facing onto Jackson Street will be accessible only to vehicular traffic, so pedestrians will mainly be using the main entrance at the rear of the building. This means that pedestrians and bicyclists will be entering the garage through the same means of access and egress as vehicles on the upper level of parking.

Planning Analysis

This is a unique project design in terms of the goals the City has committed to. It is located in an area with access the transit options and amenities that lends itself to additional density. However, the overall design of adding units atop an existing parking garage that is designated to the nearby office use creates challenges in providing equal access to all demographics. After conferring with the City's ADA coordinator, Planning Staff is concerned with the challenges someone with disabilities or mobility issues may have in navigating this site in its current proposal. The project's LULA elevator to service the proposed residential units presents limitations as well as having the accessible parking on the lower level of the garage, which is inaccessible to the LULA elevator. Additionally pedestrian access is limited to the rear of the building, which is located at a significant grade change as the site slopes upwards from the front to the rear of the site.

ATTACHMENTS:

Attachment A: Revised Zoning Review Memorandum
Attachment B: Urban Design Commission memo



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: October 26, 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 six 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 six 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, revised 10/22/2022

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 six-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 six residential units. Per section 5.1.4 two parking stalls per unit are required in a multi-family dwelling, resulting in a requirement of 12 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 six dwelling units require a waiver of eight 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	2,085 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
§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 8 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



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Urban Design Commission

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Barney Heath
Director

DATE: December 14, 2022
TO: Katie Whewell, Chief Planner
FROM: Urban Design Commission
RE: 1 Jackson Street Design Review
CC: Barney Heath, Director of Planning and Community Development
Jennifer Caira, Deputy Director
Cat Kemmett, Senior Planner
Land Use Committee of the City Council
Petitioner

Section 22-80 of the Newton City Ordinances authorizes the Urban Design Commission to act in an advisory capacity on matters of urban design and beautification. At their regular meeting on November 9, 2022, the Newton Urban Design Commission (UDC) reviewed the proposed project at 1 Jackson Street for design. The applicant had initially submitted drawings with 4 units and presented revised drawings with 6 units. The Urban Design Commission had the following comments and recommendations:

Site Plan, Circulation and Connectivity

- The UDC asked if four parking spaces will be enough for six units? The applicant responded that initially they had four spaces for 4 units but on the request of the Committee, the number of units have increased from 4 to 6 so they will be seeking a parking waiver based on the location (close to Route 9 and access to transit) and these will be micro units, so the higher parking waiver would be justified.
- The UDC asked how will a visitor coming by transit find an entrance into this building, where is the front door? The applicant responded that there's access along the driveway side of the building towards the back and then the main entrance is in the back. The UDC commented that it's still not clear where the front door is. The applicant responded that it is inside the parking garage. The applicant also commented that a resident will need to let the visitor know that the entrance is at the back. The UDC questioned if it is legal to enter this building from the back and have an elevator that is accessed from the garage opening. The applicant commented that at first, a chairlift was proposed which would only go to the second floor but then the Committee requested for an elevator so third floor was also accessible. So, the applicant is proposing an elevator shaft to get to

the top floor instead of the chairlift. The UDC commented that it is a small elevator with limited use and access.

- The UDC asked what happens on the front side of the building? The applicant responded that the only access in the front is to the lower level of the parking garage and that is because of the site and the topography constraints.
- The UDC asked where will the mail be delivered? The applicant responded that it will be delivered in the vestibule area in the back. The UDC commented that the vestibule needs to be designed, there is also not enough landing space to be able to move furniture.
- The UDC asked if there is a place for an intercom that is clear of cars because someone might be waiting in the pedestrian area, trying to press the intercom button and staying away from the cars. The applicant responded that there is going to be a white and yellow striped area in front of the door where the cars can't go and it will be recessed in four feet, so someone would come in and press the intercom to get buzzed in from that recessed area. The UDC recommended to have a second door so a visitor can walk into the vestibule and then press the intercom button so there is no car exhaust slipping into the stairwell and the mail room could also be there. The applicant responded that they could do that so one door is unlocked, and the other door is locked.
- The UDC asked if the entrance can be moved to another location in the building. The applicant responded that they have looked at that and it wasn't possible because of the way the existing garage is built and constructed due to structural issues. The applicant also commented that they are looking at possibly putting a walkway on the left of the building. There are currently some steps and some old trees there, the applicant will redo those steps and landscape it in the future so there is a walkway from Jackson Street to the back on the left side as well. There is very little space in the back corner so it won't be ADA accessible, but it will be another way to get to the back which is not along the driveway.
- The UDC asked if it was possible to move the entrance to the front right side of the building. The applicant responded that it's not possible because of structural reasons and because of the unique zoning situation they must maintain the existing garage with all the spaces. It will be a much bigger zoning request and process.
- The UDC commented they appreciate the addition of housing but this whole project seems backward, to walk up a driveway to go to a residential building. There is no site plan that shows dimensions of the safe path for pedestrians on the driveway side. How will the pedestrians be protected? UDC doesn't find it acceptable that additional process is the reason for this to be not what it could be.
- The UDC asked if the pedestrian entrance could be moved to the left back corner of the building. The applicant responded that they have looked at it but due to grade change, it won't be ADA accessible. There is not enough space to do a ramp and stairs in that area. The UDC commented that looking at the site plan, it appears there is about 15-16 feet between the edge of the building and the property line, there may be enough space to do something to get into the building and have a lobby and a stairwell, so the residents are entering from the side rather than the back. The applicant responded that the code requires the main entrance to be ADA accessible and due to grade issues, there's not enough space to put a ramp on the left of the building.

Building Massing, Height, and Architecture

- The UDC commented that the early elevations are significantly preferable to the new elevations. The applicant responded that it's driven by the desire of the committee to have a variety of apartments and if they had equal apartments on second and third floor, then they would have equal windows, and everything will feel more classically organized.
- The UDC asked why is the window spacing different in the revised elevation? The applicant responded that there are more units now (increased from 4 to 6 units), the window design has changed because in the original design, the configuration of apartments was the same on the second and third floor but with the request of more apartments, there are two units on the third floor and four units on the second floor, so they tried to organize it in a way that the windows were aligned but there are more windows on the second floor with the revised design.
- The UDC commented that the proposed proportions of the windows are a little clunky with each panel being 3 ½ foot each for 7-foot-wide windows. The UDC recommended to make the windows taller and have a three-part window, with encasement on two ends and a fixed panel in the middle. It will help to break up the scale of the windows. It will also have a more residential scale to it.
- The UDC commented that the windows on the left are not equally spaced compared to the windows on the right. The applicant responded that there are two different apartment configurations on the left and the right. The UDC commented that looking at the floor plan, it appears that the windows on the left could move more to the left, it looks like there is some flexibility to move the windows.
- The owner commented that he is happy to make the changes that the Commission recommends, and he would prefer taller and narrower windows as well. The windows are supposed to be casement windows and not sliders and they can make them taller if it warms up the building.

The UDC commented that the applicant will need a special permit for this project which will require detailed drawings. Currently, there are a lot of details missing from the drawings before they can be approved. UDC would like to take another look at this project. There's a lot of work to be done here for example: window details, access to the building, pedestrian access, letting people know how you get to the main door that can only be put in the back corner. How will people find that door? How do they know who's supposed to go there? How do they get there safely? How do they feel like they can get into the apartment building without getting hit by a car that's coming to the office, garage? There are a lot of questions that need to be answered. The applicant responded that they would work on addressing these issues.