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James Freas
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PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 12, 2016
Land Use Action Date: March 29, 2016
Board of Aldermen Action Date: April 4, 2016
90-Day Expiration Date: April 12, 2016

DATE: January 8, 2016

TO: City Council

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning

SUBJECT: **Petition #480-14(4)**, STEPHEN VONA petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to change one nonconforming use to another by restoring and expanding an existing structure known as the Turtle Lane Playhouse with office space above, to provide a mixed-use building with an addition containing 4 dwelling units at street level and above and a second building containing a 16-unit multi-family dwelling with a below grade parking garage for 27 cars at 283 MELROSE STREET, Ward 4, Auburndale, on land known as SBL 41, 14, 10 containing approximately 43,783 sf of land currently zoned MULTI-RESIDENCE 1 *or in the alternative in a proposed MIXED USE 4 DISTRICT*. Ref: Sec. 7.3, 7.4, 7.8.2.C, 4.4.1, 4.2.2.B.1, 4.2.5.A.1, 4.2.5.A.6.b, 5.4.2, 5.1.4, 5.1.13, 5.1.4.C, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Public Hearing/Working Session.



283 Melrose Street

EXECUTIVE SUMMARY

The property at 283 Melrose Street consists of a 43,783 square foot corner lot in a Multi-Residence 1 zoning district (MR1), improved with a currently vacant 2½ -story building and a parking lot. The site was formerly occupied by the Turtle Lane Playhouse, which operated as a theatre company with office space above for more than 30 years before closing in 2013. The petitioner is proposing to rehabilitate the theatre space, to construct a 2½-story addition to the existing building to be used for four residential units, and to construct a new three-story 16-unit residential building with 27 underground parking stalls. To develop the site as proposed, the petitioner is proposing to either change one nonconforming use to another, or in the alternative, to rezone the site from MR1 to Mixed Use 4 (MU4), and is seeking special permit for relief from a number of requirements in the Newton Zoning Ordinance (NZO) related to the proposed use and site plan, as detailed in the Zoning Review Memorandums. The Chief Zoning Code Official has reviewed the proposed project under both the MR1 and MU4 zones in separate memos in order to determine the relief necessary for each scenario (**Attachments A and B**). This project was originally filed in December of 2014 with a greater number of units and included a restaurant use. The project has been revised in order to decrease the proposed intensity of the uses on the surrounding neighborhood.

While there are several key issues that the petitioner must address, the Planning Department believes that there are benefits to this project which advance certain goals of the *Newton Comprehensive Plan*, adopted in 2007 by the Board of Alderman, including the restoration of the Turtle Lane Playhouse, which is a unique and valuable cultural asset to the City, and the diversification of the City's housing stock by providing smaller residential units. In addition, the site is an appropriate location for a mixed use development because of its transitional location between the commercial center of Auburndale's village center and the surrounding neighborhood, and because of its proximity to basic amenities and public transportation, all of which reflect principles of smart growth.

The petitioner met with the many of the surrounding neighbors on January 5th 2016, at which meeting the neighborhood expressed a preference to maintain the existing MR1 zoning designation, and to develop a strong set of operational conditions attached to the Board Order should the Board choose to approve this project. Now that the project has been scaled back and the restaurant use has been removed, the Planning Department concurs that the existing MR1 zoning allows for the currently proposed mix of uses and offers the neighborhood certainty in that any changes proposed to the site or operations on-site in the future would require an amendment to the special permit. The Planning Department encourages the petitioner to withdraw their request to rezone the site to MU4.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed extension of a nonconforming use will not be substantially more detrimental than the existing nonconforming use to the neighborhood. (§7.8.2.C.2.)
- The specific site is an appropriate location for the proposed theatre, office, and multi-family uses. (§7.3.3.C.1.)
- The proposed project as developed and operated will not adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3.)
- Access to the site over streets is appropriate for the types and number of vehicles involved. (§7.3.3.C.4.)
- The site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy. (§7.3.3.C.5.)
- Literal compliance with the parking requirements is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.4. and 5.1.13.)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located at the corner of Melrose Street and Ash Street, and is within a two-minute walk of Auburndale's village center. The site is located in a mixed use neighborhood, with commercial uses to the east on Auburn Street, Commonwealth Avenue, and Lexington Street, and residential and nonprofit uses to the west and north (**Attachment C**). The site is surrounded by a variety of zoning districts that include Single Residence 3, Multi-Residence 1, 2, and 3, Business 1, and Public Use. The site itself is zoned as Multi-Residence 1 (**Attachment D**).

The site is located within walking distance of Auburndale's commuter rail station and several bus routes that access other parts of the community and downtown Boston. The site is also proximate to the Massachusetts Turnpike and Interstate 95. The site is located in a smart growth/transit-oriented neighborhood based on its proximity to multiple transportation options and basic amenities.

B. Site

The site consists of a 43,783 square foot corner lot, improved with a 2½-story

structure constructed circa 1850 and a parking lot. Over time, portions of the existing structure have been altered from its original form. The structure was occupied by a theatre company, known as the Turtle Lane Playhouse, since 1978.

The site is currently accessed by vehicles from a two-way driveway on Melrose Street. The site is relatively flat with modest amounts of vegetation and fencing along portions of the property lines. There are no sidewalks along the frontage on Melrose Street.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is proposing to restore the existing theatre structure and to continue its use as a theatre with a limited amount of office space above; to construct an addition to the existing building to be used for four residential units; and to construct a new multi-family building with 16 residential units. The petitioner is also proposing to maintain the existing office space above the theatre, which is approximately 1,360 square feet.

The proposed project requires a number of special permit reliefs for the proposed uses and site plan. In terms of the proposed uses, the petitioner is seeking relief to allow for the continuation of the nonconforming theater use, to expand the use and structure with four residential units, and for the creation of three-story multi-family structure on the same lot. Additional relief includes setback relief for the proposed multi-family building, for a retaining wall in excess of four feet in the setback (leading into the below-grade garage), and for a reduction in the number of parking stalls per unit from two stalls to 1¼ stalls per unit. The Planning Department believes this relief is appropriate given the site's unique location as a corner lot on the edge of a village center. The inclusion of residential units allows a buffer and transition between the theater use and the residential neighborhood. Furthermore, the inclusion of residential uses on the same site as the theatre use will help ensure that the theatre use is a good neighbor to the surrounding residential neighborhood. The multi-family structure appears appropriately setback from adjacent lots and structures.

The multi-family building will consist of six one-bedroom units and 10 two-bedroom units. The proposed units will be modestly sized, as illustrated in the table below.

	One-Bedroom	Two-Bedroom
Quantity	6	10
Size Range	658-862 s.f.	982-1,169 s.f

The residential units in the mixed-use building range in size from 985-1,539 square feet.

The proposed bedroom mix will advance a goal of the *Newton Comprehensive Plan* (the “*Comprehensive Plan*”) to diversify the City’s housing stock, as most new residential projects create larger units with at least three bedrooms.

Overall, the Planning Department believes that this project presents a unique opportunity to provide an infill development proximate to public transportation and amenities, while also preserving a valued cultural use that has been in operation for more than 30 years, and would be financially challenging to operate in most locations. The Planning Department has suggested that the ownership structure of the multi-family building may make more sense as a rental building given the competing uses on the site, and that the revenue stream from a rental building could benefit the theatre use over the long term. Nevertheless, the multi-family building is proposed as condominiums which will help finance the initial renovation of the theatre, and the residential units in the mixed-use building will be rentals. It is expected that an overall trust or condominium will govern the site.

B. Building and Site Design

The petitioner is proposing to restore the existing theatre both inside and out including architectural features that enhance and recreate historic aspects of the building, and to construct an addition to the existing building that will accommodate four proposed residential units, bringing the building closer to both Melrose and Ash Streets. The proposed renderings and elevations illustrate the way in which the facades of the theatre building will transition from the historic structure to the more modern and partially brick addition, which picks up elements of the architectural style of other brick buildings along Auburn Street. The addition then transitions back to the more traditional architecture on Melrose Street to be sympathetic towards the proposed residential building. The site plan also shows a trellised canopy attached to the building at the corner of Ash Street and Melrose Street. Overall, the Planning Department believes that the proposed theatre/commercial building successfully transitions between its historic and modern features and reflects the context of the surrounding buildings with the exception of the clearstory connector. The Planning Department recommends the architect consider reducing the height of this clearstory or remove it entirely.

The petitioner is also proposing to construct a separate three-story multi-family building along the northern property line with a 27-stall underground parking facility. The parking facility will be accessed from a new driveway off of Ash Street.

The building will be setback from the front property line (Melrose Street) by approximately 23 feet, the side property by 20 feet and the rear property line by 45 feet. The building height for most of building will be 33 feet, which is similar to the height of the theatre/commercial building and lower than the peak of the immediately adjacent residential neighbor to the north. In order to break up the mass of what will be a large building, the petitioner has incorporated steep gable roofs, articulated the building façade, and stepped down the roof height at the rear of the building. The elevations and renderings also appear to include some modest architectural details and should not detract from the original property on the site.

In terms of the site plan, the petitioner is proposing to create two new driveways off of Ash Street, including a one-way driveway (at the theatre entrance) and a two-way driveway (exit) leading towards the proposed new multi-family structure. Access on Melrose Street is proposed via a one-way exit. The site plan indicates seven parking stalls in front of the theatre, 17 parking stalls between the buildings, and 27 parking stalls in the multi-family building's garage. The vehicle circulation on the site will function such that all cars enter the site from Ash Street, and either park in front of the theatre; exit back onto Ash Street; continue around the theatre building to enter the residential building's underground parking garage; or, continue around the theatre building and either park in the surface lot between the buildings or exit onto Melrose Street. The proposed site plan also shows pedestrian walkways along most portions of the building; a new sidewalk on Melrose Street; and new landscaping along the frontage of the property, along the north side of the residential building, and along portions of the west side property line.

Although the Planning Department typically recommends plantings instead of fencing, the immediate abutters to the north have expressed an interest in a solid fence between the two properties. The petitioner should work with immediate abutters to resolve any fencing and landscaping concerns and submit a final landscape plan prior to being scheduled for any additional public hearings/working sessions.

C. Inclusionary Housing

The petitioner indicated that they will provide affordable housing units in order to meet the provisions under the City's Inclusionary Zoning, which requires that no fewer than 15% of the number of dwelling units are designated as affordable (three of the 20 units). The petitioner will work with city staff and the Newton Housing Partnership to ensure that the proposed units meet all the provisions established in the zoning ordinance.

D. Traffic and Parking

The petitioner submitted a Traffic Impact and Access Study (TIAS) in the original

filing that analyzed vehicle trips generated by the project, the impact on the Levels of Service (LOS) at various intersections, and sight lines. It should be noted that this study includes the originally proposed restaurant use which is no longer a part of this project.

The Planning Department engaged a peer reviewer to analyze the assumptions and methodologies used in the TIAS, and to provide information on the parking demand for similar mixed-use projects in the Boston metro area. Overall it does not appear that this project will impact the level of service at the surrounding intersections or result in a safety hazard. The planned modifications to the intersection of Commonwealth Avenue and Lexington Street for road alignment and signalization will also help to improve existing conditions.

The theatre use has a parking requirement under the NZO of 70 stalls, which is grandfathered and does not require any further waivers. It is expected that theatre patrons will park in the Auburndale Commuter Parking Lot, in existing surrounding parking lots, and in the surrounding neighborhood which appears to be able to support the proposed number of vehicles during most times. The Planning Department recommends the petitioner develop a detailed parking management plan and include information as well as maps and directions to preferred parking area on their website to help patrons locate parking as easily as possible and with minimal disruption to the neighborhood.

The Planning Department believes that the 27 parking stalls provided for the 20 residential units is reasonable, as most of the residential units are modestly sized, the site is proximate to public transportation, and residents who need additional parking will choose to look elsewhere for housing.

The neighborhood has expressed concerns about parking when larger theatre productions will conflict with the hours of the nearby Korean Church which uses a significant amount of neighborhood parking during service hours. Neighbors are also concerned about the amount of activity that will occur when theater productions or events conclude in the late evening hours. The petitioner is in the process of agreeing to a set of conditions that should help to alleviate many of the neighbors' concerns.

It should be noted that the petitioner is providing bicycle parking facilities on the site in front of the theatre building, and should be encouraged to create some additional covered bicycle storage in the multi-family garage or on the ground level of this building.

E. Landscape Screening

The petitioner submitted a proposed list of planting materials but it is not tied to a landscape plan. Prior to being scheduled for a continued public hearing or working session the petitioner should work with the adjacent neighbors and submit a complete tree removal and planting plan.

F. Signage

The petitioner did not submit a signage plan, but has indicated that they will comply with the requirements of the NZO.

G. Lighting

The petitioner submitted a lighting plan indicating that lighting from the site will not extend onto adjacent residential properties. The petitioner should submit full specifications of the proposed lighting fixtures, to ensure the proposed fixtures are sympathetic to the context of the surrounding neighborhood prior to being scheduled for further public hearings/working sessions.

H. Newton Comprehensive Plan

The proposed project meets several of the goals established in the *Comprehensive Plan*, including creating a diverse housing stock, adding affordable housing units, and encouraging a mix of uses near the City's transit nodes and village centers. These goals are summarized in following statements from Chapter 3:

- *"We need to encourage retention of existing housing and development of new housing that supports village centers, that is focused on public transportation, that increases the City's affordable housing stock, or that further enhances the existing character and diversity of housing types"*¹
- *"Encourage mixed uses in business area and village commercial centers, particularly where public transportation is available."*²
- *"Development considerations should also give weight to the classic "smart growth" principles of guiding growth to where it is best served by public transit, where it is closest to businesses..."*³

The proposed project also provides for the restoration the Turtle Lane Playhouse, which was a use unique to the City and more specifically to Auburndale. Chapter 9 of the *Comprehensive Plan* addresses the importance of the City's historic structures and places, noting that *"For achieving many of Newton's long-term*

¹ *Newton Comprehensive Plan*, 2007. Page 3-22

² *Newton Comprehensive Plan*, 2007. Page 3-28

³ *Newton Comprehensive Plan*, 2007. Page 3-33

*goals, the best thing to do with the City's history will sometimes be to learn from and improve on it, or even restore what we have lost, rather than simply preserving what we still have."*⁴

The *Comprehensive Plan* also addresses the importance of the impact of development on neighborhoods, and states that "We seek to assure development densities well related to both neighborhood character and infrastructure capacity."⁵ As such, it is important that this project is developed with the appropriate bulk and mass, and that the parking and traffic demands from the various uses can be accommodated without adversely affecting the surrounding neighborhood. The Planning Department believes that the reduced project achieves an appropriate balance of preserving a cultural institution, adding new units to the housing stock, and maintaining the quality of life for surrounding residents.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**Attachment A**) provides an analysis of the proposal with regard to zoning. The petitioner is seeking the following reliefs:

- §7.8.2.C.2., to allow an extension of a nonconforming use
- §3.2.3., to allow a building with three stories
- §3.2.2.A.3., to determine the required front, side and rear setbacks
- §5.4.2.B., to allow a retaining wall in excess of four feet in the setback
- §5.1.4. and 5.1.13., to allow the reduction from two to 1¼ parking stalls per dwelling unit
- §5.1.10.A., to waive lighting requirements for parking facilities

B. Engineering Review

The Engineering Division has reviewed this project multiple times at this point. All remaining concerns can be addressed prior to the issuance of a building permit should the Board choose to approve this project.

C. Newton Historical Commission Review

The petitioner filed a demolition review application with the Newton Historical Commission ("NHC") for the proposed alterations to the existing building (partial demolition) (**Attachment E**). NHC held a meeting and public hearing on January 23, 2014, and found the property to be preferably preserved.

⁴ *Newton Comprehensive Plan*, 2007. Page 9-8

⁵ *Newton Comprehensive Plan*, 2007. Page 1-3

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum, including:

- Submit a Tree Removal plan and a final Landscape Plan
- Provide lighting fixture specifications;
- Add sheltered bicycle storage for residents of the multi-family structure;
- Identify how snow storage will be addressed;
- Identify whether overhead wires can be undergrounded at the site.
- Submit a detailed Parking Management Plan for review and approval
- Submit a set of Operating Conditions that have been reviewed by the surrounding neighborhood

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum reflecting the MR1 Zoning District
Attachment B: Prior Zoning Review Memorandum reflecting the MU4 Zone
Attachment C: Land Use Map
Attachment D: Zoning Map
Attachment E: Newton Historical Commission Decision



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Attachment A

www.newtonma.gov

James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: January 8, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Terrence P. Morris, Attorney
Stephen Vona, applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to extend a nonconforming theater use and to allow a multi-family dwelling with 20 units, office space and associated parking waivers

Applicant: Stephen Vona	
Site: 283 Melrose Street	SBL: 41014 0010
Zoning: MR1	Lot Area: 43,773 square feet
Current use: Theater	Proposed use: Theater, office, and residential

BACKGROUND:

The property at 283 Melrose Street is situated at the corner of Melrose and Ash Streets in Auburndale. The lot consists of 43,773 square feet in a MR1 zone. The existing structure was built circa 1850 as a single-family residence by Abijah S. Johnson, a prominent figure in the development of Auburndale. During the last quarter of the 19th century it was used as a boarding house. The structure was converted into The Auburndale Club, a local social and fraternal organization in 1920, and used as such until a new owner requested a variance in 1978 to use the building to hold theatre productions. It then became known as The Turtle Lane Playhouse and held productions until 2013, when the property was sold to the current owner. The Auburndale Club continued to use the space for monthly meetings, though this nonconforming use was subordinate to the theater use.

In 1980 the Turtle Lane Players sought a liquor license. The Law Department reviewed the request and determined that the 1978 variance granted for the theater use, nor the nonconforming social club permitted the Players to seek the alcohol license. The Law Department determined that the Players would either need to amend its use variance or seek a special permit to allow a change from a nonconforming social/fraternal club use which was still occurring on the site when the theater was not

in use, to a nonconforming community theater use which could serve alcohol. The Players sought the special permit as an extension of a nonconforming community theater.

The Board of Aldermen granted the first of several renewable special permits for the extension of the nonconforming community theater use in 1980. This special permit was renewed in 1981, 1982, 1994, and 1999.

The applicant is now proposing to restore and expand the existing structure to provide a mix of uses including preserving the theater use for productions, as well as adding office space and four residential units. In addition, the applicant is proposing to erect a separate 16-unit multi-family structure with a below grade parking garage for 27 cars.

The property is currently zoned Multi-Residence 1 (MR1). The underlying zoning allows single- and two-family dwelling uses by right. The proposed mix of theater, office and multi-family dwelling uses is an expansion of the existing nonconforming theater use, and requires a special permit.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, dated 12/1/2015
- Board Order #54-78 dated 12/27/1978
- Board Order #598-80 dated 11/24/1980
- Board Order # 29-88 dated 3/28/1988
- Plan Set, prepared by Schnee Architects, Inc.,
 - Site Overall, dated 6/9/2014
 - Overall Site Plan, dated 7/27/2015
 - Elevations, dated 6/9/2014
 - Building plans, dated 7/27/2015
 - Building C – Parking, dated 7/27/2015
 - Building C plans, dated 7/27/2015

ADMINISTRATIVE DETERMINATIONS:

1. The community theater use is an existing nonconforming use in the Multi Residence 1 zoning district, per determination of the Law Department. The applicant proposes to extend the theater use and structure to include offices and residences, as well as to construct a separate 16-unit multi-family dwelling structure, which requires a special permit per Section 7.8.2.C.2.
2. The applicant is proposing a multi-family dwelling with a building height of 33 feet and three stories. Per Section 3.2.3, a special permit is required for a three-story structure in the Multi Residence 1 zoning district.
3. Theater and multi-family dwelling uses are not allowed as of right or by special permit in the Multi Residence 1 zoning district. Section 3.2.2.A.3 states that when a density or dimensional control is not set forth for a use granted by special permit, the most restrictive dimensional control applicable to such use in any district where it is allowed as of right shall be applicable, unless otherwise required in the special permit issued by City Council. The applicant proposes front setbacks of 10.67 feet from Melrose Street and 12.25 feet from Ash Street for the expanded theater building, while maintaining the existing 32.3 foot rear setback. Where mixed use buildings

are not allowed in the MR1 zoning district, the applicant seeks a determination through the special permit for the proposed setbacks from Melrose Street pursuant to Section 3.2.2.A.3.

The applicant proposes a 23.4 foot front setback from Melrose Street for the proposed multi-family dwelling, as well as a 20 side setback and a 45.2 foot rear setback. Multi-family dwellings are not allowed by right in any district. By special permit, a multi-family dwelling on an old lot requires a 25 foot front setback, a 15 foot rear setback, and a 7.5 foot side setback. As the proposed multi-family dwelling is considered an extension of the nonconforming use, a special permit is required. Per Section 3.2.2.A.3, the applicant seeks a special permit to determine the proposed setbacks.

4. Section 5.11.3 states that a project requiring a special permit for residential or mixed use development including residential development beyond that allowable as of right or totaling more than two new additional units be subject to the inclusionary housing provisions. The ordinance requires that the project provide no fewer than 15% of the number of dwelling units proposed to be added by the development. The applicant is proposing to provide three affordable units out of the 20 units for rental or sales, in accordance with this section.
5. Section 5.11.4 requires that three rental units be available to households such that the mean income of the eligible households does not exceed 65% of the median income for households per HUD requirements for the City of Newton.
6. The submitted plans show a retaining wall exceeding four feet in the side setback. This wall is to accommodate the grade change required for the underground parking facility. A special permit for a retaining wall higher than four feet is required per section 5.4.2.B.
7. The applicant is proposing a below-grade parking garage for 27 cars under the proposed 16-unit multi-family dwelling, as well as four surface stalls adjacent to the building. With 16 proposed residential units in the multi-family dwelling, 32 parking stalls are required per section 5.1.4. There are an additional four residential units proposed in the theater building, which requires an additional eight parking stalls, for a total requirement of 40 stalls for the residential uses. Section 5.1.4 allows for a reduction to 1.25 parking stalls per unit in a multi-family dwelling by special permit. The applicant requests a special permit to reduce the parking requirement for the residential units to 25 stalls per Section 5.1.4.
8. The applicant is proposing 1,358 square feet of office space in the existing theater building. Per section 5.1.4, office uses require one stall per each 250 square feet of gross floor area. The 1,358 square feet of proposed office space requires six parking stalls. The applicant is proposing to construct 20 surface parking stalls adjacent to the theater building.
9. The Board of Appeals granted a variance in 1978 to allow for a theater use on the site. A condition of the variance limited the seating capacity to 200 persons. The applicant intends to maintain the existing 200 seat theatre use. At the time the variance was granted, the site had a capacity for 18 vehicles and the ordinance required 95 stalls. While this use under the current ordinance requires 70 parking stalls per section 5.1.4, the parking is grandfathered and does not require a waiver.

The total number of stalls required for the site, utilizing the reduction permitted by Section 5.1.4, is 49 (25 for residential uses, six for the office use, and 18 for the theater use). There are 51 stalls proposed on the site between the surface and underground parking.

10. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§7.8.2.C.2	To allow an extension of a nonconforming use	S.P. per §7.3.3
§3.2.3	To allow a building with 3 stories	S.P. per §7.3.3
§3.2.2.A.3	To determine the required front, side and rear setbacks	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall in excess of 4 feet in the setback	S.P. per §7.3.3
§5.1.4 §5.1.13	To allow the reduction from 2 to 1¼ parking stalls/dwelling unit in an apartment building	S.P. per §7.3.3
§5.1.10.A	To waive the lighting requirements for parking facilities	S.P. per §7.3.3



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Attachment B

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: May 21, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Terrence P. Morris, Attorney
Stephen Vona, applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request for a zone change from Multi-Residence 1 to Mixed Use 4, and subsequent special permits for a mixed use building with office, restaurant and theatre use, and a multi-family dwelling with 26 units, and associated parking waiver

Applicant: Stephen Vona	
Site: 283 Melrose Street	SBL: 41014 0010
Zoning: MU4 (from MR1)	Lot Area: 43,773 square feet
Current use: Theatre	Proposed use: Theatre, office, restaurant and residential

BACKGROUND:

The property at 283 Melrose Street is situated at the corner of Melrose and Ash Streets in Auburndale. The lot consists of 43,773 square feet in a MR1 zone. The existing structure was built circa 1850 as a single-family residence by Abijah S. Johnson, a prominent figure in the development of Auburndale. During the last quarter of the 19th century it was used as a boarding house. The structure was converted into The Auburndale Club, a local social and fraternal organization in 1920, and used as such until a new owner requested a variance in 1978 to use the building to hold theatre productions. It then became known as The Turtle Lane Playhouse and held productions until 2013, when the property was sold to the current owner.

The applicant is proposing to restore and expand the existing structure to provide a mix of uses including preserving the theater use for productions, as well as adding a street-level restaurant and office space above. In addition, the applicant is proposing to erect a separate 26-unit multi-family structure with a below grade parking garage for 30 cars.

The property is currently zoned Multi-Residence 2 (MR2). A variance was issued in 1978 allowing the theater use, and a special permit issued in 1980 expanded the theater use to allow service of alcoholic beverages. The underlying zoning allows single- and two-family dwelling uses by right. A special permit could allow for multi-family dwellings, attached dwellings and philanthropic uses, but not for the mix of uses proposed by this application. The applicant explored which district would allow the project to proceed, and found that a zoning change to Mixed Use 4 (MU4) is the most appropriate option. MU4 allows for a mix of uses including those proposed by this application. Even with the proposed zone change, several waivers will be required via special permits.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, dated 4/7/2014
- Board Order #54-78 dated 12/27/1978
- Board Order #598-80 dated 11/24/1980
- Board Order # 29-88 dated 3/28/1988
- Plan Set, prepared by Schnee Architects, Inc, dated 2/21/2014
 - Overall ground level
 - Building A/B – L1
 - Building C – Parking
 - Parking C – L1
 - Building C – L2
 - Building C – L3

ADMINISTRATIVE DETERMINATIONS:

1. Section 30-13(h)(2), Table B establishes the allowed uses in the MU4 district. According to this table, the second floor office space is allowed by right.
2. The applicant is proposing a 100-seat restaurant. According to section 30-13(h)(2) Table B, a special permit is required for a restaurant with greater than 50 seats.
3. Should the applicant desire to stay open anytime between 11:30 p.m. and 6:00 a.m., a special permit is required per section 30-13(h)(2) Table B.
4. According to section 30-13(h)(2), Table B, a special permit is required for multi-family dwelling units at street level. The applicant is proposing a 26-unit multi-family dwelling to the rear of the property, with street-level units. A special permit is required.
5. A variance was granted in 1978 to permit the Auburndale Club, a fraternal organization, to present theater productions. At that time, the Club intended to continue to use the premises for club activities at least once a month. The Club is no longer in existence, and the theatrical productions of the Turtle Lane Playhouse have ceased. According to section 30-13(h)(2,) Table B, a special permit is required for a theater.
6. The applicant is proposing an aggregate 43,494 square feet of gross floor area between the two buildings. Section 30-13(j)(1-3) requires a special permit for additions and proposed buildings which contain individually or in the aggregate 20,000 square feet of gross floor area.

7. The applicant is proposing a building height of 36 feet and three stories, which requires a special permit per sections 30-15 Table 3, and 30-15(w)(1).
8. According to sections 30-15, Table 3 and 30-15(w)(4), the maximum front setback in the MU4 district is 10 feet. The applicant is proposing a 15.3 foot setback from Ash Street and a 1.8 foot setback from Melrose Street. To allow a 15.3 foot setback requires a special permit from the Board of Aldermen.
9. Per section 30-15(w)(4)b), the side and rear setbacks for a property abutting a residential district shall be no less than 20 feet. The applicant is proposing an 11 foot side setback and a 15 foot rear setback, both of which require a special permit to waive the setback requirements.
10. Section 30-15(w)(6)b) requires a minimum of 60% of the street-facing building façade between two and eight feet above the street-level floor to consist of clear windows allowing views of indoor space and display areas. The applicant requests a waiver from this section.
11. Section 30-24(f)(2) requires that a project requiring a special permit for residential or mixed use development including residential development beyond that allowable as of right or totaling more than two new additional units be subject to the inclusionary housing provisions. The ordinance requires that the project provide no fewer than 15% of the number of dwelling units proposed to be added by the development. The applicant is proposing to provide four affordable units out of the 26 units for rental or sales, which is 16.67% of the total, in accordance with this section.
12. The submitted plans show a retaining wall exceeding four feet in the side setback. This wall is to accommodate the grade change required for the underground parking facility. A special permit for a retaining wall higher than four feet is required per section 30-5(b)(4).
13. The applicant is proposing a below-grade parking garage for 30 cars under the proposed 26-unit multi-family dwelling. A 26-unit multi-family dwelling requires 52 parking stalls per section 30-19(d)(2). However, section 30-19(d)(2) allows the Board to grant a special permit to reduce the parking requirement from 2 stalls per unit to $1\frac{1}{4}$ stalls per unit. The applicant is requesting a special permit to reduce the parking requirement to 33 stalls, or $1\frac{1}{4}$ stalls per unit. Three of the required stalls will be surface parking located near the exit to Melrose Street.
14. Section 30-19(d)(18) states that the Board of Aldermen may grant a special permit to reduce the total number of required parking stalls by up to one-third in cases of a combination of three or more uses in a single, integrated development.
15. The applicant is proposing to maintain the 4,000 square feet of office space above the theatre, and to add an additional 2,586 square feet of office space above a proposed restaurant addition. Per section 30-19(d)(11), office uses require one stall per each 250 square feet of gross floor area. The 6,586 square feet of proposed office space requires 27 parking stalls. The applicant is proposing to construct 21 parking stalls, requiring a waiver of six stalls.
16. The Board of Appeals granted a variance in 1978 to allow for a theater use on the site. A condition of the variance limited the seating capacity to 200 persons. The applicant intends to maintain the

existing 200 seat theatre use. At the time the variance was granted, the site had a capacity for 18 vehicles and the ordinance required 95 stalls. While this use under the current ordinance requires 70 parking stalls per section 30-19(d)(13), the parking is grandfathered and does not require a waiver.

17. The applicant is proposing to expand the existing building housing the theatre to add a 100-seat restaurant. According to section 30-19(d)(13), a restaurant use requires one parking stall for every three seats, and one stall for every three employees at the highest shift. The applicant has not specified the number of employees anticipated to work at the highest shift, but six can be assumed for the purposes of the parking calculation. With 100 seats and six employees, the parking requirement would be 36 stalls. The applicant seeks to waive all of the parking stalls required for the restaurant use.
18. No lighting is shown on the submitted plans. Section 30-19(j)(1) addresses the requirements for lighting of parking facilities. The applicant shall either comply with the provisions of the Ordinance, or should seek a for a waiver from the requirements of 30-19(j)(1).
19. Section 30-19(k) requires bicycle parking facilities. There is currently no bike parking on site, or indicated in the submitted plans. A waiver from this section is required.

20. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
		Rezone property from MR2 to MU4
§30-13(h)(2), Table B	To allow a restaurant with more than 50 seats	S.P. per §30-24
§30-13(h)(2) Table B	To allow a multi-family dwelling with units at street level	S.P. per §30-24
§30-13(h)(2) Table B	To allow a theater	S.P. per §30-24
§30-13(j)(1-3)	To allow aggregate building size in excess of 20,000 square feet of gross floor area	S.P. per §30-24
§30-15(w)(1)	To allow building height of 36 feet, and 3 stories	S.P. per §30-24
§30-15(w)(4)(a)	Waiver for a front setback greater than 10 feet	S.P. per §30-24
§30-15(w)(4)(b)	Waiver for side and rear setbacks less than 20 feet abutting MR1 district	S.P. per §30-24
§30-15(w)(6)(b)	Waiver of 60% transparency requirement for the building facades	S.P. per §30-24
§30-24(f)	Comply with the Inclusionary Housing Ordinance	4 Units
§30-5(b)(4)	To allow a retaining wall in excess of 4 feet in the setback	S.P. per §30-24
§30-19(d)(2) §30-19(m)	Permit reduction from 2 to 1¼ parking stalls/dwelling unit in an apartment house	S.P. per §30-24
§30-19(d)(11) §30-19(d)(18) §30-19(m)	Waive 6 required parking stalls required for office use	S.P. per §30-24
§30-19(d)(13) §30-19(d)(18) §30-19(m)	Waive 36 required parking stalls for restaurant use	S.P. per §30-24
§30-19(k) §30-19(m)	Waive the requirement for bicycle parking facilities	S.P. per §30-24

ATTACHMENT C

Land Use Map 283 Melrose St.

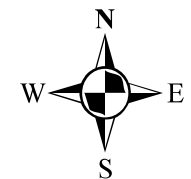
*City of Newton,
Massachusetts*

Legend

- Building Outlines
- Property Boundaries

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Nonprofit Organizations



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 - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 Feet

Map Date: January 08, 2016











ATTACHMENT D

Zoning Map 283 Melrose St.

*City of Newton,
Massachusetts*

Legend

-  Building Outlines
-  Property Boundaries
- Zoning**
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100
Feet

Map Date: January 08, 2016



Project#: 14010012Date Received: 1-**Attachment E**

City of Newton, Massachusetts
Department of Planning and Development
Demolition Review Ordinance - Application for Property Review

Property Owner	Address of Property to be reviewed:	Phone:
	<u>283 MELROSE ST</u>	<u>617-519-6908</u>
Primary Contact:	Address:	Phone:
	<u>STEPHEN VONA</u>	
Email Address	<u>STEPHEN_VONA@COMCAST.NET</u>	

I. Type of Structure to be Demolished: (Circle)

House

Garage

Shed

Non-Residential Building

Other

If Other please describe: PARTIAL DEMO77 Oldham Road
West Newton, MAII. Year Property Built 1890 Section: _____ Block: _____ Lot: _____
(Can be found in Assessors Database on City's website - www.ci.newton.ma.us)III. Description of Demolition Requested: REMOVE INTERIOR STAIR ADDITION
AND FRONT SHED DORMAIV. Required Documentation to be Included With Application: (check items included)

____ Photographs of Front, Back and Sides of affected Structure and one of front of addressed building on property for location purposes.

____ Assessor's Map Showing Property Location

Incomplete applications may result in a delay in review time.

V. Suggested Additional Documentation: (check items included)

____ Building Plans 11 X 17 or smaller (Elevations only), recommended

____ Historical Information

____ Site Plan

____ Product/Material Information

____ Photos of neighborhood (recommended for full demos)

____ Sketches

Home Owner Signature: [Signature]

PLEASE NOTE: Once the completed application is received, the Historic Preservation Planner has 15 days to determine whether the structure is considered to be historically significant. If you should have questions, please contact the Planning & Development Department at (617) 796-1120.

This application is only for Demolition Review from the Newton Historical Commission. Following this review, an application for Plan Examination and Building Permit must be completed and submitted to Inspectional Services for a building permit.



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

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(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

Newton Historical Commission Demolition Review Decision

Date: 1-28-14 Zoning & Dev. Review Project# 14010012

Address of structure: 283 Melrose Street

Type of building: theater

If partial demolition, feature to be demolished is South side former, north plan all

The building or structure:

is is not ✓ in a National Register or local historic district not visible from a public way.
is is not ✓ on the National Register or eligible for listing.
is is not ✓ importantly associated with historic person(s), events, or architectural or social history
is ✓ is not historically or architecturally important for period, style, architect, builder, or context.
is is not ✓ located within 150 feet of a historic district and contextually similar.

is NOT HISTORIC as defined by the Newton Demolition Delay Ordinance.

Demolition is not delayed and no further review is required.

is ✓ HISTORIC as defined by the Newton Demolition Delay Ordinance (See below).

The Newton Historical Commission staff:

 APPROVES the proposed project based upon materials submitted see below for conditions (if any).

Demolition is not delayed, further staff review may be required.

✓ DOES NOT APPROVE and the project requires
Newton Historical Commission review (See below).

The Newton Historical Commission finds the building or structure:

is NOT PREFERABLY PRESERVED

Demolition is not delayed and no further review is required.

is ✓ PREFERABLY PRESERVED - (SEE BELOW).

Delay of Demolition:

✓ is in effect until 1-24-15

 has been waived - see attached for conditions

Determination made by:

Cathy Jones

1-28-14

Preserving the Past



Planning for the Future

Please Note: if demolition does not occur within two years of the date of expiration of the demolition delay, the demolition will require a resubmittal to the Historical Commission for review and may result in another demolition delay.



Setti D. Warren
Mayor

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Department of Planning and Development
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Candace Havens
Director

RECORD OF ACTION:

DATE: January 28, 2014

SUBJECT: 283 Melrose Street

At a scheduled meeting and public hearing on January 23, 2014 the Newton Historical Commission, by a vote of 6-0:

RESOLVED to find the building at 283 Melrose Street preferably preserved.

Voting in the Affirmative:

David Morton, Acting-Chair
Bill Roesner, Member
Jean Fulkerson, Member
Mark Armstrong, Member
Nancy Grissom, Member
Donald Tellalian, Alternate

A handwritten signature in black ink, appearing to read "Katy Hax Holmes".

Katy Hax Holmes, Commission Staff