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Mayor

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	June 14, 2016
Land Use Action Date:	August 23, 2016
City Council Action Date:	September 5, 2016
90-Day Expiration Date:	September 12, 2016

DATE: June 10, 2016

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Neil Cronin, Senior Planner for Current Planning

SUBJECT: **Petition #145-16**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to further increase a nonconforming residential use by constructing an addition on the first floor to contain a bathroom, at **226-228 California Street**, Ward 1, Newtonville, on land known as SBL 11, 10, 15 containing approximately 6,863 sf of land in a district zoned Business 1. Ref: Sec. §4.4, §6.22 and Sec. §7.8.2.C.2 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 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 that the Land Use Committee of the City Council can consider at a subsequent working session.



226-228 California St.

EXECUTIVE SUMMARY

The property located at 226-228 California Street consists of a 6,863 square foot lot, containing a 2.5 story two-family dwelling. The property is located in a Business 1 zoning district, in the Newtonville neighborhood. The petitioner is proposing to construct 46 square foot addition for a bathroom on the southeasterly side of the first floor. To construct the addition, the applicant is seeking a special permit to further increase the nonconforming residential use in a Business 1 district.

The Planning Department is not concerned with the construction of the proposed addition. The dwelling is located in a neighborhood of other similarly-scaled dwellings. The addition will be minimally visible from the street and will neither impact parking nor create other dimensional nonconformities. For these reasons, the Planning Department believes the construction of the addition will not be in derogation of the size, scale, and design of other residential structures in the neighborhood and will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the City Council should consider whether:

- The site is an appropriate location for the proposed addition. (§7.3.3.C.1)
- The proposed increase in the residential structure is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§4.4, §6.22 and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on California Street in a Business 1 District, nearby other similarly-scaled dwellings. However, the property is close to a Manufacturing district which contains a strip mall anchored by a large grocery store, a Multi-Residence 2 district, and an Open Space district containing Forte Memorial Park **(Attachments A & B)**.

B. Site

The property consists of 6,863 square feet of land served by two driveways, and a one story two-car garage to the rear of the property.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain a two-family residence.

B. Building and Site Design

The petitioner is proposing to construct a 46 square foot addition on the southeasterly side of the first floor of 228 California Street. To construct the addition, the applicant is seeking a special permit to further increase the nonconforming residential structure in a Business 1 district. At 2.5 stories, the existing structure is non-conforming because one-story is the maximum allowable by right in the Business 1 zoning district. However, The proposed addition is on the first story and will therefore not alter the number of stories.

No other changes are proposed on site and no changes are proposed to parking or vehicular circulation.

Landscape Screening

A landscaping plan is not required.

IV. TECHNICAL REVIEW

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

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

- §4.4, §6.22, and Sec. §7.8.2.C.2 of Section 30, to further increase the nonconforming use of a residential structure in a Business 1 district.

B. Engineering Review

No engineering review is required for this petition.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

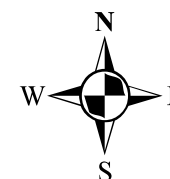
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|----------------------|--------------------------|
| Attachment A: | Zoning Map |
| Attachment B: | Land Use Map |
| Attachment C: | Zoning Review Memorandum |
| Attachment D: | DRAFT Order |

Attachment A Zoning Map 226-228 California St.

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Business 2
-  Manufacturing
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

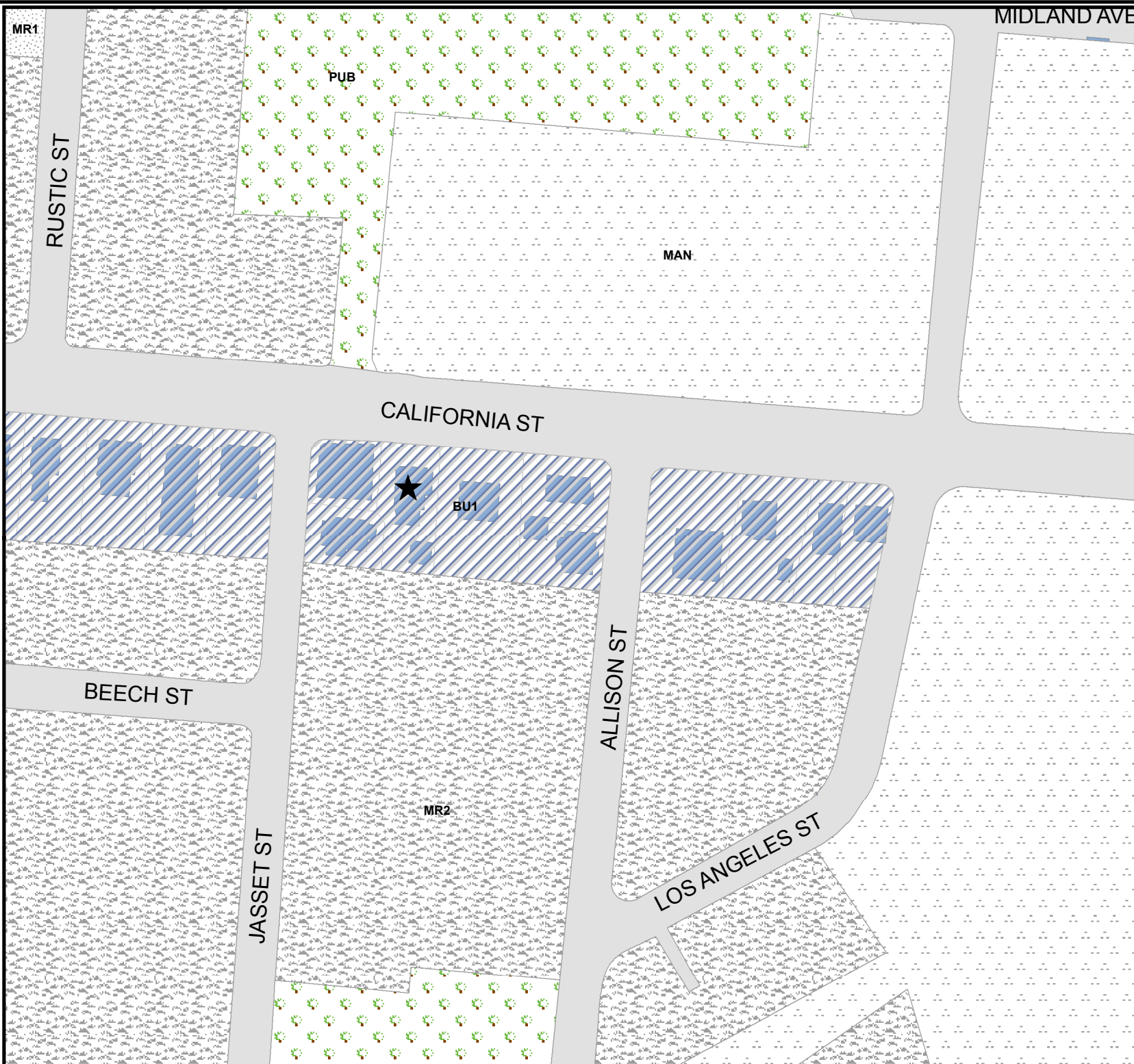


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

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Feet

Map Date: May 10, 2016



Attachment B Land-Use Map 226-228 California St.

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Industrial
- Mixed Use
- Open Space
- Nonprofit Organizations
- Building Outlines
- Surface Water
- Property Boundaries

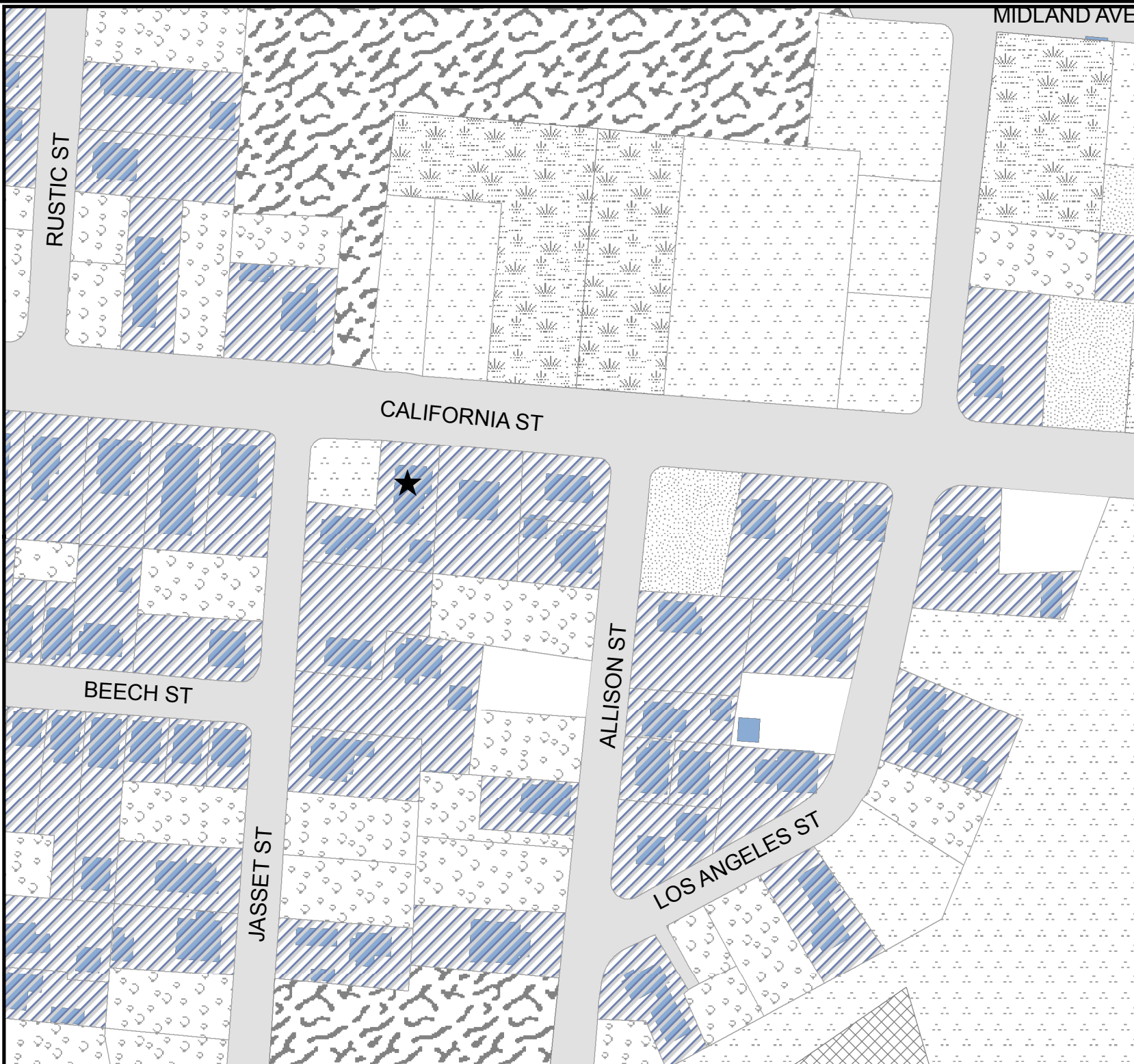


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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: April 4, 2016

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Lynda and Bon Koo, applicants
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to extend a nonconforming residential use in a Business 1 zoning district

Applicant: Lynda and Bon Koo	
Site: 226-228 California Street	SBL: 11010 0015
Zoning: BU1	Lot Area: 6,863 square feet
Current use: Two-family dwelling	Proposed use: No change

BACKGROUND:

The property at 226-228 California Street consists of a 6,863 square foot lot improved with a two-family dwelling constructed in 1860 in the Business 1 zoning district. The applicant proposes to add a bathroom addition to the first floor. Two-family dwellings are not allowed by right in the district. A special permit is required to further extend the nonconforming residential use in the Business 1 zoning district.

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

- Zoning Review Application, prepared by Lynda and Bon Koo, applicants, dated 3/23/2016
- FAR Worksheet, submitted 3/23/2016

ADMINISTRATIVE DETERMINATIONS:

1. The applicant proposes to add a 45 square foot bathroom addition to the first floor, further increasing the nonconforming residential nature of the structure in the Business 1 zoning district, requiring a special permit pursuant to Sections 4.4 and 7.8.2.C.2.

BU1 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	6,863 square feet	No change
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	10 feet 7.5 feet 15 feet	32.9 feet 8.0 feet 17.5 feet	No change No change No change
Building Height	36 feet	32 feet	26.3 feet
Max Number of Stories	2	2.5	No change
FAR	1.0	.70	.71

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4 §6.2.2, §7.8.2.C.2	To increase a nonconforming residential use in a Business 1 zoning district	S.P. per §7.3.3

#145-16
226-228 California Street

CITY OF NEWTON
IN CITY COUNCIL

June 20, 2016

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to increase a nonconforming residential use in a Business 1 zoning district, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Marc Laredo:

- The proposed increase to a nonconforming residential use in a Business 1 zoning district, will not be substantially more detrimental than the existing nonconforming structure is to the neighborhood (§4.4, §6.22 and §7.8.2.C.2) because:
 - a. The proposed addition will neither add significant square footage, nor dramatically alter the foot print of the structure; and
 - b. The structure will remain in compliance with all dimensional regulations, except the number of stories, which is an existing condition.

PETITION NUMBER: #145-16

PETITIONER: KTM Properties

LOCATION: 226-228 California Street, on land known as Section 11, Block 10, Lot 15, containing approximately 2,293 square feet of land

OWNER: Lynda & Bon Koo

ADDRESS OF OWNER: 226-228 California Street
Newton, MA 02458

TO BE USED FOR: Two Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: (§4.4, §6.22, and §7.8.2.C.2), to increase a nonconforming residential use in a Business 1 zoning district

ZONING: Business 1 district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Proposed One Story Addition, signed and stamped by Frank Iebba, surveyor, dated 4/12/16
 - b. Elevations Exterior Right, dated 4/24/16
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.