



# **Land Use Committee Report**

## **City of Newton** **In City Council**

**Tuesday, February 5, 2019**

**Present:** Councilors Schwartz (Chair), Lipof, Greenberg, Auchincloss, Kelley, Markiewicz, Crossley, Laredo, Leary

**City Staff Present:** Associate City Solicitor Jonah Temple, Chief Planner Jennifer Caira, Planning Associate Katie Whewell, Senior Planner Michael Gleba, Senior Planner Neil Cronin

All Special Permit Plans, Plan Memoranda and Application Materials can be found at [http://www.newtonma.gov/gov/aldermen/special\\_permits/current\\_special\\_permits.asp](http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp). Presentations for each project can be found at the end of this report.

**#38-19      Special Permit Petition to allow increased FAR at 11 Village Circle**  
**ALEXANDER GENIN AND VERONICA TUROVSKY GENIN** petition for **SPECIAL PERMIT/SITE PLAN APPROVAL** to extend the habitable space above an existing attached garage, creating an FAR of .36 where .34 is allowed and .34 exists at 11 Village Circle, Ward 8, Newton Centre, on land known as Section 81 Block 03 Lot 09, containing approximately 14,498 sq. ft. of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 8-0; Public Hearing Closed 02/05/2019**

**Note:**      Petitioner Alexander Genin presented the request to extend the roof in the footprint of the garage at 11 Village Circle, creating an FAR of .36 where .34 is allowed. Mr. Genin noted that the house is under construction and the roof currently has a flat roof. When the plans for the house were constructed, the design included space above the garage, but it was determined that the FAR would exceed what is permitted at the site. Mr. Genin explained that the plans were revised to remove the space above the garage in order to pull a building permit to begin construction. The petitioner now seeks a Special Permit to add the space above the garage, which is approximately 300 sq. ft. and will have a pitched roof. Mr. Genin confirmed that he communicated the proposed plans to residents in the neighborhood and no one expressed concern. Residents at 4, 27, 20, 17 and 30 Village circle submitted a petition in support of the project (shown attached).

Committee members questioned why the petitioner decided to proceed in the sequence that occurred. Mr. Genin noted that he has developed other properties in the City with a roof height of 6'11", which previously never counted towards FAR. He explained that Inspectional Services changed their interpretation relative to space above the first floor and the 6'11" space now counts towards FAR, which was not anticipated when the plans were originally designed. Mr. Genin noted that redesigning the plans would have been costly and would have taken a significant amount of time.

Planning Associate Katie Whewell presented the requested relief, criteria for consideration, land use, zoning, photos, existing and proposed elevations of the site as shown on the attached presentation. Ms. Whewell noted that the property is accessed by a semi-circular driveway with two curb cuts on Village Circle. The petitioner confirmed that he is now seeking 8' ceilings in the space above the garage.

Committee members questioned whether the proposed addition would be permitted as of right under the draft Zoning Ordinance. Chief Planner Jennifer Caira explained that whether this addition would be permitted as of right would depend on the type of house it is categorized as. She noted that the proposed Zoning Ordinance analyzes footprint, not FAR, and explained that if the addition was dimensionally compliant, it could be built as a matter of right. Committee members noted that designing a smaller house from the outset could have eliminated the need for FAR relief.

The Public Hearing was Opened. No member of the public wished to speak. Councilor Markiewicz motioned to close the public hearing which carried unanimously. Councilor Auchincloss motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation and voted unanimously in favor of approval.

**#36-19      Special Permit to parking waivers for a day care at 1440-1450 Washington Street**  
HAPPY MUNCHKINS DAY SCHOOL, INC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to waive 15 parking stalls, to waive perimeter landscaping requirements of an outdoor play area and to waive perimeter landscaping requirements of a parking facility associated with a day care center in a residential zone to support the proposed day care at 1440-1450 Washington Street, Ward 3, West Newton, on land known as Section 32 Block 14 Lots 13-14, containing approximately 41,051 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3, 7.4, 7.5, 6.3.4.3, 5.1.4, 5.1.13, 6.3.4.B.3.b, 6.3.4.B.3.a, 5.1.9, Dover Waiver of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 8-0; Public Hearing Closed 02/05/2019**

**Note:**      Attorney Katherine Adams, Schlesinger and Buchbinder, offices at 1200 Walnut Street represented Happy Munchkins Day School and provided details of the project as shown on the attached presentation. The petitioner proposes to operate a daycare within the Lincoln Park Baptist Church at 1440-1450 Washington Street, requiring a waiver of 15 parking stalls and a waiver for parking area landscape screening. The 41,051 sq. ft. site is composed of two merged lots and is accessed by two curb cuts on Washington Street. Traffic operates in a clockwise circular direction. Atty. Adams noted that a daycare was operated at the site until 2010. The petitioner proposes daycare operations from 7:00 am - 6:30 pm with 45 children, 6 staff members. Dropoff will occur from 7:00 am – 8:30 am and pickup will occur between 5:00 pm and 6:30 pm. Because the church only requires parking during weekend services, there will be no overlap of use for the parking spaces. Atty. Adams explained that the petitioner will reserve 9 spaces at the front of the site for pickup and drop-off and the remaining 6 will be signed and used as employee parking. The petitioner will reorient the traffic circulation of the driveway and install a sign that prohibits left turns onto Washington Street. Atty. Adams noted that there is an existing fenced in play area and an existing shed will be relocated from the play area for safety. The northern boundary has existing landscaping and the petitioner proposes to landscape the eastern and western sides of the play area. At the southern side, there is a fence between the play area and an abutting home. The

applicant proposes to install a 6' chain link fence with green screening slats around the parking lot. Atty. Adams noted that the Commissioner of Inspectional Services has determined that compliance with regard to the play area screening is at his discretion under the Dover Amendment. As such, Atty. Adams withdrew the request for a waiver for play area screening. She noted that the petitioner hosted a community meeting on November 26, 2018 and is working to address fire code issues.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, land use, zoning and photos of the site as shown on the attached presentation. Mr. Cronin noted that no substantive changes are proposed to the building and confirmed that the two uses at the site will not overlap. The petitioner's TDM includes reorientation of the traffic circulation, directing staff to park at the furthest stalls, a staff attendant that will facilitate pickup and drop-off and distribution of details of local MTA service to reduce the number of vehicle trips to the site. Committee members noted that the petitioner should rectify the non-conforming screening around the parking and questioned whether the petitioner might consider installing a buffer around the parking lot. Atty. Adams noted that the church currently has 10 congregants and is planning interior renovations that will include installation of sprinklers and new fire alarms. She noted that screening the exterior of the parking lot is cost prohibitive for the petitioner.

The Public Hearing was Opened.

A Resident, 49 Adams Avenue, believes there is a need for a daycare at this location and it will be beneficial for Newton residents.

Donald Larson, 17 Perkins Street, believes the proposed daycare is a good idea, but has concerns about the traffic impacts and overflow of parking onto Perkins Street. He noted that people often park on Perkins Street during church events.

Kosta Koulis, 219 Tremont Street, spoke on behalf of George Mitropoulos, 1434 Washington Street, he has concerns about parking and lack of screening at the site. He noted that there are grading issues at the site. He noted that his driveway abuts the site and drivers often drive over his driveway.

Sophie, Wayland, Massachusetts, is a member of the church. She has not seen any difficulties relative to parking at the site, nor heard complaints from parents.

A Resident, 150-60 Pine Street, supports the proposed daycare at the site.

Jing Jing Fan, 70 Paulson Road, noted that the proposed daycare is close to public transportation and parents can use public transportation.

It was noted that the number of congregants at the church has reduced over time and the prior daycare did not have any parking issues. Atty. Adams stated that the change in traffic circulation at the site should prevent drivers from crossing onto the abutting property at 1434 Washington Street. She confirmed that the petitioner is working with early childhood education agencies to address lead and water quality standards. Committee members were supportive of the complementary uses of the site, noting that there is a need for daycare centers in the City. Committee members agreed that the final review of screening

for the parking lot should be completed by the Planning Department. Seeing no other member of the public who wished to speak, Councilor Kelley motioned to close the public hearing, which carried unanimously. Councilor Kelley moved approval of the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members asked that condition 2 include details of the TDM plan; complete compliance with screening requirement, discouraging of parking/traffic on Perkins Street, changing the traffic circulation, promotion of ride sharing, installation of a “no left turn” sign and distribution of TDM details to parents and church members. Committee members asked that a condition be included requiring the petitioner to submit a landscaping plan, that includes fencing, for review by the Director of Planning and Development prior to issuance of a building permit. With that, Committee members voted unanimously in favor of support.

**#37-19      Special Permit Petition to allow a hotel use at 1170-1176 Walnut Street**

STAS GAVROVSKY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert the existing 2.5 story structure into an eight-bedroom hotel with a ground floor restaurant at 1170-1176 Walnut Street, Ward 6, Newton Highlands, on land known as Section 52 Block 38 Lot 16, containing approximately 4,624 sq. ft. of land in a district zoned BUSINESS USE 2. Ref 7.3.3, 7.4, 4.4.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:**      **Land Use Approved 7-0 (Laredo Recused); Public Hearing Closed 02/05/2019**

**Note:**      The petitioner, Stas Gavrosky, Wayland Massachusetts, presented the request for a Special Permit to locate a hotel with eight units and a ground floor café at 1170-1176 Walnut Street. Mr. Gavrosky noted that he purchased the property at 1170-1176 Walnut Street with the intent to relocate his business there. After discovering that he would have to entirely remodel the building in order to be compliant with the Ordinance, he was unable to relocate his business to the site. He noted that the site of the proposed hotel is ideal due to its proximity to the train. It is his expectation that the hotel, designed in a suite style to accommodate families, will be particularly attractive to families needing extended stay with easy access to Boston hospitals. Mr. Gavrosky explained that that he intends to use ½ of the first floor, the second and third floors for hotel space and the remaining first floor space for a small café or coffee shop. He has received approval from the architectural access board to build a ramp and has restored the building to its original appearance. Mr. Gavrosky noted that he received a parking credit of 18 spaces because of the prior uses of the site, so no parking waiver is required. He acknowledged that there are parking limitations in the neighborhood however and proposes to incentivize use of public transportation by parking for Charlie Cards for each week visitors stay at the hotel. Additionally, the petitioner will charge visitors \$20/night to park a car at the site. If these measures are unsuccessful, he proposes to subsidize the cost of uber/lyft services.

Senior Planner Neil Cronin reviewed the requested relief, criteria for consideration, land use, zoning and photos of the site as shown on the attached presentation. Mr. Cronin reiterated that the site is adjacent to the Newton Highlands MBTA station.

The Public Hearing Was Opened.

Dorothy, Moreland Ave, is supportive of the proposed hotel. She believes it will be a good addition to the community.

Katherine Connors, is supportive of the proposed hotel. Ms. Connors believes it will be a boom to the neighborhood and believes the location can be easily supported by the availability of public transit options. The hotel's adjacency to the train will be very beneficial for people trying to get into Boston.

A resident noted that she works as a psychologist with families and children who visit the hospital. She feels that it will be a great addition for families needing easy hospital access. People may not use cars but can rely on the train or cabs.

Mark Fagan, believes the proposed hotel is an appropriate use at the site and a good opportunity to help revitalize the Highlands neighborhood. He is supportive of the proposed hotel and believes the disincentives relative to driving will be helpful. He supports the right turn only out of the parking lot and believes that refurbishment is great. He suggested that the hotel may help bring Veterans Taxi additional business.

Nathaniel Lichtin, is supportive of the proposed hotel. The petitioner attended an Area Council meeting and addressed all questions raised by the neighborhood. Mr. Lichtin has no concerns relative to the parking limitations at the site and noted that the site is transit oriented.

George Mansfield, is not concerned about overflow parking. The 2-hour parking on Lake Avenue is enforced and parking is typically available. He is supportive of the proposed hotel, noting that the Highlands Neighborhood needs revitalization. He believes the coffee shop will be an important addition but noted that customers should not be double parking. He suggested that the Council Order should specify number of bedrooms.

Committee members were supportive of the proposed hotel and restaurant and encouraged the petitioner to find a restaurant that will complement the existing businesses in the neighborhood. In response to questions from Committee members, Mr. Gavrosky noted that the restaurant operator will be responsible for check-in and check-out of visitors. He confirmed that he has constructed the building in anticipation of it being a hotel and the structure meets hotel construction standards.

Seeing no member of the public who wished to speak, Councilor Crossley motioned to close the public hearing which carried 7-0 (Laredo recused). Councilor Crossley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members asked that the draft Council Order include a condition relative to the MBTA pass subsidy. It was noted that the petitioner must provide a site survey demonstrating the number of compliant parking stalls that can be located at the site. With that, Committee members voted seven in favor, none opposed and one recused (Laredo).

**#623-18      Special Permit Petition to allow multi-family dwelling at 20-22 Circuit Avenue**

ARTHUR KALOTKIN petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert a two-family dwelling into a three-unit multi-family dwelling by converting the existing attic space, allow parking within 5' of residential dwelling units, to waive the minimum aisle width requirements, to waive driveway width, and to waive lighting requirements at 20-22 Circuit Avenue, Ward 5, Newton Highlands, on land known as Section 51 Block 20 Lot

39, containing approximately 12,353 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3., 7.4, 3.4.1, 5.1.8.A.2, 5.1.13, 5.1.8.C.2, 5.1.8.C.2, 5.1.10.A, 5.1.8.D.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

**Action:** **Land Use Approved 4-0-2 (Laredo, Markiewicz abstaining, Crossley Recused, Lipof Not Voting); Public Hearing Closed 02/05/2019**

**Note:** Attorney Terry Morris, offices at 57 Elm Road, represented the petitioner, Arthur Kalotkin. Councilor Crossley recused herself from the matter as she is a direct abutter. Atty. Morris noted that the property was built as a two-family. In 1990, the Board of Aldermen approved a Special Permit to create a third unit in the existing structure which was not exercised. Atty. Morris explained that the petitioner proposes to provide 3 units approximately 1260 sq. ft. each. He noted that the petitioner will need to build a three-level open air staircase to provide access to each unit.

Senior Planner Michael Gleba reviewed the requested relief, criteria for consideration, land use, zoning and photos of the site as shown on the attached presentation.

A Committee member questioned whether the proposed exterior stair system requires additional planting or screening and whether the petitioner would consider sensor lighting for the parking lot. Mr. Kalotkin confirmed that he is committed to working on the landscaping with an abutter and can provide lighting. Atty. Morris stated that the third unit at the site has been vacant for the majority of the past 17 years. A Committee member questioned how an uncovered exterior staircase will be beneficial. It was noted that the exterior staircase must be added for safety purposes, but because the petitioner is sprinkling the house the interior staircase may be maintained as well. Mr. Kalotkin noted that it is his expectation that the interior staircase will be the primary access to the units.

The Public Hearing was Opened.

Councilor Deborah Crossley, 26 Circuit Avenue, noted that she doesn't mind motion sensor lighting. She noted that the structure can accommodate a third unit. She stated that the current parking situation is disorganized and noted that the existing landscaping is not 8' wide and is misaligned with the curb cut. She suggested that it may be beneficial to buffer the property from the rear yard with some plantings and noted that she will work with the petitioner on landscaping details.

Seeing no other member of the public who wished to speak, Councilor Laredo motioned to close the public hearing which carried 6-0 (Lipof not Voting, Crossley recused). Mr. Kalotkin confirmed that he is willing to provide screening at the rear of the site. Councilor Kelley motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members asked that the Council Order include a condition relative to motion lighting. With that, Committee members voted 4 in favor, none opposed, one recused (Crossley) one not voting (Lipof) and abstentions from Councilors Laredo and Markiewicz.

**#483-18** **Petition to allow 20-unit multi-family dwelling at 182-184 & 166 California Street**  
LA&CA, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow the expansion of a nonconforming multi-family dwelling use by constructing a three-story multi-family

development 32.6' in height in a manufacturing district with greater than 20,000 sq. ft. new gross floor area, allowing a nonconforming front setback, to allow a reduction of the requirement for parking to 1.25 stalls per unit, to waive maneuvering space for restricted parking stalls, to allow tandem parking and to allow retaining walls greater than four feet in height in the setback in Ward 1, Newton, at 182-184 California Street (Section 11 Block 12 Lot 12) and 166 California Street (Section 11 Block 12 Lot 13), containing approximately 18,121 sq. ft. of land in a district zoned MANUFACTURING. Ref: 7.3, 7.4, 4.4.1, 7.8.2.2, 4.3.2.B.1, 4.3.3, 7.8.2.C.2, 4.3.2.B.3, 5.1.4, 5.1.8.B.6, 5.1.13, 5.1.8.E.1, 5.4.2 of the City of Newton Rev Zoning Ord, 2017.

**Action:** **Land Use Approved Subject to Second Call 7-0 (Lipof not Voting); Public Hearing Closed 02/05/2019**

**Note:** Attorney Laurance Lee, Rosenberg, Freedman and Lee, office at 246 Walnut Street presented updates to the request for a Special Permit at 182-184/166 California Street Atty. Lee demonstrated changes to the request as shown on the attached presentation. He noted that the proposed plans include: relocation of the access from Los Angeles Street to California Street, a reduction in the number of three-bedroom units to five, a reduction in the total number of parking spaces from 28 to 25 (also reducing the number of tandem spaces), three affordable units (one 1-bedroom, one 2-bedroom and one 3-bedroom) and the inclusion of two units that will be constructed with amenities for individuals with visual and/or hearing impairments. Atty. Lee noted that the petitioner proposes to provide \$5,000 to be used for traffic improvements on California Street, but is seeking a waiver of the I&I fee. Atty. Lee noted that the City's peer reviewer reported no concerns relative to the traffic conditions. The Chair asked that the Planning Department verify the results of the traffic peer review.

Committee members noted that the administration is working to develop a proposal for the Councils review relative to establishing clear metrics for applying an I&I fee. It was noted that waiving the I&I fee, or a large portion of the fee for the proposed project is consistent with previous projects the Council has approved and would be appropriate. Additionally, the sewer rehabilitation plan is identified in the CIP and is fully funded. It was noted that the I&I fee is a recommendation by the Engineering Department that can be included as a condition in the Order, if the Council determines it is necessary. Committee members were in agreement that no I&I condition is required for this petition.

Atty. Lee confirmed that the parking will be reduced to 1.25 stalls per unit based on the availability of public transit in the area. It was noted that the Watertown Yard is about ½ a mile from the site and there are many amenities for residents within a short distance. Committee members noted that on California Street, on-street parking ranges from 1-2 hours during the day and there is no visitor parking at the site. A Councilor noted that California Street is not particularly safe for bicyclists or pedestrians and requested that the Planning Department look at California Street as a potential location for bicycle amenities. Mr. Gleba noted that the Transportation Division was unable to identify which projects the \$5,000 would be used for but confirmed that there are projects in the immediate area that are under consideration (i.e. curb cuts, pedestrian crossings).

Councilors noted that the site of the proposed development is close to 2-3 parks and bike trails, which is helpful when losing open space. Councilors expressed appreciation for the responsiveness to concerns

on behalf of the developer. Seeing no member of the public who wished to speak, Councilor Greenberg motioned to close the public hearing which carried unanimously. Committee members noted that the two-bedroom units and three-bedroom units are identical in size. Atty. Lee confirmed that the petitioner does not intend to convert the two-bedroom units. Committee members reviewed the draft findings and conditions as shown on the attached draft Order. Committee members asked that the Council Order include a condition that the two-bedroom units are not converted to three-bedroom units. Additionally, Committee members asked that the draft order identify that no I&I fee is required for the petition. Atty. Lee requested that final Certificates of Occupancy be issued for units as they become available. Chief Planner Jennifer Caira noted that the City typically holds the C of O until the inclusionary units are available. Atty. Lee expressed concern that not issuing the final C of O might limit the ability to sell individual units. Committee members asked that the Planning Department work with the Law Department to craft an appropriate condition that addresses the needs of the petitioner and the City. With that, Committee members voted unanimously in favor of Councilor Greenber's motion to approve subject to second call.

**#53-19            Class 2 Auto Dealers License**  
Sonoma Classics, LLC  
1215 Chestnut Street  
Newton, MA. 02465  
**Action:            Land Use Approved 7-0 (Lipof not Voting)**

**Note:**            Committee members expressed no concerns relative to the audio dealer license and voted unanimously in favor of a motion to approve.

The Committee adjourned at 7:35 pm.

**Respectfully Submitted,**

**Greg Schwartz, Chair**



## Department of Planning and Development



### **PETITION #38-19 11 VILLAGE CIRCLE**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO EXTEND HABITABLE  
SPACE ABOVE THE GARAGE,  
INCREASING THE FAR TO .36  
WHERE .34 EXISTS AND .34 IS  
THE MAXIMUM ALLOWED



FEBRUARY 5, 2019

1

## Requested Relief



Special Permit per §7.3.3 of the NZO to:

- Exceed the allowable floor area ratio. (§3.1.3, §3.1.9)

2

## Criteria to Consider

When reviewing this request, the Council should consider whether:

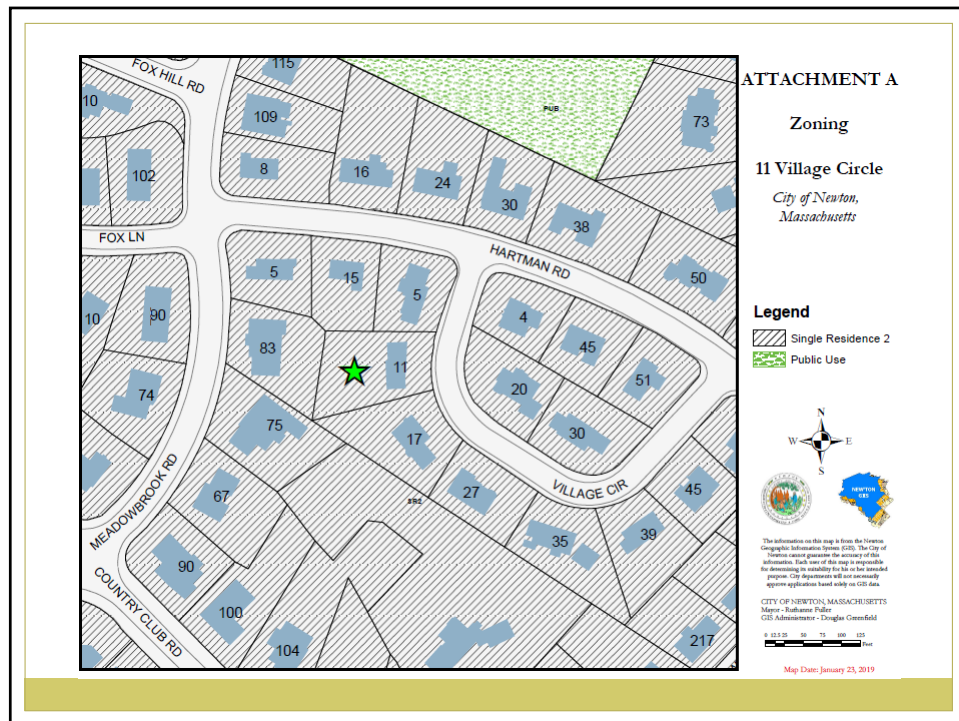
- The specific site is an appropriate location for the proposed addition above the garage. (§7.3.3.C.1)
- The proposed addition above the garage will adversely affect the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

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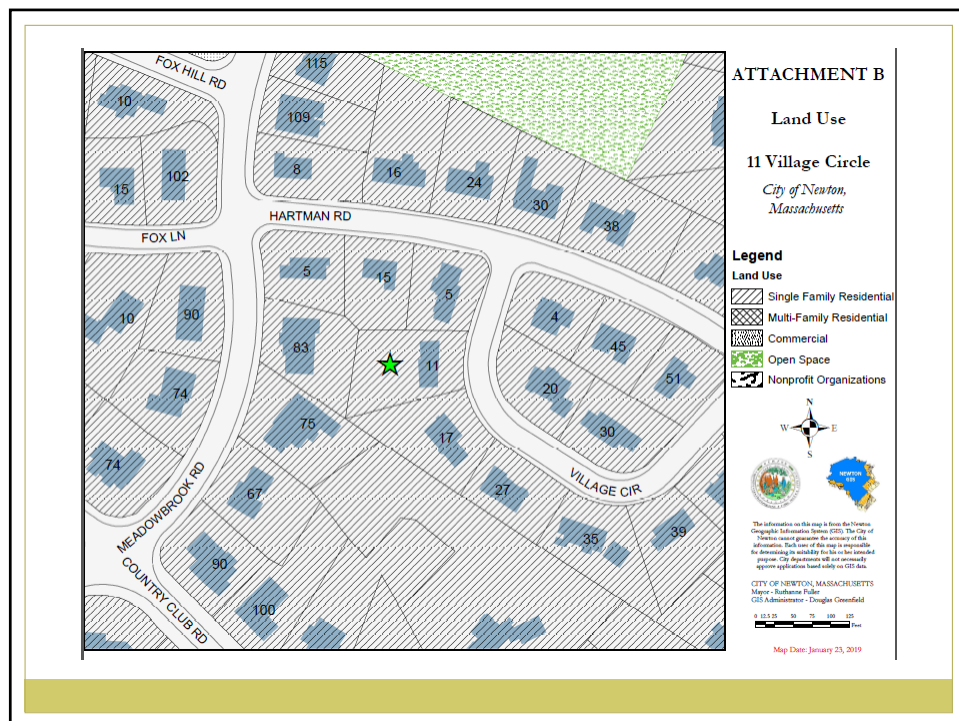
## Aerial/GIS Map



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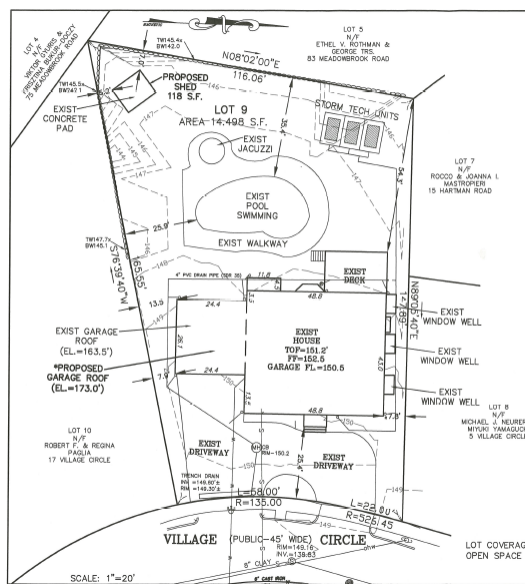


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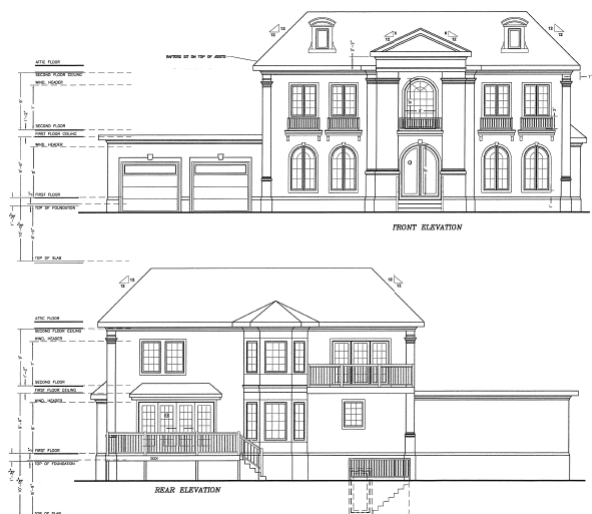
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## Site Plan



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## Existing Elevations



8

## Proposed Garage Elevations



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## Proposed Findings

- The specific site is an appropriate location for the proposed addition above the garage because the proposed addition above the garage is similar to other structures in the neighborhood. (§7.3.3.C.1)
- The proposed addition above the garage will not adversely affect the neighborhood because it is consistent in terms of size and scale of several other single family homes in the neighborhood. (§7.3.3.C.2)
- There will be no nuisance or serious hazard to vehicles or pedestrians because the proposed addition is located above the garage. (§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)

10

## Proposed Conditions

1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. Standard Final Inspection/Certificate of Occupancy Condition.

CITY OF NEWTON  
IN CITY COUNCIL

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 the floor area ratio (FAR) from .34 to .36, where .34 is the maximum allowed as of right as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed addition above the garage because the proposed addition above the garage is similar to other structures in the neighborhood. (§7.3.3.C.1)
2. The proposed addition above the garage will not adversely affect the neighborhood because it is consistent in terms of size and scale of several other single-family homes in the neighborhood. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the proposed addition is located above the garage. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #38-19

PETITIONER: Alexander Genin and Veronica Turovsky Genin

LOCATION: 11 Village Circle, on land known as Section 81, Block 3, Lot 9, containing approximately 14,498 square feet of land

OWNER: Alexander Genin and Veronica Turovsky Genin

ADDRESS OF OWNER: 11 Village Circle  
Newton, MA 02459

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood

EXPLANATORY NOTES: §3.1.3, §3.1.9 to further increase the FAR

ZONING: Single Residence 2 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. Certified Plot Plan, signed and stamped by A. Matthew Belski Jr., Professional Land Surveyor, dated January 11, 2019.
  - b. Architectural Plans, signed and stamped by Richard A. Volkin, registered Architect, dated January 10, 2019, consisting of the following five (5) sheets:
    - i. A-1 As Built First Floor Plan
    - ii. A-2 As Built Second Floor and Attic Plans
    - iii. A-4 As Built Elevations
    - iv. A-5 As Built Elevations
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. 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.
4. 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 an 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 architect.





Schlesinger and Buchbinder, LLP  
Attorneys at Law

# Happy Munchkins Day School, LLC

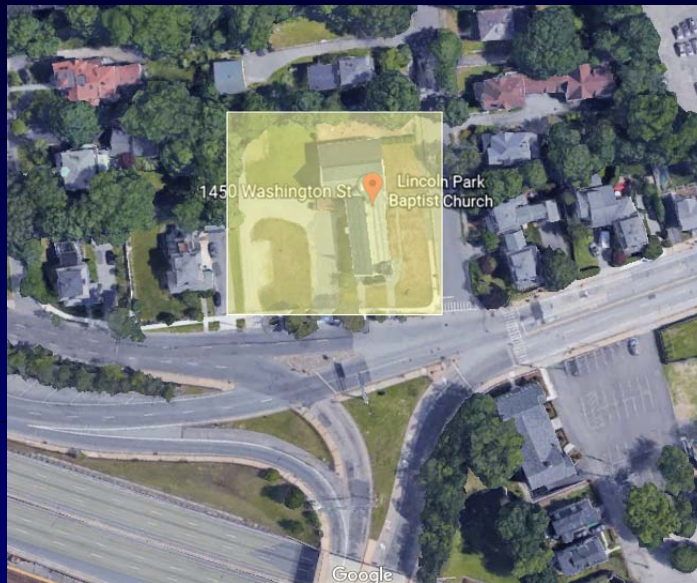
*Special Permit Application to the Newton City Council*



1

Schlesinger and Buchbinder, LLP  
Attorneys at Law

## Aerial View



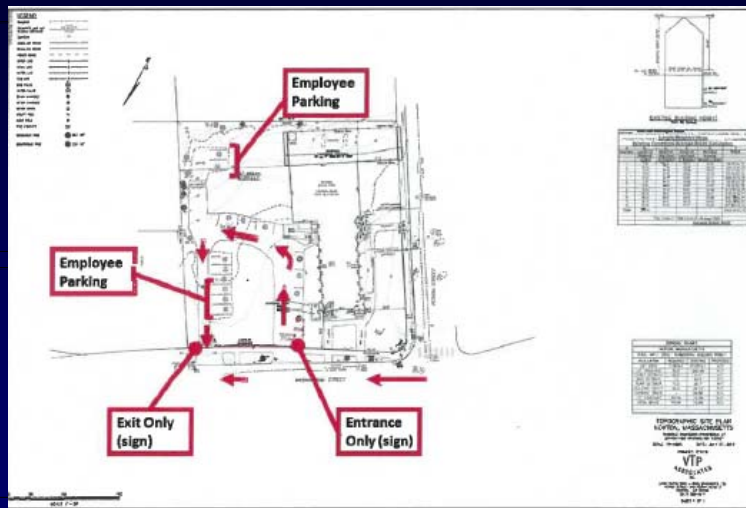
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## Existing Site Circulation



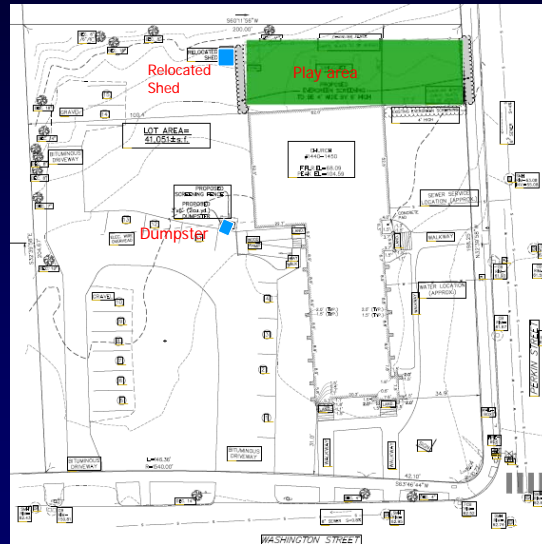
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## Proposed Site Circulation



4

## Proposed Conditions Site Plan



5

## Relief Requested



- Special Permit required for:
  - Waiver of 15 parking stalls (Sections 5.1.4 and 6.3.4.3)
  - Waiver of parking lot landscape perimeter screening requirement (Sections 5.1.9 and 6.3.4.B.3.b)

6

## Department of Planning and Development



**PETITION #36-19**  
**1440-1450 WASHINGTON STREET**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO WAIVE 15 PARKING  
STALLS AND TO WAIVE THE  
SCREENING REQUIREMENT OF  
PARKING FACILITIES ACCESSORY  
TO A DAY CARE CENTER



FEBRUARY 5, 2019

1

### Requested Relief



Special Permit per §7.3.3 of the NZO to:

- Waive 15 parking stalls (§5.1.4, §5.1.13, and §6.3.4.B.3).
- Waive the screening requirement of parking facilities accessory to day care centers located within a residential zone (§6.3.4.B.3.b and §5.1.9).

2

## Criteria to Consider

When reviewing this request, the Council should consider whether:

- Literal compliance with the parking and the screening 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).

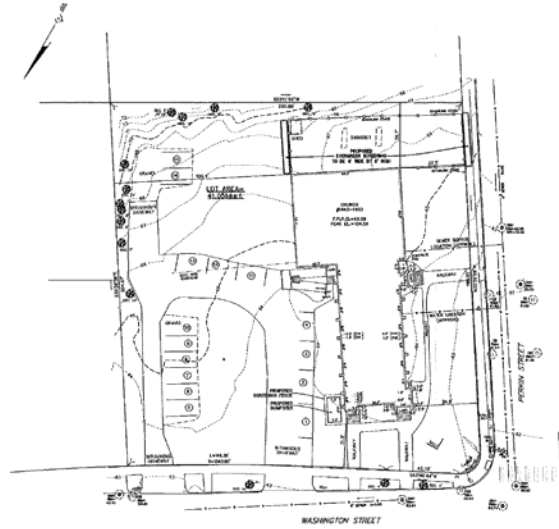
3

## Aerial/GIS Map



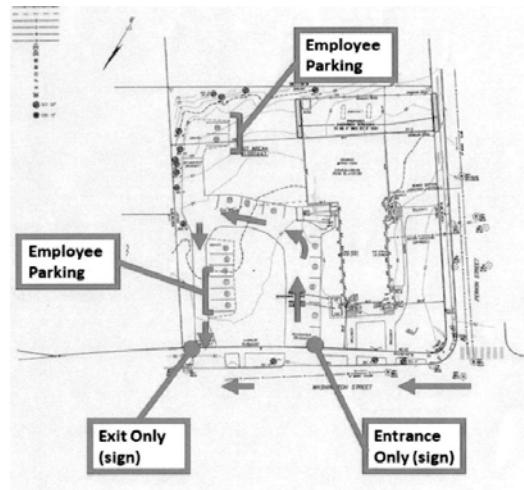
4

## Site Plan



5

## Circulation Plan



6

## Analysis

- The Planning Department believes the petitioner's Transportation Demand Management (TDM) Plan and the proposed circulation changes will mitigate adverse impacts to the neighborhood. The petitioner has incorporated staff's suggested additions to the TDM Plan.

7

## Proposed Findings

1. Literal compliance with the number of parking stalls is impracticable due to the nature of the use because the day care center and the church operation will not typically overlap, thereby allowing the two uses to share the parking stalls on site. (§5.1.4, §5.1.13, §6.3.4.B.3)
2. Literal compliance with the screening requirement of parking facilities accessory day care centers located within a residential zone is impracticable due to the nature of the use because the parking facility has existed in its current condition for several years and because the petitioner is not proposing any changes to the site. (§6.3.4.B.3.b, §5.1.9, and §7.3.3)

8

## Proposed Conditions

1. Plan Referencing Condition.
2. The day care shall be limited to forty-five (45) students and six (6) staff members on site at any one time. If the petitioner would like to increase the number of students to more than forty-five (45) or increase the staff to more than six (6), it must seek an amendment to this special permit.
3. The petitioner shall inform the members of the Lincoln Baptist Church congregation of the changes to the circulation pattern prior to the issuance of a building permit. Proof of such notification shall be provided to the Director of Planning and Development.

9

## Proposed Conditions

4. The petitioner shall distribute the Transportation Demand Management Plan, dated January 2019 to the parents of enrolled children bi-annually.
5. The final location and the screening of any dumpster(s) shall be approved by the Director of Planning and Development.
6. Prior to the issuance of a building permit, the petitioner shall submit a plan indicating compliance with the screening requirements of outdoor play areas or seek a waiver from the Commissioner of Inspectional Services.
7. Standard Certificate of Occupancy Condition.
8. The landscaping shown on the approved Final Site Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.

10



CITY OF NEWTON  
IN CITY COUNCIL

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 REVIEW to waive fifteen parking stalls associated with a day care center and to partially waive the screening requirement of parking facilities accessory to day care centers located within a residential zone, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. Literal compliance with the number of parking stalls is impractical due to the nature of the use because the day care center and the church operation will not typically overlap, thereby allowing the two uses to share the parking stalls on site. The petitioner has also provided a Transportation Demand Management Plan which outlines the protocols for access to and from the site as well as protocols for occasional church events such as funerals. (§5.1.4, §5.1.13, §6.3.4.B.3)
2. Complete compliance with the screening requirement of parking facilities accessory to day care centers located within a residential zone is impracticable due to the nature of the use because the parking facility has existed in its current condition for several years and because the petitioner is not proposing any changes to the site. (§6.3.4.B.3.b, §5.1.9, and §7.3.3)

PETITION NUMBER:	#36-19
PETITIONER:	Happy Munchkins Day School, Inc.
LOCATION:	1440-1450 Washington Street on land known as SBL 32, 14, 13 and SBL 32, 14, 14 containing approximately 41, 051 square feet of land
OWNER:	Lincoln Park Baptist Church
ADDRESS OF OWNER:	1440-1450 Washington Street

Newton, MA 02465

TO BE USED FOR: Day Care Center

CONSTRUCTION: Wood

EXPLANATORY NOTES: §5.1.4, §5.1.13, and §6.3.4.B.3 to waive fifteen parking stalls; §6.3.4.B.3.b, §5.1.9, and §7.3.3 to partially waive the screening requirement of parking facilities accessory to day care centers within a residential zone

ZONING: Multi-Residence 1 zoning 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. Plot Plan of Land, prepared by VTP Associates, signed and stamped by Joe Porter, Professional Land Surveyor, dated July 27, 2018.
  - b. Architectural Plan, prepared by JC Architect, dated March 29, 2018 Revised November 2, 2018 and November 6, 2018
2. The day care center shall be limited to forty-five (45) students and to six (6) staff members on site at any one time. If the petitioner would like to increase the number of students to more than forty-five (45) or to increase the staff to more than six (6), it must seek an amendment to this special permit.
3. The petitioner shall inform the members of the Lincoln Baptist Church congregation of the changes to the circulation pattern prior to the issuance of a building permit. Proof of such notification shall be provided to the Director of Planning and Development.
4. The petitioner shall distribute the Transportation Demand Management Plan, dated January 2019, on file with the City Clerk, to the parents of the enrolled children bi-annually and said Plan shall be updated to include the following provisions which are conditions of this special permit:
  - a. Parents will be discouraged from utilizing on-street parking stalls on Perkins Street and on other neighborhood streets in the area.
  - b. Left turns out of the site onto Washington Street are prohibited.
5. Prior to the issuance of any Building Permit, the petitioner shall obtain a waiver from the screening requirement of the outdoor play area on site from the Commissioner of Inspectional Services
6. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, the Engineering Division of Public Works, and the Fire Department.

7. Prior to the issuance of any Building Permit, the petitioner shall provide a final Landscape Plan for review and approval by the Department of Planning and Development. Such plan shall include fencing on the eastern and the southern boundaries.
8. The final location and the screening of any dumpster(s) shall be approved by the Director of Planning and Development.
9. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - 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.
10. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered land surveyor certifying compliance with Condition #1a.
  - 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 registered architect.
11. The landscaping shown on the approved Final Site Plan shall be maintained in good condition. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner with similar material.

## Department of Planning and Development



**PETITION #37-19**  
**1170-1176 WALNUT STREET**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO ALLOW A HOTEL  
USE

FEBRUARY 5, 2019



1

## Requested Relief



Special Permit per §7.3.3 of the NZO to:

- Allow a hotel use (§4.4.1).

2

## Criteria to Consider

When reviewing this request, the Council should consider whether:

- The site is an appropriate location for the proposed hotel use (§7.3.3.1).
- The proposed hotel use as developed and operated will not adversely affect the neighborhood (§7.3.3.2).
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.3).
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.4).

3

## Aerial/GIS Map



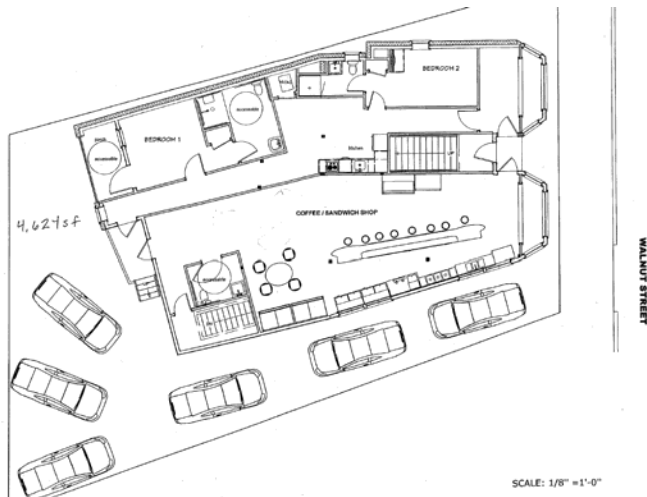
4

## Site



5

## First Floor Plan



6

## Parking

- There is very limited on site. Staff has asked the petitioner to provide a plan showing how many stalls can be provided with enough room for maneuverability to exit the site.
- The petitioner will charge guests to park a vehicle overnight, and will provide weekly transit passes to guests to disincentivize parking on site.
- Staff suggests that the petitioner only allow hotel guests to park on site, and suggests that the petitioner consider reimbursing guests for trips from ride-sharing vendors.

7

## Analysis

- The site's location adjacent to the Walnut Street bridge makes access to the site difficult. As such, staff believes limiting on-site parking will decrease the likelihood of the hotel adversely impacting the neighborhood. As an additional measure, staff suggests the petitioner install a "Right Turn Only" sign on site.
- Staff recommends post-occupancy updates with the Director of Planning and the Director of Transportation to assess and to mitigate any impacts.

8

## Proposed Findings

1. The specific site is an appropriate location for the hotel use given the site's location within the Newton Highlands Village Center because the use will further diversify uses within the Center. (§7.3.3.C.1)
2. The hotel use as developed and operated will not adversely affect the neighborhood because the petition renovates an existing historic structure, thereby preserving the Village's scale. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner will limit access and parking on site by charging for parking separately from the cost of a room and by providing guests with transit passes. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's location within the Newton Highlands Village Center. (§7.3.3.C.4)

9

## Proposed Conditions

1. Plan Referencing Condition.
2. The petitioner may operate a hotel with no more than eight sleeping rooms and a café with no more than 24 seats. Should the petitioner seek to increase the number of rooms or to increase the number of seats, it shall seek an amendment to this Special Permit/Site Plan Approval.
3. The petitioner shall screen any dumpsters with a wooden fence, or similar material as approved by the Director of Planning and Development.
4. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.

10



## Proposed Conditions

5. The petitioner shall limit on site parking to four stalls that shall be available to hotel guests only. The petitioner shall charge for the cost of the stalls separately from the cost of a room.
6. At six and at twelve months after receipt of a certificate of occupancy, the petitioner shall provide the Department of Planning and Development and the Transportation Planning Staff of the Department of Public Works with the records of the number of hotel guests, the number of transit passes issued, and the number of trips taken with ridesharing vendors. After such period has lapsed, the petitioner shall file a statement attesting to compliance with this condition during the annual inspection conducted by the Inspectional Services Department.
7. Standard Building Permit Condition.
8. Standard Certificate of Occupancy Condition.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a hotel use with eight sleeping rooms, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for the hotel use given the site's location within the Newton Highlands Village Center and the use will further diversify the uses within the Center. (§7.3.3.C.1)
2. The hotel use as developed and operated will not adversely affect the neighborhood because the petitioner is renovating an existing historic structure, thereby preserving the Village Center's scale. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the petitioner will limit access and parking on site by charging for parking separately from the cost of a room and by providing guests with transit passes. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's location within the Newton Highlands Village Center. (§7.3.3.C.4)

PETITION NUMBER: #37-19

PETITIONER: 1170 Walnut Street, LLC/Stas Gavronsky

ADDRESS OF PETITIONER: 39 Wayland Hills Road  
Wayland, MA 01778

LOCATION: 1170-1176 Walnut Street

OWNER: 1170 Walnut Street, LLC/ Stas Gavronsky

ADDRESS OF OWNER: 39 Wayland Hills Road  
Wayland, MA 01778

TO BE USED FOR: A hotel use with eight sleeping rooms

EXPLANATORY NOTES: Special permit per §4.4.1 and §7.3.3 to allow a hotel use

ZONING: Business Use 2

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. Plan of Land, prepared by Hayes Engineering Inc., signed and stamped by Thomas F. Winslow, Professional Land Surveyor, dated December 17, 2018.
  - a. Architectural Plans prepared by C.B. Quinn, consisting of three sheets dated October 25, 2018.
  - b. Architectural Plans, signed and stamped by Peter L. Sandorse, Registered Architect, consisting of six sheets, dated September 1, 2018.
2. The petitioner may operate a hotel with no more than eight sleeping rooms and a café with no more than 24 seats. Should the petitioner seek to increase the number of rooms or to increase the number of seats, it shall seek an amendment to this Special Permit/Site Plan Approval.
3. The petitioner shall screen any dumpsters with a wooden fence, or similar material as approved by the Director of Planning and Development.
4. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
5. The petitioner shall limit on site parking to two (2) stalls that shall be available to hotel guests only. The petitioner shall charge for the cost of a parking stall separately from the cost of a room. The petitioner shall also provide weekly transit passes to hotel guests to disincentivize parking on site.
6. At six months and at twelve months after receipt of a certificate of occupancy, the petitioner shall provide the Department of Planning and Development and the Transportation Planning Staff of the Department of Public Works with the records of the number of hotel guests, the number of parking stalls on site rented by guests, and the number of transit passes issued. After such period has lapsed, the petitioner shall file a statement attesting to compliance with this condition during the annual inspection conducted by the Inspectional Services Department.

7. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, the Engineering Division of Public Works, the Fire Department, and the Inspectional Services Department.
8. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
  - a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
9. No temporary occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
  - 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. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - c. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans, provided all other conditions of this order have been met. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.

## Department of Planning and Development



**PETITION #623-18  
20-22 CIRCUIT AVENUE**

SPECIAL PERMIT/SITE PLAN  
APPROVAL TO CONVERT A  
TWO-FAMILY DWELLING INTO A  
THREE-UNIT MULTI-FAMILY  
DWELLING BY CONVERTING THE  
EXISTING ATTIC SPACE, ALLOW  
PARKING WITHIN 5' OF RESIDENTIAL  
DWELLING UNITS, TO WAIVE THE  
MINIMUM AISLE WIDTH  
REQUIREMENTS, TO WAIVE  
DRIVEWAY WIDTH, AND TO WAIVE  
LIGHTING REQUIREMENTS

*FEBRUARY 5, 2019*



1

## Requested Relief



Special permit per §7.3.3 to:

- allow a multi-family dwelling (§3.4.1)
- allow parking within five feet of a structure with residential dwelling units (§5.1.8.A.2, §5.1.13)
- waive the minimum aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13)
- waive lighting requirements (§5.1.10.A, §5.1.13)

2

## Criteria to Consider

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family dwelling (§7.3.3.C.1).
- The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding 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 site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).
- Literal compliance with the parking standards regarding parking within five feet of a dwelling, minimum aisle width, and minimum lighting levels is impractical due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that granting exceptions to such requirements would be in the public interest, or in the interest of safety, or protection of environmental features (§5.1.13).

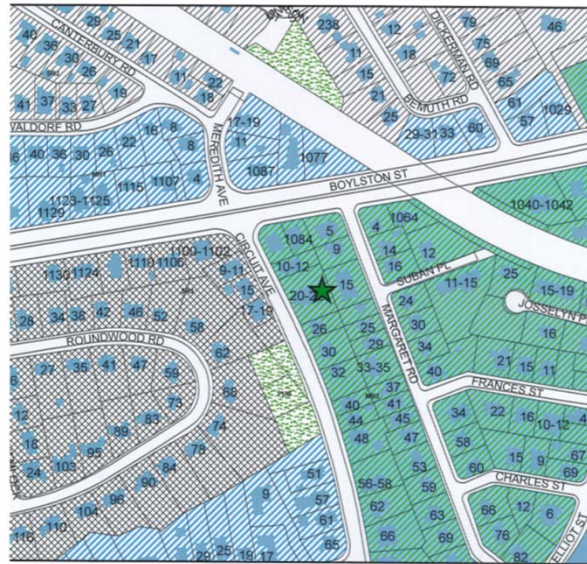
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## AERIAL/GIS MAP



4

## Zoning

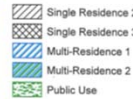


ATTACHMENT I

### Zoning

20-22 Circuit Ave.

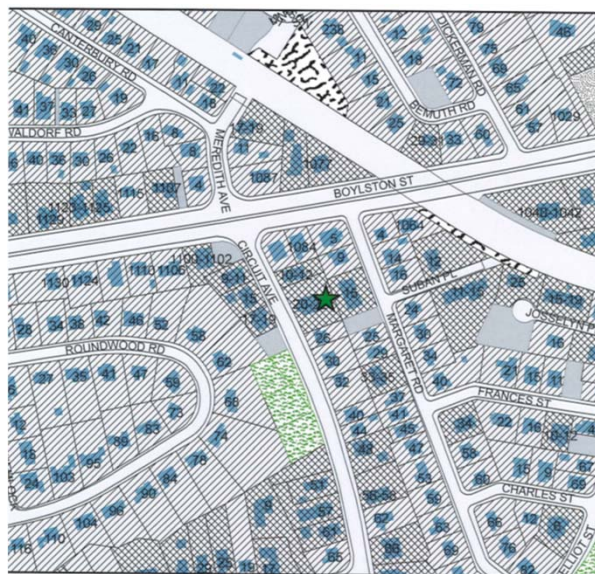
City of Newton,  
Massachusetts



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton reserves the right to change the information at any time without notice. For more information, please contact the City of Newton GIS Department at 508.552.3000. City of Newton, Massachusetts  
Mayor: Ruthanne Fuller  
GIS Administrator: Douglas Greenfield  
Map Date: January 25, 2019

5

## Land Use



ATTACHMENT #

### Land Use

20-22 Circuit Ave.

City of Newton,  
Massachusetts

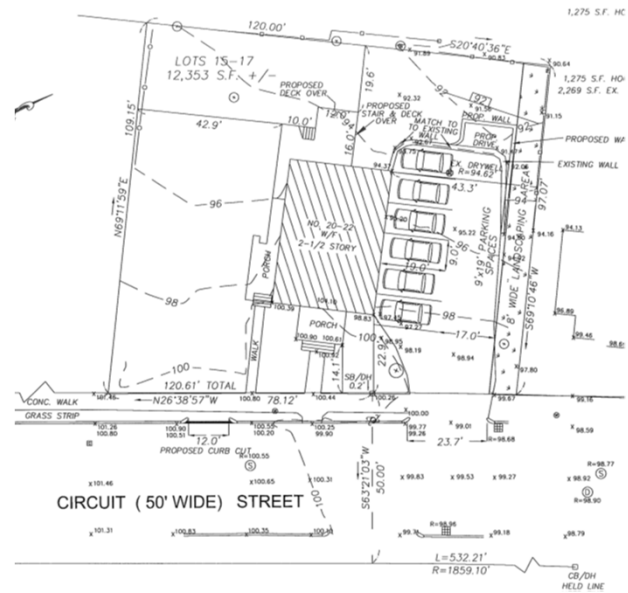


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton reserves the right to change the information at any time without notice. For more information, please contact the City of Newton GIS Department at 508.552.3000. City of Newton, Massachusetts  
Mayor: Ruthanne Fuller  
GIS Administrator: Douglas Greenfield  
Map Date: January 25, 2019

6

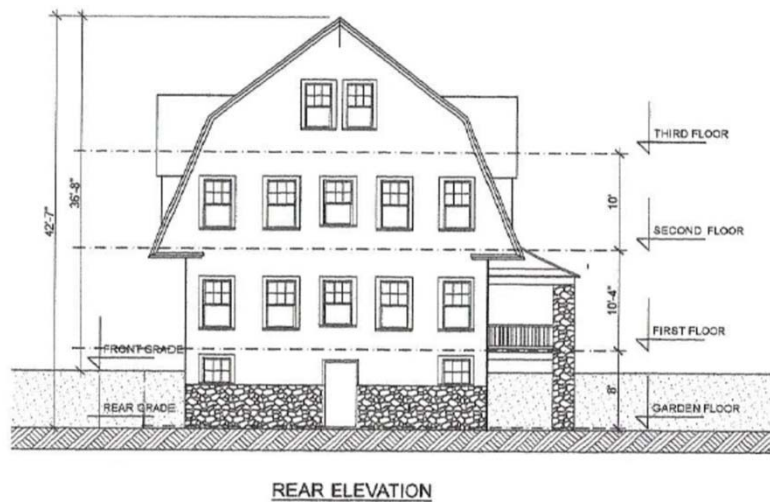


## Site Plan- existing



7

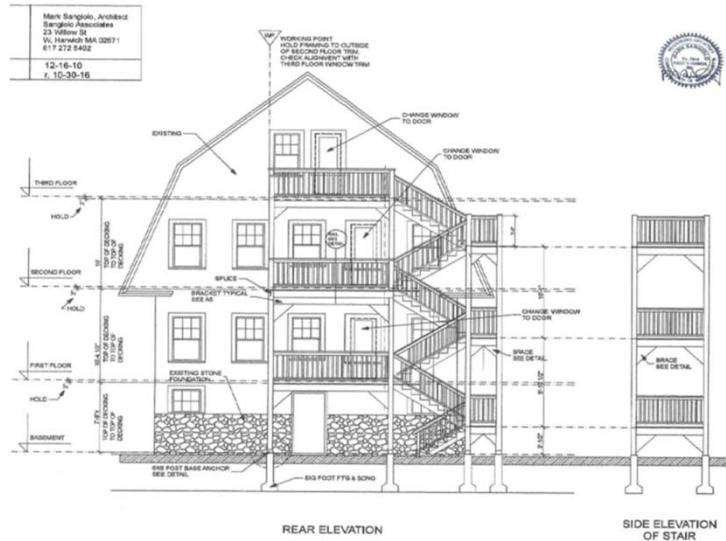
**Elevation: Rear- Existing**



8



## Elevations: Rear- Proposed & Stair side



9

## Photos



10

**Photos**



11

**Photos**



12

### Photos



13

### Photos



14

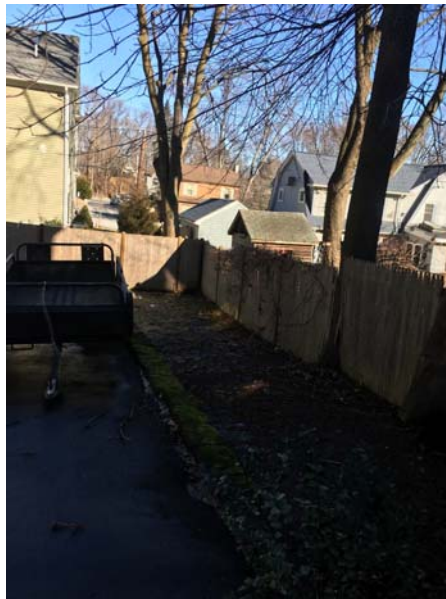


### Photos



15

### Photos



16

## Photos



17

## Proposed Findings

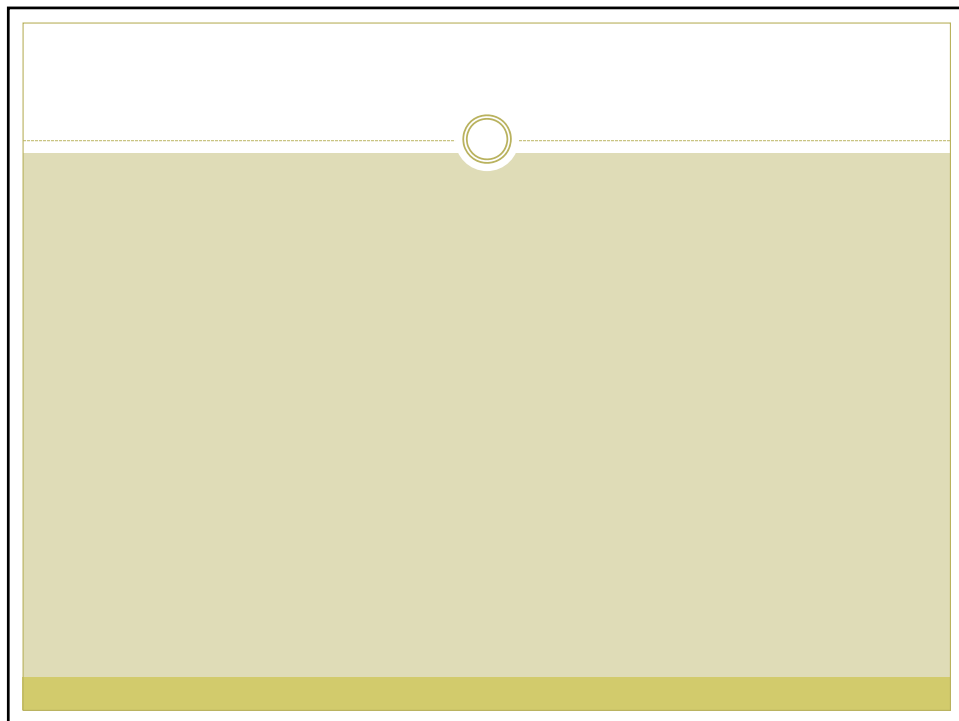
1. The specific site is an appropriate location for the proposed three-unit, multi-family dwelling given the presence of other multi-family structures in the neighborhood (§7.3.3.C.1);
2. The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding neighborhood given the presence of other multi-family structures in the neighborhood and because all required parking is accommodated on site (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
5. The requested exceptions to literal compliance with the parking standards, including allowing parking within five feet of a structure with residential dwelling units and waiving the minimum aisle width and lighting requirements, are in the public interest because they will allow the preservation of landscaped open space on the lot and be consistent with the residential nature of the neighborhood (§5.1.13).

18

## Proposed Conditions

- *Plan Referencing Condition*
- The property shall not be used for auto storage or parking by non-residents.
- *Standard Building Permit Condition, plus:*
  - Prior to the issuance of any Building Permit, the petitioner shall submit a Final Landscape Plan which shall include existing and/or proposed vegetation along the back of the Circuit Avenue sidewalk and all other property boundaries, as well as additional detail about the vegetation within the “8’ Wide Landscaping Area” shown in the plan cited in Condition 1(a), for review and approval by the Director of Planning and Development.
- *Standard Final Inspection/Certificate of Occupancy Condition.*
- All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.

19



20

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 allow a three-unit multifamily dwelling, and to allow exceptions to certain parking requirements related to the location of parking stalls within five feet of a dwelling, minimum aisle width and minimum lighting, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the proposed three-unit, multi-family dwelling given the presence of other multi-family structures in the neighborhood (§7.3.3.C.1);
2. The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding neighborhood given the presence of other multi-family structures in the neighborhood and because all required parking is accommodated on site (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
5. The requested exceptions to literal compliance with the parking standards, including allowing parking within five feet of a structure with residential dwelling units and waiving the minimum aisle width and lighting requirements, are in the public interest because they will allow the preservation of landscaped open space on the lot and be consistent with the residential nature of the neighborhood (§5.1.13).

PETITION NUMBER: #623-18

PETITIONER: Arthur Kalotkin

LOCATION: 20-22 Circuit Avenue, Ward 5, on land known as Section 51, Block 20, Lot 39, containing approx. 12,353 sq. ft. of land

OWNER: Arthur Kalotkin

ADDRESS OF OWNER: 32 Claflin Rd.  
Brookline, MA 02445

TO BE USED FOR: Three unit, multi-family dwelling

EXPLANATORY NOTES: Special Permit per §7.3 to allow a multi-family residential use in an Multi-Residence 2 (MR2) zoning district(§3.4.1);allow parking within five feet of a structure with residential dwelling units (§5.1.8.A.2, §5.1.13); waive the minimum aisle width requirements (§5.1.8.C.1, §5.1.8.C.2, §5.1.13), and waive lighting requirements (§5.1.10.A, §5.1.13).

ZONING: Multi-Residence 2 (MR-2) 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. A plan entitled "Site Plan for 20-22 Circuit Avenue in Newton, Mass.," prepared by Neponset Valley Survey Assoc., Inc., signed and stamped on December 10, 2018 by Stephen P. Desroche, Professional Land Surveyor.
  - b. Architectural drawings entitled "Exterior Stair Addition to 20 & 22 Circuit Ave, Newton, MA," prepared by Sangiolo Associates, signed and stamped by Mark Sangiolo, Registered Architect, dated October 30, 2016, consisting of the following:
    - i. EX1 (showing existing floor plans of the third floor, second floor, first floor and basement and rear elevation;
    - ii. A4 (showing proposed rear elevation and side elevation of stair).
2. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
3. The property shall not be used for auto storage or parking by non-residents.
4. Prior to the issuance of any Building Permit, the petitioner shall submit a Final Landscape Plan which shall include existing and/or proposed vegetation along the back of the Circuit Avenue sidewalk and all other property boundaries, as well as additional detail about the vegetation within the "8' Wide Landscaping Area" shown in the plan cited in Condition 1(a), for review and approval by the Director of Planning and Development. Said Final Landscaping Plan shall



also include the location(s) and specifications for one or more motion-detector controlled lighting fixtures for the appropriate site-specific illumination of the parking area.

5. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
  - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
  - e. Submitted a Final Landscape Plan per Condition #4 to the Director of Planning and Development for review and approval.
9. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
10. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.
11. Notwithstanding the provisions of Condition #9(d) above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

LA@CA CONDOMINIUMS  
166/182-184 CALIFORNIA STREET  
NEWTON

Land Use Committee Public Hearing  
February 5, 2019

1

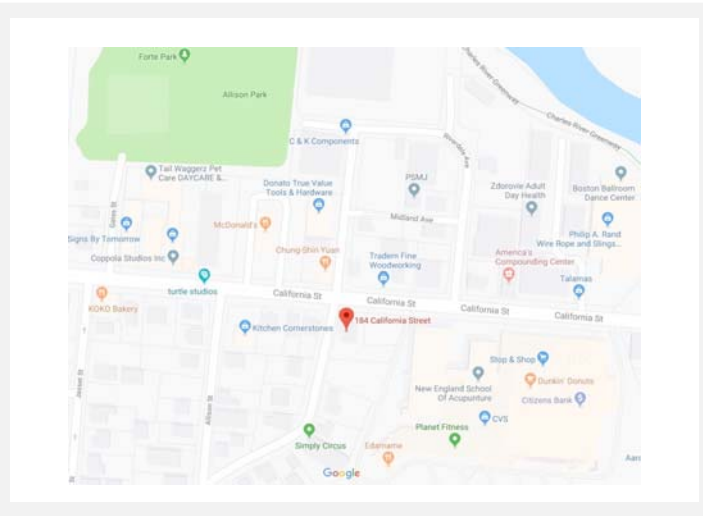
166/182-184 CALIFORNIA STREET

- Manufacturing Zoning.
  - By-Right Uses: Examples - Parking Facility; Assembly or Fabrication of Materials; Contractors' Yard; Food Processing; General Manufacturing; Paint Store.
- Existing Legal Non-Conforming Residential Use Better for Neighborhood
- 18,121 SF of land
- Three Stories; 32.6 Feet in Height (36 Feet allowed)
- 20 Residential Units including 3 Affordable Units
- Underground Garage Parking

2

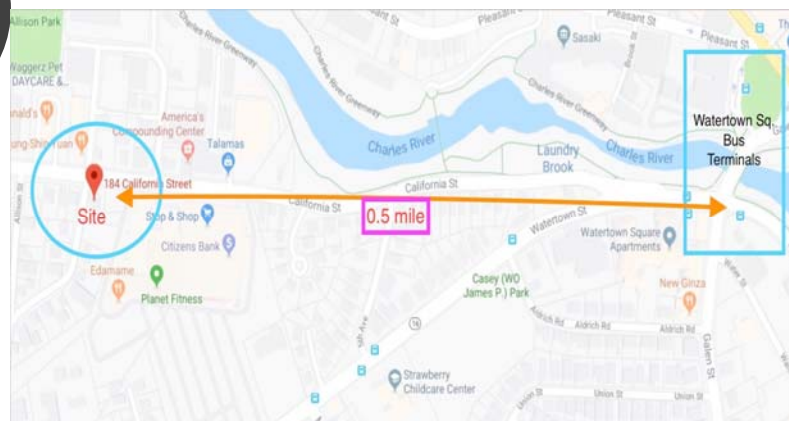
### SITE LOCATION & AREA AMENITIES

- Restaurants/Bakery/Coffee Shop
- Stop & Shop
- Health Club
- CVS Pharmacy
- Charles River & Greenway
- Public Parks (Stearns Park & Forte/Allison Park)



3

### TRANSIT ORIENTED LOCATION



4

### EXISTING CONDITION



5

### LA@CA CONDOMINIUMS



6

## PROPOSED TRANSITION



California St



Aerial view

7

## STREETSCAPE BALANCE



8

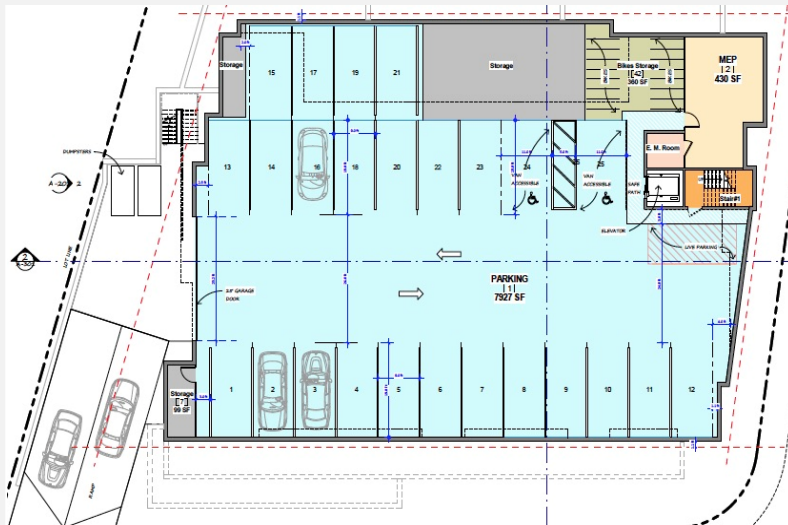
## STREET- SCAPE BALANCE



9

## GARAGE

- 25 Parking Spaces (4 pairs of tandem)
- Includes 2 HP Van Accessible Spaces
- Bike Storage
- Unit Storage
- Elevator Access
- EV charging capabilities

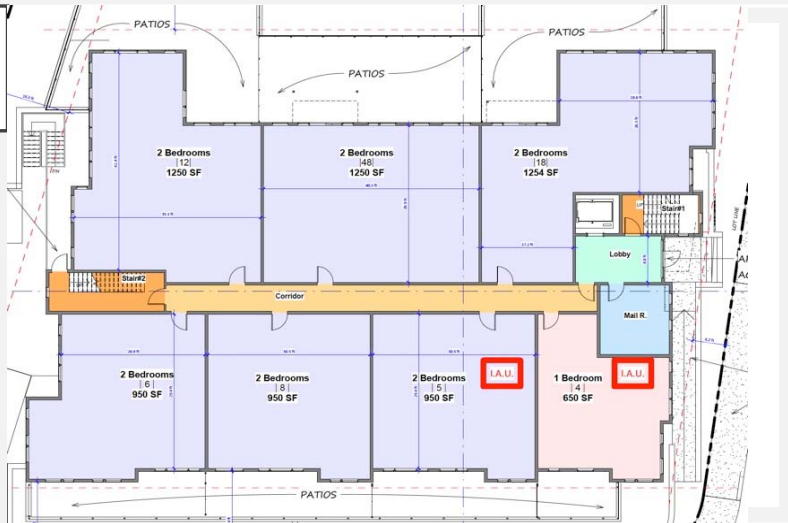


10



## FIRST FLOOR

- Main Entrance and Lobby
- HP Ramp Accessible & Elevator Access
- One (1) one-bedroom (affordable unit)
- Six (6) two-bedrooms (w/ One Affordable Unit)
- Units are “Flats” without interior stairs – accessibility purposes



11

## SECOND FLOOR

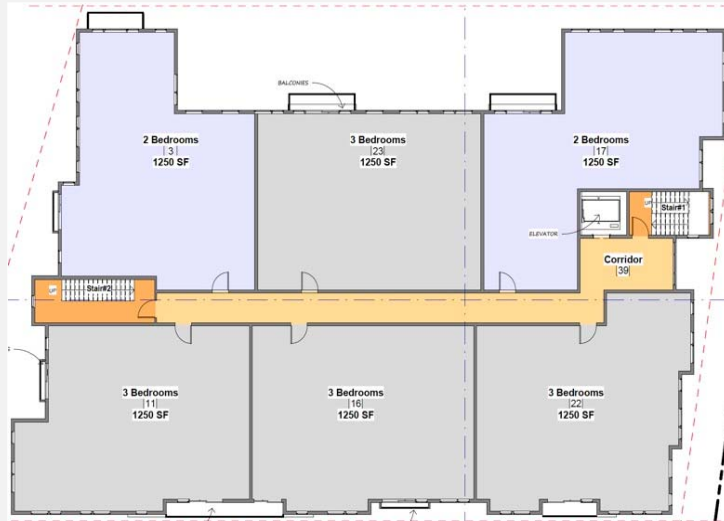
- Elevator Access
- Six (6) two-bedroom units
- One (1) three-bedroom affordable unit
- Units are “Flats” without interior stairs – accessibility purposes



12

## THIRD FLOOR

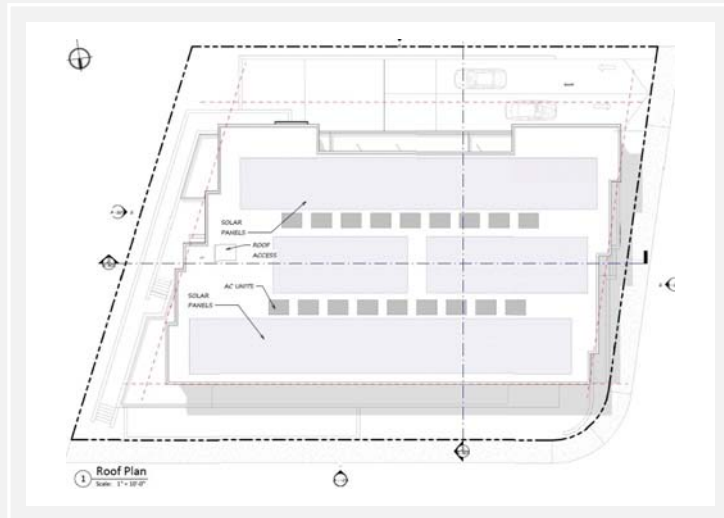
- Elevator Access
- Two (2) two-bedroom units
- Four (4) three-bedroom units
- Units are “Flats” without interior stairs – accessibility purposes



13

## ROOF PLAN

- Solar Panels
- A/C Units



14





# Department of Planning and Development



**PETITION #483-18**  
**182-184 CALIFORNIA STREET AND 166**  
**CALIFORNIA STREET**

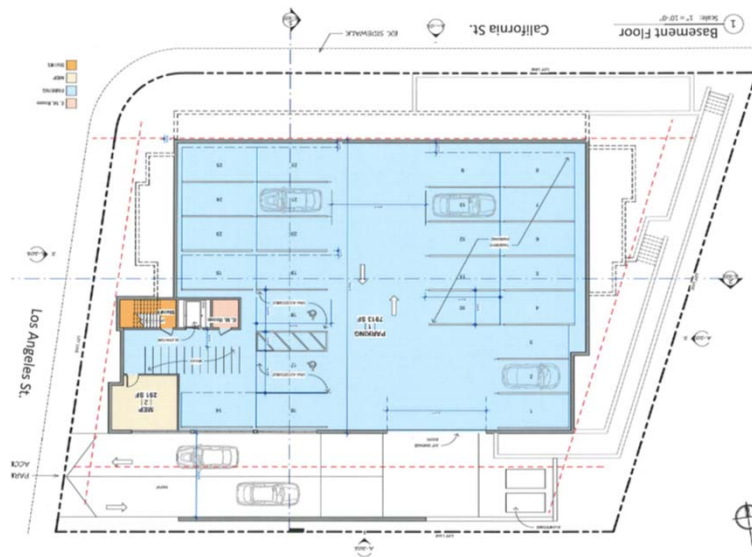
SPECIAL PERMIT/SITE PLAN APPROVAL TO ALLOW THE EXPANSION OF A NONCONFORMING MULTI-FAMILY DWELLING USE BY CONSTRUCTING A THREE-STORY MULTI-FAMILY DEVELOPMENT 32.6' IN HEIGHT IN A MANUFACTURING DISTRICT WITH GREATER THAN 20,000 SQ. FT. NEW GROSS FLOOR AREA, ALLOWING A NONCONFORMING FRONT SETBACK, TO ALLOW A REDUCTION OF THE REQUIREMENT FOR PARKING TO 1.25 STALLS PER UNIT, TO WAIVE MANEUVERING SPACE FOR RESTRICTED PARKING STALLS, TO ALLOW TANDEM PARKING AND TO ALLOW RETAINING WALLS GREATER THAN FOUR FEET IN HEIGHT IN THE SETBACK



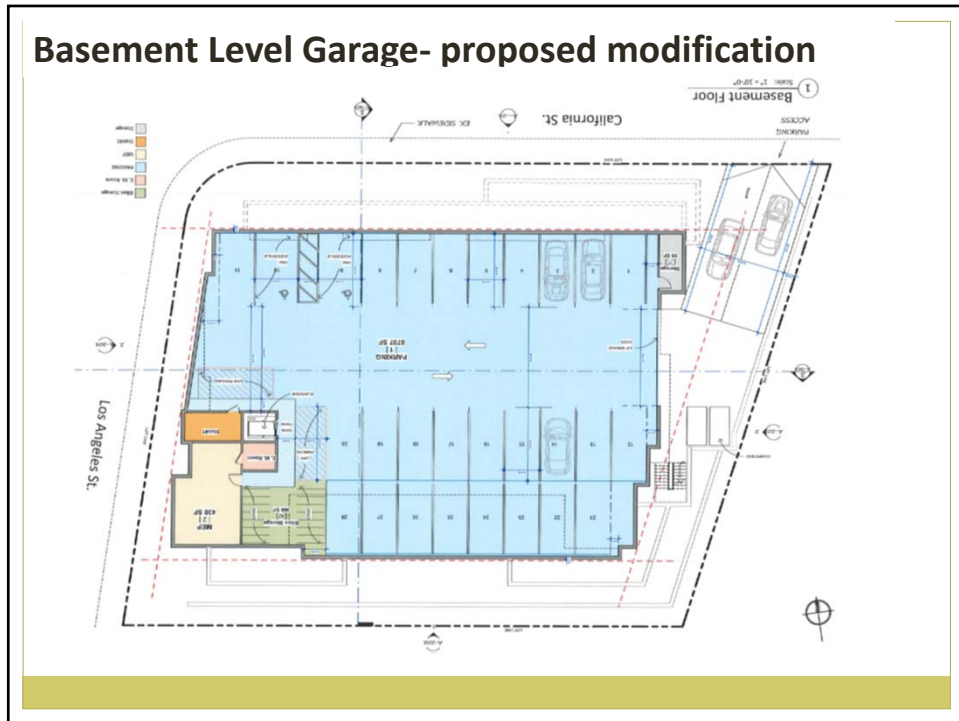
FEBRUARY 5, 2019

1

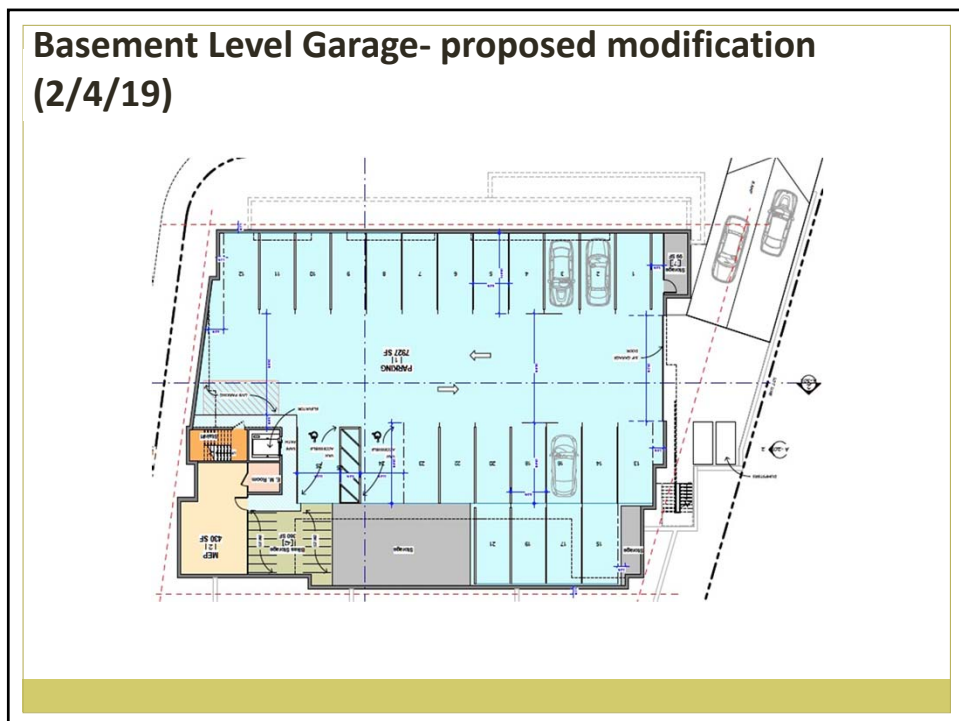
## Basement Level Garage- as submitted



2

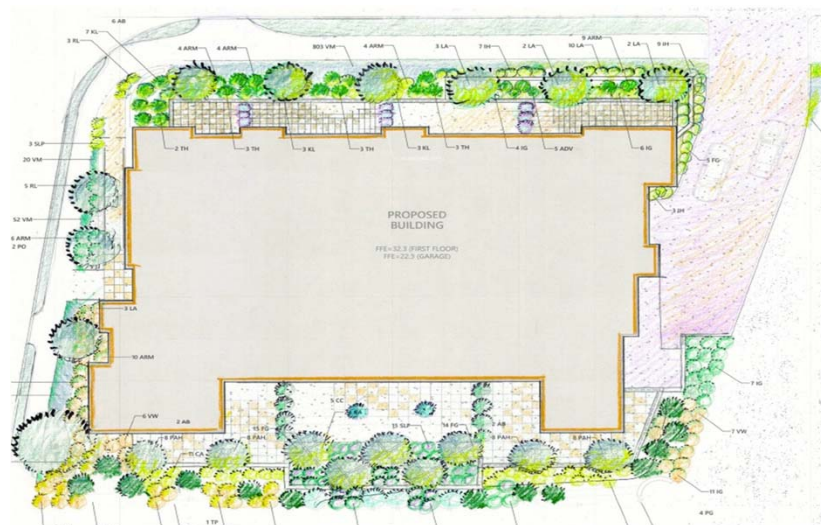


3



4

## Landscape plan



5

## Dwelling Unit Mix



Previously proposed:

- Twelve 3- bedrooms
- Eight 2-bedrooms

2 affordable (one one-bedroom, one two-bedroom)

Currently proposed:

- Five 3-bedrooms
- Fourteen 2-bedrooms
- One 1-bedroom

3 affordable (one each)

6

## Proposed Findings

1. The site is an appropriate location for the proposed three-story, 20-dwelling unit building of more than 20,000 square feet with a nonconforming front setback and retaining walls greater than four feet in height as designed, given the neighborhood's mix of residential and commercial land uses and structures of varying scales and heights and as it is with a five minute walk to public transit services at Watertown Square (§7.3.3.C.1) ;
2. The proposed project as designed, developed, and operated will not adversely affect the neighborhood as the petitioner submitted studies indicating the project will not negatively affect vehicular traffic in the area (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);

7

## Proposed Findings (cont.)

5. The site planning, building design, construction, maintenance and long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy as the building will have several environmentally beneficial features, including roof-top solar panels, the mechanical and electrical systems will be built to "EnergyStar" standards, and rain run-off will be used for landscaping irrigation;
6. The requested exceptions to the parking requirements, including allowing a reduction in required parking for a multi-family dwelling to 1.25 stalls per unit (§5.1.4), waiving maneuvering space for restricted parking stalls and allowing tandem parking are in the public interest and protect environmental features as they allow for all parking to be located within the structure's basement level and allow for additional landscaping of the site, further; the dwelling's location convenient to nearby transit services is expected to reduce the demand for parking by its residents.

8

## Requested Relief

Special permit per §7.3.3 to:

- allow an expansion of a nonconforming multi-family dwelling use (§4.4.1, §7.8.2.2)
- allow a development in a Manufacturing district with more than 20,000 square feet of new gross floor area (§4.3.2.B.1)
- extend a nonconforming front setback (§4.3.3, §7.8.2.C.2)
- allow a three-story structure (§4.3.2.B.3, §4.3.3)
- allow a reduction in required parking for a multi-family dwelling to 1.25 stalls per unit (§5.1.4)
- waive maneuvering space for restricted parking stalls (§5.1.8.B.6, §5.1.13)
- allow tandem parking (§5.1.8.E.1, §5.1.13)
- allow retaining walls greater than four feet in height in the setback (§5.4.2)

11

## Criteria to Consider

When reviewing the requested special permits the Council should consider whether:

- The specific site is an appropriate location for the proposed twenty-unit dwelling (§7.3.3.C.1)
- The proposed twenty-unit dwelling as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2)
- The specific site is an appropriate location for the proposed retaining wall system greater than four feet in height in a setback (§7.3.3.C.1)
- The proposed retaining wall system greater than four feet in height as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2)

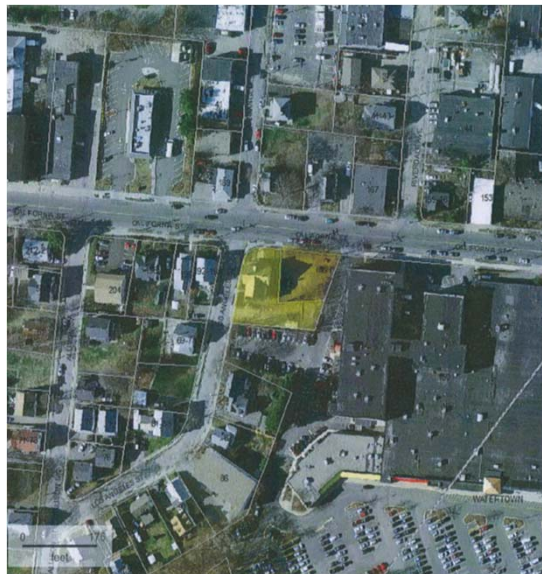
12

## Criteria to Consider (cont.)

- 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 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 of the Newton Zoning Ordinance (NZO) 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)

13

## AERIAL/GIS MAP



14

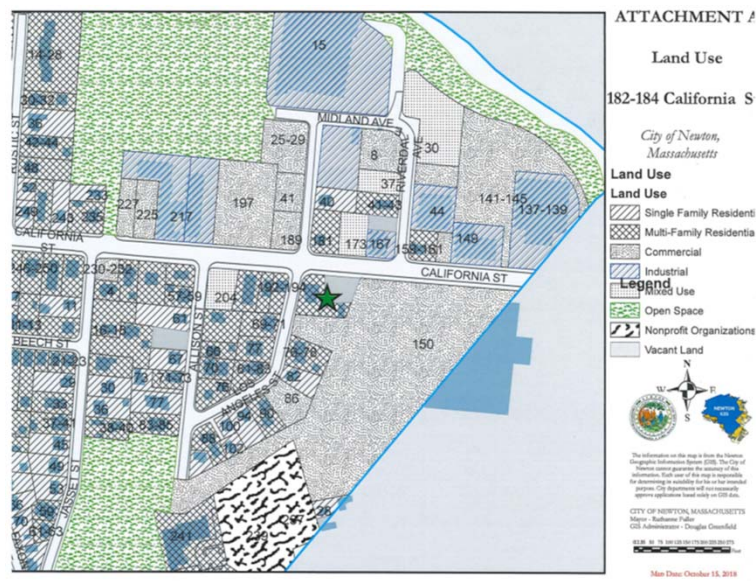


## Zoning



15

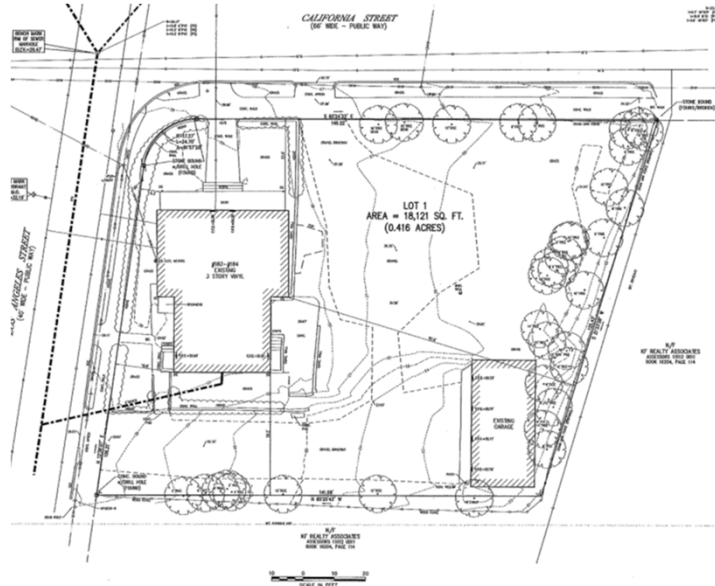
## Land Use



16

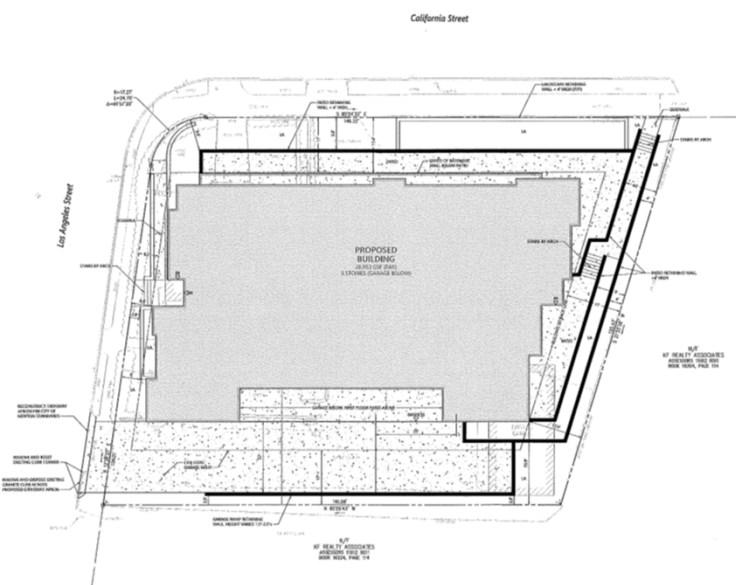


## Site Plan- existing



17

## Site Plan- proposed



18

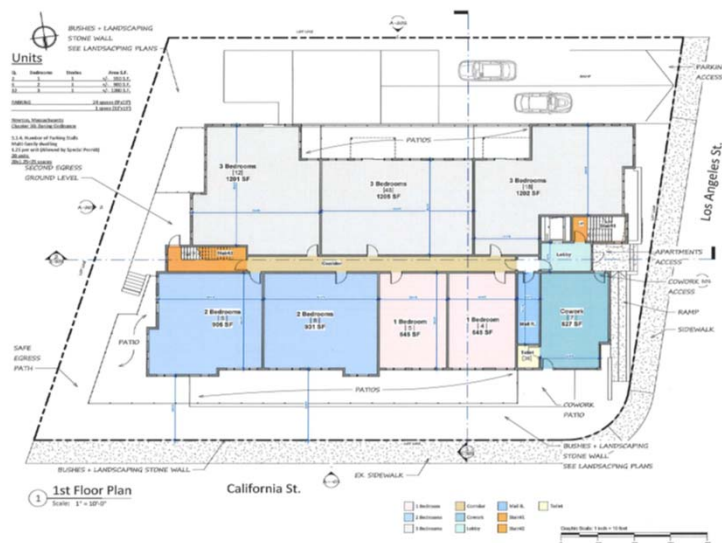
## 10/19/18 Plan Update

Petitioner has proposed:

- Modified 1<sup>st</sup> floor plan-
  - Two 1-bedroom units and common space replaced by two 2-bedroom units (common space eliminated)
- Affordable Units:
  - One 2-bedroom unit located on the 1<sup>st</sup> floor
  - One 3-bedroom unit located on the 2<sup>nd</sup> floor

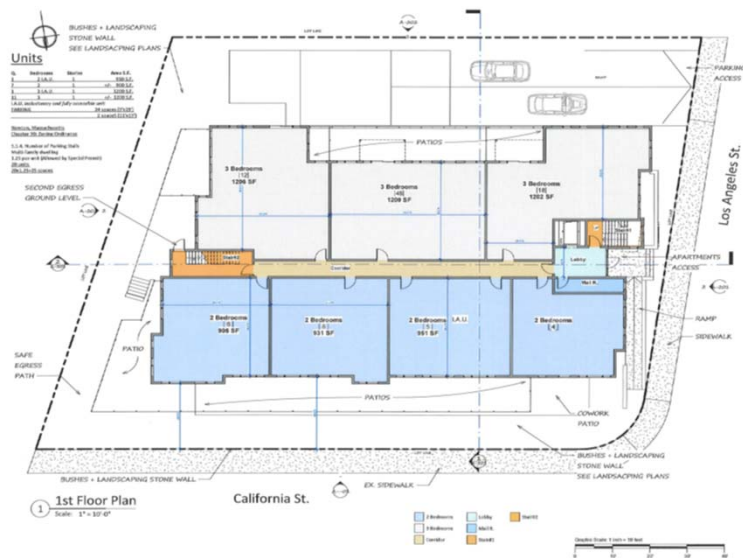
19

## Floor plan- 1<sup>st</sup> Floor (original)



20

### Floor plan- 1<sup>st</sup> Floor (modified)



21

### Floor plan- 2<sup>nd</sup> Floor



22

## Floor plan- 3<sup>rd</sup> Floor



23

## Elevations- West & North



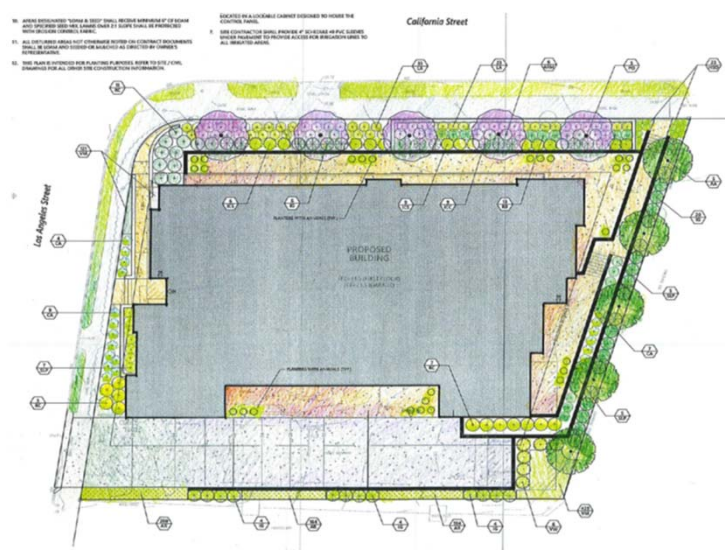
24

## Elevations- East & South



25

## Landscape plan



26



### Perspectives- California St.



27

### Perspectives- California St.



28

### Photos



29

### Photos



30

### Photos



31

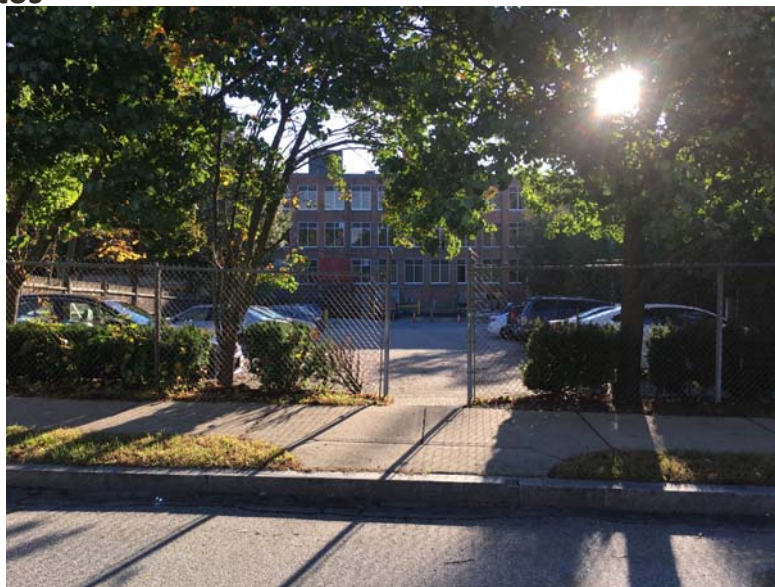
### Photos



32



### Photos



33

### Photos



34



35

### Proposed Conditions

1. *Plan Referencing Condition*
2. *Standard Building Permit Condition.*
3. *Standard Final Inspection/Certificate of Occupancy Condition.*

36

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow the expansion of a nonconforming multifamily use to construct a 21,899 square foot, 20-unit multi-family structure of three stories and 34.41 feet in height with a nonconforming setback, reduce the parking requirement from two to 1.25 stalls per unit, waive maneuvering space for restricted parking stalls, allow tandem parking, and allow retaining walls greater than four feet in height in the setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- 1) The site is an appropriate location for the proposed three-story, 20-dwelling unit building of more than 20,000 square feet with a nonconforming front setback and retaining walls greater than four feet in height as designed, given the neighborhood's mix of residential and commercial land uses and structures of varying scales and heights and as it is with a five minute walk to public transit services at Watertown Square (§7.3.3.C.1) ;
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood as the petitioner submitted studies indicating the project will not negatively affect vehicular traffic in the area (§7.3.3.C.2);
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
- 5) The site planning, building design, construction, maintenance and long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy as the building will have several environmentally beneficial features, including roof-top solar panels, the mechanical and electrical systems will be built to "EnergyStar" standards, and rain run-off will be used for landscaping irrigation;

- 6) The requested exceptions to the parking requirements, including allowing a reduction in required parking for a multi-family dwelling to 1.25 stalls per unit (§5.1.4), waiving maneuvering space for restricted parking stalls and allowing tandem parking are in the public interest and protect environmental features as they allow for all parking to be located within the structure's basement level and allow for additional landscaping of the site, further; the dwelling's location convenient to nearby transit services is expected to reduce the demand for parking by its residents.

PETITION NUMBER: #483-18

PETITIONER: LA&CA, LLC

ADDRESS OF PETITIONER: 1290 Beacon Street  
Brookline, MA 02446

LOCATION: 182-184 California Street and 166 California Street

OWNER: LA&CA, LLC

ADDRESS OF OWNER: 1290 Beacon Street  
Brookline, MA 02446

TO BE USED FOR: A 20-unit multi-family development with associated parking.

EXPLANATORY NOTES: Special permits per §7.3.3:

- to allow an expansion of a nonconforming multi-family dwelling use (§4.4.1, §7.8.2.2);
- to allow a development in a Manufacturing district with more than 20,000 square feet of new gross floor area (§4.3.2.B.1);
- to extend a nonconforming front setback (§4.3.3, §7.8.2.C.2);
- to allow a three-story structure (§4.3.2.B.3, §4.3.3);
- to allow a reduction in required parking for a multi-family dwelling to 1.25 stalls per unit (§5.1.4);
- to waive maneuvering space for restricted parking stalls (§5.1.8.B.6, §5.1.13);
- to allow tandem parking (§5.1.8.E.1, §5.1.13);
- to allow retaining walls greater than four feet in height in the setback (§5.4.2).

ZONING: Manufacturing (MAN)

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. Engineering plans entitled "Plan Set, La@CA, 182-184 , prepared by VHB Associates, signed and stamped by Curtis R. Quitzau, Registered Professional Engineer, consisting of the following sheets dated August 17, 2018 as revised through January 21, 2019:
    - i. Legend and General Notes (C-1)
    - ii. Existing Area Plan (C-2.1)
    - iii. Proposed Area Plan (C-2.2)
    - iv. Zoning Assessment Plan (C-3)
    - v. Layout and Materials Plan (C-4)
    - vi. Grading and Drainage Plan (C-5)
    - vii. Utility Plan (C-6)
    - viii. Erosion and Sediment Control Plan (C-7);
    - ix. Site Details (C-8);
    - x. Planting Plan (L-1);
    - xi. Planting Details (L-2);
    - xii. Existing Conditions Plan of Land May 23, 2018 (Sv-1).
  - a. Architectural plans entitled "La@CA, 182-184 California St, Newton, MA, prepared by Dooling & Company Architects, consisting of the following sheets dated December 20, 2017 as revised through January 21, 2019:
    - I. 3D View(P-001);
    - II. California St Elevation & Aerial (P-002);
    - III. Perspective (P-003);
    - IV. Perspective (P-004);
    - V. Areas (A-001);
    - VI. First Floor Plan (A-101);
    - VII. Second Floor Plan (A-102);
    - VIII. Third Floor Plan (A-103);
    - IX. Basement Floor Plan (A-104);
    - X. Roof Floor Plan (A-105);
    - XI. California & Los Angeles Building Elevations (A-201);
    - XII. East & South Building Elevations (A-201);
    - XIII. Building Sections (A-301);

2. **INCLUSIONARY ZONING/AFFORDABLE UNITS**-In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), three (3) of the residential units in the new multi-family structure shall be made available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA. As *proposed in the Preliminary Inclusionary Housing Plan*,     ( )     of these units shall be made available to households earning at or below 80% AMI, and     ( )     of these units shall be made available to households earning at or below 50% AMI. Monthly housing costs (inclusive of heat, hot water, electricity, domestic water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery 70% of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).
3. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
4. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. . In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.
5. The petitioner shall comply with the City's Tree Preservation Ordinance.
6. Prior to the issuance of any building permit for the Project, the petitioner shall pay the sum of \$5,000 to the City for the cost and installation of certain transportation improvements to California Street and/or adjacent public ways.
7. Prior to the issuance of any building permit for the Project, the petitioner shall provide an Approval Not Required ("ANR") plan combining the **two** lots into one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the Middlesex Registry of Deeds. A certified copy of the ANR plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.
8. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the new units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
9. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance

10. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a final **Operations and Maintenance Plan (O&M)** for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
11. Prior to the issuance of any building permit for the Project, the petitioner shall provide a **Final Site Plan** for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
12. Prior to the issuance of any building permit for the Project the petitioner shall submit a **Construction Management Plan (CMP)** for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
  - a. 24-hour contact information for the general contractor of the project.
  - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity in determining hours and routes for construction vehicles.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and construction and delivery vehicles and equipment, and location of any security fencing.
  - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
  - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. A plan for rodent control during construction.

- i. The CMP shall also address the following:
  - safety precautions;
  - construction materials,
  - parking of construction workers' vehicles,
  - anticipated dewatering during construction;
  - site safety and stability;
  - impacts on abutting properties.
13. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
14. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
  - a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
  - d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
  - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approvals shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - f. Submitted a final plan of land, recorded at the Middlesex Registry of Deeds, to the Engineering Division of Public Works in accordance with Condition #11.
  - g. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
  - h. Make the payment to the city required under Condition #6.
15. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the



issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.

16. Prior to the issuance of any Certificate of Occupancy pursuant to this Special Permit/Site Plan Approval, the Petitioner, City, and DHCD will enter into a **Regulatory Agreement** and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
17. No final occupancy permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the Petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition 1.
  - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
  - e. Provided evidence satisfactory to the Law Department that the Regulatory Agreement and Declaration of Restrictive Covenants for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds and/or Southern Middlesex Land Court, as appropriate.
  - f. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units; further no market rate units may receive occupancy permits until the all three affordable unit have received occupancy permits.
  - g. Filed with the Director of Planning and Development evidence of the property and/or property management having become a member of the Watertown Transportation Management Association (TMA).
  - h. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved

plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.

18. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased and/or dies shall be replaced on an annual basis with similar material.
19. The petitioner shall ensure ongoing membership of the property and/or property management in the Watertown Transportation Management Association (TMA). In the event said membership ends for any reason, the petitioner shall so inform the Director of Planning and Development within thirty (days) and shall coordinate with the Director of Planning and Development to identify and implement appropriate alternatives.

CITY OF NEWTONIN CITY COUNCIL

## ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow the expansion of a nonconforming multifamily use to construct a 27,153 square foot, 20-unit multi-family structure of three stories and 32.60 feet in height with a nonconforming setback, reduce the parking requirement from two to 1.25 stalls per unit, waive maneuvering space for restricted parking stalls, allow tandem parking, and allow retaining walls greater than four feet in height in the setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- 1) The site is an appropriate location for the proposed three-story, 20-dwelling unit building of more than 20,000 square feet with a nonconforming front setback and retaining walls greater than four feet in height as designed, given the neighborhood's mix of residential and commercial land uses and structures of varying scales and heights and as it is within ten minute walking distance to public transit services at Watertown Square (§7.3.3.C.1);
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood as the petitioner submitted studies, based on trip generation rates provided in the Institute of Transportation Engineers' (ITE) Trip Generation Manual, indicating the project will not negatively affect vehicular traffic in the area (§7.3.3.C.2);
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4);
- 5) The site planning, building design, construction, maintenance and long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy as the building will have several environmentally beneficial features, including roof-top solar panels, the mechanical and electrical systems will be built to "EnergyStar" standards, and rain run-off will be used for landscaping irrigation;
- 6) The requested exceptions to the parking requirements, including allowing a reduction in required parking for a multi-family dwelling to 1.25 stalls per unit (§5.1.4), waiving

maneuvering space for restricted parking stalls and allowing tandem parking are in the public interest and protect environmental features as they allow for all parking to be located within the structure's basement level and allow for additional landscaping of the site; further, the dwelling's convenient location to nearby transit services is expected to reduce the demand for parking by its residents.

PETITION NUMBER: #483-18

PETITIONER: LA&CA, LLC

ADDRESS OF PETITIONER: 1290 Beacon Street  
Brookline, MA 02446

LOCATION: 182-184 California Street and 166 California Street, on land known as Section 11, Block 12, Lot 12 and Section 11, Block 12, Lot 13, containing approximately 18,121 square feet of land

OWNER: LA&CA, LLC

ADDRESS OF OWNER: 1290 Beacon Street  
Brookline, MA 02446

TO BE USED FOR: A 20-unit multi-family development with associated garage parking.

EXPLANATORY NOTES: Special permits per §7.3.3:

- to allow an expansion of a nonconforming multi-family dwelling use (§4.4.1, §7.8.2.2);
- to allow a development in a Manufacturing district with more than 20,000 square feet of new gross floor area (§4.3.2.B.1);
- to extend a nonconforming front setback (§4.3.3, §7.8.2.C.2);
- to allow a three-story structure (§4.3.2.B.3, §4.3.3);
- to allow a reduction in required parking for a multi-family dwelling to 1.25 stalls per unit (§5.1.4);
- to waive maneuvering space for restricted parking stalls (§5.1.8.B.6, §5.1.13);
- to allow tandem parking (§5.1.8.E.1, §5.1.13);
- to allow retaining walls greater than four feet in height in the setback (§5.4.2).

ZONING: Manufacturing (MAN)

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. Engineering plans entitled "Plan Set, La@CA, 182-184 , prepared by VHB Associates, signed and stamped by Curtis R. Quitzau, Registered Professional Engineer, consisting of the following sheets dated August 17, 2018 as revised through January 21, 2019:
    - i. Legend and General Notes (C-1)
    - ii. Existing Area Plan (C-2.1)
    - iii. Proposed Area Plan (C-2.2)
    - iv. Zoning Assessment Plan (C-3)
    - v. Layout and Materials Plan (C-4)
    - vi. Grading and Drainage Plan (C-5)
    - vii. Utility Plan (C-6)
    - viii. Erosion and Sediment Control Plan (C-7);
    - ix. Site Details (C-8);
    - x. Planting Plan (L-1);
    - xi. Planting Details (L-2);
    - xii. Existing Conditions Plan of Land May 23, 2018 (Sv-1).
  - b. Architectural plans entitled "La@CA, 182-184 California St, Newton, MA, prepared by Dooling & Company Architects, consisting of the following sheets dated December 20, 2017 as revised through January 21, 2019:
    - i. 3D View(P-001);
    - ii. California St Elevation & Aerial (P-002);
    - iii. Perspective (P-003);
    - iv. Perspective (P-004);
    - v. Areas (A-001);
    - vi. First Floor Plan (A-101);
    - vii. Second Floor Plan (A-102);
    - viii. Third Floor Plan (A-103);
    - ix. Basement Floor Plan (A-104);
    - x. Roof Floor Plan (A-105);
    - xi. California & Los Angeles Building Elevations (A-201);
    - xii. East & South Building Elevations (A-201);
    - xiii. Building Sections (A-301);
2. Three (3) of the residential units in the new multi-family structure shall be ownership units made available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA ("Inclusionary Units"). As

proposed in the Preliminary Inclusionary Housing Plan, last revised 1/31/19, all three of these units shall be made available to households earning at or below 80% AMI and shall be priced to be affordable to a household having an income of not more than 70% of AMI. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery, 70% of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD). The Inclusionary Units shall comply with the provisions of the City's Inclusionary Zoning Ordinance (§5.11).

3. The type of Inclusionary Units is based on the proposed unit mix of the Project, which includes 1 one-bedroom, one-bathroom unit; 14 two-bedroom, two-bathroom units; and 5 three-bedroom, two-bathroom units. Given this unit mix, the Inclusionary Units shall consist of 1 one-bedroom, one-bathroom unit; 1 two-bedroom, two-bathroom unit; and 1 three-bedroom, two-bathroom unit.
4. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
5. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and sold through a lottery.
6. No dwelling unit shall be constructed to contain, and/or marketed and/or sold as containing, more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1(b).
7. The petitioner shall comply with the City's Tree Preservation Ordinance.
8. Prior to the issuance of any building permit for the Project, the petitioner shall pay the sum of \$5,000 to the City for the cost and installation of transportation improvements to California Street and/or adjacent public ways.
9. Prior to the issuance of any building permit for the Project, the petitioner shall provide an Approval Not Required ("ANR") plan combining the two lots into one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the Middlesex South Registry of Deeds. A certified copy of the ANR plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.

10. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for “Group 1” units. In addition, per MAAB guidelines, 5% of the new units shall be designed as “Group 2A” units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
11. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City’s Noise Control Ordinance
12. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development. No Sewer Infiltration-Inflow mitigation fee is required to be paid for this project.
13. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan (which shall indicate the location of adequate snow storage area(s) or identify a suitable alternative for snow removal) for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
14. Prior to the issuance of any building permit for the Project, the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
  - a. 24-hour contact information for the general contractor of the project.
  - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity in determining hours and routes for construction vehicles.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and construction and delivery vehicles and equipment, and location of any security fencing.

- e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
  - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. A plan for rodent control during construction.
  - i. The CMP shall also address the following:
    - safety precautions;
    - construction materials,
    - parking of construction workers' vehicles,
    - anticipated dewatering during construction;
    - site safety and stability;
    - impacts on abutting properties.
15. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
16. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Middlesex South Registry of Deeds.
  - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
  - d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
  - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approvals shall have been filed with the City



Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.

- f. Submitted a final plan of land, to the Engineering Division of Public Works in accordance with Condition #13.
  - g. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
  - h. Make the payment to the city required under Condition #8.
17. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
18. Prior to the issuance of any Certificate of Occupancy (temporary or final) pursuant to this Special Permit/Site Plan Approval, the Petitioner, City, and DHCD will enter into, and record at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department and DHCD, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
19. The Inclusionary Units shall be constructed, marketed and made available concurrently with the market rate units; further, for every three market rate unit(s) that may receive a Certificate of Occupancy there shall be at least one Inclusionary Unit having received Certificates of Occupancy.
20. No final occupancy permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition #1.
  - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.

- d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features and fencing consistent with the plans referenced in Condition #1.
  - e. Filed with the Director of Planning and Development evidence of the property and/or property management having become a member of the Watertown Transportation Management Association (WTMA).
21. Notwithstanding the provisions of Condition #20(d) above, but subject to the satisfaction of Condition #18, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of required on-site landscaping/exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
22. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased and/or dies shall be replaced on an annual basis with similar material.
23. The petitioner shall ensure ongoing membership of the property and/or property management in the Watertown Transportation Management Association (WTMA) so long as the WTMA exists. In the event said membership ends for any reason, the petitioner (or the then Condominium as its successor in title) shall so inform the Director of Planning and Development within thirty days of the expiration or termination of such membership and shall coordinate with the Director of Planning and Development to identify and implement appropriate alternatives to such membership. "Appropriate alternatives" may include, but not be limited to, membership in another existing entity that is similar to the WTMA in its purpose and/or mission statement and cost of membership or some other alternative approaches consistent with the purpose of the WTMA. Upon determination of appropriate alternatives, such alternatives shall be implemented in a timely fashion by the Petitioner to the satisfaction of the Director of Planning and Development.