



Ruthanne Fuller  
Mayor

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

**#351-19**

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	November 7, 2019
Land Use Action Date:	January 14, 2020
City Council Action Date:	January 20, 2020
90-Day Expiration Date:	February 5, 2020

DATE: November 1, 2019

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner  
Michael Gleba, Senior Planner

SUBJECT: **Petition #351-19- SPECIAL PERMIT/SITE PLAN APPROVAL** to allow construction of a one-story addition at the front of the structure, to allow a first floor residential use in the BU1 district and to extend the nonconforming use and nonconforming front setback at **278-280 California Street**, Ward 1, Newton, on land known as Section 11 Block 07 Lot 03, containing approximately 4,534 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4., 4.1.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**278-280 California Street**

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Preserving the Past  Planning for the Future

Preserving the Past  Planning for the Future

## EXECUTIVE SUMMARY

The property at 278-280 California Street consists of a 4,534 square foot lot at the southwest corner California and Saxon streets located in the Business 1 (BU1) zoning district. The parcel is improved with a mixed-use structure constructed circa 1920 that contains five residential units and a commercial office. The building is configured so that there are residential units on each of the floors and the office space is located in the basement and on the first floor.

The petitioners propose to construct a one-story addition at the front of the structure on California Street, within the footprint of the existing stoop, that would contain an enclosed entrance and laundry area. As the existing stairs at that location would be rebuilt with an entry canopy that would extend the existing nonconforming front setback from 2.7 feet to 1.4 feet where 10 feet is required, a special permit per sections 4.1.3 and 7.8.2.C.2 of the Newton Zoning Ordinance is required.

Regarding the residential use on the first floor, per Section 4.4.1 of the Newton Zoning Ordinance, first floor residential uses in the Business 1 zoning district require a special permit. The Inspectional Services Department's (ISD) records indicate that the property has been used for mixed commercial and residential purposes since at least 1950 when apartment houses were allowed in Business zoning districts in addition to commercial uses. Various building permits for the property dating from that time do not specify the configuration of uses within the building, and it cannot be established when the first floor residential use came into existence. As such, the first floor residential use requires a special permit as per section 4.4.1.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site is an appropriate location for a first floor residential use in a Business 1 (BUS1) district. (§7.3.3.C.1)
- The first floor residential use in a Business 1 district will adversely affect the neighborhood (§7.3.3.C.2)
- The first floor residential use in a Business 1 district will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
- The proposed front setback along California Street of 1.4 feet will be substantially more detrimental to the neighborhood than the existing nonconforming front setback of 2.7 feet

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject property is located on the south side of California Street, at its southwest corner with Faxon Street. The neighborhood has a mix of uses nearby, including some single-family dwellings, two- and multi- family dwellings (with some having nine or more units),

commercial uses (including a direct abutter), and a large parking lot directly to the north across California Street (**Attachment A**). This mix is largely reflected by the immediate neighborhood's zoning, which is predominantly Multi-Residence 2 (MR2) with the subject property and nearby properties along the south side of California Street comprising a Business 1 (BU1) district (**Attachment B**).

B. Site

The property is a level 4,534 square foot lot improved with a structure built circa 1920 that contains five residential units and a commercial office. The parcel is accessed via two paved driveways and associated curb cuts: one that is 24.5-foot-wide along the west side of the parcel, and another shared driveway that straddles its southern boundary.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a mixed-use building with five residential units and a commercial office.

B. Building and Site Design

The petitioners propose to construct a one-story, 148.5 square foot addition at the front of the structure on California Street that would be used as an enclosed entrance and laundry area. As designed, the proposed work, which would include the existing stairs at that location which would be rebuilt with an entry canopy, would extend the parcel's existing front setback nonconformity along California Street from 2.7 feet to 1.4 feet where 10 feet is required.

No other setbacks would be altered. There would be no change to the structure's height or the number of stories. The lot area per unit (906 square feet) would remain unchanged as no new dwelling units would be created. The floor area ratio (FAR) would increase slightly, from 1.26 to 1.29, but remain well below the 1.50 allowed by right.

C. Parking and Circulation

No changes are proposed to the site's parking or circulation.

D. Landscape, Lighting and Signage

The site has limited vegetation in the form of narrow planting strips between the back of the sidewalk and the building foundation along the two frontages. The rest of the property not occupied by the structure is paved. No changes are proposed.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking a special permit per §7.3.3 to:

- allow a first floor residential use in the Business 1 (BUS1) zoning district (§4.4.1)
- further extend a nonconforming front setback (§4.1.3; §7.8.2.C.2)

B. Engineering Review

No review by the Engineering Division is required at this time.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**









<b>Attachment A:</b>	Land Use Map
<b>Attachment B:</b>	Zoning Map
<b>Attachment C:</b>	Zoning Review Memorandum
<b>Attachment D:</b>	DRAFT Order

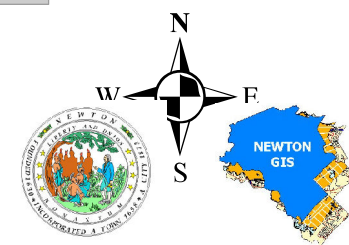
## Land Use

*City of Newton,  
Massachusetts*

## Land Use

## Land Use

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

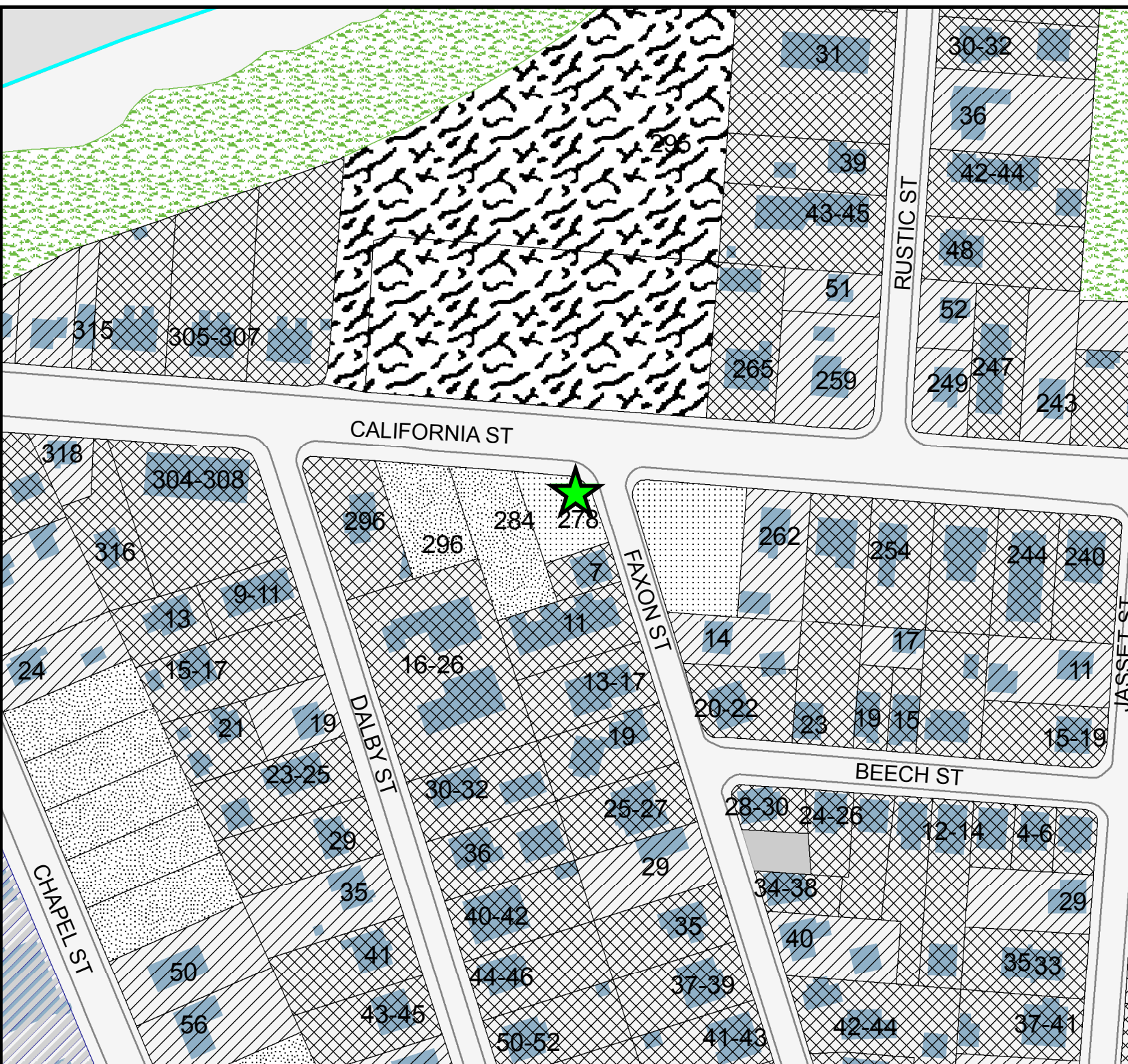


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100 125 150 175 Feet

Map Date: October 30, 2019










# ATTACHMENT B

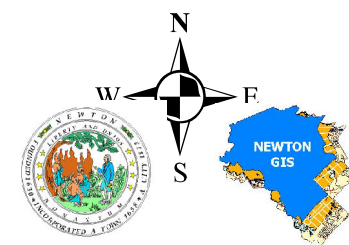
## Zoning

278-280 California St.

*City of Newton,  
Massachusetts*

### Legend

-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Manufacturing
-  Public Use

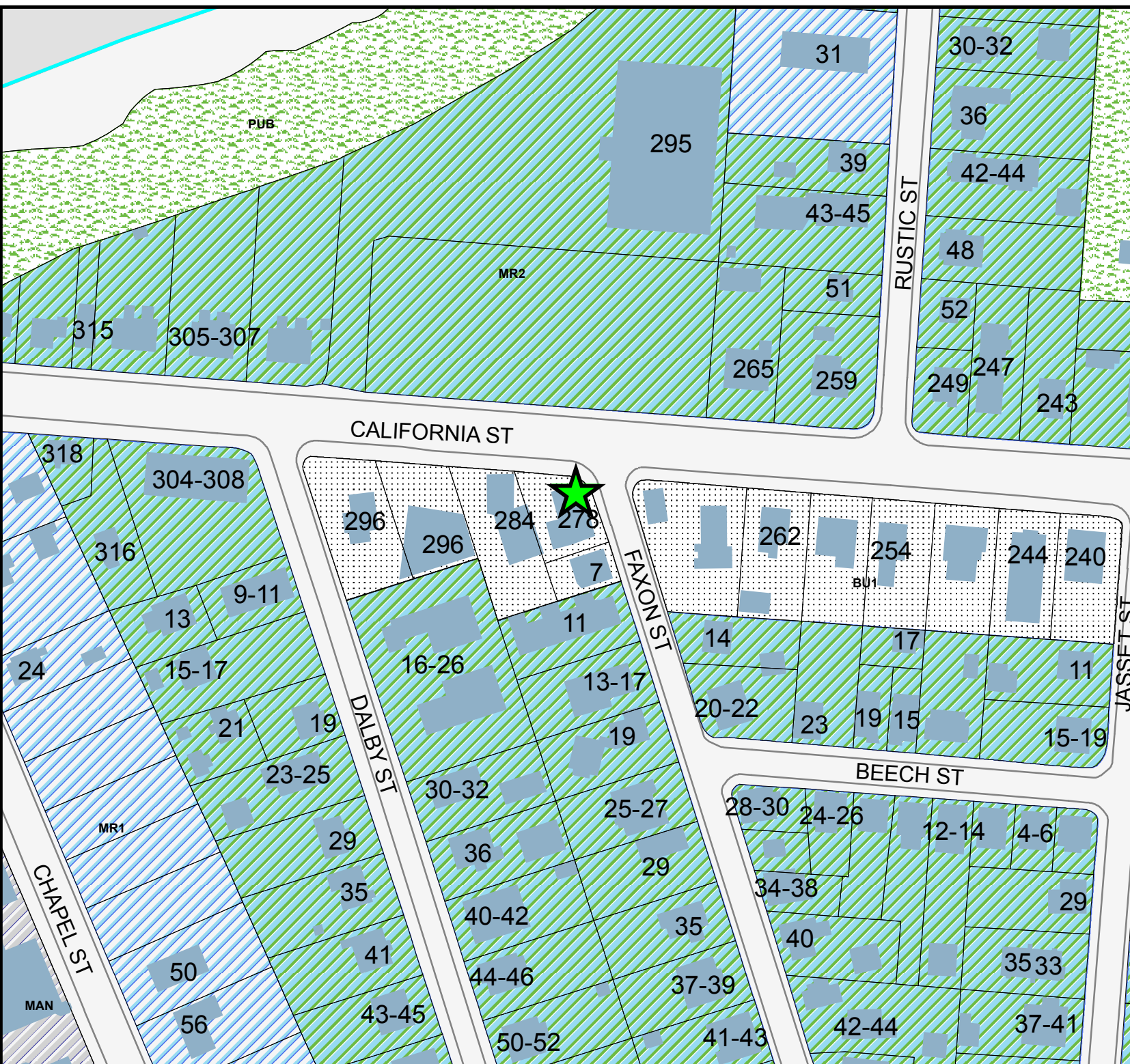


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Ruthanne Fuller  
Mayor

## ATTACHMENT C

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Barney S. Heath  
Director

### ZONING REVIEW MEMORANDUM

Date: September 19, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Jennifer Caira, Chief Planner for Current Planning

Cc: Najim and Najla Azadzoi  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

RE: Request to allow a first floor residential use in the BU1 district, to extend a nonconforming use and to extend a nonconforming front setback

Applicant: Najim & Najla Azadzoi	
Site: 278-280 California Street	SBL: 11007 0003
Zoning: BU1	Lot Area: 4,534 square feet
Current use: Five residential units/one commercial unit	Proposed use: No change

#### BACKGROUND:

The property at 278-280 California Street consists of a 4,534 square foot lot improved with a structure containing five residential units and one commercial office in the Business 1 zoning district. The petitioners propose to construct a one-story addition at the front of the structure consisting of an enclosed entrance and laundry area.

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

- Zoning Review Application, prepared by Najim and Njla Asadzoi, applicants, dated 4/24/2019
- Plot Plan of Land, signed and stamped by Peter Nolan, surveyor, dated 2/27/2019
- Architectural plans, signed and stamped by Najim Azadzoi, architect, dated 4/21/2019

**ADMINISTRATIVE DETERMINATIONS:**

1. Inspectional Services records indicate that the property has been used for mixed commercial and residential purposes since at least 1950. The building is currently configured with residential units on all floors, and office space in the basement and first floor levels. Per section 4.4.1, first floor residential uses in the Business 1 zoning district require a special permit. In 1950 the Business districts allowed commercial uses as well as apartment houses. A 1950 building permit, and all subsequent permits, do not specify the configuration of uses within the building, and it cannot be established when the first floor residential use came into existence. The first floor residential use requires a special permit as per section 4.4.1.
2. The proposed enclosed entry is within the footprint of the existing stoop on California Street, which is situated 2.7 feet from the front lot line. The stairs will be rebuilt with an entry canopy extending the nonconforming setback to 1.4 feet, where 10 feet is required per section 4.1.3. A special permit per sections 4.1.3 and 7.8.2.C.2 is required.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	<b>4,532 square feet</b>	<b>No change</b>
Setbacks <ul style="list-style-type: none"> <li>• Front (California St)</li> <li>• Front (Faxon St)</li> <li>• Side</li> <li>• Rear</li> </ul>	10 feet 10 feet 17 feet 0 feet	<b>2.7 feet</b> <b>1.1 feet</b> <b>11 feet</b> 5.2 feet	<b>1.4 feet</b> <b>No change</b> <b>No change</b> <b>No change</b>
Building Height	36 feet	33.95 feet	No change
Max Number of Stories	2 (3 by special permit)	<b>3</b>	<b>No change</b>
Lot Area Per Unit	1,200 square feet	<b>906 square feet</b>	<b>No change</b>
FAR	1.50	1.26	1.29

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<b>Ordinance</b>		<b>Action Required</b>
§4.4.1	Request to allow a first floor residential use in the Business 1 zoning district	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	S.P. per §7.3.3



**Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

**The following must be included when filing a Special Permit Application:**

3. Two (2) copies of the completed Special Permit Application (signed by property owner)
4. Filing Fee (see Special Permit Application)
5. Two (2) copies of the Zoning Review Memorandum
6. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
7. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
8. One (1) copy of any previous special permits or variances on the property (as applicable)
9. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
10. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

**Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

# ATTACHMENT D

**DRAFT** - #351-19  
278-280 California St.

## 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 allow a first floor residential use in the Business 1 (BU1) zoning district and further extend a nonconforming front 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 a first floor residential use in a Business 1 (BU1) district as it is located in a mixed use neighborhood (§7.3.3.C.1)
2. The first floor residential use in a Business 1 district will not adversely affect the neighborhood given its existing mixed use nature (§7.3.3.C.2)
3. The first floor residential use in a Business 1 district will not create a 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 proposed front setback along California Street of 1.4 feet will not be substantially more detrimental to the neighborhood than the existing nonconforming front setback of 2.7 feet given the modest scale of the proposed addition (§7.8.2.C.2)

PETITION NUMBER: #351-19

PETITIONERS: Najim M. Azadzoi and Najla O. Azadzoi

LOCATION: 278-280 California Street, on land known as Section 11, Block 7 Lot 3, containing approximately 4, 534 sq. ft. of land

OWNERS: Najim M. Azadzoi and Najla O. Azadzoi

ADDRESS OF OWNER: 278-280 California Street

Newton, MA 02452

TO BE USED FOR: Five residential units and one commercial unit

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special permit per §7.3.3 to:

- allow a first floor residential use in the Business 1 (BUS1) zoning district (§4.4.1)
- further extend a nonconforming front setback (§4.1.3; §7.8.2.C.2)

ZONING: Business 1 (BUS1) 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 "278-280 California Street & 3 Faxon Street- Newton, Massachusetts- Plot Plan of Land," prepared by Peter Nolan & Associates LLC, dated February 27, 2019, stamped and signed by Peter J. Nolan, Professional Land Surveyor.
  - b. A set of architectural plans entitled "278-280 California Street & 3 Faxon Street, Newton, MA02458, Proposed Addition to Main Entrance at 280 California Street," dated April 21, 2019, prepared by Azad Architects Designer/Planners, stamped and signed by Najim M. Azadzoi, Registered Architect, consisting of the following sheets:
    - i. Cover Sheet (A-O)
    - ii. Existing Basement and first Floor Demolition Plans (A-1)
    - iii. Proposed New Entrance Basement and First Floor Plans (A-2)
    - iv. Existing Second and Third Floor Plans (A-3)
    - v. Proposed New Addition Elevations (A-4)
    - vi. Proposed Building Section (A-5)
  - c. A document entitled "Floor Area Ratio Worksheet, 278-280 California Street, Newton, MA 02458" signed and stamped by Najim M. Azadzoi, Registered Architect, indicating a Proposed "Total gross floor area" of 5,845 square feet and a Proposed "FAR" (floor area ratio) of 1.29.
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
  - a. Recorded a certified copy of this 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. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1, including the floor area ratio (FAR) of the structure.
  - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.