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**Barney S. Heath**  
Director

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**PUBLIC HEARING/WORKING SESSION MEMORANDUM**

**DATE:** November 15, 2019  
**MEETING DATE:** November 21, 2019  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Katie Whewell, Planning Associate  
**CC:** Petitioner

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

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**PETITION #332-19**

**77 Paul St/1400 Centre St**

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Special Permit/Site Plan Approval to amend Special Permit Board Order #650-86(2) to allow alteration to an existing structure, extending the existing nonconforming use by constructing an addition for an elevator, to reduce the nonconforming lot coverage and to further extend the nonconforming parking in the front setback.

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The Land Use Committee (the "Committee") opened the public hearing on this petition on Thursday, October 10, 2019 and held the hearing open, for the petitioner to respond to questions and concerns raised in the Planning Department's Memorandum (the "Memorandum") and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns.

**Executive Summary**

The property at 1400 Centre Street/77 Paul Street consists of a 30,023 square foot site in a Multi Residence 3 (MR-3) zone in Newton Centre. The site is improved with a nonconforming commercial office building, as well as an attached two-story parking garage.

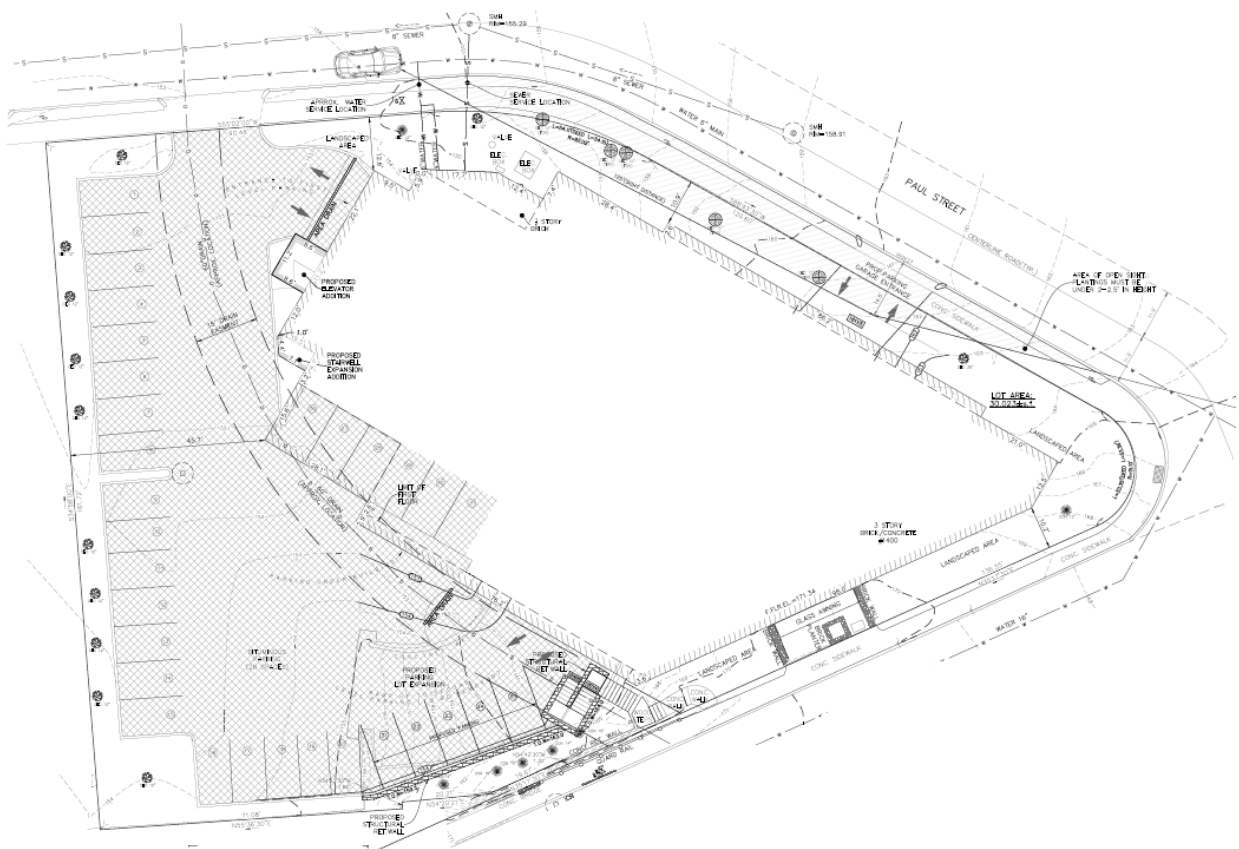
The petitioners propose to create an additional driveway to the site's parking garage, as well as construct two additions, one that would house a proposed elevator, and one with a stairwell expansion. The petitioners are also proposing to expand the parking lot, creating an additional five spaces of surface parking. The two levels within the parking garage are currently accessed by a single driveway

from Paul Street. The ramp to the upper level, however, is steep and deteriorating from salt usage in the winter. The proposed second driveway from Paul Street would replace this ramp. Since the existing commercial building is nonconforming in use, the petitioner requires a special permit to extend/alter the nonconforming use, and to amend the original Board Order associated with the property. A special permit is also requested to further reduce nonconforming lot coverage and further extend nonconforming parking in the front setback.

### Clear Sight Distance

At the Public Hearing, several neighbors expressed concerns regarding the new curb cut and the existing conditions of Paul Street being very narrow with two-way traffic being a challenge. Other concerns expressed related to traffic limitations and congestion at the intersection of Paul Street and Centre Street.

Committee members voted unanimously in favor of holding the item, pending review from the City's Transportation Division. Upon reviewing plans showing the clear sight distance triangle, the City's Transportation Director is comfortable with the way the clear sight triangle was drawn and the Petitioner's transportation consultant commitment that they would clear all the trees within the sight triangle and keep all vegetation lower than 2.5 ft as indicated on the plan.



### Proposed Site Plan with Clear Sight Distance

The Planning Department requires a landscaping plan to be submitted with this petition should the petitioner be removing trees to improve upon the sight distance.

**Attachments**

Attachment A: Draft Board Order

77 Paul Street/1400 Centre Street  
#332-19

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 amend Special Permit Board Order #650-86(2) to allow alteration to an existing structure, extending the existing nonconforming use by constructing an addition for an elevator, to reduce the nonconforming lot coverage and to further extend the nonconforming parking in the front setback 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 amendment to Special Permit #650-86 that creates an additional curb cut and other site changes due to the creation of conditions for a clear sight distance and the removal of an unsafe ramp. (§7.3.3.C.1)
2. The proposed amendment to Special Permit #650-86 that creates an additional curb cut and other site changes will not adversely affect the neighborhood due to the creation of conditions for a clear sight distance. (§7.3.3. C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians by the proposed amendment to Special Permit #650-86 (2) that creates an additional curb cut and other site changes because the parking is utilized by employees and will have limited turnover. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved as the parking accessed by the new ramp will primarily be employee parking, which has low turnover, and the ramp maintains clear site distances and removes an unsafe ramp. (§7.3.3.C.4)
5. The proposed alterations of the nonconforming structure and use are not substantially more detrimental than the existing nonconforming structure because the additions total less than 200 square feet and are already nonconforming. (§3.4.1, §7.8.2.C.2)
6. The extension of the nonconforming parking in the front setback is not substantially more detrimental than the existing nonconforming parking facility because there is existing parking in the front setback. (§4.2.3, §7.8.2.C.2)
7. The increase in the nonconforming lot coverage is not substantially more detrimental than the existing nonconformity because the lot coverage is increasing minimally from 44.3% to 44.7%. (§3.2.2.A.3, §7.8.2.C.2)

PETITION NUMBER: #332-19

PETITIONER: Mark F. Donato, Paul at Centre Street Realty Trust

LOCATION: 1400 Centre St./77 Paul St., Section 62, Block 13, Lot 9, containing approximately 30,026 square feet

OWNERS: Mark F. Donato, Paul at Centre Street Realty Trust

ADDRESS OF OWNERS: 1211 Washington Street  
Newton, MA 02465

TO BE USED FOR: Office Building and Parking Facility

CONSTRUCTION: Masonry

EXPLANATORY NOTES: To amend Board Order 650-86 (2), allow alteration to an existing structure, extending the existing nonconforming use by constructing an addition for an elevator, to reduce the nonconforming lot coverage and to further extend the nonconforming parking in the front setback §7.3.3, §7.4, §3.4.1, §7.8.2.C.2, § 3.2.2.A.3, § 4.2.3

ZONING: Multi Residential 3

The prior Board Orders for this property is as follows: Board Order #650-86 (2), which allowed for the construction of the commercial building and parking on the basis of the building being in a residential area adjacent to commercial uses as well as the allowing the parking garage in order to manage the parking demand of the site due to the site's isolation from accessible public parking facilities, and the subsequent extension of time to exercise the Order. The conditions set forth in Board Order #650-86 (2) remain in full force and effect.

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. Existing Conditions at 1400 Centre St/77 Paul Street, signed and stamped by Joseph R. Porter, dated April 26, 2019
  - b. Topographic Site Plan Showing Proposed Conditions at 1400 Centre Street/77 Paul Street, signed and stamped by Joseph R. Porter dated June 28, 2019

- c. Parking Plan – Level 1 Showing Proposed Conditions at 1400 Centre Street/77 Paul Street, signed and stamped by Joseph R. Porter dated June 28, 2019
  - d. Parking Plan – Level 2 Showing Proposed Conditions at 1400 Centre Street/77 Paul Street, signed and stamped by Joseph R. Porter dated June 28, 2019
2. 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 Approval 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 Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
  - d. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
3. No Certificate of Occupancy/Final Inspection for the buildings and uses 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 surveyor certifying substantial 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 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.
4. Notwithstanding the provisions of Condition #3 above, 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 final landscaping provided 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.