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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: March 6, 2020
MEETING DATE: March 10, 2020
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner
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.

PETITION #16-20

49-63 Union Street

Petition #16-20, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a parking waiver of 478 parking stalls in Ward 6, Newton Centre, at 93-105 Union Street, (containing approximately 31,455 sq. ft. of land) on land known as Section 61 Block 36 Lot 09, 1280 Centre Street (containing approximately 27,560 sq. ft. of land) on land known as Section 61 Block 36 Lot 05, 47-61 Langley Road (containing approximately 10,037 sq. ft. of land) on land known as Section 61 Block 36 Lot 06, 49-63 Union Street (containing approximately 8,735 sq. ft. of land) on land known as Section 61 Block 36 Lot 07 and 790-794 Beacon Street (containing approximately 7,400 sq. ft. of land) on land known as Section 61 Block 36 Lot 03, all zoned BUSINESS USE 1. Ref: 7.3.3, 7.4, 5.1.4.A, 5.1.13, 4.4.1, 6.4.29 of the City of Newton Rev Zoning Ord, 2017

The Land Use Committee (the "Committee") opened the public hearing on this petition on Tuesday, January 14, 2020. At that meeting, the public hearing was closed, and the petition was approved. At the City Council meeting on January 21, 2020, the petition was chartered, and ultimately recommitted to the Committee on February 3, 2020 for the March 10, 2020 meeting.

The petitioner is seeking a comprehensive parking waiver of 478 parking stalls for their properties within Newton Centre, to accommodate changes in allowed uses across tenant spaces and gain flexibility in leasing tenant space due to higher parking requirements for certain uses. The waiver is also intended to replace prior parking waivers and legitimize parking credits that are either carried over or lost when a tenant space

changes use. The original petition also included a request for a Special Permit for restaurants with more than 50 seats. The petitioner has since withdrawn this request.



Figure 1. Petitioner's properties in Newton Centre

The 109 tenant spaces have a credit of 412 stalls based on the existing uses, square footage of tenant spaces, and number of employees. The petitioner identified tenant spaces that are likely to turn over and is estimating uses with higher parking demand to allow for flexibility in tenanting these spaces. Based on the information provided by the petitioner with anticipated turnover that allows for a change in use in tenant spaces, the total number of required stalls would increase from 412 to 510. Considering the 32 stalls the petitioner has on site, this results in a gap of 66 stalls to increase flexibility in leasing the spaces to more varied uses.

As shown on the above graphic, most of these parcels do not have parking and therefore the spaces turnover due to their credit. For example, if a café with 15 seats and six employees seeks to occupy a 1200 square foot tenant space previously occupied by a nail salon, with 3 employees, the café requires one parking stall be provided per three seats and one parking stall for every three employees. The nail salon, as a personal service use, requires one parking stall for every 300 feet and one for every three employees. Per the ordinance, the nail salon was required to provide 5 parking stalls and carries forth that credit of stalls. The café must provide 7 parking stalls per the zoning. However, the cafe receives a credit of 5 stalls, and must make up the difference of 2 stalls. In the example, to locate into that tenant space the café must seek a special permit for a waiver of 2 stalls.

The 478-stall waiver was calculated in the same manner that parking requirements are calculated when considering a new mixed-use project. Conservative assumptions are made about potential uses, the total parking requirement is calculated, and the number of provided stalls is subtracted to determine the necessary waiver. Most new mixed-use projects assume uses with higher parking requirements to ensure there is flexibility for different uses over time. This petition has taken a similar approach by evaluating the size and location of each of the tenant spaces and making assumptions about which spaces are most likely to turn into a use other than retail. Since the subject sites and structures have been in place for about 100 years, parking is very limited on site with little opportunity to add parking. There is less flexibility than with

a new development and leasing space is difficult due to being limited by the parking requirements by zoning. The proposed waiver of 478 parking stalls anticipates future uses with the highest zoning requirements for parking and considers specific tenant space where that use seems feasible. If approved, the higher allowances in parking are not intended spark a drastic change in use at once.

The Planning Department is supportive of the petitioner's efforts to streamline future parking waiver requests. The waiver would administratively clean up existing parking credits for each of the 109 tenant spaces, and prior parking waivers for the subject properties. The Planning Department believes that as the current parking in Newton Centre is unlikely to increase or change drastically, the parking waiver will encourage a greater diversity of uses with faster turnover and more desirable uses. The Planning Department believes that the request for the parking waiver is consistent with the City's Comprehensive Plan as the proposed parking waiver would ensure flexibility for tenant spaces to allow more diversified uses that contribute to the vibrancy of the Village Center. To ensure compliance with the proposed parking waiver, the attached Draft Council Order requires the Petitioner to provide the Planning Department with documentation of all tenants and uses within the subject properties as well as review at the building permit stage to ensure compliance with the proposed parking waiver, if approved.

ATTACHMENTS:

Attachment A: Draft Council Order

#16-20

CITY OF NEWTONIN 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 waive 478 parking stalls, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed parking waiver of 478 parking stalls due to its location the BU-1 zone and in a Village Center with access to transit. (§7.3.3.C.1.)
2. The parking waiver of 478 stalls will not adversely affect the neighborhood as the sites are located in a major commercial center of Newton with a mix of uses. (§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. Literal compliance with the parking requirements is impracticable as the parking waiver is in the public interest and in the interest of safety as the waiver will maintain the Village Center's status as a walkable commercial area. The parking requirement is also impracticable due to the sites as having been constructed during a time when the automobile was not utilized as the primary mode of transportation. (§5.1.3.E, §5.1.4 and §5.1.13).

PETITION NUMBER: #16-20

PETITIONER: Union Realty Trust

LOCATION(s): 93-105 Union St., on land known as Section 61 Block 36 Lot 09, containing approximately 34,455 square feet of land; 1280 Centre St., on land known as Section 61 Block 36 Lot 05, containing approximately 27,560 square feet of land; 49-

63 Union St., on land known as Section 61 Block 36 Lot 07, containing approximately 8,735 square feet of land; 47-61 Langley Road on land known as Section 61 Block 36 Lot 06, containing approximately 10,037 square feet of land; and 790-794 Beacon Street on land known as Section 61 Block 36 Lot 03, containing approximately 7,400 square feet of land

OWNER: Union Realty Trust

ADDRESS OF OWNER: 93 Union Street
Newton, MA 02467

TO BE USED FOR: Parking waiver of 478 stalls

CONSTRUCTION: None

EXPLANATORY NOTE: §5.1.13 and §5.1.4.A to waive 478 parking stalls

ZONING: Business Use 1

All prior Special Permits for these sites remain in full force and effect, including the conditions set forth in Council Orders #44-14 and #138-18, with the exception of the parking waiver(s), which this order is intended to replace. This special permit shall be considered exercised upon recording of the special permit.

Approved, subject to the following conditions:

1. The Petitioner must provide annual documentation on January 1st of each year to the Planning Department providing all tenants and uses within the subject properties governed by this Council Order in order to allow the Planning Department to ensure the petitioner does not exceed the number of waived stalls.
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 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.
3. Prior to the issuance of any building permit for improvement to a tenant space or change of use for a tenant space, the Petitioner must provide documentation to the Director of Planning for approval to ensure compliance with this waiver.
4. The petitioner shall not lease any of the existing parking stalls on site to those not associated with their tenant spaces for any non-accessory use.