

**THE NEWTON LOWER FALLS IMPROVEMENT ASSOCIATION RIVERSIDE COMMITTEE'S
PROPOSED AMENDMENTS TO THE MU3 DISTRICT PROVISIONS OF THE NEWTON
ZONING ORDINANCE**

Below is a re-typed copy of Sections 4.2 and 7.3.5 of the Newton Zoning Ordinance. Although formatted differently, every effort has been made to accurately reproduce the existing ordinance. Proposed deletions from the current provisions appear as red strike-outs. Proposed additions to the current provisions appear as red, underlined text.

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

A. Mixed Use 1 and 2 District. [Reserved]

B. Mixed Use 3/~~Transit-Oriented Development~~. The purpose of the Mixed-Use 3/~~Transit-Oriented~~ district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide ~~beneficial open~~high-quality outdoor and indoor spaces; ~~that promote civic engagement and create a sense of community~~ protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play. In addition, the purposes of the Mixed-Use 3 district provisions of the Zoning Ordinance are to: (a) protect the adjacent neighborhoods of Newton Lower Falls and Auburndale from impacts of development in the district, including traffic, noise, visual impacts, as well as from change of neighborhood character; (b) to protect the residents of the streets adjacent to or near off-site roadway modifications made in connection with development in the district from all adverse effects thereof, including inconvenience, delays, hazards, noise and pollution; and (c) to ensure that development in the district is appropriately designed and scaled for the narrow scenic road, Grove Street, on which the district fronts, and is a healthy, safe and comfortable environment for its residents.

C. Mixed Use 4 District. The purposes of the Mixed Use 4 district are to:

1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.

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2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
4. Expand the diversity of housing options available in the City.
5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

4.2.2. Dimensional Standards

A. Applicability

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3. apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

| Mixed Use District | MU1 | MU2 | MU3/ TOD | MU4 |
|-------------------------|-----------|-----------|---------------------|---------|
| Lot Area Per Unit (min) | 10,000 sf | 10,000 sf | 1,200 sf | 1000 sf |

3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the City Council.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings,

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structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.

3. Stories. A special permit is required based on stories according to the following table:

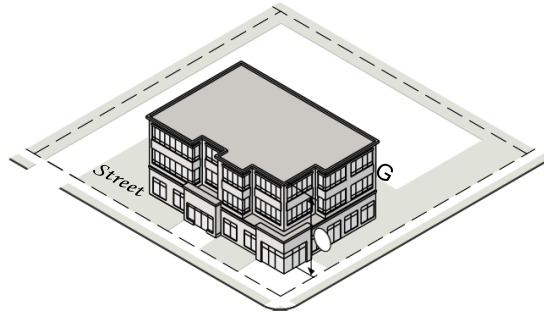
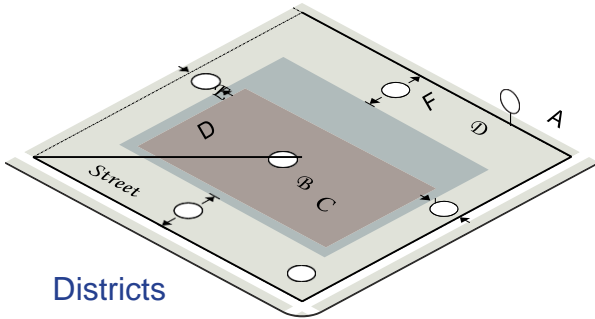
| Stories | MU1 | MU2 | MU3/ TOD | MU4 |
|----------------------------------|-----|-----|---------------------|-----|
| 2 stories | P | P | NA | p |
| 3 stories, mixed use residential | NA | NA | NA | P |
| 4 stories | SP | SP | NA | SP |
| 5 stories, mixed use residential | NA | Na | NA | SP |

P = Allowed by Right

SP = Special Permit by City Council Required

NA = Not Applicable, -- Not Allowed

4.2.3 All Building Types in Mixed Use



Districts

| Mixed Use Districts | | MU1 | MU2 | MU3 | MU4 |
|--------------------------------------|---|--------------------------------|--------------------------------|--|--------------------------------|
| Lot Dimensions | | | | | |
| 3 | Ⓐ Lot Area (min) | | | | |
| | 2 stories | 40,000 sf | 10,000 sf | 9 ac | 10,000 sf |
| | 3 stories | 40,000 sf | 10,000 sf | 9 ac | 10,000 sf |
| | 4 stories | 40,000 sf | 10,000 sf | 9 ac | 10,000 sf |
| | 5 stories | -- | -- | 9 ac | 10,000 sf |
| | Ⓑ Lot Coverage (max) | -- | -- | -- | -- |
| | Ⓒ Beneficial Open Space | | | n/a by right; 15% by for special permit | See Sec. 4.2.5 |
| | C.1 Civic Open Space | -- | -- | 15% for special permit | |
| Building Setbacks | | | | | |
| 4 | Ⓓ Front (min) | | | | |
| | 1 story | 15' | 15' | See Sec. 4.2.4 | See Sec. 4.2.5 |
| | 2 or more stories | total ht of bldg | total ht of bldg | | |
| | Parking Setback | 20' | 15' | | |
| 5 | Ⓔ Side (min) | | | | |
| | Abutting residential or Public Use district | Greater of ½ bldg ht or 20' | Greater of ½ bldg ht or 20' | See Sec. 4.2.4 | See Sec. 4.2.5 |
| | Not abutting residential or Public Use district | 7.5' | 7.5' | | |
| | Parking setback | 5' | 5' | | |
| 5 | Ⓕ Rear (min) | | | | |
| | Abutting residential or Public Use district | Greater of ½ bldg ht or 20' | Greater of ½ bldg ht or 20' | See Sec. 4.2.4 | See Sec. 4.2.5 |
| | Not abutting residential or Public Use district | 7.5' | 0' | | |
| | Parking setback | 5' | 5' | | |
| Building and Structure Height | | | | | |
| 6 | Ⓖ Height (max) | | | | |
| | 2 stories | 36' | 24' | 36' by right; 135' by special permit | 24' |
| | 3 stories | 36' | 36' | | 36' |
| | 4 stories | 48' | 48' | | 48' |
| | 5 stories | -- | -- | | 60' |
| | G Stories (max) see also Sec. 4.2.2 | 3 | 4 | 4 | 8 |
| Floor Area Ratio | | | | | |
| 6 | Floor Area Ratio (max) | | | | |
| | 2 stories | 1.50 | 1.00 | up to 36' = 1.0 | 1.00 |
| | 3 stories | 1.50 | 1.50 | up to 135' = | 1.50 |
| | 4 stories | 2.00 | 2.00 | 2.4 | 2.00 |
| | 5 stories | -- | -- | | 2.50 |

* Average setback is described in [Sec. 1.5.3](#)

4.2.4. Additional Standards in MU 3/~~TOD~~

Any development permitted by special permit must meet the following requirements and the requirements of Sec. 4.2.3. The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/~~TOD~~, provided that the requirements of this Sec. 4.2.4. are met and no dimension exceeds those allowed in Sec. 4.2.3 for the mixed-use development special permit.

A. Building Heights and Setbacks.

Notwithstanding anything to the contrary in Section 4.2.3, buildings in the MU3 district shall conform to the following:

1. For buildings on Grove Street:

a. The maximum building height is 4 stories or 44 ft, whichever is lower.

b. The minimum setback from Grove Street is 30 ft. from the Grove Street lot line.

c. Any building with a length along Grove Street of more than 115 ft. must have an additional 15 ft. minimum setback for so much of the building length along Grove as exceeds 100 ft. Each such further setback portion of the building shall be 15 ft. long.

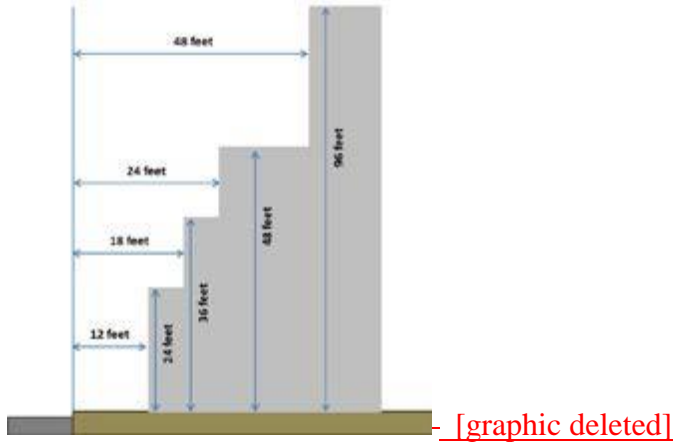
d. Buildings must be separated from one another by a minimum of 15 ft.

Any building not separated from Grove Street by another building or another street is a building on Grove Street that is subject to the provisions of this paragraph 4.2.4.A.1.

2. For all buildings not subject to paragraph 4.2.4.A.1 above, all buildings higher than 50 ft. shall have its stories above 50 ft. set back from the lower 50 ft. high portion of the building by appropriate distance to ensure adequate light, air and sky exposure within the development parcel. In particular, such buildings shall be located and designed so as not to cast excessive shadows on civic open spaces (see sec. 4.2.4.B.2 below) within the development.

~~Any structure or building must be set back a distance equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right of way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in Sec. 7.3, the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.~~

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B. **Open Spaces.**

1. Beneficial Open Space. At least 50 percent of the beneficial open space required by Sec. 4.2.3 for a mixed-use development must be freely open to the public.

2. Civic Open Space. Civic open space is high-quality, public-use open space, of adequate size and design to allow for public congregation. Primary types of civic open space are plazas, parks, playgrounds, playing fields, and community gardens. Each civic open space shall be designed to accommodate one or more specific public uses and shall include the necessary infrastructure and amenities to support such uses. Civic open space *does not* include: space located on top of a structure; driveways or roadways, walkways or other areas intended primarily for circulation (whether or not they incorporate landscape features, sculpture or artwork, public benches or other public amenities) unless within a space that otherwise qualifies as civic open space; building terraces; areas adjacent to highway ramps; or traffic islands. No area of less than 400 sq. ft. or less than 20 ft. in either length or width shall qualify as civic open space. Civic open spaces must be located adjacent to one or more of the retail, office, residential or community center structures in the district. Land used to satisfy the Beneficial Open Space requirement of Section 4.2.1 shall not be counted toward the Civic Open Space requirement and vice-versa.

C. Exclusion of Public Structures from Zoning Requirements. Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure dedicated for public use by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority) shall not be included in the calculation of:

1. The quantity of beneficial open space required;

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2. Minimum lot area; or
3. Floor area ratio.

D Impacts of Takings by or Conveyances to a Public Entity. The provisions of Sec. 7.8.4 shall apply to any taking by or conveyance of land within the development parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

E. Establishment of a Development Parcel. The area developed under a special permit must be organized into a development parcel as defined in Article 8. The development parcel may contain more than 1 lot or a portion of a lot, together with any easement areas located on adjacent parcels of land. The provisions of this Chapter shall apply to the development parcel as it exists on the date that the special permit is granted as if the development parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit, the ownership may be further divided (subject to the establishment of an organization of owners defined below) and any interior lot lines shall be disregarded for zoning purposes. The development parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting development parcel is not less than 9 acres in size and does not create or expand any nonconformities.

F. Intensity of development.

1.—

In addition to the beneficial open space and civic open space required under sections 4.2.3 and 4.2.4.B, the development must have at least one use from each of the ~~three~~four categories (A, B, ~~and C, and D~~) below: ~~plus a community use space.~~

- a. **Category A:** Office (including research and development, business incubator, medical office, and other similar uses);
- b. **Category B:** Retail sales, personal services, restaurants, banking, health club, place of entertainment and assembly, theater, ~~lodging, hotel, motel~~; and
- c. **Category C:** Multi-family, live/work space, single room occupancy, single person occupancy, assisted living nursing home.
- d. **Category D: Community Center.** Community center means indoor space within a single building that is appropriate for a variety community uses, such as meetings, classes, after-school programs, and athletic activities that is open to the public and operated either by a non-profit organization funded by the project applicant or such other mechanism as shall be specified in the Special Permit.

In addition, if the development parcel includes the land shown on the Approval Not Required Plan, 399 Grove Street, dated October 20, 2015 and recorded at Middlesex

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County Registry of Deeds, Plan Book 2015, No. 1050 (the “Indigo Parcel”), the development may also include Category E: lodging, hotel or motel.

2. Notwithstanding paragraph G. below, any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the development parcel shall require a special permit ~~for a mixed-use development~~.

G.

1. Except as set forth in section 4.2.4.G.2 below, the square footage in each category shall meet the ~~not exceed the maximums~~ requirements listed below, except, where approved by special permit, the maximums may be adjusted by up to 10 percent in ~~each~~ any category, so long as the total gross floor area of all uses, excluding accessory parking, does not exceed: (a) ~~580,000~~ 650,000 square feet if the development parcel includes only land leased from the MBTA (the “MBTA Parcel”); or (b) 825,000 square feet if the development parcel includes both the MBTA parcel and the Indigo Parcel:

- ~~1.~~ Category A shall not exceed ~~225,000~~ 120,000 square feet (excluding offices incidental to residential, retail or community uses), the majority of which must be contained within one structure;
- ~~2.~~ Category B shall not exceed ~~20,000~~ 40,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;
- ~~3.~~ Category C shall not exceed ~~335,000~~ 480,000 square feet not to exceed ~~290~~ 415 dwelling units.

Category D shall be no less than 1.5% of the total square footage of all other use categories (i.e., Categories A,B,C and E).

Category E: if permitted under sec. 4.2.4.F.1, shall not exceed 176,000 square feet.

2. Direct Access to and from Rt. 128/I-95 Northbound and Southbound. If, and only if, the special permit is conditioned on the provision of direct access (i.e., not utilizing Grove Street) to and from the development parcel to and from Rt. 128/I-95 northbound and direct access to and from the development parcel to and from Rt. 128/I-95 southbound, the total square footage permitted under paragraph 1 of this section 4.2.4.G shall be increased by 100,000 square feet, which shall be distributed proportionately amongst the Categories A-C uses set forth in Sections 4.2.4.F and G. Notwithstanding

the foregoing, all special permit applications shall be subject to the findings required under Sections 7.3.3.C and 7.3.5.B.

H. Organization of Owners. Prior to exercise of a special permit, an organization of all owners of land within the development parcel, except for owners of land subject to easements benefiting the mixed-use development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the City or its representatives regarding compliance with this Chapter. The organization shall serve as the liaison between the City and any owner, lessee, or licensee within the development parcel governed by a special permit. Such organization shall be the primary contact for the City in connection with any dispute regarding violations of this Chapter and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the development parcel with the terms of the special permit for a mixed-use development, site plan approval, and other applicable provisions of this Chapter. In addition, any special permit shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the development parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

7.3.5. Special Requirements in MU3/TOD

A. Additional Filing Requirements. In addition to the provisions of Sec. 7.3 and Sec. 7.4, applicants for a special permit under Sec. 4.2.4 shall submit:

1. Conceptual Plans. Prior to submittal of an application for a special permit in the Mixed Use 3/~~Transit-Oriented Development~~ (MU3/TOD), which will include subsection 2. to 12. below, applicants shall present conceptual plans for review by the Land Use Committee of the City Council at a public meeting. The Land Use Committee shall provide a forum for a public presentation whereby the Land Use Committee and public may ask questions, gain an understanding of the project proposal, and provide feedback that can inform further development of the project. Submittal for conceptual review shall not require engineered plans, but shall include the following:
 - a. Project description, including project purpose or design rationale;
 - b. Project statistics, including zoning, current and proposed uses on site, total square footage for each use proposed, area to be covered by structures, FAR, number of bedrooms in all dwelling units, percentage of affordable units, percentages of open space with breakdown of civic open space, beneficial open space and publicly-accessible beneficial open spaces;
 - c. Preliminary site plan, including dimensioned property lines and all building setbacks and building footprints, impervious surfaces, location of waterways, top of bank and distance from waterways, proposed demolitions, location and number of parking spaces, landscaping and open spaces, trees to be removed, any access proposed to adjacent public property, whether or not it is currently available for public use, north arrow and scale; and
 - d. Other information as may be requested by City staff to perform a zoning review and preliminary impact analyses.
2. A 3D computer-generated model that shows the relationship of the project to its surroundings consistent with Sec. 7.3.1.B.;
3. Narrative analysis describing design features intended to integrate the proposed mixed-use development into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site-specific considerations, as well as an explanation of how the proposed mixed use development satisfies each criterion in Sec. 7.3.3 and Sec. 7.3.65.B.;
4. Statement describing how the beneficial open space areas, to the extent open to the public, and the civic open space areas are intended to be used by the public;

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5. Site plans showing any by right or zoning exempt alternatives;
6. A roadway and transportation plan reflecting the “EOEEA Guidelines for EIR/EIS Traffic Impact Assessment” with further attention to public transportation and exceptions, subject to review by the Commissioner of Public Works, Director of Planning and Development, Director of Transportation, and peer review consultants. The plan should include the following:
 - a. Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single occupant vehicles.
 - b. Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts.
 - c. Detailed analysis and explanation for the maximum peak hour and daily motor vehicle trips projected to be generated by the mixed-use development, documenting:
 - i. The projected base volume of trips to and from the mixed-use development based upon the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers or other sources, such as comparable projects in Newton or nearby communities, acceptable to the Commissioner of Public Works and Director of Planning and Development, and also specifically addressing the impact on trip volume of both transportation networks (e.g., Uber and Lyft) and delivery vehicles associated with online purchases;
 - ii. The projected adjusted volume of trips net of reductions resulting from internally captured trips; access by public transport, ridesharing, walking or biking; and through the TDM program cited above; but without adjustment for “pass-by” trips, and noting how those reductions compare with the mixed use development guideline of adjusted volume being at least 10 percent below the base volume on weekday evening peak hours;
 - iii. The means of making mitigations if it is found pursuant to the monitoring under ~~Sec. 7.3.6.D. and~~ Sec. 7.3.65.E. that the trips counted exceed the projected adjusted volume by 10 percent or more; and

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iv. The projected trip reduction adjustment based on “pass-by” trips for use in projecting impacts on street traffic volumes.

d.

i. Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the mixed-use development may have a negative impact. The study area for the traffic impact analysis shall include, without limitation, all roadways expected to receive 50 or more peak hour vehicle trips from the proposed development and the following intersections:

Washington Street at Beacon Street

Washington Street at Quinobequin Road/ Wales Road/Route 128

SB Ramps

Washington Street at Concord Street

Washington Street at Grove Street

Concord Street at Hagar Street

Route 128 Exit 21B Collector-Distributor Road at Route 128 SB

On-Ramp

Washington Street at Route 128 NB Ramps

Grove Street at Hagar Street / Colgate Road (All-Way Stop)

Grove Street at Route 128 SB Ramps / Asheville Road

Grove Street at Route 128 NB Ramps

Grove Street at Hotel Indigo Driveway / Condo Driveway

Grove Street at MBTA Riverside Driveway

Grove Street at Riverside Office Building South Driveway

Grove Street at Riverside Office Building North Driveway /

Seminary Drive

Grove Street at Riverside Office Building Center Driveway

Grove Street at Hancock Street

Grove Street at Woodland Street (All-Way Stop)

Grove Street at Central Street and Auburn Street

Woodland Street at Hancock Street (All-Way Stop)

Woodland Street at Central Street (All-Way Stop)

Lexington Street at Auburn Street / Commercial Driveway

Washington Street at Woodland Street

Commonwealth Avenue at Lexington Street

Lexington Street at Wolcott Street

Commonwealth Avenue at Melrose Street

Commonwealth Avenue at Auburn Street (East)

Commonwealth Avenue at Washington Street

Washington Street at Auburn Street

Washington Street at Perkins Street

Washington Street at Mass Pike EB On-Ramp

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Washington Street at Mass Pike WB Off-Ramp
South Avenue at River Road / Route 128 SB Ramps
South Avenue / Commonwealth Avenue at Route 128 NB Ramps
Commonwealth Avenue at Auburn Street (West)

- ii. Analysis of traffic impacts within the study area of site-specific high-traffic events, including but not limited to Red Sox home games.

Results are to be summarized in tabular form to facilitate understanding of change from pre-development no-build conditions to the build-out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues. Analysis shall include:

- i. The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and
- ii. Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.

- e. Analysis of peak traffic flow and circulation within the development parcel and the potential for backups within the parcel that could impact and/or impede traffic flows or fire and police operations within or adjacent to the parcel. This analysis shall include, without limitation, an assessment of the exit/entrance efficiency of parking structures and the potential for backups resulting from vehicles pulling into and/or out of parking stalls; interactions between MBTA and other buses with other vehicle traffic; the potential effects of double-parking (including by delivery vehicles, taxis and transportation network vehicles), car breakdowns, and other foreseeable events that may impede projected traffic flow; and an analysis of the impacts of site-specific high-traffic events, including but not limited to Red Sox home games.

- 7. All transportation-related studies, reports, submissions or filings required to be submitted to any state or federal agency in connection with the proposed-mixed use development (including those required as a result of any required or proposed roadway changes or traffic mitigation measures in connection with the proposed-mixed use development).

- 8. All of the following collected or prepared in connection with any of the submissions required under Section 7.3.5.A.6 and 7

above:

-All capacity analysis files, simulation files, animation files, and all modeling files, including but not limited to all analysis files for use with the following software applications:

Synchro/SimTraffic

Highway Capacity Software

PTV Vissim

-All traffic count and speed data files (both Excel files and PDFs).

7. A shared-parking analysis that demonstrates that the number of parking spaces to be provided is appropriate to the context, taking into consideration the mix of uses; the demand for parking spaces at different times of day, week, and year; availability of alternative modes of transportation; and other site-specific influences on parking supply and demand, such as, but not limited to, Red Sox home games.
8. Water, sewer, and storm water impact analysis. The analysis shall be subject to review by the Commissioner of Public Works, Director of Planning and Development, and peer review consultants and shall include the following:
 - a. A study of the proposed project's surface water runoff relating to the Charles River and how all storm water will be infiltrated on site, and which explores all feasible methods of reducing impervious surfaces, including underground parking and/or more compact site layouts, as well as the possibility of roof water harvesting for irrigation reuse, including:
 - i. A conceptual drainage plan demonstrating the consistency of the drainage infrastructure plan with the Massachusetts Department of Environmental Protection's "Stormwater Management Handbook" and the City's "Requirements for On-Site Drainage (Stormwater Management)";
 - ii. A drainage analysis based on the City's 100-year storm event of seven inches over a 24 hour period, showing how runoff from impervious surfaces will be infiltrated on-site;
 - iii. An on-site soil evaluation identifying seasonal high groundwater elevation and percolation rate and locations of these tests shown on the site plan;
 - iv. If a connection to the City's drainage system is proposed, a closed-circuit television (CCTV) inspection, prior to approval of this

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permit, which shall be witnessed by the Engineering Division of Public Works; the applicant shall provide the City inspector with a video or CD prepared by a CCTV specialist hired by the applicant. A post-construction video inspection shall also take place and be witnessed as described above; and

- v. An evaluation of hydraulic capacity of the downstream drainage system submitted to the Engineering Division of Public Works to determine any impact to the municipal drainage system.
- b. A master plan and schedule of the sanitary sewer system improvements, including:
- i. A plan showing a reduction in infiltration and inflow into the sanitary sewer system to the satisfaction of the Commissioner of Public Works;
 - ii. A calculation of the life cycle cost of the proposed sanitary system;
 - iii. A quantitative analysis of the capacity to dispose, verified by the Massachusetts Water Resource Authority (MWRA); and
 - iv. A study showing how the developer will comply with the City's cross connection control program relating to sewer and drain pipes.
- c. A 21E Environmental Site Investigation Report that evaluates the site for any contaminants related to underground fuel or oil tanks, creosote, leachate from existing trolley tracks, cleaning and/or washing facilities, or local dry wells.
- d. A solid waste master plan, including a detailed explanation of how the uses will control solid waste through reduction, reuse, recycling, compaction and removal that demonstrates compliance with Revised Ordinances Chapter 11, Recycling and Trash, and the Massachusetts Department of Environmental Protection Waste Ban. The plan shall provide estimates of the expected solid waste generation by weight and volume for each of the uses proposed for the site with consideration to peak volumes.
- e. A quantitative analysis that demonstrates that the water demands of the proposed development will not overburden the water supply of existing infrastructure provided by the City, including fire flow testing for the proposed fire suppression system, as well as domestic demands from the entire development. The applicant must coordinate this test with both the Fire Department and Utilities Division of Public Works; representatives of each department shall witness the testing and test results shall be

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submitted in a written report. Hydraulic calculations shall be submitted to the Fire Department for approval. Hydraulic analysis for both domestic and fire suppression will be required via hydraulic modeling in a format acceptable to the Director of Utilities.

9. Fiscal impact analysis that includes new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
10. Construction management plan including timeline, detailed analysis of traffic, noise, vibration and other impacts on the surrounding neighborhoods, the duration of such impacts, and how they will be managed, as well as a Pproposed phasing schedule, including infrastructure improvements.
11. Shadow study showing shadow impacts on the surrounding properties for four seasons at early morning, noon, and late afternoon.

12. Visual Impact Studies.

A. Photographs showing the current appearance of the development parcel from the below listed locations, and the same photographs incorporating accurately scaled renderings of the proposed development to show the visual impact of the proposed development on the surrounding area:

(i) Grove Street, Norumbega Court, Williston Road and Central Avenue in Auburndale;

(ii) Grove Street from both the northeast and southwest ends of the development parcel;

(iii) Crehore Drive, DeForest Road, Grove Street and Hamilton Field in Newton Lower Falls;

(iv) Recreation Road, the Charles River, and Riverside Park, and the same photographs.

All of the above photographs shall be taken from the points along the identified roads, the Charles River and Riverside Park where the buildings proposed to be constructed would be the most visible.

B. Simulations showing the appearance of the proposed project after dark with all external and internal lighting in use at all locations identified in paragraph A above.

C. After opening of the public hearing on the special permit application, a balloon test shall be conducted at the expense of the applicant to demonstrate the height and visibility of all proposed buildings over 60 feet high. Where the building is designed with increased setbacks at higher floors, balloons shall be positioned at each corner of the highest point of each section of the building with

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a different setback. The balloons shall remain in place for sufficient time to allow members of the public and the City Council to observe them.

13. Noise Analyses.

A. A study of the noise impacts on Newton Lower Falls and Auburndale of both the construction of the proposed development and of the proposed development as operated, including but not limited to the impact the proposed development will have on noise from Rt. 128/I-95 reflected into Newton Lower Falls.

B. A study of the noise levels that will exist in any portion of the development in which there will be residential structures, beneficial open spaces or civic open spaces. Noise sources to be evaluated include but are not limited to traffic on Rt. 128/I-95, traffic on Grove Street, MBTA trains, buses and shuttles (including both MBTA and private buses and shuttles), other MBTA operations, private vehicles, including delivery vehicles, trash removal vehicles, mechanical systems of the proposed structures in the development parcel and proposed uses of the development parcel.

14. Wind Study.

A. Wind tunnel testing or computational fluid dynamics simulations shall be required for any proposed development that includes one or more buildings of 100 feet or more in height.

B. The analysis shall determine potential pedestrian level winds within the development parcel and shall identify any areas where wind velocities are expected to exceed the acceptable levels set forth in Sec. 7.3.5.B.7.

C. The analysis also shall determine the suitability of particular locations for various activities (e.g., walking, sitting, eating, etc.) as appropriate.

D. Particular attention shall be given to public and other areas of pedestrian use, including, but not limited to, civic open space, beneficial open space and sidewalks.

E. Wind speeds shall be measured in miles per hour.

F. For areas where wind speeds are projected to be dangerous or to exceed acceptable levels, measures to reduce wind speeds and to mitigate potential adverse impact shall be identified and, if appropriate, tested.

125. Submittal in electronic form of all documents required by Sec. 7.3 and Sec. 7.4 and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant to the City Council and pertaining to

the special permit application, unless the applicant demonstrates to the satisfaction of the Director of Planning and Development that electronic submission or compliance with that standard is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS “Standard for Digital Plan Submittal to Municipalities,” or successor standard. Electronic submission must be contemporaneous with submission by any other means. The Director of Planning and Development will arrange to have electronically submitted documents posted on the City website within a reasonable time after receipt.

B. Review Criteria.

Section 7.3.3 Special Permit Criteria Applied in the MU3 District:

The provisions of Sec. 7.3.3 apply to all special permit applications in the MU3 district. Thus, no special permit may be granted unless all of the criteria set forth in Sec. 7.3.3.C are met, including but not limited to Sec. 7.3.3.C.2 which states that: “The use as developed and operated will not adversely affect the neighborhood.” For avoidance of doubt, as applied in the MU3 district, the neighborhood to be considered includes Newton Lower Falls and Auburndale. No special permit shall be granted if there is any adverse effect of the proposed development on any portion of either or both of these neighborhoods. Adverse effects must be assessed without regard to any perceived benefits from the proposed project.

Additional special permit criteria for a mixed-use development in the MU3/~~TOD~~ district.

In granting a special permit for a mixed-use development under Sec. 4.2.4, the City Council shall not approve the special permit unless it also finds, in its judgment, that the proposal meets all of the following criteria in addition to those listed in Sec. 7.3.3:

1. **Not inconsistent with the City’s Comprehensive Plan.** The proposed mixed-use development is not inconsistent with the City’s Comprehensive Plan in effect at the time of filing an application for a mixed-use development and applicable general laws relating to zoning and land use.
2. **Housing, Public Transportation, Parking, and Utility Infrastructure Improvements.** The proposed mixed-use development offers long-term public benefits to the City and nearby areas including:
 - a. Improved access and enhancements to public transportation;
 - b. Improvements to parking, traffic, and roadways;
 - c. On- and off-site improvements to pedestrian and bicycle facilities, particularly as they facilitate access to the site by foot or bicycle;
 - d. Public safety improvements;

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- e. On-site affordable housing opportunities, except where otherwise allowed in Sec.5.11; and
- f. Water, sewer, and storm water infrastructure improvements which increase capacity and lower impacts on the surroundings.

3. Post-Construction Traffic Mitigation Measures. The traffic mitigation measures set forth in the Special Permit application pursuant to Sec. 7.3.5.A.6.c.iii will result in a reduction of traffic volumes to volumes that are at or below 110% of projected traffic volumes (as is required under Sec. 7.3.5.E.1.c.).

4. Visual Impacts.

A. The proposed mixed-use development will have no adverse visual impact on the residential areas of Newton Lower Falls and Auburndale either during the day or at night. Adverse visual impact means that the visual aesthetic or character of the neighborhood, including the view that all or some residents will have from their properties when looking toward the Development Parcel, will be inconsistent with the low-rise, residential character of these areas of Newton Lower Falls and Auburndale.

B. Lighting for the proposed mixed-use development and/or off-site lighting to be installed in connection with the proposed mixed-use development will cause no increase in nighttime light levels in or on any surrounding residential property.

C. The proposed mixed use development will not cause any solar glare on Rt. 128/95 or in any of the surrounding neighborhoods.

D. The proposed mixed use development will be complementary to and not in conflict with the existing appearance and views from the Charles River and Riverside Park.

5. Consistent with Character of the Surrounding Neighborhoods and Grove Street. Recognizing that Newton Lower Falls and Auburndale are predominantly quiet, residential, low-rise neighborhoods and that Grove Street is a narrow, tree-lined scenic road with many historic homes, neither the height, density, or design of the proposed-mixed use development will alter these existing characteristics or look and feel of any portion of Newton Lower Falls, Auburndale or Grove Street and that, instead, the proposed mixed-use development is consistent with and will maintain these existing characteristics.

6. Noise.

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A. The proposed mixed-use development will not increase noise levels in any portion of Newton Lower Falls or Auburndale. Noise sources to be considered include but are not limited noise from the operation or uses of the proposed development, increased traffic, and reflected highway traffic noise.

B. Noise levels will not exceed 55 decibels within 6 feet of the location of any proposed containing residential units, beneficial open space or civic open space, whether the source of the noise is within or external to the development parcel.

7. Wind. The proposed mixed-use development will not cause ground-level ambient wind speeds to exceed the standards in the below table:

| <u>Permitted Occurrence Activity Area Frequency</u> | <u>Effective Gust Velocity*</u> | <u>Annual</u> |
|--|---------------------------------|---------------|
| <u>Limit for All Pedestrian Areas</u> | <u>13.8 m/sec (31 mph)</u> | <u>1%</u> |
| <u>Major Walkways - Especially Principal Egress Path for High-Rise Buildings</u> | <u>13.8 m/sec</u> | <u>1%</u> |
| <u>Other Pedestrian Walkways - Including Street and Arcade Shopping Areas</u> | <u>11.2 m/sec (25 mph)</u> | <u>5%</u> |
| <u>Open Plazas and Park Areas, Walking and Strolling Areas</u> | <u>6.3 m/sec (14.1 mph)</u> | <u>15%</u> |
| <u>Open Plaza and Park Areas, Open-Air Restaurants</u> | <u>4.0 m/sec (9 mph)</u> | <u>20%</u> |

* The effective gust velocity (egv) is defined as $egv = U + 1.5 fvc$, where U is the mean wind speed at a particular location and fvc is the root mean square of the fluctuating velocity component measured at the same location over the same time interval.

38. Fiscal Impacts. The proposed mixed-use development has a positive fiscal impact on the City after accounting for all new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.

49. Improved Access Nearby. Pedestrian and vehicular access routes and driveway widths are appropriately designed between the proposed mixed-use development and abutting parcels and streets, with consideration given to streetscape continuity and ~~an intent~~ the requirement to avoid any adverse impacts on nearby neighborhoods from such traffic and other activities generated by the mixed-use development as well as to improve traffic and access in nearby neighborhoods.

- 510. Enhanced Open Space.** Appropriate setbacks, buffering, and screening are provided from nearby residential properties and Grove Street; the quality and access of beneficial open space, civic open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the proposed mixed-use development; and meaningful bicycle and pedestrian connections to open spaces, recreational areas, trails, and natural resources, including the banks of the Charles River and adjacent public property, whether or not they are currently available for public use, are provided and take full advantage of the unique opportunities of the site and its nearby natural features for use and enjoyment by the community at large.
- 611. Excellence in Place-Making.** The proposed mixed-use development provides high quality architectural design and site planning so as to be compatible with the style of the residential properties in Newton Lower Falls and Auburndale, to minimize the visual impact of the development on Grove Street, Lower Falls, Auburndale and the Charles River, and to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the mixed-use development and its surroundingsthe neighborhoods of Lower Falls and Auburndale.
- 712. Comprehensive Signage Program.** Notwithstanding the requirements of Sec. 5.2, all signage for the proposed mixed-use development shall be in accordance with a comprehensive signage program developed by the applicant and approved by the City Council, which shall control for all purposes, shall supersede any other sign requirements, and shall be complementary to the architectural quality of the mixed-use development and character of the streetscape. The signage program shall include no signage (including banners, posters, flags or the like), whether exterior or interior for any office or retail uses where they will be visible from Grove Street, or from any residential or recreation areas of Newton Lower Falls or Auburndale. In addition, it shall be a condition of the special permit that no retail tenant or occupant be permitted to hang or place any signage (including banners, posters or the like in any location where they are visible from Grove Street or any residential area of Newton Lower Falls or Auburndale, including but not limited to temporary signage advertising sales, prices or products.
- 813. Pedestrian Scale.** The proposed mixed-use development provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the development parcel.
- 914. Public Space.** The proposed mixed-use development creates public spaces as pedestrian-oriented destinations that accommodate a variety of uses, promote a vibrant street life, make connections to the surrounding neighborhood, as well as

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to the commercial and residential components of the mixed-use development, to other commercial activity, and to each other.

- 105. Sustainable Design.** The proposed mixed-use development at least meets the energy and sustainability provisions of Sec. 7.3.3.C.5. and Sec. 7.4.5.B.8.
- 116. Adequacy of Parking.** Parking for the site is appropriate to the intensity of development, types of uses, hours of operation, availability of alternative modes of travel and encourages the use of alternatives without over-supplying parking.
- 127. Pedestrian and Neighborhood Considerations.** If the proposed mixed-use development project proposes any of the measures listed below, and if such measures, singly or in combination, create a negative impact on pedestrians or surrounding neighborhoods, the applicant has proposed feasible mitigation measures to eliminate such negative impact:
 - a. Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
 - b. Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
 - c. Traffic signal additions, alterations, or roundabouts; and
 - d. Relocation or alterations to public transport access points.
- 138. Accessible Design.** Consideration is given to issues of accessibility, adaptability, visitability, and universal design in development of the site plan.
- 19. Construction Impacts.** Construction of the proposed mixed-use development (including construction of associated roadway changes) will have no significant adverse impact on Newton Lower Falls and Auburndale. Significant adverse impacts include noise levels above 55 decibels, anything in excess of short-term minimal exposure to dust or vibration, traffic delays and/or interruption in the use of Grove Street, parking on residential streets and interference with prompt response times of the Newton Fire and Police Departments and other emergency vehicles to any area of Newton Lower Falls or Auburndale.

C. Project Phasing. Any development subject to a special permit under Sec. 4.2.4 may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted, provided that all off-site improvements and enhancements to public roadways are completed prior to issuance of any occupancy permits.

D. Adequacy of Public Facilities.

- 1. Transportation, utilities, water, sewer and storm water infrastructure, public safety, schools including capacity, and other public facilities and infrastructure

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shall serve the mixed use development appropriately and safely and without deterioration in service to other locations. To determine the adequacy of public facilities, impact studies of the following must be undertaken by the applicant as part of the special permit application process under Sec. 4.2.4 with the project scope determined by the Director of Planning and Development and the Commissioner of Public Works (peer reviews may be required, hired by the City and paid for by the applicant):

- a. Adequacy of road and traffic infrastructure, including the traffic analysis required in Sec. 7.3.65.A.6.;
 - b. Adequacy of water, sewer, and storm water infrastructure, including the water, sewer, and storm water analysis required in Sec. 7.3.65.A.8.; and
 - c. Net fiscal impacts, including the fiscal impact analysis required in Sec. 7.3.65.A.9.
2. As part of any special permit granted, post-construction studies for impacts on road and traffic capacity and water, sewer, and stormwater service shall also be required. These studies must be conducted within 12 months of full occupancy of each phase, or earlier if requested by the Director of Planning and Development and Commissioner of Public Works, and continue annually for 25 years following final build-out. If the actual impacts are consistent with projections, no further study or mitigation shall be required. If the actual impacts exceed projections, further mitigation shall be required. Following completion of such additional mitigation, annual follow-up studies shall be conducted until these studies show for 5 years consecutively that the impacts from the development comply with the special permit.
3. The special permit shall also require a bond or other security satisfactory to the Director of Planning and Development and Commissioner of Public Works to secure performance. The bond or other security may be forfeited, at the election of the Director of Planning and Development and Commissioner of Public Works, and proceeds used by the City for mitigation if the applicant fails to complete any required mitigation or to manage impacts within acceptable levels identified by special permit, subject to reasonable extensions under the circumstances.

E. Post-Construction Traffic Study.

1. A special permit issued under Sec. 4.2.4 shall provide for monitoring to determine consistency between the projected and actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the site and their distribution among points of access to the mixed-use development. The special permit shall require a bond or other security satisfactory to the Commissioner of Public Works and Director of Planning and Development to secure performance as specified below:

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- a. Monitoring of vehicle trips for this purpose shall begin within 12 months of full occupancy of each phase, or earlier if requested by the Director of Planning and Development and Commissioner of Public Works, and continue annually for 25 years following final build-out. Measurements shall be made at all driveway accesses to the mixed-use development and/or intersections studied in the pre-construction roadway and transportation plan. The Commissioner of Public Works may require traffic monitoring earlier or more frequently, if there appears to be degradation from the level of service projected by the pre-construction roadway and transportation plan.
- b. The actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the mixed-use development at all points studied in the pre-construction roadway and transportation plan shall be measured by a traffic engineering firm retained by the City and paid for by the applicant or successor.
- c. Mitigations will be required if actual total number of vehicle trips to and from the mixed-use development measured per paragraph b. above, summed over the points of access exceeds the weekday evening adjusted volume projected per Sec. 7.3.5.A.5.c6-B.5. by more than 10 percent as a result of traffic generated by the mixed-use development. Within 6 months of notification, the owner of the mixed-use development site shall begin mitigation measures (reflecting applicable roadway design standards at the time and pending receipt of all necessary state and local approvals), as described in the roadway and transportation plan submitted by the applicant and listed in the mixed-use development special permit in order to reduce the trip generation to 110 percent or less of the adjusted volume. Such reduction is to be achieved within 12 months after mitigation begins. The Commissioner of Public Works and Director of Planning and Development must approve any mitigation efforts prior to implementation.