



## City of New Bedford Department of City Planning

133 William Street • Room 303 • New Bedford, Massachusetts 02740  
Telephone: (508) 979.1488 • Facsimile: (508) 979.1576

**MAYOR**  
JON MITCHELL  
**PLANNING DIRECTOR**  
JENNIFER CARLONI

## ZONING BOARD OF APPEALS

# STAFF REPORT

**REPORT DATE**  
**NOVEMBER XX, 2021**

**MEETING DATE**  
**November 18, 2021**

**Case #: 4468** Comprehensive Permit  
ES Ash Street, SS Middle  
Street, 166-72 Chancery  
Street  
Map: 51 Lot: 504, 72  
**Owner:** POAH United Front Four,  
LLC  
2 Oliver Street, Suite 500  
Boston MA 02109  
**Applicant:** POAH United Front Four,  
LLC  
2 Oliver Street, Suite 500  
Boston MA 02109  
**Zoning District:** Mixed Use Business  
[MUB]  
**Site Area:**



**Northwest Corner of Project Locus**  
Looking Southeast from Middle St entrance to Temple Landing  
Community Center.

## Overview of Request

**POAH United Front Four, LLC** for a **Comprehensive Permit** under provisions of M.G.L. Chapter 40B Section 20-23, Comprehensive Zoning and Special Permit under Chapter 9, Comprehensive Zoning for the following:

- Section 2210 (General), 2230 (Table of Use Regulations – Appendix A – Residential: #4 – Multi-Family Garden Style (4 Stories),
- 2700 (Dimensional Regulation), 2710 (General), 2720 (Table of Dimensional Requirements – Appendix B, Front Yard, Density of Dwelling Units per Lot, Lot Coverage by Building), 2750 (Yards in Residence District), 2751 (Front Yard),
- 3100 (Parking and Loading), 3110 (Applicability), 3120-3125 (Special Permit (Reduction in Parking)), 3130 (Table of Parking and Loading Requirements – Appendix C – Multi-Family), 3140 (Location and Layout of Parking and Loading Facilities), 3149 (Special Permit for Commercial Parking in Residential Districts. A Special Permit for vehicular access to a building lot accessed from public way that does not constitute frontage of lot.), 3150 (Size of Parking Space),
- 5300-5390 (Special Permit),
- 5400 (Site Plan Review), 5410 (Purpose), 5420 (Applicability), 5421 (Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet of any new industrial or commercial construction or expansion requiring more than five (5) additional parking spaces.), 5430-5490B.

Relative to the property located at **ES Ash Street, SS Middle Street, and 166-172 Chancery Street** Assessors' Map 51, Lots 504, 72, in a Mixed-Use Business [MUB] zoned district. **The petitioner is proposing to build a 27-unit residential apartment building.**

**Existing Conditions**

Currently, the project site is a grassy lot adjacent to the Temple Landing management office. A portion of site is used for community gardens in raised beds. The site is located on the corner of Ash Street and Middle Street and has 147± feet of frontage on Middle Street and 86± feet of frontage on Ash Street. The southeast corner of the lot abuts a utility enclosure screened with greenery. There are two visible drainage ditches on the property, one on the west edge at a low point where the property abuts the community center, and another a few feet north of the utility enclosure. There are also several large boulders strategically placed at the corner of Middle and Ash Streets.

The surrounding neighborhood is the Temple Landing condo style affordable housing development also owned by United Front LLC. Across Ash Street there is a park with a playground, grassy area, and basketball court to the east, and there appeared to be available street parking and little traffic during the staff site visit. There appears to be ample street lighting as well as dedicated lighting for the basketball court.

**Decision Criteria**

The applicant is requesting a Comprehensive Permit under MGL Chapter 40B. The state law and associated regulations provide the Zoning Board of Appeals the following authority and criteria for reaching a decision.

Role of the ZBA in the Comprehensive Permit Process
“Under Chapter 40B, the ZBA has authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances. The ZBA also has authority to grant waivers of local requirements if requested by the developer and necessary to construct the proposed project. The ZBA’s mechanism for taking these actions is a single comprehensive (all-encompassing) permit, the purpose of which is to expedite the approval process and facilitate construction of low- or moderate-income housing. The ZBA’s jurisdiction includes zoning, subdivision regulations, and other types of local bylaws or ordinances and regulations, e.g., a local historic district bylaw, earth removal, storm water management, or local wetlands regulations.” <sup>1</sup>

<sup>1</sup> Source: Barret, J. (2017). *Chapter 40B Handbook for Zoning Boards of Appeal*. March 2017. Massachusetts Housing Partnership. Available at: <https://www.mass.gov/doc/chapter-40b-handbook-for-zoning-boards-of-appeal-march-2017/download>.  
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## Proposed Conditions

The applicant proposes to build a 27-unit age and income restricted residence with 31 total bedrooms. There will be 4 floors with 7,352 square feet each, totaling 29,106 square feet for the whole building.

The architectural features of the building will encourage an active lifestyle, such as an open and welcoming foyer and staircase. There are also many features for those with impaired mobility such as elevators, wide corridors with seating and handrails, levers and bars instead of knobs, and low walls and benches around the site. It is designed to blend with the multi-family redevelopment in the surrounding area. The entry is situated next to the existing community center to foster connection with the residents of this development with the surrounding community.

## Staff Review

The table below outlines the proposed site changes and highlights items for discussion and the Board's consideration.

<b>Parking</b>	<ul style="list-style-type: none"><li>• <u>The applicant is proposing a parking area on the south side of the site with 16 spaces, including four (4) handicap spaces.</u></li><li>• <u>The ordinance requires 54 parking spaces be provided, and therefore the applicant is requesting a reduction of 38 spaces as part of this permit.</u></li><li>• <b>The board may wish to discuss anticipated parking demand for the site and any reasons parking demand may be reduced.</b></li></ul>
<b>Landscaping &amp; Site Features</b>	<ul style="list-style-type: none"><li>• Significant landscaping changes are proposed, including:<ul style="list-style-type: none"><li>○ Shrub and tree plantings along the path on the north side of the parking area.</li><li>○ Tree and shrub plantings along with a rain garden west of the building site adjacent to the management office building. <b>The Board may wish to ask for more details regarding the “water feature” indicated on plan details as adjacent to the rain garden.</b></li><li>○ Shrubs, trees, perennial beds, and ground cover around the proposed apartment building.</li></ul></li><li>• A granite veneer wall is proposed between the walkway west of the building and the rain garden.</li><li>• Although listed in the schedule, the landscaping layout plan does not indicate specific species. <b>The Board may wish to discuss to final planting types and locations with the applicant.</b></li><li>• Landscape plans indicate that boulders on site will be relocated “to swale as directed”, or in other words in the rain garden area.</li><li>• Community garden planters will be relocated to the lawn on the west side of the management office.</li></ul>
<b>Circulation</b>	<ul style="list-style-type: none"><li>• Vehicular access to the proposed parking area will be via a new 24-foot-wide driveway and curb cut on Elm Street.</li><li>• The building has four (4) street-level egress points: one (1) on the north side, one (1) on the east side, and two (2) on the south side.</li><li>• Pedestrian access to the site is proposed via porous paver and concrete walkways which connect to the existing sidewalks on Ash Street and Middle Street. Another walkway originates at the north side of the parking area. The walkways on site will also connect to existing walkways north and east of the management office.</li></ul>

	<ul style="list-style-type: none"> <li>Plans also call for the realignment of the existing walkway east of the management office in order to accommodate the parking area.</li> </ul>
<b>Traffic/Transit</b>	<ul style="list-style-type: none"> <li>The project site is 0.2 miles from the bus stops at Kempton/Park Street (#3 and #10 buses) on 0.3 miles from the stop at Park/Union Street (#9 bus).</li> <li>A bike rack is proposed north of the building along Middle Street.</li> <li><b>It is within the Board's purview to request a traffic impact assessment.</b></li> </ul>
<b>Stormwater</b>	<ul style="list-style-type: none"> <li><b>The Board may wish to review any comments from the Department of Public Infrastructure relative to stormwater management and discuss them with the applicant.</b></li> <li>The applicant proposes installing a subsurface infiltration system for stormwater management beneath the parking area which will provide drainage for three (3) catch basins in the parking lot, a perforated drainpipe beneath the walkway, and the building's roof drainage system.</li> <li>A separate draining system is proposed in the rain garden west of the site and within the nearby paver area. The catch basins and drains here are proposed to connect to the City's stormwater system under Middle Street. Connections to the stormwater system are generally not preferred by DPI.</li> <li>Landscaping plans note to refer to civil plans for parking lot grading, but there are no proposed grade levels on the civil layout plans. <b>As the site currently has an uneven topography that clearly impacts stormwater drainage, the Board may wish to request that the applicant provide an additional plan sheet that shows proposed final grading for the entire project area.</b></li> </ul>
<b>Snow Storage</b>	<ul style="list-style-type: none"> <li>Plans do not indicate snow storage areas. <b>The Board may wish to discuss snow storage plans with the applicant and determine if plan revisions are needed.</b></li> </ul>
<b>Waste Receptables</b>	<ul style="list-style-type: none"> <li>Plans do not show waste receptables or dumpster areas on site. <b>The Board may wish to discuss waste management plans with the applicant. If on the exterior, the board should require a screened enclosure.</b></li> </ul>
<b>Utilities</b>	<ul style="list-style-type: none"> <li><b>The Board may wish to review any comments from the Department of Public Infrastructure relative to utilities and discuss them with the applicant.</b></li> <li>Plans show electric, fire service, water, and sewer connecting to/from the site at Ash Street.</li> <li>A pad-mounted electric transformer is proposed southeast of the building. The transformer will be screened by a 7' galvanized steel louver fence. <b>The Board may wish to discuss the fence color with the applicant.</b></li> <li>Utility plans do not indicate a gas utility connection. <b>The Board may wish to discuss this with the applicant.</b></li> </ul>
<b>Lighting</b>	<ul style="list-style-type: none"> <li>Plans show pole-mounted lights on the east and west sides of the parking area, for a total of four (4) lights.</li> <li>One (1) bollard-style light is proposed along the walkway from the parking area to the building.</li> <li>Wall-mounted lights are proposed for the main entrance on the southwest corner of the building and above the egress point on the east side. Plans do not show lights above the other egress points. <b>The Board may wish to request additional building lighting information.</b></li> </ul>



<b>Demolition and Erosion Control</b>	<ul style="list-style-type: none"> <li>Plans show an erosion control fence around the main project site. Staked waddles are also proposed along the base of the fence inside the work area.</li> <li>Plan details show silt sacks for use in catch basins on and near the site.</li> <li>A construction entrance made of compacted stone is shown on the Elm Street side of the site.</li> </ul>
<b>Architectural</b>	<ul style="list-style-type: none"> <li>Floor plans show: <ul style="list-style-type: none"> <li>A lobby area extending from the northwest corner of the building with elevators and a stairwell. On upper floors, this area features common areas and a balcony on the fourth floor.</li> <li>The layout of seven (7) units per floor on the upper floors and six (6) on the ground floor.</li> <li>A second stairwell on the east side of the building.</li> </ul> </li> <li>Elevations show the building oriented on the site and indicate that in blue, yellow, and white fiber cement board siding will be used for the exterior.</li> </ul>
<b>Master Plan</b>	<ul style="list-style-type: none"> <li>The proposal is consistent with the Master Plan's goals to increase the number of housing units for all residents.</li> </ul>

## Interdepartmental Review Comments

The case submittal documents were distributed to Planning Board, City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department.

At the time of writing this report, the following letters were received: letter from the Commission for Citizens with Disabilities (CCWD) dated November 15, 2021 ; and a letter from the Department of Public Infrastructure dated November 15, 2021.

## Site Photos



**Easement boundary between Lots 504 and 72**  
Looking West from Lot 54/Middle Street



**Front of community center.**  
Looking Southeast from Middle Street





**Project Locus, Lot 504.**  
Looking East from Lot 504 western boundary



**Site of future parking**  
Looking North from Elm Street



**Corner of Middle and Ash Streets**  
Looking Southwest from Middle Street



**Corner of Middle and Ash Streets**  
Looking Southwest from Middle Street



**Drainage and Community Garden**  
Looking North from Elm Street



**Drainage and Electrical**  
Looking Southeast from Community Center

## Materials for Consideration



The engineered plan submission is shown as Temple Landing II dated October 15, 2021, and prepared by Nitsch Engineering of Boston, MA. The plan set consists of the following sheets:

- G001 Cover
- G002 Sheet List
- G005 Zoning and Areas
- G006 Code Report
- G007 Line Safety
- G008 Unit Types and Access
- G009 Envelope Diagrams
- G010 Axon Views
- G100 Building Assemblies
- G101 Partition Types
- C000 Notes, Legend, and Abbreviations
- C100 Stormwater Pollution Prevention Plan
- C200 Layout Plan
- C300 Site Utility and Drainage Plan
- C400 Stormwater Pollution and Prevention Details
- C401 Civil Details
- C402 Civil Details
- C403 Civil Details
- C404 Civil Details
- L100 Landscape Notes
- L101 Layout and Materials Plan
- L201 Grading Plan
- L301 Planting Plan
- L401 Site Details
- L402 Site Details
- L403 Site Details

The architectural plan submission is shown as Temple Landing II dated October 15, 2001, and prepared by Dream Collaborative of Boston MA. The plan consists of the following sheets:

- A100 Site Plan
- A101 Ground Floor Plans
- A102 Second Floor Plan
- A103 Third Floor Plan
- A104 Fourth Floor Plan
- A105 Roof Plan
- A300 Exterior Elevations
- A301 Exterior Elevations
- A320 Building Sections

## Recommendation by Staff

At this time Department of City Planning Staff recommend that the Zoning Board of Appeals continue this case to the next regularly scheduled meeting to be held on December 16, 2021. Staff recommends the continuance to ensure enough time is allowed for other boards, commissions, City departments, and the public enough time to review and provide comments for the Zoning Board's consideration.

Further, staff recommend the Zoning Board of Appeals take a procedural vote to ensure the provisions and rights of the board under the safe harbor provision of 760 CMR 56.03(1)(a) and 56.03(3)(a). This vote should not be seen as reflecting the ZBA's substantive opinion regarding the project but rather a procedural vote to ensure rights of the board in its future determination on the case. Legal counsel will be available at the meeting for any questions regarding this vote.

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**Materials Provided by the Applicant** are available at: <https://www.newbedford-ma.gov/planning/zoning-board-agenda-info-2021/>

Staff Report prepared by: Michael McCarthy, Assistant City Planner & Laura Ryan, Staff Planner

Reviewed by: Jennifer Carloni, City Planner

# ES Ash Street, SS Middle Street, 166-172 Chancery Street Map: 51 Lots: 504, 72

*NOTE: Property line is approximate; for discussion purposes, only. Aerial image is oriented north.*

