COMMITTEE ON ORDINANCES - October 21, 2021
MEETING AT 6:30 PM, ***133 William Street, City Hall, 2nd Floor, City Council Chambers***
AGENDA

1. PUBLIC HEARING on a COMMUNICATION, City Clerk/Clerk of the City Council Farias, to City Council, submitting a request from Paul Vaz Construction, Inc. 93 Perry Street, New Bedford, MA to rezone SW Howard Avenue, Plot 116/Lot 29 from Mixed-Use Business to Industrial A. (To be Referred to the Committee on Ordinances and the Planning Board.) (Ref'd 08/19/2021) (Duly advertised in The Standard-Times on Thursday, October 07, 2021 and Thursday, October 14, 2021.)

1a. COMMUNICATION, Jennifer Carloni, Director, City Planning, to Councillor Hugh Dunn, Chairman, Committee on Ordinances, advising that the Planning Board held a public hearing on September 22, 2021 to discuss the request from Vaz Construction, Inc. 93 Perry Street, New Bedford, MA to rezone SW Howard Avenue, Plot 116/Lot 29 from Mixed-Use Business to INDUSTRIAL A; the Planning Board voted to send an **UNFAVORABLE RECOMMENDATION**, recommending that the City Council deny the request from Vaz Construction, Inc. 93 Perry Street, New Bedford, MA to rezone SW Howard Avenue, Plot 116/Lot 29 from Mixed-Use Business to INDUSTRIAL A. (Ref'd 09/24/2021)

INVITEES: Jennifer Carloni, Director, Planning Department; David Gerwatowski, Legal Counsel Attorney; Paul Vaz, Petitioner

In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact the Clerk of Committees Office at 508-979-1482. Requests should be made as soon as possible but at least 48 hours prior to the scheduled meeting.

Item Title:
Rezone Request - SW Howard Avenue, Plot 116/Lot 29

Item Detail:
1. PUBLIC HEARING on a COMMUNICATION, City Clerk/Clerk of the City Council Farias, to City Council, submitting a request from Paul Vaz Construction, Inc. 93 Perry Street, New Bedford, MA to rezone SW Howard Avenue, Plot 116/Lot 29 from Mixed-Use Business to Industrial A. (To be Referred to the Committee on Ordinances and the Planning Board.) (Ref'd 08/19/2021) (Duly advertised in The Standard-Times on Thursday, October 07, 2021 and Thursday, October 14, 2021.)

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Additional Information:

ATTACHMENTS:

Description	Type
1. COMM re Rezone Request - Vaz Construction	Cover Memo
1a. CASE_21-33_SW Howard Avenue Rezoning Request_PB Recommendation Letter	Cover Memo

CONSTRUCTION INC
MASONRY.ROOFING.SIDING.WINDOWS 774-328-9950
WWW.VAZCONSTRUCTIONINC.COM

OFFICE OF THE CITY CLERK
NEW BEDFORD, MA
2021 AUG -2 PM 3:07
CITY CLERK

July 30, 2021

City Of New Bedford
City Council Office
Joseph Lopes, President
City Council Members
133 William St
New Bedford, MA 02740

RE: SW Howard Avenue – Plot: 116 – Lot: 29

Dear City Council Members:

I am writing to petition the City Council office and its members to initiate the process of re-zoning SW Howard Avenue – Plot 116 – Lot 29 from an MUB to an Industrial A (IA) zone.

For further information and future notifications, please contact me by mail at 89 Howard Ave, New Bedford, MA 02745, by phone at 774-328-9950 ext. 102, or email at billing@vazconstructioninc.com.

Sincerely,

Paul Vaz
Anibal G Vaz
Aurora B Vaz
93 Perry St.
New Bedford, MA 02745

IN CITY COUNCIL, August 19, 2021
Referred to the Committee on Ordinances and the Planning Board.
Dennis W. Farias, City Clerk

a true copy, attest:

City Clerk

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 BOARD

September 24, 2021

Councilor Hugh Dunn, Chairman
Committee on Ordinances
133 William Street
New Bedford, MA 02740

RE: REZONING REQUEST
CASE #21-33: SW Howard Avenue Rezoning Request

Dear Chairman Dunn:

This is to advise you of the Planning Board's action on Wednesday, September 22, 2021 regarding the request for the Planning Board to review and make a recommendation to the City Council for its consideration regarding the rezoning from Mixed-Use Business (MUB) to Industrial A (IA) of the properties shown on the Assessor's Map as Map 116, Lot 29. **The Planning Board sends an unfavorable recommendation of the rezoning request.**

At the hearing, Planning Board Chair Kathryn Duff read the request and asked if there was anyone present to speak on the matter. Mr. Paul Vaz introduced himself as the owner of the subject parcel. He requested the Board endorse his request, stating that he has owned the property since 2012 and used it as a parking lot for work vehicles since then. He added that only recently, due to increasing cost of materials during the pandemic, had he started using the property to store building materials.

The Board discussed the choice to rezone the property as Industrial A and determined it constituted spot zoning.

Chair Duff then opened the floor to any members of the public who wished to speak in favor or in opposition to the proposed changes. Hearing no such comments, Chair Duff asked for a motion.

Board member Glassman made a motion to recommend that City Council deny the rezoning request for SW Howard Avenue (Map: 116 Lot: 29) from Mixed-Use Business to Industrial-A. As petitioned by Paul, Anibal, and Aurora Vaz (93 Perry Street, New Bedford, MA 02745).

The motion passed on a vote of 5-0, with board members A. Kalife, P. Cruz, A. Glassman, K. Khazan, and K. Duff recorded in favor; no board members recorded in opposition.

As such, the **Planning Board sends an unfavorable recommendation.** Please find enclosed a copy of the Planning Division Staff Report regarding this matter for the Council's convenience and reference.

Sincerely,

Jennifer Carloni
Director, Department of City Planning

encl.

- Department of City Planning Staff Report, dated 9/15/2021

cc. Jon Mitchell, Mayor
Danny Romanowicz, Building Commissioner
Mikaela McDermott, City Solicitor
Dennis Farias, City Clerk

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

STAFF REPORT

REPORT DATE	MEETING DATE
September 15, 2021	SEPTEMBER 22, 2021

Case #21-33: REZONING REQUEST
SW Howard Avenue
Map: 116 Lot: 29

Overview of Request
On August 2nd, the owner of the property petitioned the City Council to rezone the subject parcel (Map: 116 Lot: 29), located on the southwest corner of the Howard Avenue/Belleville Avenue intersection, from Mixed-Use Business (MUB) to Industrial A (IA). On August 19, the Council referred the request to the Planning Board for a recommendation on the rezoning request.

Existing Conditions
The subject parcel is a paved area surrounded by a chain link fence. The parcel spans the width of the block and has 200± feet of frontage on Belleville Avenue, 113± feet of frontage on Howard Avenue, and 69± feet of frontage on Perry Street. Multifamily housing directly abuts the parcel to the west.

The property owner is currently operating a contractor's yard on the subject parcel, which is in violation of the City's zoning. Construction vehicles, equipment, and materials are densely stored throughout the site.

The subject parcel is used to store construction equipment and materials.

Looking southwest from the corner of Howard & Belleville.

The map below (Exhibit B) identifies the subject parcel and zoning of the surrounding neighborhoods. The subject parcel is currently zoned MUB, as are the parcels on the northwest and northeast corners of the Howard Avenue/Belleville Avenue intersection. The block on which the subject parcel is located is primarily Residential C aside from the west end of the block, which is zoned MUB along Acushnet Avenue. The surrounding neighborhood to the north, south, and west is a similar mix of Residential A, B, and C districts with MUB parcels interspersed along main throughfares and intersections. The Acushnet Company factory is located to the east of the parcel across Belleville Avenue and is zoned Industrial B.

Background
The subject property was purchased by the current owner in 2009 and is currently used as a contractor's yard. Formerly, the parcel had been owned by the Acushnet Company and was presumably used as a parking area for the Belleville Avenue facility. The owner of the subject property also owns the abutting multifamily buildings on Perry Street and Howard Avenue.

Input from other City Departments
The rezoning request was distributed to relevant City departments. No comments have been received as the writing of this memo. Any comments subsequently received will be provided at the Planning Board's public hearing.

For Board Member Consideration
The Planning Board has previously relied on the criteria below in its evaluation of other rezoning requests to ensure its action is consistent with case law.

Criteria
Uniformity: the extent to which the zoning change would resemble the surrounding zoning.
Consistency: whether the parcel is being singled out for a zoning change.
Surroundings: how the proposal would change the neighborhood?
Fiscal Impact: what impact on local/city economic development the rezoning would have?
Discriminating Benefit: assess whether the reclassification of a single parcel that allows a use beneficial to the property owner is made to the detriment of the neighbors or community-at-large.

Material and equipment are stored along the property line.
Looking southwest from Howard Avenue.

Material and equipment are stored along the property line.
Looking north from the Perry Street.

The table below (Exhibit A) compares current MUB uses to proposed IA uses. Uses highlighted in **green** will be newly permitted in the subject parcels, while uses highlighted in **grey** will no longer be permitted. **If the proposed rezoning is approved, there will be 15 newly permitted uses for the subject parcels**, including the current use of the parcel. All the new uses would be industrial. **Rezoning will eliminate 19 uses that are currently allowed**, including all residential uses. All marijuana-related uses will also be newly permitted, but the subject parcel falls within a buffer zone and therefore none could be permitted as a marijuana establishment.

The requested rezoning would allow for fewer uses and would make the parcel less congruent with the abutting parcels to the north, west, and south. Further, there are no other parcels zoned Industrial A adjacent or across the street from this site.

EXHIBIT A - Zoning Comparison Table

The table below compares current MUB uses to proposed IA uses. Uses highlighted in **green** will be newly permitted in the subject parcels, while uses highlighted in **grey** will no longer be permitted.

A. Residential	**MUB**	**IA**
1. Single-family dwelling	Y	N
2. Two-family dwelling	Y	N
3. Multi-family townhouse (3 stories)	Y	N
4. Multi-family garden style (4 stories)	N	N
5. Multi-family mixed use (6 stories)	PB	N
6. Multi-family mid-rise (12 stories)	N	N
7. Multi-family high-rise (18 stories)	N	N
8. Boarding house	BA	N
9. Group residence	BA	BA
10. Assisted or Independent living facility	BA	BA
11. Nursing or Convalescent home	BA	BA
12. Trailer camp or park	N	N
13. Hoofed animals	N	N
14. Animals or head of poultry, not to exceed one animal or head of poultry per one thousand (1,000) square feet of net area of the lot… (*See Ordinance for full text*)	Y	N
B. Exempt and Institutional Uses	MUB	IA
1. Use of land or structures for religious purposes	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies… (*See Ordinance for full text*)	Y	Y
3. Child care facility (in existing building)	Y	Y
4. Child care facility (not in existing building)	Y	Y
5. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y	Y
6. Facilities for the sale of produce, and wine and dairy products… (*See Ordinance for full text*)	Y	Y
7. Municipal facilities	Y	Y
8. Essential services	BA	BA
9. Cemeteries	Y	N
10. Hospital	Y	N
C. Commercial	**MUB**	**IA**
1. Nonexempt agricultural use	BA	BA
2. Nonexempt educational use	Y	BA

3. Animal clinic or hospital; with ancillary animal boarding	SP	BA
4. Adult day care	BA	BA
5. Family day care	BA	N
6. Large family day care	BA	N
7. Club or lodge, nonprofit	CC	N
8. Funeral home	BA	N
9. Adult entertainment establishment	CC	CC
10. Bed & Breakfast	BA	N
11. Motel, hotel or inn	Y	Y
12. Retail stores and services not elsewhere set forth	Y	Y
13. Grocery stores	Y	BA
14. Big Box Retail (60,000 Sq. ft. or greater)	BA	N
15. Health clubs	Y	Y
16. Mixed use	Y	N
17. Live /work	BA	N
18. Motor vehicle sales and rental	CC	CC
19. Motor vehicle general repairs	CC	N
20. Motor Vehicle body repairs	N	N
21. Motor vehicle light service	CC	CC
22. Restaurant	Y	Y
23. Restaurant, fast-food	BA	BA
24. Business or professional office	Y	Y
25. Medical offices, center, or clinic	BA	BA
26. Bank, financial agency	Y	Y
27. Indoor commercial recreation	Y	Y
28. Outdoor commercial recreation	BA	BA
29. Wireless Communications Facilities	PB	PB
30. Theatres and auditoriums	PB	N
31. Convention Centers	PB	PB
32. Marijuana Retailer	N	PB
D. Industrial	**MUB**	**IA**
1. Earth removal	N	N
2. Manufacturing	N	Y
3. Light manufacturing	N	Y
4. Research, development or testing laboratories and facilities	Y	Y
5. Biotechnology facilities	N	Y
6. Medical devices manufacturing	N	Y
7. Fish processing	N	N
8. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N	Y
9. Transportation terminal	N	Y

10. Water freight terminal	N	N
11. Businesses engaged in the sale, distribution or storage of grain, petroleum products, building materials and industrial machinery provided that such businesses shall be primarily reliant upon a waterfront location or shall be in direct support of an industrial use which requires a waterfront location	N	CC
12. Businesses engaged in the sale, distribution or storage of grain, petroleum products, building materials and industrial machinery	N	N
13. Businesses engaged in salvaging, dismantling and reprocessing of scrap and waste materials… (*See Ordinance for full text*)	N	N
14. Junkyard or automobile graveyard	N	N
15. Contractor's yard	N	Y
16. Low-level radioactive or nuclear waste facility	N	N
17. Tire recycling & re-treading	N	N
18. Batch asphalt & concrete plants	N	N
19. Craft Marijuana Cooperative	N	PB
20. Independent Testing Laboratory	N	PB
21. Marijuana Cultivator	N	PB
22. Marijuana Product Manufacturer	N	PB
23. Marijuana Research Facility	N	PB
24. Medical Marijuana Treatment Center	N	PB

EXIBIT B – Existing Zoning Map with Subject Parcels Identified

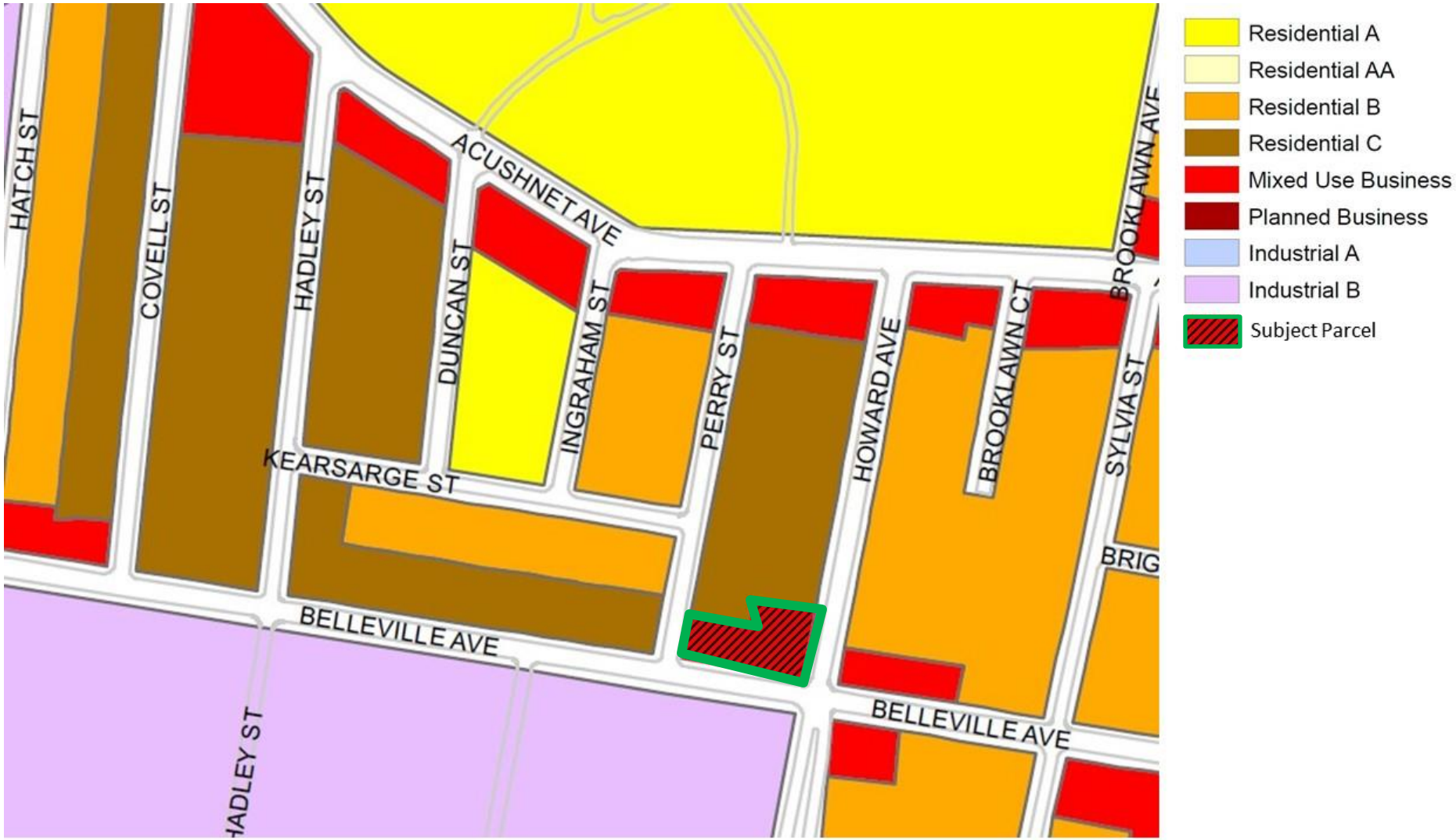
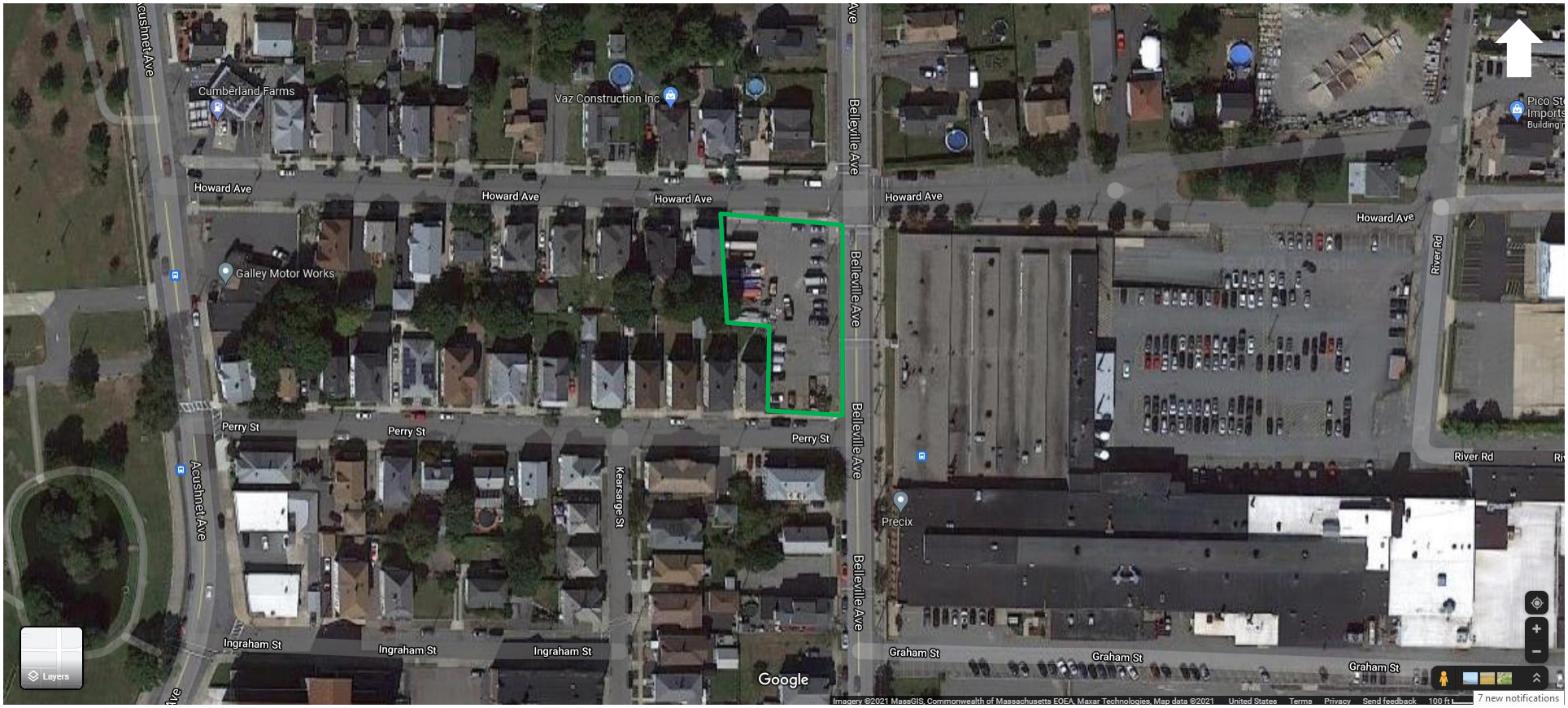


Exhibit C – Aerial Image of Area of Rezoning Request



SW Howard Avenue
Map: 116 Lots: 29

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

Item Title:
ACCESSIBILITY STATEMENT

Item Detail:

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