

Middlesex South Registry of Deeds
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Middlesex South Registry of Deeds
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208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.middlesexsouthregistry.com

CITY OF NEWTONIN CITY COUNCIL

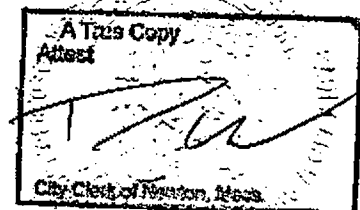
ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to allow ground floor residential use, allow a three-story structure with 34.86 feet in height, extend a nonconforming side setback, alter and extend a nonconforming side setback, allow an FAR of 1.41, waive four parking stalls, reduce the width of parking stalls, reduce the aisle width for two-way traffic, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The site in a Business 2 (BU2) zoning district is an appropriate location for the project as designed with ground floor residential use, three-stories and 34.86 feet in height, and a floor area ratio (FAR) of 1.41, given the mixed-use nature of the neighborhood which includes other multifamily dwellings. (§7.3.3.C.1)
2. The project as designed with ground floor residential use, three-stories and 34.86 feet in height, and a floor area ratio (FAR) of 1.41, will not adversely affect the neighborhood given the mixed-use nature of the neighborhood which includes other multifamily dwellings. (§7.3.3.C.2)
3. The project as designed with ground floor residential use, three-stories and 34.86 feet in height, and a floor area ratio (FAR) of 1.41, will not create a 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. The proposed alteration and extension of nonconforming side setbacks would not be substantially more detrimental than the existing nonconforming setbacks to the neighborhood. (§4.1.3, §7.8.2.C.2)
6. Literal compliance with applicable parking facility requirements requiring ten parking stalls for five dwelling units, a minimum driveway width of twenty feet for two-way traffic, and minimum parking stall widths of nine feet, is impracticable due to the size and width of the lot. (§5.1.13)

See Deed recorded at Book at Book 78712, Page
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Property: 194 Adams Street, Newton, MA



PETITION NUMBER: #38-23

PETITIONER: Lake Pride Homes LLC

ADDRESS OF PETITIONER: 13 Eaton Court
Wellesley, MA 02481

LOCATION: 194 Adams Street, Ward 1, Newton, on land known as Section 14
Block 14 Lot 18, containing approximately 6,000 sq. ft. of land

OWNER: Lake Pride Homes LLC

ADDRESS OF OWNER: 13 Eaton Court
Wellesley, MA 02481

TO BE USED FOR: A 5-unit multi-family development with associated parking.

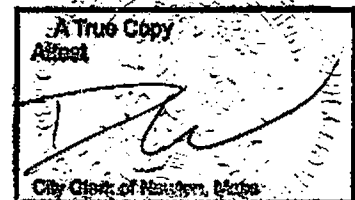
EXPLANATORY NOTES: Special permits per §7.3.3 to:

- allow ground floor residential use (§4.4.1)
- allow a three-story structure with 34.86 feet in height (§4.1.2.B.3, §4.1.3)
- extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)
- allow an FAR of 1.41 (§4.1.3)
- alter and extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)
- waive 3 parking stalls (§5.1.4, §5.1.13)
- reduce the width of parking stalls (§5.1.8.B.1, §5.1.13)
- reduce the aisle width for two-way traffic (§5.1.8.C.1, §5.1.8.C.2, §5.1.13))

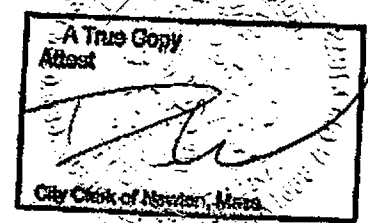
ZONING: Business 2 (BU2)

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with

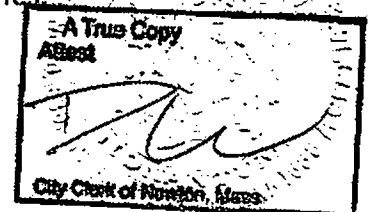


- a. A plan entitled "194 Adams Street, Newton, Massachusetts, Proposed Plot Plan" (Sheet 1 of 1), prepared by Spruhan Engineering, P.C., dated October 31, 2022, signed and stamped by Edmond Spruhan, Professional Engineer and Christopher C. Charlton, Professional Land Surveyor
 - b. A set of engineering plans entitled "194 Adams Street, Newton, Massachusetts, Civil Plan," dated October 31, 2022, prepared by Spruhan Engineering, P.C., consisting of the following sheets:
 - i. Civil Plan (Sheet 1 of 4), signed and stamped by Edmond Spruhan Professional Engineer, on January 6, 2023, and Christopher C. Charlton, Professional Land Surveyor, on January 6, 2023
 - ii. Detail Sheet 1 (Sheet 2 of 4), signed and stamped by Edmond Spruhan, Professional Engineer, on January 6, 2023
 - iii. Detail Sheet 2 (Sheet 3 of 4), signed and stamped by Edmond Spruhan, Professional Engineer, on January 6, 2023
 - iv. Detail Sheet 3 (Sheet 4 of 4), signed and stamped by Edmond Spruhan, Professional Engineer, on January 6, 2023
 - c. A set of architectural plans entitled "Adams Street Townhouses, 194 Adams St, Newton – MA 02458, Special Permit Set," dated February 15, 2023, prepared by MGD, stamped and signed by Ronald F. Jarek, consisting of the following sheets:
 - i. SP.00- Cover Page
 - ii. SP.01- Zoning and F.A.R. Calculations
 - iii. SP.03- First Floor Plan
 - iv. SP.04- Floor Plans
 - v. SP.05- Building Sections
 - vi. SP.06- Elevations
 - vii. SP.08- 3D Views
 - viii. SP.09- Renderings
 - ix. SP.10- Renderings 2
 - x. SP.12- Landscape Plan
 - d. A document entitled "Floor Area Ratio Worksheet- 194 Adams St," indicating a Proposed Total Gross Floor Area of 8,436 square feet and a Proposed FAR of 1.41
2. Two residential units shall conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
 3. All appliances and utilities for the building shall be all-electric, including heating and cooling.
 4. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the Petitioner shall provide a final Operations and Maintenance Plan (the

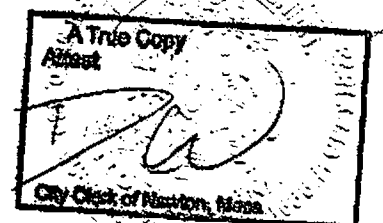


"O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.

5. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
 - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction assessment of the site and the neighborhood.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
6. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor. This information shall also be posted in a clear and visible manner at the construction site.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.

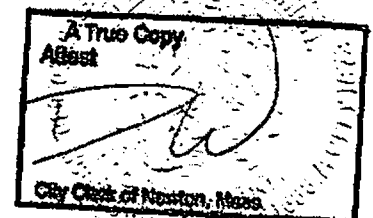


- c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control.
 - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy
 - e. Proposed methods for dust control including, but not limited to: watering, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
7. All construction activity shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-7:00PM on Saturdays, excluding federal, state, and local holidays, unless waived by the Mayor in accordance with Revised Ordinances, § 20-13.
 9. The Petitioner shall underground all lateral utility connections from the right of way to the structure(s).
 10. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
 11. Deliveries of construction materials shall not occur before 7:00 am or after 5:00 pm.
 12. All construction material deliveries shall be made on-site and no construction vehicles shall be parked on Adams Street or surrounding residential streets or public sidewalks.
 13. The Petitioner shall be responsible for repairing any damage to public ways and public property caused by construction activities or any construction vehicles traveling to or from the site. All repair work shall be done prior to the issuance of the final certificate of occupancy, unless the Commissioner of Public Works determines either: (a) that the damage to the public way is so extensive that it limits the use of the public way; (b) that the damage interferes with traffic flow; or (c) that the damage poses a threat to public safety. In such cases, the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City



Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.

16. The Petitioner shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment associated with demolition or ledge/rock removal:
- a. Prior to the issuance of any demolition, foundation, or building permit, the Applicant shall conduct a pre-construction survey of all buildings and structures within 250 feet of the Project (as measured from the Project's property lines) for which the owner of the building or structure has granted approval at no charge to the owners. The survey must include photos taken both inside and outside prior to construction to set a baseline of existing conditions. Copies of the survey and photos shall be provided to owners.
 - b. The Applicant shall engage a qualified professional to develop and prepare a vibration control plan demonstrating the following:
 - i. Measurements of static ground vibration prior to construction.
 - ii. Vibration level limits for demolition and construction activities based on building conditions and soil conditions. The limit should be determined using industry standards, provided that vibration level limits shall not exceed .50 peak particle velocity (PPV) at the property line of the Project.
 - c. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.
 - d. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
 - e. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.
 - f. The Applicant shall submit the vibration control plan to the Commissioner of Inspectional Services for review and approval prior to the issuance of any demolition, foundation, or building permit.
 - g. The Applicant shall implement the approved vibration control plan. Vibration levels shall be regularly monitored during demolition and construction. The Applicant shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
 - h. All work shall be performed within the vibration level limits established by the vibration control plan. If the vibration limit is exceeded, the construction activity causing the vibration shall cease and not resume until mitigation measures are implemented and notice is provided to the Commissioner of Inspectional Services.
 - i. The Applicant shall provide written notice to all property owners within 250 feet of the Project 48 hours prior to vibration-related activity that includes an explanation of the proposed activity, address of the site, date and time of the work, and contact information of the contractor overseeing the work.



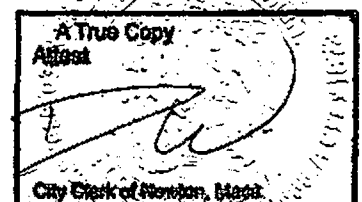
- j. Following construction, the Applicant shall with approval of the owners, re-inspect all homes, subject to the pre-construction survey to determine any damages caused by vibration. The Applicant shall maintain records of all complaints it receives for vibration-related damages.
17. The Petitioner shall make payments in the aggregate amount of \$7,257 to the City for infrastructure improvements for infiltration and inflow (I&I). Payments shall be made as follows:
- \$3,628.50 prior to the issuance of any Building Permit for the Project.
 - \$3,628.50 prior to the issuance of any certificate of occupancy (temporary or final) for the Project.

The Petitioner shall also make payments in the aggregate amount of \$26,771 to the City for off-site improvements, traffic calming measures or other mitigation in the vicinity of the Project. The Petitioner's payments shall be made to a municipal account dedicated for such mitigation and improvements as follows:

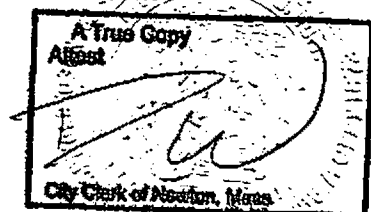
- \$13,385.50 prior to the issuance of any Building Permit for the Project.
- \$13,385.50 prior to the issuance of any certificate of occupancy (temporary or final) for the Project.

Funds from the account in which these payments will be held shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. The Director of Planning and Development, after consultation with the Commissioner of Public Works, shall recommend improvements for funding to the City Council.

18. The Petitioner shall make a payment of \$5,000 to the Newton Affordable Housing Trust prior to the issuance of any building permit for the Project.
19. No building permit (other than a demolition permit) and unless otherwise specified shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
- Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk and submitted a copy with the building permit application.
 - Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with this Order.
 - Submitted a Final CMP for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with this Order.



- d. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
 - e. Received approval for the vibration control plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
 - f. Obtained a written statement/sign off from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
20. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
- a. Filed with the building permit record statements by a registered architect and a professional land surveyor certifying compliance with Condition #1, including the as built FAR.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor.
 - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
 - d. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
 - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
21. Notwithstanding the provisions of Condition #20 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of required on-site landscaping/exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
22. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.



- 23. The trash and recycling disposal shall be handled by a private entity and shall comply with the City's Noise Control Ordinance.

Under Suspension of Rules

Readings Waived and Extension of Time Approved

24 Yeas, 0 Nays

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on March 8, 2023. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



(SGD) CAROL MOORE

ASSISTANT Clerk of the City Council

I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on March 8, 2023 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) CAROL MOORE

ASSISTANT Clerk of the City Council

