

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: June 23, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Cat Kemmett, Senior Planner

SUBJECT: **Petition #195-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing dwelling and construct four residential units in two buildings with dimensional waivers at 20 Clinton Street, Ward 1, Newton, on land known as Section 14 Block 22 Lot 12, containing approximately 10,404 sq. ft. of land

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



20 Clinton Street

Note: A public hearing for this item was held on June 6, 2023. The petitioner has since amended their application to request additional relief required for the extension of a nonconforming side setback pursuant to §7.8.2.C.2. The petition has had a second legal notice circulated reflecting the request for that relief. The petition is otherwise unchanged from what was discussed at the June 6 public hearing.

Project Description

Background

The subject site consists of a 10,404 square foot lot improved with a two-family dwelling built circa 1865 and a detached garage in the Business Use 2 (BU-2) district.

The closest abutters are all residential, with two units at 12-14 Clinton Street and four units at 24-26 Clinton Street. The site is located close to the Nonantum village center in an area with predominantly single and multifamily residences, with some mixed-use and commercial structures and open space. The zoning of neighboring properties is BU-1 to the northeast and Multi Residence-2 to the southwest, including directly abutting the site. There are a wider variety of zoning and uses approaching Watertown Street and the commercial core of Nonantum. The MBTA bus route 558 has a stop close to the property, which connects to the commuter rail, Green Line, and other major bus routes.

Special Permit

The petitioner proposes to raze the existing dwelling and garage on the lot and construct four residential units in two buildings. Because the site is in a business district, special permit relief is required to allow a residential use on the ground floor with residential above. Site plan review is required for any development in a business district with over 10,000 square feet or more of new gross floor area. The building is proposed with 11,295 square feet of total gross floor area on a total site area of 10,404 square feet, which requires site plan review.

Both proposed buildings will be three stories tall. A special permit is required to allow for each three-story structure with 35.3 feet in height. The maximum FAR allowed by right for a three-story building is 1.00, and up to 1.50 by special permit. The building is proposed with an FAR of 1.1, requiring a special permit.

Analysis

The Planning Department believes this site is an appropriate location for the four residential dwelling units, but notes that it would be one of the only three-story buildings on Clinton Street and exceeds the maximum allowed FAR by approximately 891 square feet. While Clinton Street is split between two zones between Adams and Crafts Streets, the pattern of the neighborhood is two and a half story structures with moderately sized footprints on undersized lots. The properties within the MR-2 zone nearby appear to have nonconforming front and side setbacks to allow for more green space in the rear of the site. Though this property is in a business district, this area has many residential buildings that do not feature retail uses on the ground floor. The lot is larger than several other lots with multifamily housing in this area, and the lot area per unit proposed exceeds what is required in the BU-2 district, lending itself to the proposed four-unit project.

I. Zoning Relief Requested:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use	S.P. per §7.3.3
§4.1.2.B.2	Request for site plan review for a building with more than 10,000 square feet	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to alter and extend an existing nonconforming side setback	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.1	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A**.

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The site in BU-2 is an appropriate location for the proposed four residential units in two structures with three stories and 35 feet in height, a ground floor residential use, a Floor Area Ratio (FAR) of 1.15, and site plan review for a building with more than 10,000 square feet. (§7.3.3.C.1)
- The proposed four residential units in two structures with three stories and 35 feet in height, a ground floor residential use, a Floor Area Ratio (FAR) of 1.15, and site plan review for a building with more than 10,000 square feet will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed four residential units in two structures with three stories and 35 feet in height, a ground floor residential use, a Floor Area Ratio (FAR) of 1.15, and site plan review for a building with more than 10,000 square feet will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed increase in FAR is not substantially more detrimental than the existing structure is to the neighborhood. (§7.3.3)

III. Project Proposal and Site Characteristics

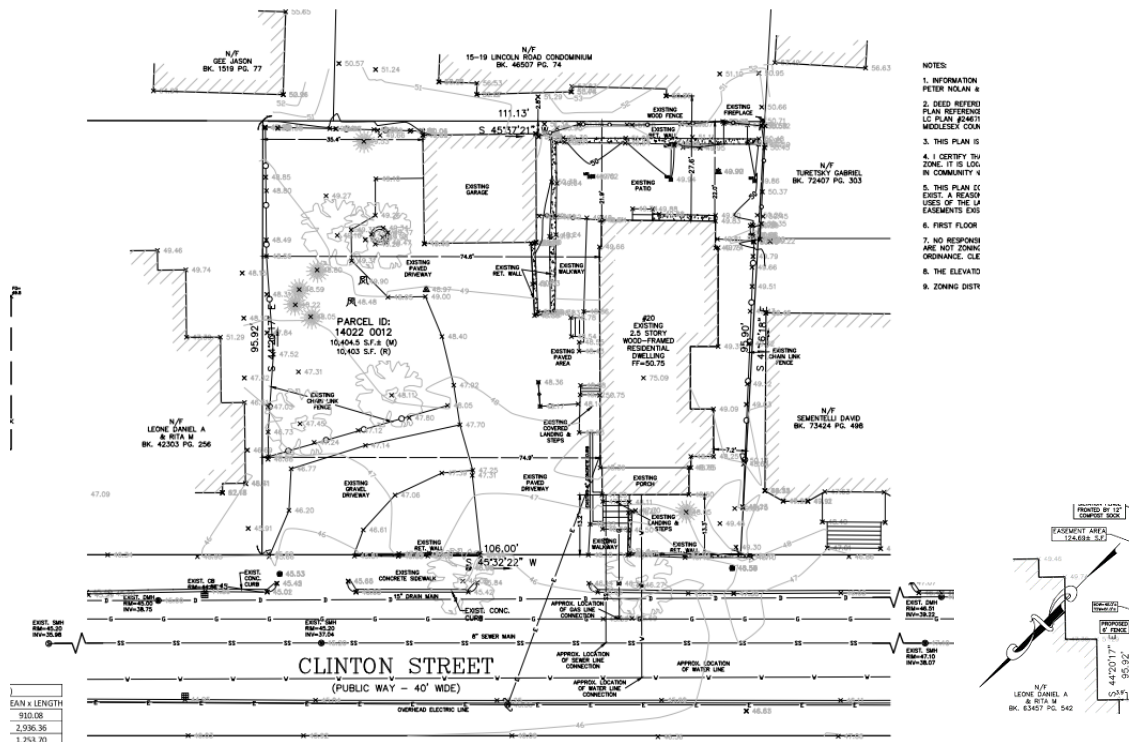
A. Site

The subject property is 10,404 square feet and is improved with a two-family dwelling built circa 1865 and a detached garage. This lot size is fairly large as compared to other two family and multifamily dwellings in the vicinity. The Newton Historical Commission (NHC) reviewed this site at a public hearing on February 24, 2022. The NHC did not vote in favor of preferably preserving the

house at that time.

The site is relatively flat with a high point towards the rear of the lot and gradual slope down towards Clinton Street. There is an existing chain link fence that runs along part of the east side of the property and along the side of the existing gravel driveway furthest from the street. There is also an existing fence along portions of the south and western property lines. Retaining walls are located to either side of the curb cut leading to the paved driveway, and along the perimeter of the patio at the rear of the site.

Existing Conditions



The property currently has two curb cuts on Clinton Street, with each connecting to the detached garage at the rear of the site. The curb cut closest to the dwelling leads to a paved driveway, while the second curb cut further east leads to a gravel driveway.

IV. Project Description and Analysis

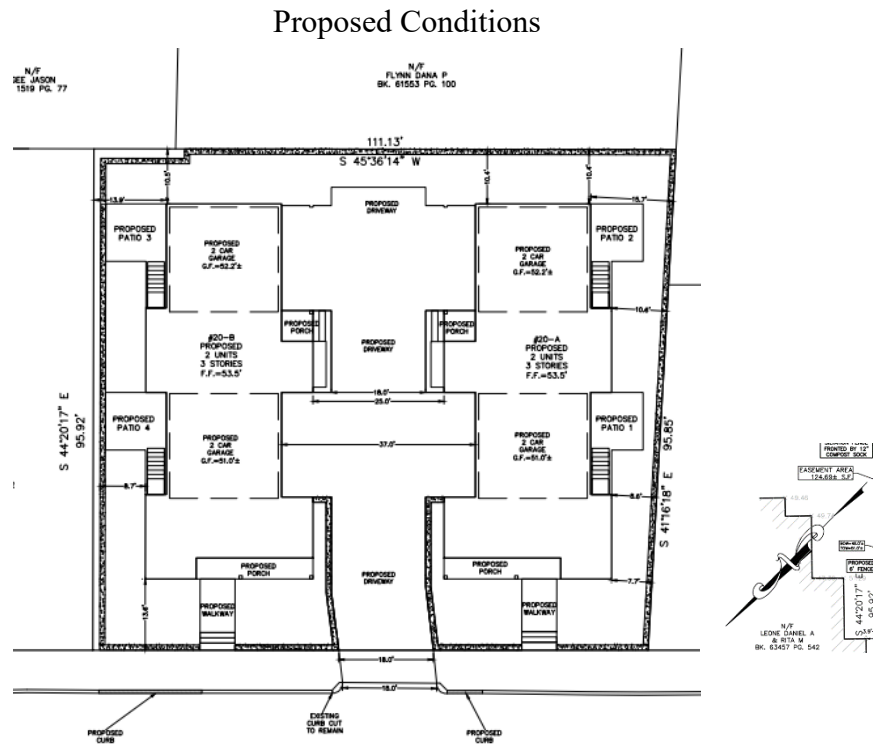
A. Land Use

If approved the principal use of the site will change from a two-family dwelling to four residential units in two buildings.

B. Site Design

The petitioner proposes to demolish the existing dwelling and garage and construct two structures containing two dwelling units each. Relief is required for the proposed height of each building, proposed at three stories and 35.3 feet tall where up to three stories and up to 36 feet in height are allowed by special permit. Relief is also required for the FAR of 1.1 where up to 1.0 is allowed by right and up to 1.50 is allowed by special permit.

The front setback will remain the same at 13.6 feet where 13.1 feet is required. The side setback on the left (east) will decrease from 74.4 feet to 7.7 feet. The existing nonconforming side setback to the right (west) will increase from 7.3 feet to 8.7 feet but requires relief to alter and extend a nonconforming setback. The rear setback will decrease from 21.7 feet to 9.7 feet.



Because the project is in a business district, open space and lot coverage requirements do not apply. The lot area per unit proposed is 2,601 square feet, over double the 1,200 square feet required by the Zoning ordinance.

Each of the two structures will have a single front entrance and porch facing out on Clinton Street. The designs and features for each of the two structures are substantially the same. Each unit has a private patio, porch, and balcony. Each unit will have an attached garage accessible from the driveway. The Planning Department notes that the garage entrances face the central driveway, with a more pedestrian front entrance facing out directly on Clinton Street. A private balcony is located over each garage facing the inner courtyard parking. No basements are proposed for this project. Three bedrooms and a flexible den/office space is proposed for each unit.

C. Parking and Circulation

One of the two curb cuts on Clinton Street will be closed. Vehicular access will be provided via a single 18-foot-wide curb cut in roughly the same location as the existing paved driveway. This will lead to a new paved driveway in between the two structures that will be shared by all of the units. Because each unit will have a private two-car garage, no parking relief is required.

In total, this project includes an increase in impervious area of 1,8701 square feet. The Associate City Engineer has reviewed this project in a memo dated May 4, 2023 and identified only minor housekeeping issues in the drainage plan (**Attachment B**). These remaining items can be addressed at the building permit stage, should this petition be approved.

D. Landscaping

The civil plan provided by the petitioner indicates that a retaining wall of four feet or less will be constructed around the entire perimeter of the property and along the new driveway. A six-foot tall solid fence will be constructed along the south (rear) property line and portions of the east and west, transitioning down to four feet tall closer to Clinton Street.

The landscape plan indicates that the existing maple trees on Clinton Street will be retained. An arborvitae hedge will be installed along the rear property line as screening. A variety of plants, shrubs, and perennials will be installed along the front and sides of the property, concentrated near the patio spaces and front of each building. Prior to applying for a tree permit, the petitioner should clarify the location and size of any existing trees on the site that will be removed.

V. Interdepartmental Review:

No interdepartmental review is required at this time.

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
- Attachment B:** Engineering memo
- Attachment C:** DRAFT Council Order



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 6, 2023

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: 20 Clinton Street LLC, Applicant
Franklin Schwarzer, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow ground floor residential use, to allow three stories and a 35.3-foot height, to alter and extend a nonconforming side setback and to exceed FAR

Applicant: 20 Clinton Street LLC	
Site: 20 Clinton Street	SBL: 14022 0012
Zoning: BU2	Lot Area: 10,404 square feet
Current use: Two-family dwelling	Proposed use: 4 residential units in two buildings

BACKGROUND:

The subject site consists of a 10,404 square foot lot improved with a two-family dwelling built circa 1865 and a detached garage. The petitioner proposes to raze the dwelling and construct four residential units in two buildings.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Franklin Schwarzer, attorney, dated 8/17/2022
- Existing Conditions Plan, signed and stamped by George C. Collins, surveyor, dated 3/31/2022, revised 2/9/2023
- Proposed Conditions Plan, signed and stamped by George C. Collins, surveyor, dated 5/19/2022, revised 4/202/2023
- Floor Plans and Elevations, prepared by Pears Design Resource LLC, architect, dated 8/11/2022, revised 4/25/2023

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to raze the existing two-family dwelling and detached garage to construct four residential units in two buildings. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor with residential above in a Business 2 zoning district.
2. Per section 4.1.2.B.2, site plan review is required for any development in a Business district of over 10,000 square feet or more of new gross floor area. The proposed building is 14,073 square feet, requiring a site plan review.
3. The petitioner intends to construct two three-story residential buildings. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for each three-story structure with 35.3 feet in height.
4. The abutting property to the southwest is zoned Multi-Residence 2. Per section 4.1.3, the required side setback abutting a residential district is the greater of half the building height or 15 feet. The existing building height is 28.5 feet, resulting in an existing side setback requirement of 14.3 feet, rendering the existing 7.2 feet nonconforming. The petitioner seeks to increase the height of the building to 35.3 feet, resulting in a side setback requirement of 17.7 feet. The proposed side setback of 7.7 feet alters and extends the nonconformity, requiring a special permit per section 7.8.2.C.2.
5. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, up to 1.50 by special permit. The building is proposed with 11,295 square feet of floor area resulting in an FAR of 1.1, requiring a special permit.

BU2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	10,404 square feet	No change
Setbacks			
• Front	13.1 feet*	13.6 feet	13.6 feet
• Side	3.1 feet**	74.6 feet	8.7 feet
• Side	17.7 feet***	7.2 feet	7.7 feet*
• Rear	0 feet	21.7 feet	10.4 feet
Building Height	24 feet (36 feet by SP)	28.5 feet	35.3 feet****
Max Number of Stories	2 (3 by SP)	2.5	3***
Lot Area Per Unit	1,200 square feet	5,202 square feet	2,601 square feet
FAR	1.00 (1.50 by SP)	NA	1.1***

*Average front setback per section 1.5.3.B

** Side setback may be equal to the abutting side yard setback

***Abutting a residential district; side setback must be the greater of 15 feet or ½ the building height

****Requires relief

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use	S.P. per §7.3.3
§4.1.2.B.2	Request for site plan review for a building with more than 10,000 square feet	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to alter and extend an existing nonconforming side setback	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.1	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 20 Clinton Street

Date: May 4, 2023

CC: Lou Taverna, PE City Engineer
Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Katie Whewell, Chief Planner
Alyssa Sandoval, Deputy Chief Planner
Michael Gleba, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*20 CLINTON STREET
NEWTON
MASSACHUSETTS*

CIVIL PLAN

Prepared by: Spruhan Engineering, PC

Dated: 4/20/2023

Executive Summary:

The proposed permit entails the demolition of an existing two-family unit and the construction of 4 units in two buildings. The site is relatively flat having a high point towards the rear of the lot at elevation 50-feet, and slopes gently towards the street at elevation 47-feet. The property has 106-feet of frontage along the north, and residential homes along the east-south and western property lines. The design has a retaining wall around the entire perimeter of the property and easements area of 124.69 sq. ft along the easterly abutter's property.

Construction of the wall does not appear to block the natural flow of surface water from the abutting properties as they all seem to drain from their respective backyards towards the front of each surrounding lot, the engineer of record should verify this before the final design so it does not negatively impact any abutter. The wall heights are indicated along the wall alignment.



The engineer of record has designed a stormwater collection system in accordance with the City's Stormwater policy & regulations; however, the drainage report has a contradiction on pages 2 & 3 in which statements are made regarding the 2" storm, on page 2 it states:

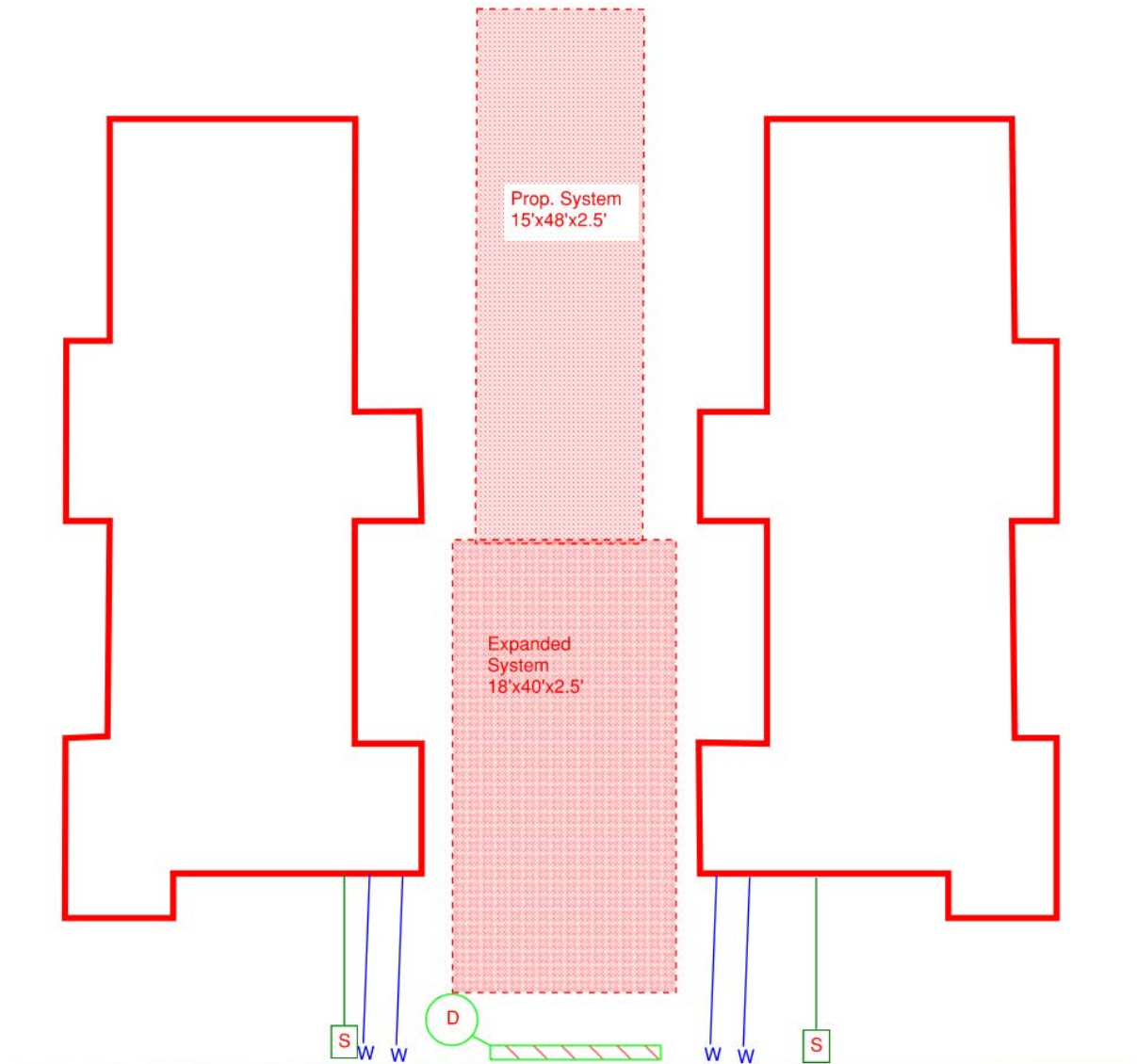
The infiltration system has been sized to fully storage the runoff from a 2" storm event across all impervious areas, these calculations can be seen on the next page.

However, on page 3 the following statement is:

NOTE: Due to space limitations and the elevation observed for the ESHGWT, in this case we were not able to contain 2" Storm Event, but we have been able to contain 1" Storm Event. Making a system twice as large, with a depth of 2.5', is not possible on this lot, however all other conditions have been met.

If the various utilities are redesigned a system that is double in size can accommodate the required 2" storm. For example, the sanitary sewer connections could be transferred in front of

the two buildings, and a second 40'x 18'x 2.5' system be installed to the north of the proposed system as shown in the following schematic.



Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general

contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.

2. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. Pre & Post watershed maps (at a proper scale that is legible) are required that delineate control points and limits of the sub-basins. On-site soil evaluation is required to determine the seasonal high groundwater elevation, soil types and to identify any and all unsuitable soils (such as ledge, clay, peat, fill and others).
2. An onsite soil test was performed based on a site visit yesterday, however the location of the testing was not indicated on the existing and proposed site plans.
3. The Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management is acceptable but needs to be a separate recordable document. If this project is approved the O&M recorded prior to the issuance of a Building Permit. It must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
4. A homeowner's association should be created that will oversee and fund the required maintenance of the proposed O&M plan.
5. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.

2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
2. All new sewer service(s) shall be pressure tested in accordance with the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
4. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
5. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be submitted to the Newton Fire Department for approval, and copies give to the Engineering Division.

6. Two -1-inch service connections are not sufficient for the 4 units, each unit should have a separate dedicated services connection as each owner will have their own separate meter.
7. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
8. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. The limits of the sidewalk & curbing need to be delineated on the site plan which shall be the entire frontage.
3. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
4. All tree removal shall comply with the City's Tree Ordinance.
5. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*
6. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.

7. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
8. All site work including trench restoration, sidewalk, curb, apron, and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
9. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
10. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
11. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns, please feel free to contact me at 617-796-1023.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow four residential units in two structures with three stories and 35 feet in height, a nonconforming side setback, a ground floor residential use, a Floor Area Ratio (FAR) of 1.1, and site plan review for a building with more than 10,000 square feet as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed residential project in the Business Use 2 district (BU-2) because the neighborhood has many residential uses, abuts an MR-2 zone, and exceeds the lot area per unit required for the zone. (§7.3.3.C.1)
2. The proposed residential project as designed will not adversely affect the neighborhood because the lot area per unit and lot size exceeds what is required for the district. (§7.3.3.C.2)
3. The proposed residential project will not create a nuisance or serious hazard to vehicles or pedestrians because the project will close an existing curb cut, and new plantings will be provided along the street frontage. The front door is also oriented to the street, while the garages are located within an internal courtyard area. (§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 structure with an FAR of 1.1, where 1.0 is the maximum allowed by right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the FAR is broken up between two structures and the pattern of the neighborhood is moderately sized buildings on undersized lots. (§7.3.3)

PETITION NUMBER: #195-23

PETITIONER: 20 Clinton Street LLC
675 VFW PARKWAY #327
Chestnut Hill, MA 02467

LOCATION: 20 Clinton Street, Ward 1, Newton, on land known as Section 14 Block 22 Lot 12, containing approximately 10,404 sq. ft. of land

OWNER: 20 Clinton Street LLC

ADDRESS OF OWNER: 675 VFW PARKWAY #327
Chestnut Hill, MA 02467

TO BE USED FOR: Construction of four residential units in two structures with three stories and 35.3 feet in height, ground floor residential uses, a Floor Area Ratio (FAR) of 1.1, and site plan review

RELIEF GRANTED: Special Permit per §7.3. to allow to allow ground floor residential uses (§4.4.1), site plan review for a building with more than 10,000 square feet (4.1.2.B.2), a three-story structure with up to 36 feet in height (§4.1.2.B.3 and §4.1.3), FAR of 1.1 (§4.1.3), and to alter and extend an existing nonconforming side setback (§4.1.3)

ZONING: Business Use 2 District

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. Site plan prepared by Spruhan Engineering and Peter Nolan Associates, LLC, signed and stamped by Peter J. Nolan, Professional Land Surveyor, dated April 20, 2023:
 - i. "Proposed Zoning, Layout, and Materials" (Sheet 1)
 - ii. "Proposed Grading, Drainage, and Utilities" (Sheet 2)
 - b. A set of architectural drawings prepared by Pears Design Resource LLC, unsigned and unstamped, dated April 25, 2023:

- i. "Special Permit Architectural Plans" (Sheet 9)
 - ii. "Special Permit Architectural Plans" (Sheet 10)
 - c. A landscape plan entitled "Landscape Plan," signed and stamped by Blair C. Hines, Registered Landscape Architect, dated May 30, 2023
2. 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, should a system be required. 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.
3. 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.
4. 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.
5. All appliances and utilities for the building shall be all-electric, including heating and cooling.
6. 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:
- a. 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.
 - b. 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.
 - c. 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. 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.
7. 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 for the portion of the project for which occupancy is requested and the Petitioner has:
 - a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) 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 or professional engineer, as applicable.
 - 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.
8. 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.
9. Provided that all other requirements in Condition #7 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).