



#178-22

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	March 22, 2022
Land Use Action Date:	June 14, 2022
City Council Action Date:	June 20, 2022
90-Day Expiration Date:	June 20, 2022

DATE: March 18, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Katie Whewell, Senior Planner

SUBJECT: **Petition #178-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to alter and extend a nonconforming residential use from a two family dwelling to a three family dwelling by constructing a rear addition to the existing dwelling with the following waivers: to allow a 2.5 story building, to allow a building with 36' in height, and to further extend a nonconforming side setback at 2-4 Auburndale Avenue, Ward 3, on land known as Section 33 Block 23 Lot 13, containing approximately 11,702 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2, 4.1.2.B.3, 4.1.3 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



2-4 Auburndale Avenue

EXECUTIVE SUMMARY

The subject property located at 2-4 Auburndale Avenue consists of 11,702 square feet of land, improved with a two-family dwelling constructed in 1896. The property is located within the Business 1 (the "BU-1") zone in West Newton. Two-family dwellings are not allowed within the BU-1 zone; as such, the use is legal nonconforming. The petitioner proposes to construct a rear addition and establish a third unit. Therefore, the petitioner requires a special permit to further extend the nonconforming residential use as well as alter and extend a nonconforming side setback. The petitioner also requires a special permit to allow a structure with 36 feet in height and two and half stories.

The Planning Department is unconcerned with the proposed extension of the nonconforming residential use to a three-unit use. While this project is located in the BU-1 zoning district, there are multi residential zones nearby and the project complies with the lot coverage and lot area per unit standards for the Multi-Residence 1 zone. There are also multifamily residential uses with more than three units within a 300-foot radius of the site. The BU-1 zoning district also allows for mixed-use and multifamily development (a special permit is required for ground floor residential). While the petitioner appears to satisfy the parking requirement, the Planning Department recommends a condition requiring the petitioner to submit a site plan with striped parking stalls prior to the issuance of a building permit, should this project be approved.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site is an appropriate location for the proposed three unit structure as designed (§7.3.3.C.1, §4.4.1, §4.1.3, 4.1.2.B.3).
- The proposed three unit structure as designed will adversely affect the neighborhood (§7.3.3.C.2, §4.4.1, §4.1.3, 4.1.2.B.3)
- There will be a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3, §4.4.1, §4.1.3, 4.1.2.B.3).
- Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4, §4.1.3).
- The proposed nonconforming residential use will be substantially more detrimental than the existing nonconforming residential use is to the neighborhood (§4.1.3, §4.4.1, §7.8.2.C.2).
- The proposed alteration of a nonconforming side setback will be substantially more detrimental than the existing nonconforming residential use is to the

neighborhood (§4.1.3, §4.4.1, §7.8.2.C.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Auburndale Ave, in the Business 1 (BU-1) zone in West Newton. The BU-1 zone encompasses the properties adjacent of 2-4 Auburndale Ave, with the Multi Residence 1 zone exists to the east, north, and southwest of the site (**ATTACHMENT A**). The area is comprised of mostly multi-family residential uses, with commercial parcels to the north and east (**ATTACHMENT B**).

B. Site

The site consists of 11,702 square feet of land improved with a two-family dwelling constructed in 1896. The site is currently accessed by a single curb cut with the driveway and paved parking area along the frontage. The structure has nonconforming front and side setbacks. There is a nonconforming setback of 9.6 feet from the front property line, where ten feet is required and 3.5 feet from the eastern property line, where 7.2 feet is required. The existing structure has a height of 35.3 feet. The site is relatively flat.

III. PROJECT DESCRIPTION AND ANALYSIS

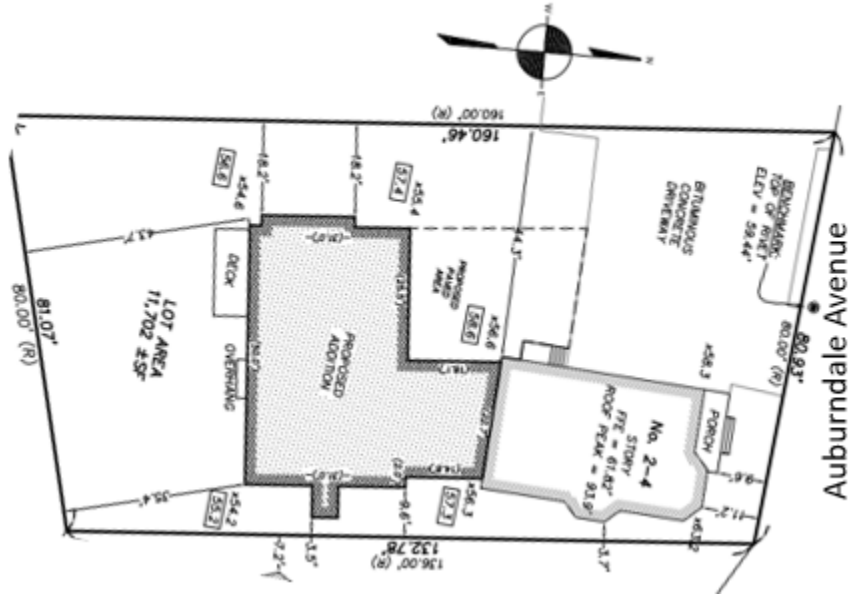
A. Land Use

If approved, the land use will change from a single- to a three-unit use.

B. Site and Building Design

The petitioner is proposing to construct a rear "ell" addition to the existing two-family dwelling which would allow for a third unit. The proposed three-unit dwelling will measure 36 feet tall, and contain 2.5 stories, requiring a special permit for both the height and number of stories. The proposed addition alters the nonconforming side setback from the eastern boundary feet from 3.7 feet to 3.5 feet, where 7.2 is required based off the abutter's side yard setback.

Proposed Site Plan



Proposed Elevations



Proposed Front Elevation
 View from Auburndale Avenue

Proposed East Elevation

As proposed, the project has a floor area ratio (the "FAR") of .70, where 1 is the maximum allowed in the BU-1 zoning district. When comparing the project to a single or two-family dwelling in the adjacent MR-2 zoning district, the maximum allowed FAR is .48. The petitioner did not provide the open space and lot coverage, for comparison in the MR-2 zone, the maximum lot coverage allowed is 30%, and the minimum allowed open space is 50%. Utilizing the first story FAR calculations, it appears the lot

coverage is approximately 25%. The maximum allowed lot area per unit for the MR-1 zoning district is 3,500 square feet and 1,200 square feet in the BU-1 zoning district, and this project proposes 3,900 square feet per unit.

The Planning Department is unconcerned with the extension of the nonconforming residential use to a proposed three-unit use. The proposed structure is under the maximum allowed FAR for the BU-1 zoning district and meets the lot coverage and lot area per unit standards for the MR-1 zoning district. There are also several multifamily uses with more than three units nearby across the street on Alden Place and to the rear of the site at 1-7 Elm Street; and multifamily is allowed either by special permit or as part of a mixed-use building in the BU-1 zoning district.

C. Parking and Circulation

The additional unit results in an increased parking requirement of six parking stalls. To accommodate the six stalls, the addition will feature a one car garage and the petitioner is proposing to expand the surface parking at the front of the site. The expanded parking will allow for access to the garage and provide additional parking to satisfy the additional required parking stalls. The petitioner should clarify the parking arrangement and circulation. The petitioner should also consider reducing paving where possible. Planning recommends a condition requiring the petitioner to submit a site plan showing striped parking stalls in compliance with the Ordinance prior to the issuance of a building permit.

D. Landscaping

A landscape plan is not required with this petition. However, staff recommends the petitioner install landscaping where possible with a focus along the eastern property line with the nonconforming side setback.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal regarding zoning. The petitioner is seeking the following relief:

- §4.4.1, §7.8.2.C.2, to alter and extend a nonconforming residential use in the BU-1 zoning district
- §4.1.3, §7.8.2.C.2, to extend and alter a nonconforming side setback
- §4.1.2.B.3, §4.1.3 §7.3.3, to allow a structure with 36 feet in height and 2.5 stories

B. Engineering Review

The petitioner submitted the proposed plans to the Engineering Division. Associate City Engineer John Daghljan reviewed the materials. In the Engineering Memorandum (**Attachment D**), Mr. Daghljan stated a Construction Management Plan and O&M plan will be required, should this petition be approved.

C. Newton Historical Commission

The Chief Preservation Planner found the structure historically significant in March 2022. The Chief Preservation Planner approved the partial demolition with required review of the plans prior to the issuance of a building permit, should this project be approved.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should provide a site plan showing the required surface parking striped. Otherwise, the petition is considered complete.

ATTACHMENTS:






- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** Engineering Memorandum
- Attachment E:** DRAFT Council Order

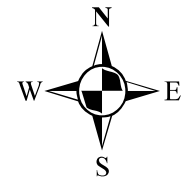
Zoning

2-4 Auburndale Avenue

City of Newton,
Massachusetts

Legend

-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Public Use

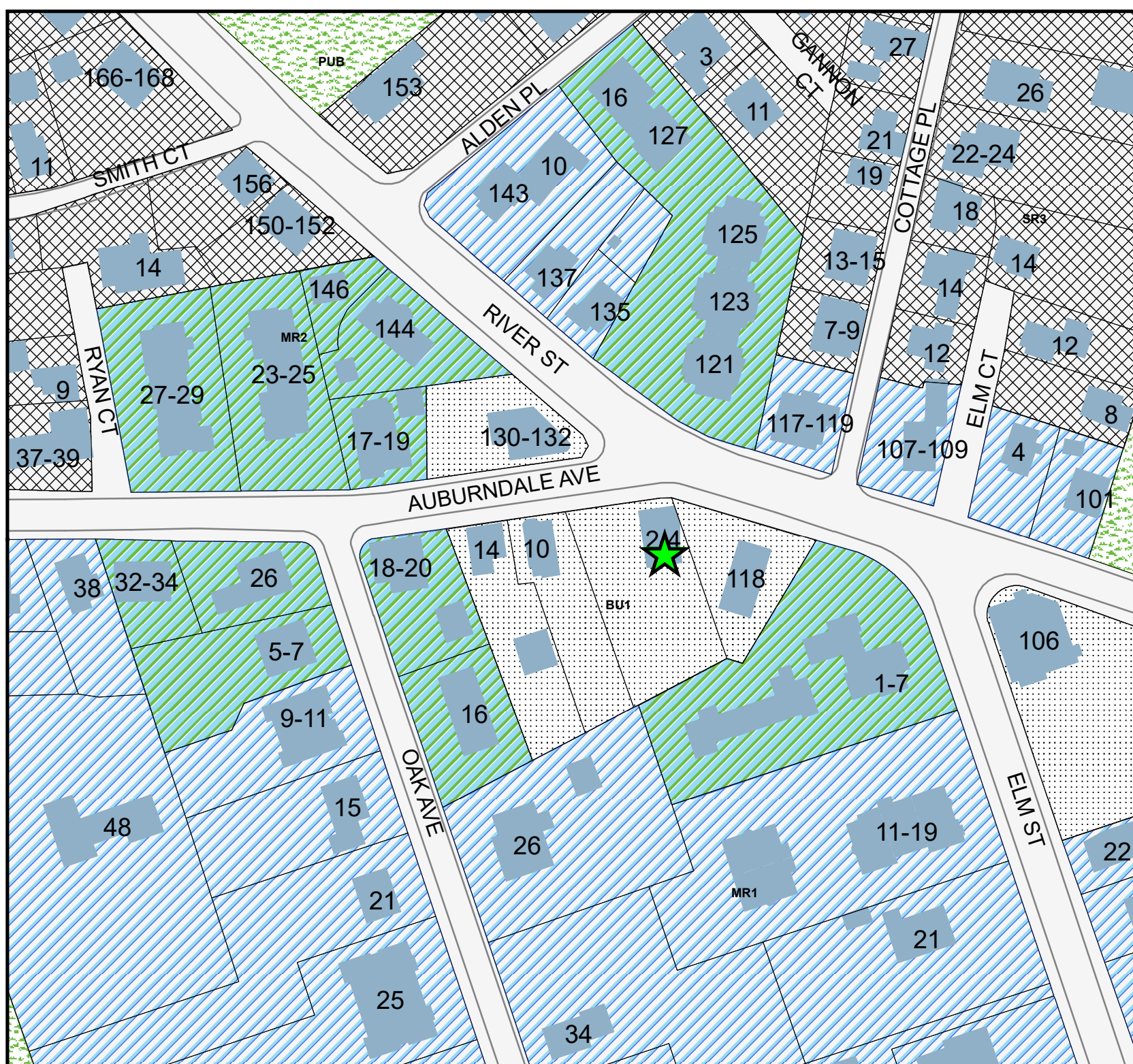


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: March 17, 2022



ATTACHMENT B

Land Use

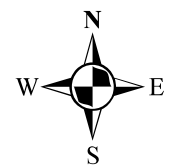
2-4 Auburndale Avenue

*City of Newton,
Massachusetts*

Legend

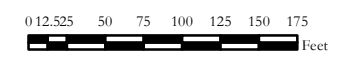
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations

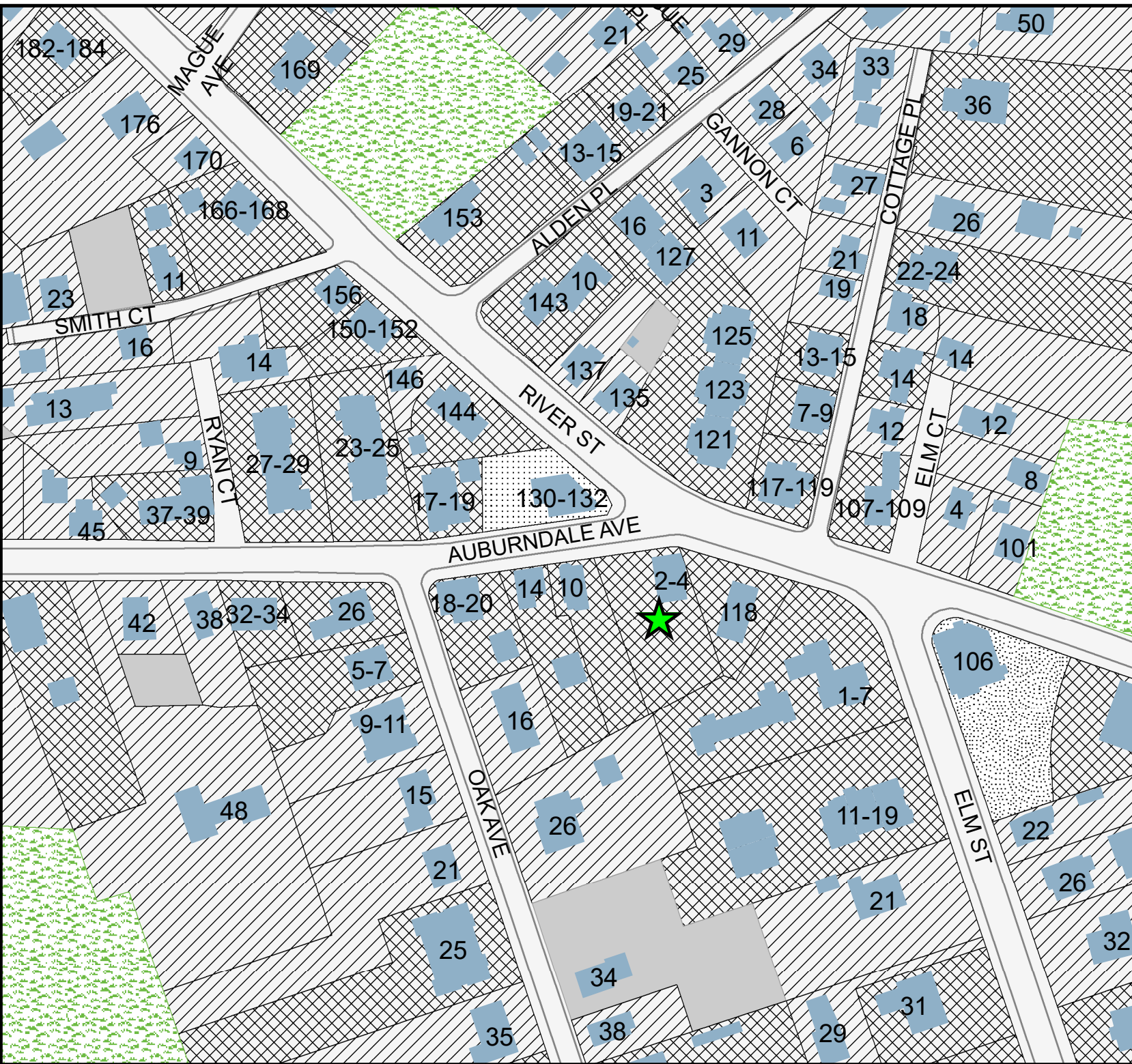


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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Map Date: March 17, 2022





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Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 8, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Bernardo and Lisa Marzilli, Applicants
Timothy E. Lund, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request for a special permit to alter and extend a nonconforming residential use, to extend a nonconforming side setback and for height and number of stories

Applicant: Bernardo and Lisa Marzilli

Site: 2-4 Auburndale Avenue	SBL: 33023 0013
Zoning: BU1	Lot Area: 11,702 square feet
Current use: Two-family dwelling	Proposed use: 3-unit multi-family dwelling

BACKGROUND:

The property located at 2-4 Auburndale Avenue consists of an 11,702 square foot lot improved with a 2.5-story two-family dwelling constructed in 1896 in the Business 1 zoning district. The petitioner proposes to construct a rear addition containing a third unit. To construct the project as proposed, the petitioners require a special permit.

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

- Zoning Review Application, prepared by Timothy Lund, architect, submitted 11/28/2021
- Certified Plot Plan, signed and stamped by George C. Collins, surveyor, dated 9/18/2021
- Floor Plans and Elevations, signed and stamped by Timothy Lund, architect, dated 11/23/2021
- FAR worksheet, signed and stamped by Timothy Lund, architect, submitted 11/28/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to construct a rear addition to the existing nonconforming 2.5-story two-family dwelling, resulting in three units. A special permit is required to alter and extend the nonconforming residential use per sections 4.4.1 and 7.8.2.C.2.
2. Section 4.1.3 requires a structure in the BU1 zone have a side setback equal to the abutting side yard setback or half the building height. The abutting eastern side yard setback is 7.2 feet, rendering the existing 3.5-foot setback nonconforming. The petitioner proposes to extend the nonconformity, with a 3.7-foot side setback in the addition. A special permit per sections 4.1.3 and 7.8.2.C.2 is required to further extend the nonconforming side setback.
3. Section 4.1.2.B.3 allows two-story buildings by right but requires a special permit to allow a maximum of three. The proposed addition is 2.5 stories, matching the existing dwelling, requiring a special permit.
4. Section 4.1.3 allows for a maximum height of 24 feet by right, up to 36 feet by special permit. The existing dwelling is 35.3 feet in height. The proposed rear addition which will increase the overall height to 36 feet, requiring a special permit per sections 4.1.3.

BU1 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	11,702 square feet	No change
Setbacks			
• Front	10 feet	11.2 feet	No change
• Side	18 feet	44.3 feet	18.2 feet
• Side	7.2 feet	3.7 feet	3.5 feet
• Rear	18 feet		
Max Number of Stories	2 (3 by SP)	2.5	No change
Max Height	36 feet	35.3 feet	36 feet
FAR	1.0	.33	.70

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1 §7.8.2.C.2	Request to alter and extend a nonconforming residential use	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	To further extend a nonconforming side setback	S.P. per §7.3.3
§4.1.2.B.3	To allow a 2.5 story structure	S.P. per §7.3.3
§4.1.3	To allow 36 feet in height	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 – 2 - 4 Auburndale Avenue

Date: March 16, 2022

CC: Barney Heath, Director of Planning
Jennifer Caira, Deputy Director
Lou Taverna, PE City Engineer
Jennifer Breslough, Committee Clerk
Michael Gleba, Sr. Planner
Katie Whewell, Sr. Planner

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

Certified Plot Plan
Showing Proposed Conditions Located at 2-4 Auburndale Avenue
Prepared by: Boston Survey Inc.
Dated: 2/2/2022

Executive Summary:

This permit entails an attached new dwelling unit onto the existing two-family dwelling on the rear portion of the house. The site has approximately 80 feet of frontage along the north, and residential homes along the east, south and western property lines on a 11,702 square foot [0.26 acre] lot.

The site has a high point of elevation of 52-feet near Auburndale Avenue and slopes gently down towards the back yard to an existing retaining wall. At the time of this review no proposed drainage system is shown, the applicant will need to engage a professional engineer to design a stormwater collection and on-site infiltration system consistent with the City's Stormwater policy along with associated details of the system & an Operations & Maintenance Plan.

Based on a site visit there are no existing stormwater collection and infiltration systems. Additionally, a grading and landscape plan(s) will be needed.

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. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. 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. A Pre & Post Construction drainage analysis is required. All stormwater runoff from the site shall be captured on-site and infiltrated in accordance with the Massachusetts Department of Environmental Protection standards and the City of Newton Department of Public Works policy. This policy states that stormwater runoff shall be retained from the 100-year storm event of 8.78-iches over a 24-hour period and shall be infiltrated to the maximum practicable extent. Pre & Post watershed maps (at a proper scale that is legible) are required that delineate control points and limits of the sub-basins.
2. 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). On site soil testing that will include test pit(s) within 25 -feet of each proposed system and percolation test(s) must be schedule and witnessed by a representative of the Engineering Division. Soil logs shall be submitted on the site plan or drainage report and shall be certified by a Massachusetts Licensed Soil Evaluator and/or Professional Civil Engineer.

3. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M 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. 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. Depending upon any renovations to the existing dwelling the existing water service(s) maybe required to be updated if they are not copper water services. The sanitary sewer connection(s) need to be investigated to determine the integrity of pipe(s) to ensure no infiltration is occurring nor tree root intrusion.
2. Section 29-59, which states "A separate and independent building sewer shall be provided for every building on which construction begins after July 17, 1981."
3. The Fire Department may require a fire suppression system for this development, the applicant needs to verify with the NFD for this requirement.

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. 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.*
3. All tree removal shall comply with the City's Tree Ordinance.
4. 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.*
5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. 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.*
7. 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.*
8. 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.

9. 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 alter and extend a nonconforming residential use in a Business 1 zone, alter a nonconforming side setback, and allow a structure with 36 feet in height and two and a half stories as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The site is an appropriate location for the proposed three unit structure as designed because the structure is increasing by less than a foot in height and maintaining the number of stories (§7.3.3.C.1, §4.4.1, §4.1.3, 4.1.2.B.3).
2. The proposed three-unit structure as designed will not adversely affect the neighborhood because there are other multifamily uses with more than three units in the neighborhood. (§7.3.3.C.2, §4.4.1, §4.1.3, 4.1.2.B.3)
3. There will not be a nuisance or serious hazard to vehicles or pedestrians because the petitioner is maintaining the driveway location (§7.3.3.C.3, §4.4.1, §4.1.3, 4.1.2.B.3).
4. Access to the sites over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4, §4.1.3).
5. The proposed nonconforming residential use will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood because the neighborhood his comprised of multifamily uses with more than three units and commercial uses (§4.1.3, §4.4.1, §7.8.2.C.2).
6. The proposed alteration of a nonconforming side setback will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood because it is only decreasing by two and half inches (§4.1.3, §4.4.1, §7.8.2.C.2).

PETITION NUMBER: #178-22

PETITIONER: Bernardo and Lisa Marzilli

LOCATION: 2-4 Auburndale Avenue, on land known as Section 33, Block 23, Lot 13, containing approximately 11,702 square feet of land

OWNER: Bernardo and Lisa Marzilli

ADDRESS OF OWNER: 112 Pine Street

TO BE USED FOR: Three-Unit Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §4.4.1, and §7.8.2.C.2, to further extend the nonconforming residential use; §4.1.3, and §7.8.2.C.2 to alter a nonconforming setback, and §4.1.2.B.3, and §7.3.3 to allow a structure measuring 36 feet in height and 2.5 stories

ZONING: Business 1 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. Proposed Site Plan, 2-4 Auburndale Avenue, prepared by Boston Survey, unsigned and unstamped, dated February 2, 2022.
 - b. Architectural Plans and Elevations, prepared by Timothy Lund, Architect., Inc., signed and stamped, dated February 4, 2022 consisting of five (5) sheets.
 - i. Proposed Roof Plan, A2.0
 - ii. Proposed First Floor Plan, A2.1
 - iii. Proposed Second Floor Plan, A2.1 (misnumbered)
 - iv. Proposed Left, North, and partial North Elevations A3.1
 - v. Proposed East and South Elevations A3.2
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan demonstrating compliance with the parking requirements in Section 5.1 for review and approval by the Department of Planning and Development.
3. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, and the Engineering Division of Public Works.

4. 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 and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copies of such approvals 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. The Pest Control Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - 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, Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment and 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.
5. 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 Commissioner of Public Works, 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.
 - 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.
- d. Proposed methods for dust control including, but not limited to: 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.
 - e. 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.
 - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - g. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
6. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 7. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this council order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Provided a recorded copy of the O&M Plan in accordance with Condition #3 above.

- d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.