



Ruthanne Fuller
Mayor

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#503-22

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: November 22, 2022
Land Use Action Date: February 14, 2023
City Council Action Date: February 20, 2023
90-Day Expiration Date: February 20, 2023

DATE: November 18, 2022

TO: City Council

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

SUBJECT: **Petition #503-22** for SPECIAL PERMIT/ SITE PLAN APPROVAL to raze the existing single-family dwelling and construct five single-family attached dwellings, dimensional waivers for driveway and parking location, and to allow a retaining wall greater than four feet in height within a setback at **24 Wilson Cir**, Newton, Ward 6, on land known as Section 54 Block 22 Lot 19, containing approximately 28,513 sq. ft. of land in a district zoned MULTI RESIDENCE. Ref: 7.3.3, 7.4, 3.4.1, 6.2.3.B.2, 5.4.2.B of Chapter 30 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 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.



24 Wilson Circle

EXECUTIVE SUMMARY

The subject property at 24 Wilson Circle consists of a 28,513 square foot lot in a Multi Residence 1 (MR1) zoning district improved with a single-family dwelling built circa 1905 and a detached garage. It is located at the end of Wilson Circle, a cul-de-sac in Newton Highlands near the “four corners” intersection at Walnut and Beacon Streets.

The petitioner proposes to demolish the existing single-family dwelling and construct five single-family attached dwellings and associated parking. Per Section 3.4.1 of the Newton Zoning Ordinance (NZO), a special permit is required to construct attached dwellings in an MR1 district. As proposed, the project requires additional zoning relief around driveway and parking locations as well as a retaining wall greater than four feet in height within a setback.

Retaining walls associated with patios at the rear of each unit would have a maximum height of 10.34 feet and be located 14.3 feet from the property line. As 25 feet is the required setback for attached single family dwellings per Sec. 3.2.4, a special permit per Sec. 5.4.2.B to allow retaining walls exceeding four feet in height within a setback is required.

Regarding parking, per Sec. 6.2.3.B.2 of the NZO, parking stalls may not be located within 20 feet of a boundary unless by special permit. Five surface parking stalls proposed in the southern corner of the lot with the shortest setback of 14 feet, requiring a special permit. Also, the proposed driveway is within ten feet of the southern side lot line, requiring a special permit per Sec. 6.2.3.B.2.

While the project complies with many standards set forth for single family attached dwellings, the petitioner should consider reducing impervious paving on site. The proposed site plan indicates both the building and driveway result in approximately 6,000 square feet of impervious area each.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Multi-Residence 1 (MR1) district is an appropriate location for the proposed five attached single-family dwellings in one structure as designed, including retaining walls higher than four feet in a setback (§7.3.3.C.1)
- The proposed five attached single-family dwellings in one structure as designed, including retaining walls higher than four feet in a setback, will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed five attached single-family dwellings in one structure as designed, including retaining walls higher than four feet in a setback, will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Granting an exception to the provisions of §6.2.3.B.2 to allow a driveway within 10 feet of the rear lot line and parking within 20 feet of the front and rear lot lines is appropriate as literal compliance with said requirements is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

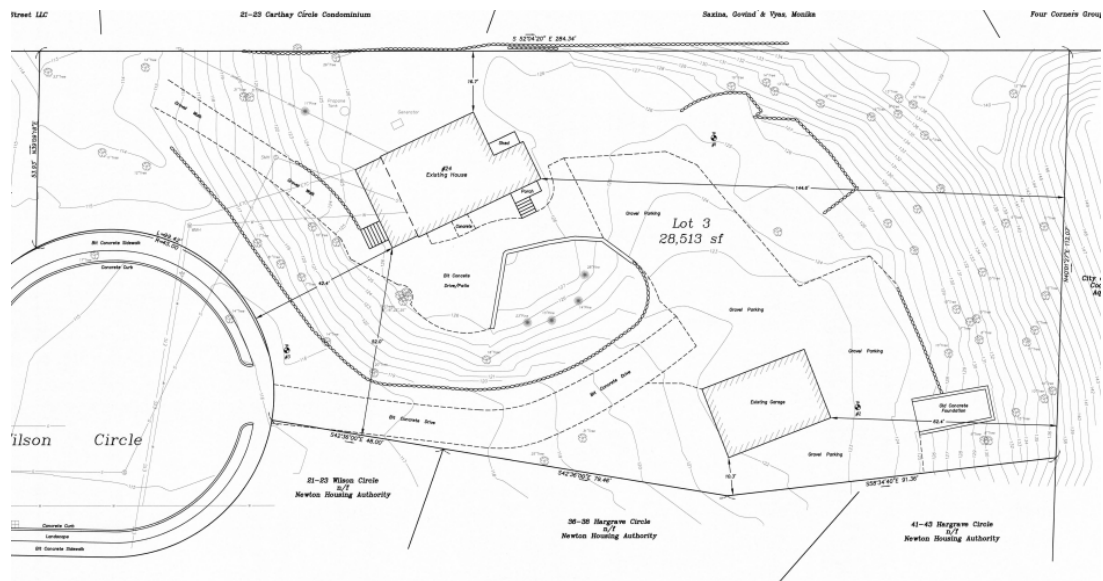
A. Neighborhood and Zoning

The subject property is located on the north side of the end of the Wilson Circle, a cul de sac off the east side of Beaconwood Road in Newton Highlands. Beacon Street is approximately 500 feet to the north. The surrounding neighborhood features a mix of one-, two-, and multi-family dwellings and commercial properties (**Attachment A**). The area's zoning reflects this mix, with a Business 2 (BU2) district along Beacon Street located to the north (including an abutting parcel), a MU1 district extending to the northeast, west, and south, and a Public Use (PU) district associated with the Cochituate Aqueduct corridor that abuts to the southeast of the site (**Attachment B**).

B. Site

The subject property consists of a 28,513 square foot lot improved with a single-family dwelling and a detached garage located at the end of the Wilson Road cul-de-sac.

The lot slopes steeply, approximately 30 feet upward from its frontage on Wilson Road to its rear (west to east), with the home and the garage located on a relatively level area near the center of the lot. Vehicular access is provided by a curb cut and a related paved driveway off Wilson Circle that extends to gravel parking areas around the detached garage. The remaining portions of the site include paved patio areas, gravel walkways, mature trees, and other vegetation.



Existing conditions plan

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If approved, the use would change from a single-family dwelling to five attached single-family dwellings in one structure.

B. Building and Site Design

The petitioner is proposing to create five attached single-family dwellings in a two story structure measuring 25.35 feet in height, less than the maximum 2 ½ stories and 36 feet allowable by special permit.



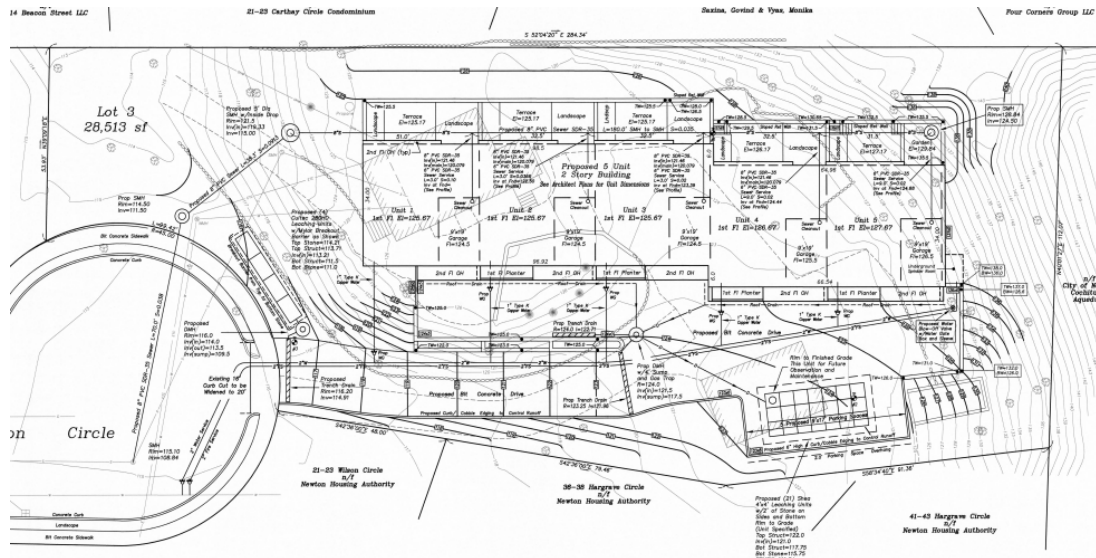
Proposed front and rear elevations

Regarding setbacks, single-family attached dwellings require 25-foot front, side, and rear setbacks. All four setbacks exceed that minimum, with the front setback measuring 31 feet, the right and left sides 50 and 26 feet respectively, and the rear setback being 30.5 feet.

As proposed, open space on the lot would decrease from the existing 74% to 59% but remain above the required 50%. The property's lot coverage would be 21.1%, higher than the 5.8% that currently exists but less than the maximum 25% allowed.

The proposed lot area per unit is 5,703 square feet, considerably more than the minimum 4,000 square feet required. The five townhouse style unit sizes range from 2,159 square feet to 2,170 square feet. The units appear to be three-bedroom units plus office from the submitted floorplans, however the petitioner should confirm the unit mix.

Although the NZO does not establish floor area ratio (FAR) requirements for single family attached dwellings, the petitioner has indicated that the project's FAR is 0.38. The Planning Department notes, for comparison, that this is equivalent to the allowable FAR for single- and two- family structures on a similarly sized lot in an MR1 district which would also be limited to an FAR of 0.38 (with a possible bonus of 0.02 for new construction that complies with the "new lot" front, side, and rear setback requirements of 30, 10 and 15 feet, respectively).



Proposed site plan

Each of the five dwellings would have patios at the rear of the structure. As they are to be located at roughly the level of the first floor, they require retaining walls, with the site's grade sloping upward behind them toward the northeast property boundary. The walls would have a maximum height of approximately ten feet (considerably higher than the four feet by right maximum) and be located as close as 14.3 feet from that boundary, well within the required 25 foot setback.

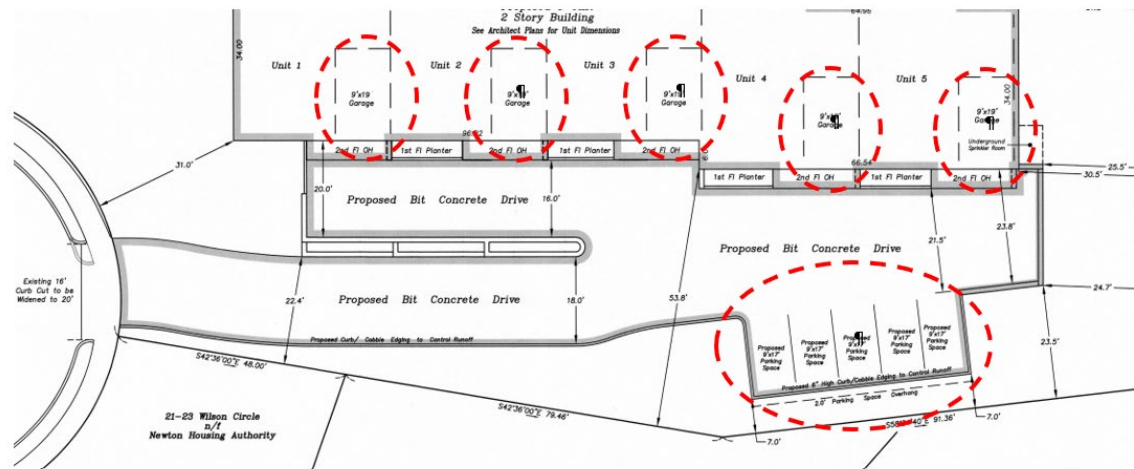


Perspective from Wilson Circle

C. Parking and Circulation

The petitioners are proposing to provide ten parking stalls, all accessed via the existing curb cut off Wilson Circle which would be widened from 16 feet to 20 feet. The associated driveway would be located along, and approximately 7.5 feet from, the right (south) side boundary and extend towards the rear of the property to serve five outside stalls near that corner as well as

the two garages located within first level of the two rearmost dwellings. The driveway would slope upward approx. ten feet from front to back. Near its midpoint the driveway would also branch off to the left, making a hairpin curve and reversing direction to serve the three frontmost dwellings' first level enclosed garages. These two sections of driveway would be separated by a system of walls with the surface of the latter section being several feet above the former.



Driveway with parking stall locations indicated

D. Landscaping

The petitioner has submitted a landscaping plan that proposes the installation of 34 trees as well as a variety of shrubs and perennials. The proposed tree installations, which include 14 cedars and four maple trees, are mostly located along the periphery of the site. Seven trees would provide screening of the five exterior parking stalls.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to allow:
 - attached single-family dwellings (§3.4.1)
 - a driveway within 10 feet of the rear lot line and parking within 20 feet of the front and rear lot lines (§6.2.3.B.2)
 - a retaining wall exceeding four feet in height in a setback (§5.4.2.B)

B. Engineering Review

Review by the Engineering Division is not required at this time but would be prior to the issuance of any building permit in the event the present petition is granted.

C. Historic Review

On October 20, 2021, the Newton Historical Commission found the house and detached garage as not historically significant and required no further review.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A







Land Use

24 Wilson Circle

*City of Newton,
Massachusetts*

Land Use

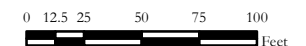
Land Use

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

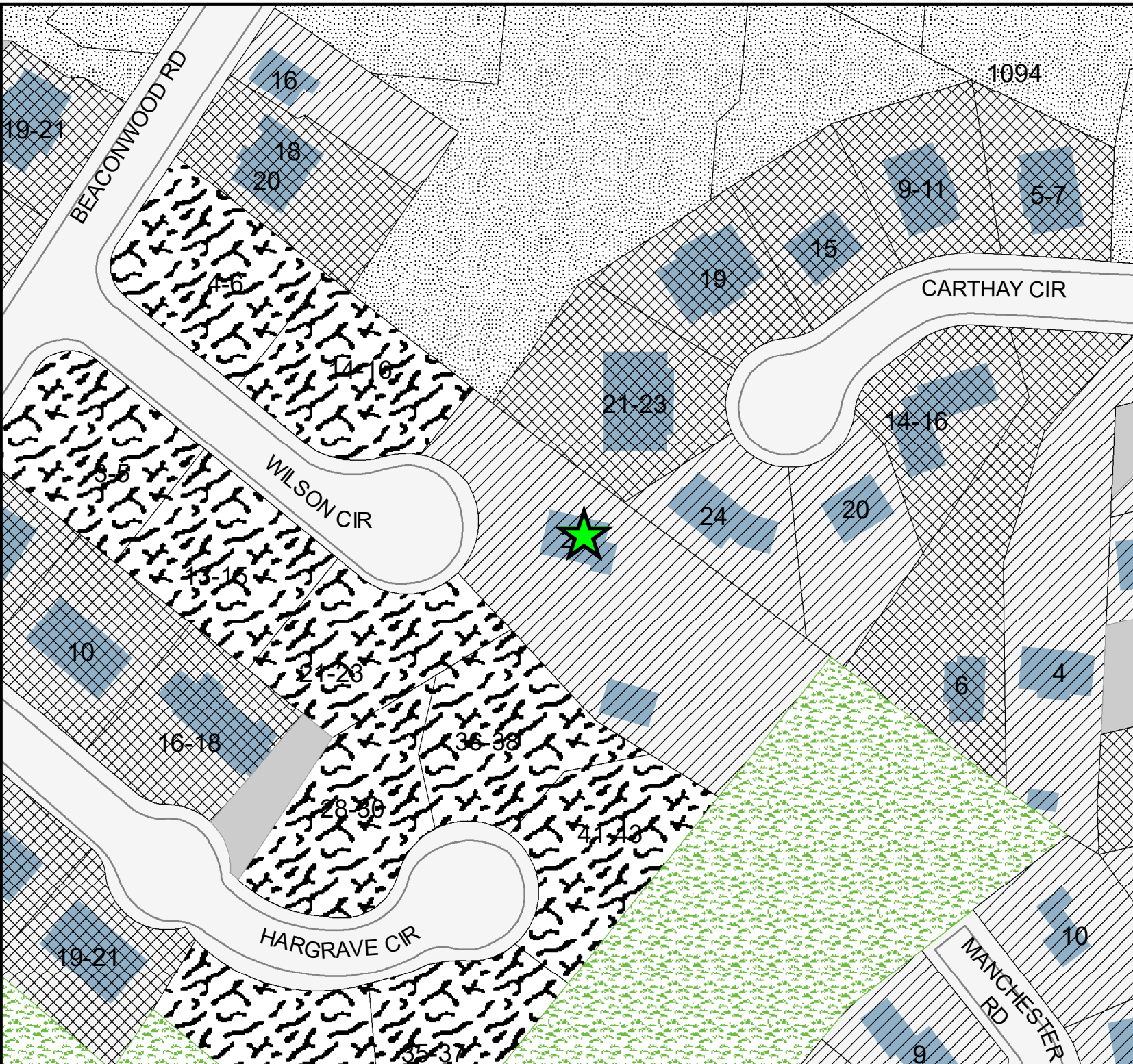


The information on this map is derived from a Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

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



Map Date: November 10, 2022

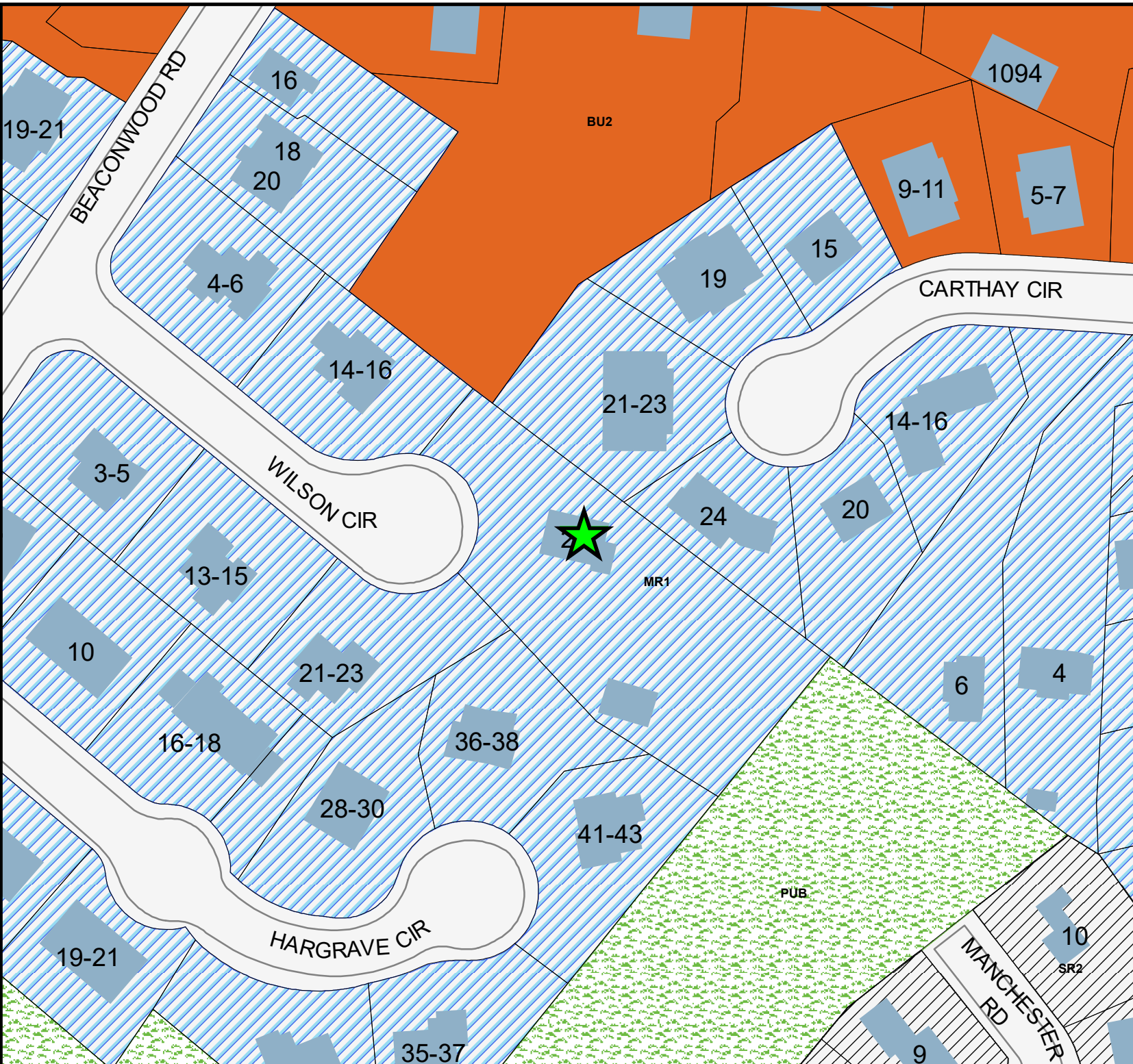


ATTACHMENT B

Zoning

24 Wilson Circle

City of Newton,
Massachusetts

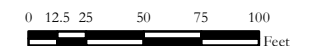


-  Single Residence 2
-  Multi-Residence 1
-  Business 2
-  Public Use



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



Map Date: November 10, 2022



Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: June 7, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Stephen Buchbinder, Attorney
Schiavone Wilson Circle Trust, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow five single-family attached dwellings

Applicant: Schiavone Wilson Circle Trust	
Site: 24 Wilson Circle	SBL: 54022 0019
Zoning: MR1	Lot Area: 28,513 square feet
Current use: Single-family dwelling	Proposed use: Five single-family attached dwellings

BACKGROUND:

The property at 24 Wilson Circle consists of 28,513 square feet and is improved with a single-family dwelling built circa 1905 in the MR1 zoning district. The petitioner proposes to demolish the existing dwelling and construct five single-family attached dwellings and associated surface parking.

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

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, submitted 4/28/2022
- Floor plans and elevations, prepared by Pears Design Group, dated 3/31/2022
- Existing Conditions Site Plan, signed and stamped by Verne T. Porter, dated 4/27/2022
- Proposed Conditions Site Plan, signed and stamped by Verne T. Porter, dated 4/27/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to raze the existing single-family dwelling and construct five single-family attached dwellings in the Multi Residence 1 zoning district. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Per section 6.2.3.B.2 no parking space may be located within 20 feet of a boundary unless by special permit. Several surface parking stalls are proposed in the southern corner of the lot with the shortest setback of 14 feet, requiring a special permit.

Per this same section 6.2.3.B.2, no driveway may be located within 10 feet of a side or rear lot line, unless by special permit. The proposed driveway is within ten feet of the southern side lot line, requiring a special permit.

3. The petitioner proposes to construct patios with retaining walls behind each of the units. The proposed retaining walls reach a maximum height of 10.34 feet behind unit 5 with a setback of 14.3 feet, where 25 feet is the required setback per section 3.2.4. Per section 5.4.2.B a retaining wall exceeding four feet in height within the setback requires a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	28,513 square feet	No change
Frontage	80 feet	99.4 feet	No change
Setbacks			
• Front	25 feet	42.4 feet	31 feet
• Side	25 feet	16.7 feet	26 feet
• Side	25 feet	NA	50 feet
• Rear	25 feet	144.6 feet	31.1 feet
Building Height	36 feet	30.25	25.35 feet
Max Number of Stories	2.5 (3 by SP)	2	No change
Lot Coverage Max	25%	5.8%	21.1%
Open Space Min	50%	74.1%	59.3%
Lot Area Per Unit	4,000 square feet	28,513 square feet	5,703 square feet

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway within 10 feet of the rear lot line and parking within 20 feet of the front and rear lot lines	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall exceeding four feet in height in a setback	S.P. per §7.3.3

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 attached single-family dwellings (§3.4.1), a driveway within 10 feet of the rear lot line and parking within 20 feet of the front and rear lot lines (§6.2.3.B.2), and a retaining wall exceeding four feet in height in a setback (§5.4.2.B), 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 Multi-Residence 1 (MR1) district is an appropriate location for the proposed five attached single-family dwellings in one structure as designed, including retaining walls higher than four feet in a setback, given its location within a neighborhood that has a mix of single-, two-, and multi- family dwellings and commercial uses (§7.3.3.C.1)
2. The proposed five attached single-family dwellings in one structure as designed, including retaining walls higher than four feet in a setback, will not adversely affect the neighborhood as it features a mix of single-, two-, and multi- family dwellings and commercial uses (§7.3.3.C.2)
3. The proposed five attached single-family dwellings in one structure as designed, including retaining walls higher than four feet in a setback, 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. Granting an exception to the provisions of §6.2.3.B.2 to allow a driveway within 10 feet of the rear lot line and parking within 20 feet of the front and rear lot lines is appropriate as literal compliance with said requirements is impracticable due to the nature of the use, and the size, width, and grade of the lot.

PETITION NUMBER: #503-22

PETITIONER: Schiavone Wilson Circle Trust

LOCATION: 24 Wilson Cir, Newton, Ward 6, on land known as Section 54 Block 22 Lot 19, containing approximately 28,513 sq. ft. of land

OWNER: Schiavone Wilson Circle Trust

ADDRESS OF OWNER: 24 Wilson Circle
Newton, MA 02461

TO BE USED FOR: Five single-family attached dwellings in one structure

EXPLANATORY NOTES: Special permit as per §7.3.3:

- attached single-family dwellings (§3.4.1)
- a driveway within 10 feet of the rear lot line and parking within 20 feet of the front and rear lot lines (§6.2.3.B.2)
- a retaining wall exceeding four feet in height in a setback (§5.4.2.B)

ZONING: Multi-Residence 1 (MR1) 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. a set of engineering plans, entitled "24 Wilson Circle, Newton, Massachusetts," prepared by Verne T. Porter Jr., PLS, dated September 23, 2022, signed and stamped by Verne T. Porter, Jr., Professional Land Surveyor, consisting of the following sheets:
 - i. Proposed Building and Drive Location (Sheet 1 of 7)
 - ii. Existing Conditions Site Plan (Sheet 2 of 7)
 - iii. Proposed Conditions Site Plan (Sheet 3 of 7) (also signed and stamped by Paul J. Tyrell, Registered Professional Engineer)
 - iv. Zoning District and Area Plan (Sheet 4 of 7)
 - v. Existing and Proposed Height Calculations (Sheet 5 of 7)
 - vi. Detail Sheet (Sheet 6 of 7) (also signed and stamped by Paul J. Tyrell, Registered Professional Engineer)
 - vii. Detail Sheet (Sheet 7 of 7) (also signed and stamped by Paul J. Tyrell, Registered Professional Engineer)
 - b. a set of architectural drawings entitled "24 Wilson Circle, Newton, MA," prepared by the Greenville Group and Pears Design Resource LLC, dated July 20, 2022, consisting of the following sheets:

- i. Proposed Architectural Site Plan (01)
 - ii. Proposed First Floor Plan (02)
 - iii. Proposed Second Floor Plan (03)
 - iv. Aerial View from Wilson (04)
 - v. Back Aerial View (05)
 - vi. View from Aquaduct (*sic*) (06)
 - vii. View from Wilson Circle(07)
 - viii. Elevations (South and North) (08)
 - ix. Site Sections (09)
 - x. Building Sections & End Elevations (10)
 - xi. Proposed Floor Area Plans (North) (11)
 - c. a landscape plan, entitled "Wilson Circle, Newton, MA, Illustrative Landscape Plan," prepared by Verdant Landscape Architecture, signed and stamped by Blair C. Hines, Registered Landscape Architect, dated August 31, 2022
 - d. a document entitled "FAR LETTER, 24 Wilson Circle, Newton, MA," dated September 9, 2022, signed by John Pears RIBA, indicating a proposed "Total GFA (Gross Floor Area) of 10,820.81 gsf," and FAR (Floor Area Ratio) of 0.38
2. All lighting fixtures shall be residential in scale.
3. The petitioner shall comply with the Tree Preservation Ordinance.
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 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 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 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 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
6. Petitioner shall implement the following measures to mitigate and reduce significant **vibration impacts** caused by construction equipment:
 - a. Prior to the issuance of any demolition, foundation, or building permit, the Petitioner 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. Prior to the issuance of any demolition permit, foundation or building permit, the Petitioner shall establish a \$100,000 vibration mitigation fund (or other security in a form satisfactory to the City Solicitor).
- c. If a property owner has consented to a pre- and post- construction survey as set forth in this condition and the property owner believes its buildings or structures have suffered damage due to vibration impacts from the Project, the property owner may make a claim to the vibration mitigation fund by submitting its claim, along with supporting documentation and photographs, to an independent third party hired and paid for by the Petitioner, subject to review and approval by the City Solicitor, for the independent third party's review. Notice shall be provided to such private property owners on how to make a claim for damages. Only those property owners who consent to a pre-construction survey as set forth above shall be eligible to make a claim to the vibration mitigation fund. If a claim is approved by the independent third party, property owners receiving payment from the mitigation fund must sign a release of claims as a condition to the receipt of such payment. In lieu of seeking payment from the vibration mitigation fund, a property owner may pursue a claim for damages for any amount through private action.
- d. The Petitioner 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.
- e. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.
- f. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
- g. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.
- h. The Petitioner 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.
- i. The Petitioner shall implement the approved vibration control plan. Vibration levels shall be regularly monitored during demolition and construction. The Petitioner shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
- j. 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.

- k. The Petitioner 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.
 - l. Following construction, the Petitioner shall re-inspect all homes, with approval of the owners, subject to the pre-construction survey to determine any damages caused by vibration. The Petitioner shall maintain records of all complaints it receives for vibration-related damages. All claims submitted to the mitigation fund shall be fully administered prior to the issuance of the final certificate of occupancy for the Project. Any monies remaining in the fund upon issuance of the final certificate of occupancy shall be retained by the Petitioner.
7. Prior to the issuance of any building permit pursuant to this special permit, 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 and approval by the Engineering Division. 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.
 8. No building permit (other than a demolition permit) 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. 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.
 9. 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.
 - b. Submitted final as-built survey plans in digital format.
 - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
 - d. Submitted to the Law Department copies of a fully executed Regulatory Agreement and Affordable Housing Restriction in accordance with this Order.
 - e. Provided evidence satisfactory to the Law Department that the Regulatory Agreements have been recorded at the Southern Middlesex District Registry of Deeds.
 - f. Inclusionary Units shall be completed and occupied no later than the completion and occupancy of the market-rate units. If the Inclusionary Units are not completed as required within that time, temporary and final certificates of occupancy may not be granted for the number of market-rate units equal to the number of Inclusionary Units that have not been completed.
 - g. 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.
 - h. 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.