

April 28, 2023

Kat Miller
Planning & Programs Specialist
Massachusetts Housing Finance Agency
KMiller@masshousing.com

cc: Mayor Ruthanne Fuller
Deputy Director Jennifer Caira, Newton Planning & Development
Councilor Maria Scibelli Greenberg
Councilor Alison Leary

Dear Ms. Miller:

We, the undersigned, as neighbors and abutters of 41 Washington, would like to elucidate our serious ongoing concerns regarding the revised 40B plan forwarded to us on April 12, 2023.

Although we oppose this project as currently proposed, we would like to acknowledge several positive revisions made in response to neighbor concerns. These include the elimination of the so-called fire lane, which did not meet the 20ft minimum width required by state and national fire code. We approve of the elimination of the underground garage, which could have created significant water issues for abutting and downhill neighbors. We also appreciate that the plan now depicts screening (i.e., trees) inside the lot lines of 41 Washington as opposed to planting screening on abutting properties. And finally, we applaud the developers' plan to maintain the historic portico rather than remove it. While these are steps in the right direction, the revised plan falls far short of what is needed on multiple levels. We strongly believe that many significant issues still need to be addressed before any plan can be approved.

MASSING & PARKING

The revised plan does very little to mitigate the massing and parking issues created by the first plan put forth. The massing of the buildings remains far out of scale with the surrounding single-family homes and quiet residential neighborhood. It is too large in terms of the number of units, which remains unchanged at 16; the number of parking spaces which has been increased to 24, and the massing & height of 4-5 stories, which would create a giant hulking behemoth that would dwarf and overpower the abutting homes. See Attachment 1 for aerial view of abutting properties.

41 WASHINGTON BUILT ON A WETLAND

41 Washington Street sits on a wetland, which is clearly depicted on the attached 1892 historical map. See Attachments 2 & 3 for the attached 1892 map and enlargement. Several underground streams are also known to emanate on or near the lot.

Because 41 Washington is situated on the top of a hill and on a historic wetland, abutters and downhill neighbors have had to deal with water issues for decades. To prevent basement flooding, many of us have installed sumps, french drains, and/or holding tanks to control groundwater. Attachment 4 is a map depicting known water issues and remediation efforts undertaken by abutters and nearby neighbors.

Previous Permit Application Pulled Due to Stormwater

About a year or so before the first 40B application, the developers proposed building a large single family house on the wooded portion of the lot -- that first plan covered less of the lot than the current 40B proposal. The developers eventually pulled their application due to neighbor and City concerns about stormwater run-off. In fact, the wooded lot contains such an abundance underground water that a previous owner used that water to create a duck pond.

Revised Plan Must Include New Geotechnical Engineering

Building on this lot will require extensive mitigation and meticulous engineering to keep from inundating neighboring properties. The site topography, the close proximity of numerous abutters and downhill properties, and the poor clayey soil demands it. For this reason, the revised 40B plan must include new geotechnical engineering plans that support the revised design. How can we know if the proposed plan is even feasible without additional engineering? Neighboring lots need assurances that the revised 40B will contain all stormwater on site, as state law and City ordinance require.

The 40B application intends to replace the heavily wooded back lot--which currently serves as a natural sponge--with impervious structures. The existing trees help contain stormwater onsite. Their removal alone will alter the water-bearing capacity of the lot.

It cannot be overstated that any scale of building on the 41 Washington lot will create additional water issues for neighbors that must be understood, planned for, and mitigated in advance. After the 41 TusNua LLC developers installed an unpermitted parking lot behind the existing house, for example, water began flowing non-stop from either the sump or holding tank of the property at 47 Washington Street, which sits on the corner of Washington & Grasmere Streets. Attachment 5 is a photo of the parking lot. This excess groundwater flows onto Grasmere Street, which is on a slope, and during freezing temperatures created an ice hazard on the road. Attachment 6 is a photo of the frozen groundwater on Grasmere St. At least several vehicles skidded on the ice though fortunately no injuries are known to have occurred. One can easily imagine that building a 16-unit structure, a new paved road, and a 24-space parking lot will without a doubt create unprecedented and potentially uncontrollable stormwater run-off that will negatively and potentially severely impact neighboring properties. This problem will only be exacerbated by the greater frequency of severe storms brought about by climate change.

PROMISED BUT NOT DELIVERED

We are particularly disturbed that the developers' team has not kept their promises. If they can't be trusted to follow-through at this stage, how can we trust that concerns and questions will be addressed once they receive approval? During the Zoom community meeting held by the developer on December 8, 2022, Schlesinger and Buchbinder lawyer Franklin Schwarzer et al promised attendees the following items, which still have not been provided:

- We were promised but have not received a computer-generated 3D model depicting how the proposed 4-5-story building will appear in juxtaposition to the 8+ abutting homes. The structure being proposed is massive and imposing while most of the surrounding homes are single-family homes, some quite modest. Technical experts tell us that creating a virtual 3D model is neither difficult nor expensive so we can only guess why one is not forthcoming.
- We requested a shadow study during the Zoom, which has not been provided. Considering the size and scale of this complex relative to the surrounding homes, a shadow study is a must.
- The developer's team promised to conduct a traffic study given neighbors' concerns about traffic and pedestrian safety concerns. No such study has been provided to us.

Lack of Transparency

The revised 40B plan provides no transparency on the following issues:

- How close are the new proposed building and parking lots to neighboring properties? No notations have been made regarding proximity to the 8-10 abutting properties. The first 40B proposal showed much of the building to be within 3-5' of lot lines, to which abutters strongly object. We deserve and require detailed drawings and measurements, not simply pretty renderings.
- Is guest parking being provided and if not, where will guests park? On-street parking is limited to 2 hrs during the day in this neighborhood. This issue continues to be an open question that the developer has yet to address.

Lack of Professionalism

The developer has done a number of things to lose the trust of abutters and nearby neighbors. First, at least two different individuals associated with 41 TusNua have threatened or harassed neighbors. We have no faith that construction will be conducted professionally and appropriately. We are concerned that corners will be cut to increase developer profit. We have no faith that this developer will carefully and meticulously

adhere to geotechnical engineering specifications to ensure stormwater is retained onsite, as required by law.

- The developer (Keegan et al) appears to have used a straw-buyer to acquire 41 Washington St from its previous owner. Several days later this presumed straw-buyer resold the property to the developer
- During the time period when the developer was seeking a special permit to build a second single family house on the lot, an associate of the developer threatened a neighbor to the effect: "How would you like it if we build low-income housing instead?"
- The developer installed a large parking lot behind the existing house without seeking proper permits
- Developer Tony Keegan personally harassed two abutters

Lack of Experience & Candor

The developer has no experience building or financing a large-scale apartment complex. What type of vetting process does MassHousing use to determine the fitness of a prospective developer? As noted in neighbor letters submitted during the first round, the developer's 40B application includes a number of omissions and misrepresentations suggesting a lack of candor.

We, the undersigned, do believe there is great need for affordable housing in Newton and also that the 41 Washington site could feasibly support additional housing. However, we vehemently protest (1) the scale and massing of the revised plan; (2) the lack of geotechnical engineering specs to support the feasibility of said plan; (3) the lack of transparency and broken promises of the development team; (4) the unprofessionalism, harassment by, and lack of candor of this developer and their associates; and (5) this developer's lack of experience with such a large-scale, technically-complex project.

Allowing an inexperienced and unprofessional developer to overbuild on a geotechnically challenging lot is not a remedy for the state's affordable housing crisis. The ends do not justify the means. MassHousing has a duty to screen out unsuitable developers, ensure development teams work cooperatively and transparently with abutters and neighbors, and ensure projects are technically feasible and conform to state stormwater rules. We respectfully request that MassHousing reject this application and this developer outright.

Jingbo Ye & Fang Han
47 Washington St

Jingbo Ye Fang Han

Sincerely,

Jodi & Kevin Vito
128 Grasmere

Jodi Vito Kevin Vito

Rachel Kantor & Liam Ryan
125 Grasmere

Rachel Kantor
Liam Ryan

Barbara & George Whitesides
124 Grasmere

Barbara Whitesides
George Whitesides

Deborah Jonas & Maria Walsh
119 Grasmere

Deborah Jonas
Maria Walsh

Jennifer & Christopher Murphy
112 Grasmere

Jennifer Murphy
Christopher Murphy

Diane Sakakini-Rao & Krishna Rao
111 Grasmere

Diane Sakakini-Rao
Krishna Rao

Robin & Kenneth Boger
102 Grasmere

Robin Boger
Kenneth Boger

Rosalind Williams
83 Grasmere St

Rosalind Williams

William Walker & MARA WALKER
56 Washington St

William Walker
Mara Walker

Lila McCain & Peter Beaman
11 Washington St

Lila McCain
Peter Beaman

Paul Fair
20 Merton

Paul Fair

Kim & Andy Gluck
19 Merton

Kim Gluck
Andy Gluck

Lu Yuan & Jing Yuan
36 Washington St

Lu Yuan Jing Yuan

Laura Johnson & Cecilia Johnson
33 Washington St

Laura Johnson
Cecilia Johnson

Kimberly & Alexander Southall
75 Elmhurst

Kimberly Southall
Alexander Southall

Julia Talcott & James Meigs
74 Elmhurst

Julia Talcott
James Meigs

Marilou & Daniel Shaughnessy
58 Elmhurst

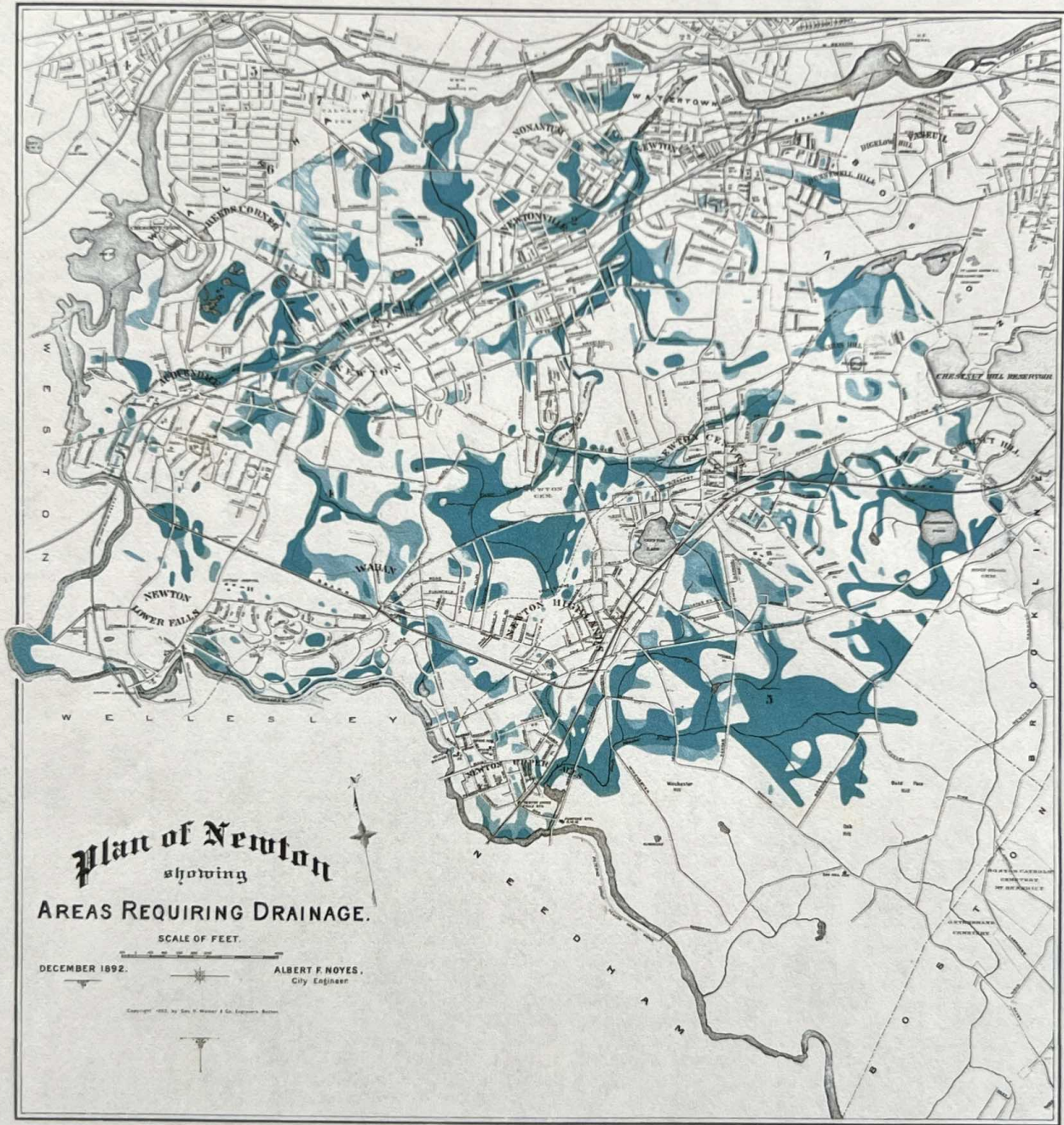
Marilou Shaughnessy

Daniel Shaughnessy

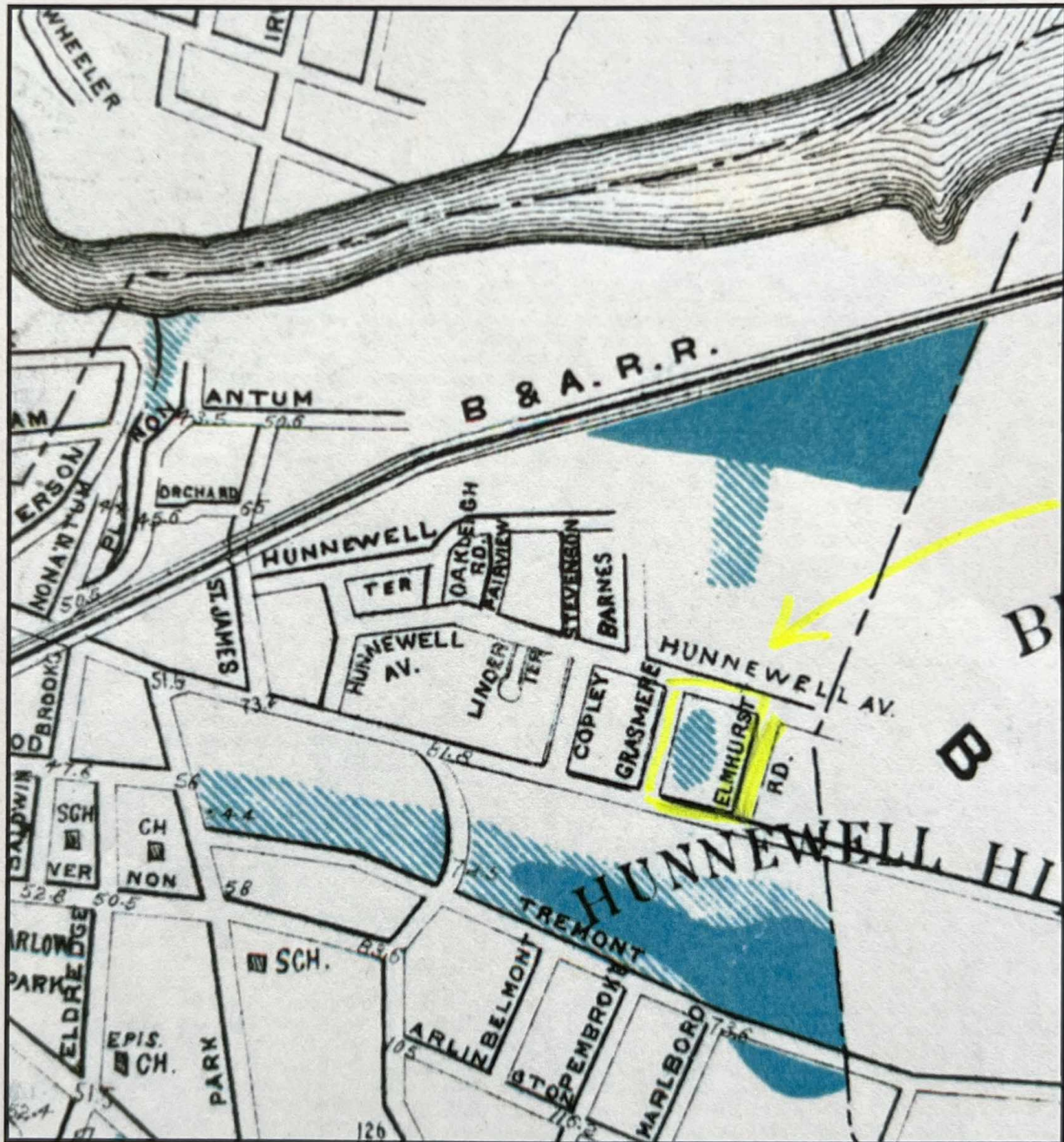
Attachment 1 - Aerial View of Abutters' Homes



Attachment 2 - 1892 Insurance Map of Newton



Attachment 3 - Closeup of 1892 Insurance Map Showing 41 Washington Wetlands



Attachment 4 - Map of Neighbors' Water Issues



Attachment 5 - Photo of Parking Lot Installed Without Permit



Attachment 6 - Photo of Frozen Groundwater Along the Eastern Side of Grasmere St

