



Petition: #311-23  
Public Hearing:  
12/5/23

Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Barney S. Heath  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** December 1, 2023  
**MEETING DATE:** December 5, 2023  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Alyssa Sandoval, Deputy Chief Planner for Current Planning  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

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### **PETITION #311-23**

**2202 Commonwealth Avenue**

**Petition #311-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and construct four single-family attached dwellings with dimensional waivers, and to allow a driveway and parking within setback distances at 2202 Commonwealth Avenue, Ward 4, Auburndale, on land known as Section 41 Block 13 Lot 06, containing approximately 13,696 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 3.4.1, 3.2.4, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017

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The Land Use Committee (the "Committee") held a public hearing on October 3, 2023, on this petition. This memo reflects additional information addressed to the Planning Department as of November 28, 2023.

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### **BACKGROUND**

The subject property at 2202 Commonwealth Avenue consists of a 13,696 square foot parcel in a Multi Residence 1 (MR1) zoning district in Auburndale. It is improved with a 2 ½ story single-family dwelling built circa 1900 and a detached garage located directly adjacent to the eastern property line.

The petitioner proposes to replace the existing single-family dwelling and garage with four single-family attached dwellings in one structure, which requires a special permit and associated dimensional relief for the project as designed. Per Section 3.4.1 of the Newton Zoning Ordinance (NZO), a special permit is required to construct attached single-family dwellings in a MR1 district. The proposed development also requires additional zoning relief relative to the dimensions of the lot as well as the parking and driveway configuration.

*Plans can be found at <https://newtonma.portal.opengov.com/records/800354>.*

### **UPDATE**

The public hearing on this petition was opened and held on October 3, 2023. At that time, the Committee requested the petitioner work with neighbors that expressed concern about the proposed project. Councilor feedback also noted the desire for habitat-friendly landscaping in the landscape plan. An updated Landscape Plan has been provided which includes different tree species than originally proposed.

In response to neighbor feedback, the petitioner has provided an updated set of plans, which slightly reduces the size and scale of the overall development. The primary change to the plan is the elimination of the attic floor. By removing this floor, the height of the building has been reduced to 31.5 feet from 35.3 feet.

The project remains at 4 units, the proposed setbacks and the location of the building remain the same as the prior plans (plans were updated on November 27, 2023). The main change is a slight reduction in the overall mass of the building and the elimination of attic space and the habitable space in the attic. While the attic space has been removed, the overall floor area has remained essentially the same as the original attic space did not count toward floor area ratio (FAR). The architectural plans indicate unit sizes ranging from 1,712 square feet to 1,902 square feet. The updated site plan and architectural renderings are provided below.



**West Elevation (August 2023)**



**West Elevation (Revised November 2023)**



In addition to the updated site plan, the Engineering Department submitted a memo dated September 29, 2023 noting inadequacies with the stormwater infiltration system, as well as the drainage calculations and the Operations and Management Plan that were provided by the Petitioner. Engineering also questioned the planned grassy swale, which appeared to direct runoff to Commonwealth Avenue and was not acceptable.

The petitioner provided updated drainage calculations, Site Plan, and an updated Operations and Management Plan on November 28, 2023. Engineering has reviewed and provided an updated memorandum (see Attachment C). Engineering questions the utility of the proposed retaining wall along the rear of the property. Engineering recommends a trench drain at the driveway to help control runoff and noted issues with the drainage calculations although the O&M Plan was acceptable.

Engineering also notes that the MassDOT Commonwealth Ave and Carriage Way Road reconstruction project will pass in front of this property. Construction for this is scheduled to begin in spring 2024.

The petitioner should present and speak in detail about changes to the site plan and the architectural drawings at the public hearing. The petitioner should also be prepared to respond to issues raised by Engineering about the retaining wall and trench drain. The Planning Department Memorandum (Attachment A from September 29, 2023) provides a background of the site, zoning relief needed, and analysis of the project. An updated zoning memorandum has been provided in Attachment B with references to the revised plans. Should the Committee decide to review, a revised Council Order with updated plan references has been provided in Attachment D.

**ATTACHMENT(S)**

<b>Attachment A</b>	Planning Department Public Hearing memorandum dated September 29, 2023
<b>Attachment B</b>	Updated Zoning Memorandum
<b>Attachment C</b>	Engineering Memo
<b>Attachment D</b>	Draft Council Order



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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

**PUBLIC HEARING MEMORANDUM**

**DATE:** September 29, 2023

**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 #311-23** for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and construct four single-family attached dwellings with dimensional waivers, and to allow a driveway and parking within setback distances at **2202 Commonwealth Avenue**, Ward 4, Auburndale, on land known as Section 41 Block 13 Lot 06, containing approximately 13,696 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 3.4.1, 3.2.4, 6.2.3.B.2 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 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.



**2202 Commonwealth Avenue**

## **Project Description**

### **Background**

The subject property at 2202 Commonwealth Avenue consists of a 13,696 square foot parcel in a Multi Residence 1 (MR1) zoning district in Auburndale. It is improved with a 2 ½ story single-family dwelling built circa 1900 and a detached garage located directly adjacent to the eastern property line.

The petitioner proposes to replace the existing single-family dwelling and garage with four single-family attached dwellings in one structure, which requires a special permit and associated dimensional relief for the project as designed.

The neighborhood features a mix of zoning designations and land uses. The residential properties are zoned MR1 (as is the subject property) or Single Residence 3 (SR3); the abutting multi-unit development to the east is zoned Multi Residence 2 (MR2) and the Public Use (PU)-zoned Lyons Park is directly across Commonwealth Avenue to the north.

### **Need for Special Permit**

Per Section 3.4.1 of the Newton Zoning Ordinance (NZO), a special permit is required to construct attached single-family dwellings in a MR1 district. As designed, the proposed development also requires additional zoning relief relative to the dimensions of the lot as well as the parking and driveway configuration.

The lot is undersized at 13,696 square feet and requires a special permit for the lot area (where 15,000 is required) as well as the lot area per unit for the four units proposed. The proposed eastern side setback of 22 feet requires an exception from the 25 foot minimum side setback required by Sec. 3.2.4 A.

Parking stalls may not be located within 20 feet of a lot line and a driveway may not be located within ten feet of a side or rear lot line, and the driveway on the west side of the parcel is less than ten feet from that side setback. Also, as this is an attached single-family dwelling development, the petitioner's proposed parking less than 20 feet of the front, side and rear lot lines, and the driveway's location within 10 feet of the side lot line, the proposed parking and driveway design require a special permit per Sec. 6.2.3.B.2.

### **Analysis and Recommendations**

The Planning Department is generally supportive of the proposal given its location on Commonwealth Avenue and the mix of uses in the surrounding neighborhood.

That said, given the size of the lot the Planning Department suggests the petitioner revisit the structure's proposed parking and driveway design to increase the buffer distance from the

various affected lot lines and decrease the amount of paving required, and possibly the overall size of the structure to more closely match that which would be allowed for a single- or two-family dwelling on the site, which may eliminate the relief needed to reduce the required side setback. The Planning Department would also be supportive of less parking on site, which would further decrease the amount of paving, but would require a parking waiver not currently sought, as the site is located near the Auburndale commuter rail and 558 bus, which terminates at Riverside and Newton Corner.

As noted below, the petitioner should also submit a grading plan showing the heights of the proposed retaining walls to demonstrate compliance with the NZO.

The Planning Department notes that there are still items to be worked out with the petitioner on this special permit, however a draft council order has been provided for review when the time is appropriate.

I. ZONING RELIEF REQUESTED:

<b>Zoning Relief Required</b>		
<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
§3.2.4	To waive minimum lot area	S.P. per §7.3.3
§3.2.4	To waive minimum lot area per unit	S.P. per §7.3.3
§3.2.4	To waive minimum side setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a lot line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

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

II. CRITERIA FOR CONSIDERATION PER §7.3.3. AND/OR §7.8.2.C.2:

When reviewing this request, the Council should consider whether:

1. The specific site is an appropriate location for the proposed four attached single-family dwellings with a lot area of 13,696 square feet, a lot area per dwelling unit of 3,424 square feet, and a side setback of 22 feet. (§7.3.3.C.1)
2. The proposed four attached single-family dwellings as developed and operated with a lot area of 13,696 square feet, a lot area per dwelling unit of 3,424 square feet, and a side setback of 22 feet, will not adversely affect the neighborhood. (§7.3.3.C.2)





IV. PROJECT DESCRIPTION AND ANALYSIS:

A. Land Use

The use of the site would be changed from a single family home to four attached single family dwellings in a single structure.

B. Site and Building Design

The petitioner proposes to demolish the existing single family dwelling and garage to construct a 2 ½ story, 35.5 foot high, 7,325 square foot residential dwelling containing four attached single family dwellings. Four single car garages are proposed, one for each unit at the basement level. four additional parking stalls would be located at the south (rear) and west (right) property lines, requiring a special permit as it does not meet the required distance for parking stalls for the single family attached dwellings use.

The units would each be accessed from the basement level and their first floor-level patios located on the left side of the property, between the structure and that side's property's line. As such, the structure has only one entrance that presents as a residential front door from Commonwealth Ave., the one located on the front façade that serves Unit 1 (the unit closest to the front).

While the proposed structure's height would be four feet higher than the existing structure's conforming 31.3 feet, it is than the maximum 36 feet allowed.



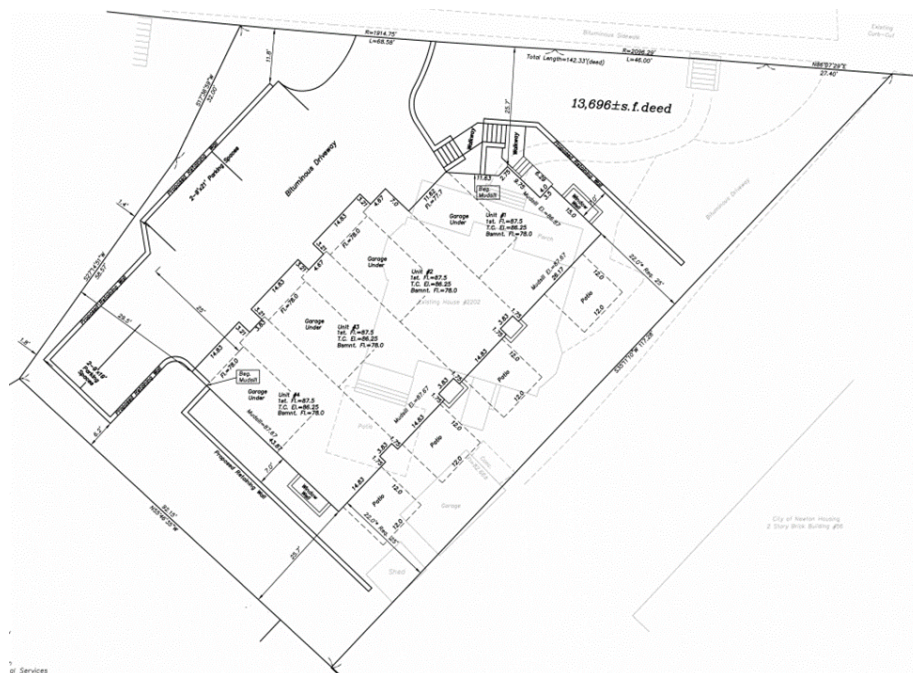
***Proposed Elevations***

Regarding setbacks, attached single family dwellings are required to have all side, front and rear setbacks measure at least 25 feet. At 27.7, 29.5 and 25.7 feet, respectively, the proposed front, right side, and rear setbacks comply; at 22 feet the side setback is three feet less than the requirement.

As an attached single family dwelling, the proposed development is not subject to floor area ratio (FAR) regulations. That said, the petitioner has indicated that the property's proposed FAR would be 0.53, more than the 0.48 (without bonus) allowed by right for single- and two- family homes, which would allow for an approx. 6,574 square foot structure, and an additional .02 in FAR (.50) if a project met "new lot" setbacks. As proposed, the four units' sizes range from 1,714 square feet (Unit 1) to 1,902 square feet (Unit 3).

As designed, the parcel's lot coverage increases from 13.8% to 23.7%, remaining just below the maximum 25% required for single family attached dwellings. Under the proposed configuration, the property's open space decreases from 73.9% to 56.8%, remaining above the minimum 50% required.

There are retaining walls proposed around the proposed building and parking area, however, no dimensions are provided for the proposed retaining walls. The petitioner should submit a grading plan showing the heights of the walls to demonstrate compliance with zoning. Retaining walls exceeding four feet in height within a setback requires a special permit.



**Proposed Site Plan**

C. Parking and Circulation

Four parking stalls, each within a single car garage for each unit, would be located at the basement level, with four others on the paved area and driveway proposed for the right (west) side of the property. The existing curb cut and driveway on the property's left (east) side would be eliminated with the latter replaced by lawn area.

Two of the four exterior stalls would be "parallel" spaces located approx. 1.3 to eight feet from the right side property line and 11.7 feet from the front property line. The two other exterior stalls would be side by side in an area at the rear of the lot, approx. 1.8 feet from the right property line and slightly more than six feet from the rear property line. These measurements are all considerably less than the required twenty-foot buffer from side or rear lot lines for parking for attached single family dwellings.

Also, certain portions of the proposed paved driveway serving these spaces would be in less than the minimum ten feet from the right side lot line.

The petitioner should confirm the proposed curb cut and driveway opening widths.

The Planning Department suggests the petitioner revisit the proposed parking and driveway design to both increase the buffer distance from the various affected lot lines and decrease the amount of paving required.

D. Landscaping

A landscape plan was provided with this petition. It includes the retention of four existing trees- one in the front of the property, three at its rear- and the installation of 39 new trees, including 22 arborvitae that would delineate the units' exclusive use areas and visually screen a portion of the left property line. The plan also includes hedges that would screen the exterior parking stalls from abutting properties.

V. INTERDEPARTMENTAL REVIEW:

- **Engineering Review:** Review of this petition by the Engineering Division is not required at this time.
- **Newton Historical Commission:** On August 31, 2022, the Newton Historic Commission (NHC) found both the existing house and garage to be historically significant and preferably preserved. The Demolition Delay for both expired on August 25, 2023.

VI. PETITIONER'S RESPONSIBILITIES:

The petition is considered complete at this time.

**ATTACHMENTS:**

**Attachment A:** Zoning Review Memorandum  
**Attachment B:** DRAFT Council Order



Ruthanne Fuller  
Mayor

Attachment B

City of Newton, Massachusetts  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

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Barney S. Heath  
Director

ZONING REVIEW MEMORANDUM

Date: November 30, 2023

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Laurance Lee, Attorney  
2202 Commonwealth Avenue LLC, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to allow four single-family attached dwellings, to waive lot area and lot area per unit requirements and to allow a driveway and parking within setback distances

Applicant: 2202 Commonwealth Avenue LLC	
Site: 2202 Commonwealth Avenue	SBL: 41013 0006
Zoning: MR1	Lot Area: 13,696 square feet
Current use: Single-family dwelling	Proposed use: Four single-family attached dwellings

BACKGROUND:

The property at 2202 Commonwealth Avenue consists of 13,696 square feet and is improved with a single-family dwelling built circa 1900 in the MR1 zoning district. The petitioner proposes to demolish the existing dwelling and construct four single-family attached dwellings, requiring a special permit.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, submitted 4/20/2023
- Existing Conditions Site Plan, prepared by Dellorco Associates, surveyor, dated 10/13/2022
- Proposed Conditions Site Plan, signed and stamped by Verne T. Porter, surveyor, and Tsung Ting Chiang, engineer, dated 4/3/2023, revised 11/15/2023, 11/27/2023
- Zoning Plan, prepared by Dellorco Associates, surveyor, dated 4/3/2023
- Schematic Design, prepared by MGD Habitat Design, architect, dated 7/20/2023, revised 11/12/2023
- FAR Worksheet, signed and stamped by Ronald F. Jarek, architect, submitted 4/20/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to raze the existing single-family dwelling and construct four single-family attached dwellings. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Section 3.2.4 requires a minimum lot area of 15,000 square feet for single-family attached dwelling projects, unless waived by special permit. The lot has a total of 13,696 square feet, requiring an exception per the footnote to the dimensional table in section 3.2.4.
3. Per section 3.2.4 the required minimum lot area per dwelling unit is 4,000 square feet, unless waived or reduced by special permit. With four units proposed on the 13,696 square foot lot, the proposed lot area per unit is 3,424 square feet, requiring an exception per the footnote to the dimensional table in section 3.2.4.
4. Section 3.2.4 requires a minimum side setback of 25 feet. The petitioners propose a setback of 22 feet from the eastern side lot line, requiring an exception per the footnote to the dimensional table in section 3.2.4.
5. Per section 6.2.3.B.2, no parking space may be located within 20 feet of a lot line and no driveway may be located within 10 feet of a side or rear lot line, unless by special permit. The petitioner proposes parking within 11.7 feet of the front lot line, 2.5 feet of the side lot line and within 7 feet of the rear lot line. Additionally, the driveway is within 10 feet of the western side lot line. A special permit is required for a parking within 20 feet of the front, side and rear lot lines and for a driveway within 10 feet of the side lot line.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	13,696 square feet	<b>No change*</b>
Frontage	80 feet	142 feet	No change
Setbacks			
• Front	25 feet	30 feet	25.7 feet
• Side	25 feet	7.9 feet	29.5 feet
• Side	25 feet	50 feet	<b>22 feet*</b>
• Rear	25 feet	47.3 feet	25.7 feet
Building Height	36 feet	31.3 feet	31.5 feet
Max Number of Stories	2.5 (3 by SP)	2.5	2
Lot Coverage Max	25%	13.8%	23.7%
Open Space Min	50%	73.9%	56.8%
Lot Area Per Unit	4,000 square feet	13,696 square feet	<b>3,424 square feet*</b>

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<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
§3.2.4	To waive minimum lot area	S.P. per §7.3.3
§3.2.4	To waive minimum lot area per unit	S.P. per §7.3.3
§3.2.4	To waive minimum side setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a lot line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3



**Attachment C**

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 – 2202 Commonwealth Avenue

Date: November 30, 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

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

Proposed Conditions Plan  
Prepared by: Dellorco Associates Inc.  
Dated: April 3, 2023  
Revised: 11-27-2023

Executive Summary:

The proposed permit entails the demolition of an existing single-family dwelling and the construction of four attached units and surface parking on a 13,696 square foot [0.31 acre] site. The lot has 144-feet of frontage along Commonwealth Avenue to the north, and residential homes to the west and south, and an apartment complex to the east.

The property has a high point at 84-feet near the southeast corner of the lot and slopes towards Commonwealth Avenue at elevation 76-feet. The existing driveway near the northeast corner will be closed and a new 16-foot-wide driveway apron is proposed near the western corner of the lot. A retaining wall will be constructed to facilitate the construction of the driveway and four parking spaces. The average height of the retaining wall is 3.6-feet, a safety fence will be required for walls over 3 -feet in height. A four-foot-high wall is planned just north of unit #1 this wall will also require a safety fence along its length. Additionally, a wall is also



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. 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.
2. 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. For water quality issues a fire hydrant will be required at the end of the proposed water main/service. This hydrant will be utilized for flushing out the main as required.

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. 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. 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.
9. 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.
10. *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.*

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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 attached single-family dwellings, waive minimum lot area, minimum lot area per unit, and minimum side setback requirements, and allow parking within 20 feet of a lot line and a driveway within 10 feet of the side lot line, 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 four attached single-family dwellings on an undersized lot with a lot area per unit of 3,424 square feet, and a side setback of 22 feet given its location on Commonwealth Avenue in a Multi Residence 1 zone and the mix of uses in the surrounding neighborhood, including an multifamily use consisting of four buildings and 57 units adjacent to the project. (§7.3.3.C.1)
2. The proposed four attached single-family dwellings on an undersized lot with a lot area per dwelling unit of 3,424 square feet, and a side setback of 22 feet, will not adversely affect the neighborhood as the neighborhood includes a mix of uses including multifamily dwellings and public parkland. (§7.3.3.C.2)
3. There will be no 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 exceptions to certain requirements provided by Sec. 6.2.3.B.2 not allowing the location of parking within 20 feet of a lot line and/or a driveway within 10 feet of the side lot line would be appropriate as literal compliance is impracticable due to the nature of the use, and topography, of the lot. (§6.2.3.B.2)

PETITION NUMBER: #311-23

PETITIONER: 2202 Commonwealth Avenue LLC

LOCATION: 2202 Commonwealth Avenue, Ward 4, Auburndale, on land known as Section 41 Block 13 Lot 06, containing approximately 13,696 sq. ft. of land

OWNER: 2202 Commonwealth Avenue LLC

ADDRESS OF OWNER: 14 Rangeley Road  
Brookline, MA 02467

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

RELIEF GRANTED: Special permit to allow attached single-family dwellings (§3.4.1), waive minimum lot area (§3.2.4), waive minimum lot area per unit (§3.2.4), waive minimum side setback (§3.2.4), allow parking within 20 feet of a lot line and a driveway within 10 feet of the side lot line (§6.2.3.B.2)

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 the following plans:
  - a. a set of engineering plans entitled "2202 Commonwealth Avenue, Newton, Massachusetts," prepared by Dellorco Associates, dated April 3, 2023, last revised November 27, 2023, signed and stamped by Verne T. Porter, Registered Professional Land Surveyor, comprised of the following sheets
    - i. Zoning Plan (Sheet 2 of 6)
    - ii. Detail Sheet (Sheet 4 of 6)
    - iii. Detail Sheet (Sheet 5 of 6)
  - b. a set of architectural plans entitled "Commonwealth Ave Residences, 2202 Commonwealth Ave, Newton – Ma, Schematic Design Set," prepared by MGD Habitat Design, dated July 20, 2023, revised November 11, 2023, comprised of the following sheets:
    - i. SD.00- Cover Page
    - ii. SD.01- Zoning Analysis
    - iii. SD.01a- FAR Analysis
    - iv. SD.02- Architectural Site Plan
    - v. SD.02a- Landscape Plan
    - vi. SD.03- Basement Floor Plan
    - vii. SD.04- First Floor Plan
    - viii. SD.05- Second Floor Plan
    - ix. SD.06-- Attic Plan
    - x. SD.07- Roof Plan
    - xi. SD.08- Elevations



xii. SD.09- Elevations

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. 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. 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.
6. 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, professional land surveyor, or professional engineer, and landscape architect or landscape professional certifying compliance with Condition #1.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.
  - c. 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.
  - d. 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.

7. Provided that all other requirements in Condition #6 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may in their discretion, issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).