

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 six attached single-family dwellings in three structures, reduced the side setback requirement, grant certain parking facility dimensional, screening and lighting waivers, and allow a retaining wall with a height of four feet or greater, 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 six attached single-family dwellings in three structures, as designed and a retaining wall with a height of four feet or more in a setback given its location in a neighborhood with a mix of residential and commercial uses including single- two- and multi- family dwellings, commercial, manufacturing and public uses.
2. The specific site is an appropriate location for a parking facility parking dimensional waivers given its location in a neighborhood with a mix of residential uses including single- two- and multi- family dwellings, commercial, and public uses. (§7.3.3.C.1)
3. The proposed six attached single-family dwellings in three structures as designed will not adversely affect the neighborhood given the mixed-use nature of the neighborhood which features several residence types, commercial uses and public facilities. (§7.3.3.C.2)
4. There will be no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
6. Granting exceptions to certain requirements provided by §3.2.4 requiring a minimum side setback of 25 feet is appropriate as literal compliance is impractical due to the long, narrow shape of the lot. (§3.2.4)
7. Granting exceptions to certain requirements provided by §5.1 pertaining to the location of parking stalls in the front and side setbacks, minimum maneuvering aisle widths, perimeter screening and lighting requirements, and parking within twenty feet of the front and side setback, and a driveway within 10 feet of the side lot line, is appropriate as literal compliance is impracticable due to the long, narrow shape of the lot and will be in the public interest as it will facilitate the protection of environmental features as the rear

of the lot will be improved per requirements of the Conservation Commission, and, as it pertains to the lighting requirements, limit excessive lighting, especially directly abutting residential houses. (§5.1.13)

8. Granting exceptions to certain requirements provided by Sec. 6.2.3.B.2 that do not allow the location of parking within 20 feet of a lot line and/or a driveway within 10 feet of the side lot line, is appropriate as literal compliance is impracticable due to the long narrow shape of the lot and will be in the public interest as it will facilitate the protection of environmental features as the rear of the lot will be improved per requirements of the Conservation Commission. (§6.2.3.B.2)

PETITION NUMBER: #317-23

PETITIONER: 280 Nevada LLC

LOCATION: 280 Nevada Street, Ward 1, Newtonville, on land known as Section 14 Block 08 Lot 12, containing approximately 29,550 sq. ft. of land

OWNER: 280 Nevada LLC

ADDRESS OF OWNER: 238 Hartman Road
Newton, MA 02459

TO BE USED FOR: Six attached single-family dwellings in three structure

RELIEF GRANTED: Special Permit per §7.3.3 to allow attached single-family dwellings (§3.4.1); allow reduced side setbacks (§3.2.4); allow parking in the front and side setbacks (§5.1.8.A.1, §5.1.13); allow a reduced maneuvering aisle width (§5.1.8.C, §5.1.13); waive the perimeter screening requirements (§5.1.9, §5.1.13); waive the lighting requirements (§5.1.10.A, §5.1.13); allow a retaining wall of four feet in height within a setback (§5.4.2.B); allow parking within twenty feet of the front and side 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 plan entitled “Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at #280 Nevada Street (Sheet 1 of 1),” prepared by VTP Associates, Inc., dated August 7, 2023, signed and stamped by Joseph R. Porter, Registered Professional Land Surveyor
 - b. A set of engineering plans entitled “Newton, Massachusetts, Showing Proposed Conditions at #280 Nevada Street,” prepared by VTP Associates, Inc., dated April 25, 2023, signed and stamped by Joseph R. Porter, Registered Professional Land Surveyor, comprised of the following sheets:
 - i. Topographic Site Plan (Sheet 1 of 3)
 - ii. Details (Sheet 2 of 3)
 - iii. Details (Sheet 3 of 3)
 - c. A set of architectural plans entitled “280 Nevada St, Newton MA,” prepared by Sangiolo Associates, Architects, dated June 6, 2023, revised through June 28, 2023, 2023, comprised of the following sheets:
 - i. Floor Plans (A2)
 - ii. Floor Plans (A3)
 - iii. Elevations (A4)
 - iv. Elevations (A5)
 - v. Landscape Plan (L2)
 - vi. Landscape Plan & Plant List (L3)
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 trash and recycling disposal shall be handled by a private entity and shall comply with the City’s Noise Control 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.
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. 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.
6. The Petitioner shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment:
 - a. Prior to the issuance of a demolition or building permit for any demolition, site work, or construction activities that require (i) the driving of piles or piers, (ii) the removal or alteration of ledge, or (iii) soil reinforcement or compaction by vibratory roller, other than compaction of soil for decks, patios, landscaping work, sidewalks, driveways, retaining walls or accessory buildings under 700 square feet,

the Petitioner shall submit the following to the Commissioner of Inspectional Services:

- b. A vibration control plan signed and stamped by a licensed and insured geotechnical consultant that determines the scope of preconstruction surveys needed; the basis for that determination; and the recommended vibration level limits and monitoring services to be provided for the duration of the construction activity.
- c. Proof of notice to all properties within such scope that a preconstruction survey was offered at no cost to the property owner.
- d. A list of all properties that were surveyed.
- e. Any other plans or specifications as the Commissioner of Inspectional Services may require, including but not limited to revisions to the submitted vibration control plan.
- f. As an alternative to the required vibration control plan and other required submissions set forth in Sec. 5-23(a) above, the Petitioner may submit a signed and stamped letter from a licensed and insured geotechnical consultant stating that a vibration control plan and monitoring are not necessary based on the scope of the work, site conditions or construction methods. Such letter must detail the basis of the opinion that no vibration control plan, monitoring or controls are necessary. No additional submissions will be required unless the Commissioner of Inspectional Services or their designee determines that compliance with Sec. 5-23(a) is necessary due to the nature of site or the proposed work.
- g. The submitted vibration control plan shall be implemented and adhered to during all relevant construction activity. The Petitioner shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
- h. Following construction and prior to the issuance of a certificate of occupancy, all properties subject to a preconstruction survey shall, subject to owner approval, be reinspected to determine any damages caused by vibration.

In the event the City subsequently adopts an Ordinance that governs the vibration impacts of construction and such ordinance is applicable to this Project and in effect prior to the issuance of a building permit, that Ordinance in its entirety shall apply to this special permit in place of this condition.

7. The petitioner shall make payments in the aggregate amount of \$28,607 (representing 25% of the calculated \$114,428 Inflow & Infiltration fee) to the City for infrastructure improvements for inflow and infiltration (I&I). Payments shall be made as follows:
 - a. \$14,303.50 at the first building permit for the vertical construction of the Project; and,

- b. \$14,303.50 prior to the issuance of the first dwelling unit occupancy permit (temporary or final) in the Project.
8. The petitioner shall pay to the City of Newton the sum of \$85,821 (representing 75% of the calculated \$114,428 Inflow & Infiltration fee) for off-site transportation, pedestrian, or safety improvements or mitigation in the vicinity of the Project. The Petitioner's payments shall be made to a municipal account dedicated for such mitigation and improvements as follows:
 - a. \$42,910.50 at the first building permit for the vertical construction of the Project; and,
 - b. \$42,910.50 prior to the issuance of the first dwelling unit occupancy permit (temporary or final) in the Project.

Funds from the account in which these payments will be held shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. The Director of Planning and Development, after consultation with the Commissioner of Public Works, shall recommend improvements for funding to the City Council.

- a. \$50,000.00 prior to certificate of occupancy (temporary or final) for the fourth dwelling unit; and,
 - b. \$50,000.00 prior to certificate of occupancy (temporary or final) for the sixth dwelling unit.
9. The Petitioner shall make a payment of \$100,000.00 to the Newton Affordable Housing Trust:
 - a. \$50,000.00 prior to certificate of occupancy (temporary or final) for the fourth dwelling unit; and,
 - b. \$50,000.00 prior to certificate of occupancy (temporary or final) for the sixth dwelling unit.
10. 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.
11. 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. Prior to temporary certificate of occupancy, filed with the building permit record statements by a registered architect, professional land surveyor, or professional engineer, certifying compliance with Condition #1.
 - b. Prior to temporary certificate of occupancy, submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.

- c. Prior to final certificate of occupancy, 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. Prior to final certificate of occupancy, 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.
12. Provided that all other requirements in Condition #9 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).