



Ruthanne Fuller
Mayor

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

Petition: #318-23
Public Hearing:
10/17/23

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: October 13, 2023

TO: City Council

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

SUBJECT: **Petition #318-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to demolish the existing dwelling and construct three single-family attached dwellings

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.



15-17 Jewett Place

Project Description

Background

The subject property consists of a 13,300 square foot lot that was recently created by combining three parcels on Jewett Place. The site is improved with a two-family dwelling constructed circa 1880.

The site is located on the north side of the city close to the Watertown border between Jewett Street and Emerson Street. The area is primarily residential with a mix of single and multifamily uses. Direct abutters to the site include two-family dwellings and a four-unit multifamily dwelling. This site and surrounding parcels are zoned Multi-Residence 2 (MR-2). The site is located within walking distance bus transit and amenities on Washington Street and Nonantum. A stop for the 59 MBTA bus (Watertown Sq Terminal- Needham Junction), the 52 (Dedham Mall – Watertown), and 57 buses (Kenmore - Watertown Yard) are 0.3 miles from the site. Stops on the route of the 504/553/554/556 express buses to Boston and the 558 (Riverside Station - Newton Corner) are 0.4 miles from the site.

Special Permit

The petitioners propose to demolish the existing dwelling and construct three single-family attached dwellings on the lot. Relief is required for the use, as single family attached dwellings are only allowed by special permit in the MR-2 district. Relief is also required for a reduced lot area, to allow a reduced rear setback, to allow a retaining wall of four feet or higher within a setback, and to allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line.

Analysis

The Planning Department believes that this is an appropriate location for the proposed single family attached dwellings. The area is zoned for multi-residential use and the neighborhood already features a range of single and multifamily uses, so increasing the units on the site from two to three is contextually appropriate. While Planning Staff believes the site is appropriate for this use, Planning Staff suggest considering revisions to reduce the amount of pervious paving on the site and reorienting the front door of the middle unit. Additional information and materials are also requested, including side elevations and a more detailed landscape plan for the site.

Zoning Relief Requested:

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

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
§3.2.4	To allow reduced lot area	S.P. per §7.3.3
§3.2.4	To allow a reduced rear setback	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall of four feet or higher in a setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

I. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

- The site and structures as proposed are an appropriate location for the density and proposed dimensional controls for the proposed three single family attached dwellings (7.3.3.C.1)
- The proposed three single family attached dwellings with the proposed dimensional controls will not adversely affect the neighborhood (§7.3.3.C.2)
- The proposed three single family attached dwellings will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- Literal compliance with the parking requirements of the Newton Zoning Ordinance 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. (§5.1.13)
- The specific site is an appropriate location for a retaining wall of four feet in height within the side setback (§5.4.2.B and §7.3.3)

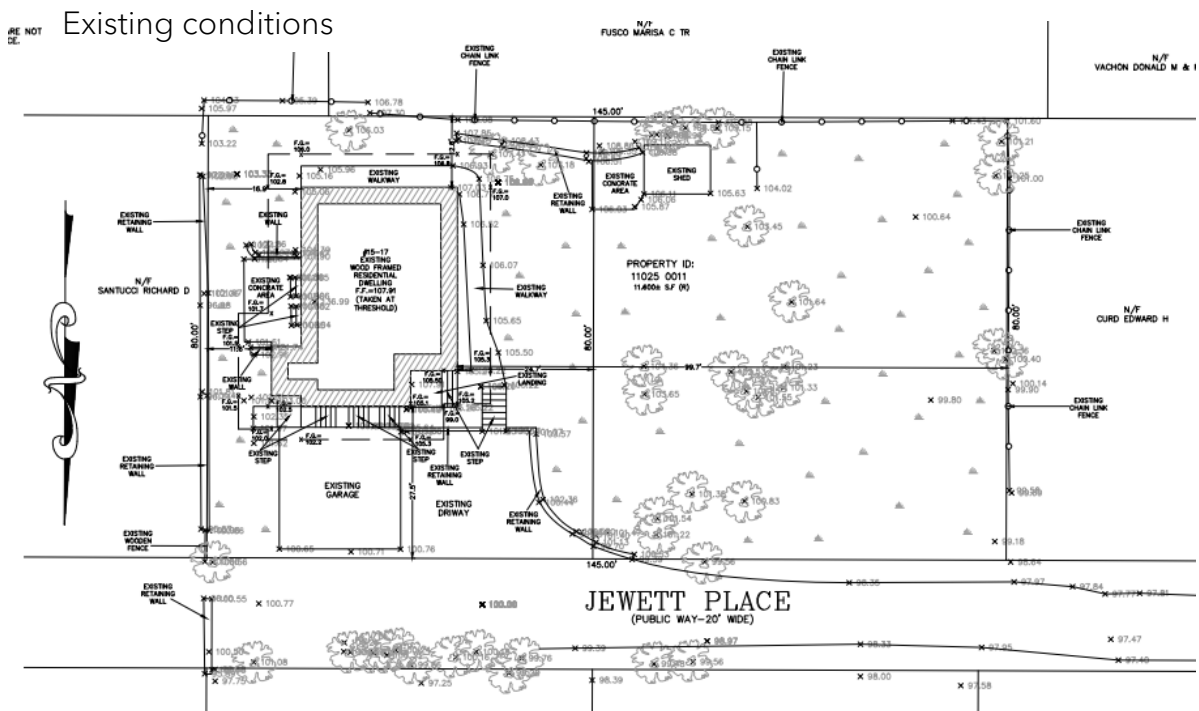
II. Project Proposal and Site Characteristics

A. Site

The property consists of a 13,300 square foot lot that was created by consolidating three parcels on Jewett Place, which is a private way with a dead end, including a

small part of the existing road. The site is improved with a with a two and a half story two-family dwelling constructed circa 1880. The existing dwelling has a nonconforming side setback (east) of 11.6 feet where a minimum of 25 feet is required, and a nonconforming rear setback of 12.8 feet where 25 feet is required.

The site slopes up from the street to the back of the property, and much of the site is currently vegetated. The existing paved area is 627 square feet, and the existing impervious area is 1,070 square feet. There is a retaining wall along the eastern property line. A chain link fence runs along the western property line and much of the southern property line. There is a wooden fence at the southeast corner and a small area of wooden fence close to the street at the northeast corner. Vehicular access is provided via a paved driveway at the end of Jewett Place leading to a detached garage in front of the dwelling.



III. Project Description and Analysis

A. Land Use

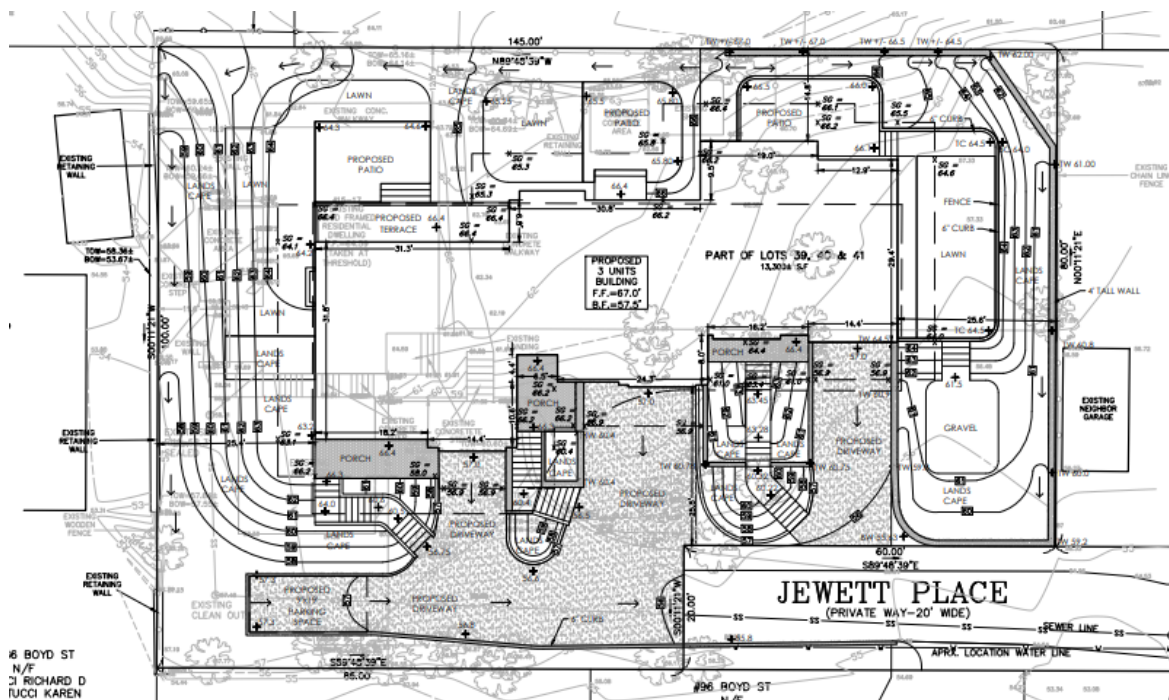
If approved, the principal use of the site will change from a two-family dwelling to three single family attached dwellings.

B. Site Design

The petitioner proposes to demolish the existing structure and construct three single-family attached units. Relief is required to construct attached dwellings in the MR-2 district. The lot size of the project requires relief because it is proposed at 13,300 square feet, where a minimum of 15,000 square feet is required.

The building will be 2.5 stories and 35.5 feet in height where up to 36 feet and 2.5 stories is allowed by right. Lot coverage is proposed at 24% where up to 25% is allowed by right. The open space will be 53.4% where a minimum of 50% is required. The lot area per unit is proposed at 4,433 square feet where a minimum of 4,000 square feet is required.

Proposed conditions



The front setback is proposed at 25.5 feet where 25 feet is required, and 27.5 feet exist now. The east setback, which is currently nonconforming at 11.6 feet where 25 feet is required, will be increased to a conforming 25.4 feet. The west setback will be reduced from 99.7 feet to 25.6 feet where 25 feet is required. The rear setback, which is currently nonconforming at 12.8 feet, will be increased to 14.8 feet but still requires relief because a minimum of 25 feet is required. Planning staff requests that the petitioner provide architectural plans showing both sides of the proposed dwelling in addition to the front and rear elevations provided in their application.

Because of the average grade of the site, the basement of the building lies at street

level and much of it is not counted as ground floor area. Though FAR limits do not apply for single family attached projects, the FAR of this project would be roughly 0.43. In total, the floor area proposed is 5,729 feet, and each unit will be roughly 1,881 square feet (excluding area in the garage and attic levels).

The dwelling units are arranged to be slightly staggered, such that front wall of the unit of the left is closer to the street than the middle unit, and the right unit is furthest from the street. Each unit will have an individual attached garage facing out on Jewett Place at the basement (street) level. Based on the architectural plans provided the left and right unit will have front doors facing Jewett Place on the first floor above the garage accessed via staircases, but the middle unit appears to have a side-facing main entrance. Planning staff suggest the petitioner consider orienting the front door for the middle unit to face the street to better match the residential character of the neighborhood. Each unit has a small porch and landscaped area on the front, and lawn and patio areas proposed at the rear of the building.

There is an existing retaining wall along the eastern property line that will be maintained. New retaining walls are proposed along the south and western lot lines, which will connect at the rear corner of the property. The wall along the western lot line reaches a maximum height of four feet. Because that section of wall is located within a setback, relief is required. The architectural plans indicate that landscaping will be installed along the eastern and western property lines and near each front entrance on Jewett Place. Fencing will be installed to enclose an area of lawn and patio associated with the unit on the right. The Planning Department requests that the petitioner provide a landscape plan or more detailed information about the landscaping proposed throughout the site including details about any tree removal and replacement on the site.

Proposed front elevation



Proposed rear elevation



C. Parking and Circulation

The petitioners own the entirety of the land at the end of Jewett Place. As proposed, part of the roadway at the end of Jewett Place will be absorbed into the subject parcel to provide access to the dwelling units. Three curb cuts are proposed to provide this access. Each unit will have a dedicated garage accessed via individual paved driveways, with the left and right units featuring one-bay garages and the middle unit with a two-bay garage. One surface parking stall measuring 9 by 19 feet is proposed at the very end of Jewett Place on the east side of the property, in front of the left unit. Because it is located within 20 feet of the northern and eastern lot lines, and the driveway runs along the northern lot line, special permit relief is required.

There is an increase of impervious areas of over 1,000 square feet proposed in this project, and it will disturb land that is currently in a natural vegetated state. The proposed paved driveway will have an area of 1,981 square feet, an increase of 1,354 square feet, and other impervious area in addition to the building itself will have an area of 1,722 square feet. Staff recommend the petitioner consider taking measures to reduce the large amount of new impervious area proposed. This could include the use of pervious pavers, removing some of the proposed parking, reconfiguring the driveway access, etc.

IV. Interdepartmental Review:

A. Historic Preservation Review

At a public hearing of the Newton Historical Commission held on November 17, 2022, a motion to preferably preserve the dwelling failed. The NHC has waived the demolition delay.

B. Engineering Review

The drainage plans associated with this petition are currently under review by the Associate City Engineer, John Daghlian. Should he note any missing data or issues or issues with conformance with the city's engineering design standards, a revised drainage report may be required before final building permit approval.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum

Attachment B: DRAFT Council order



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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Attachment A
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: September 5, 2023

To: Anthony Ciccarillo, Commissioner of Inspectional Services

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

Cc: Terrence P. Morris, Attorney
Nazzeno and Letizia Delicata, Applicant
Leo Delicata, Agent
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to allow three single-family attached dwellings

Applicant: Nazzeno and Letizia Delicata	
Site: 0 Jewett Place, 15-17 Jewett Place	SBL: 11025 0010 and 11025 0011
Zoning: MR2	Lot Area: 13,300 square feet
Current use: Two-family dwelling	Proposed use: Three single-family attached dwellings

BACKGROUND:

The subject site consists of 13,300 square feet in the MR2 zoning district. The lot was recently created after consolidating three parcels; two parcels on Jewett Place as well as a parcel which comprised the end of Jewett Place, a private way. As the petitioners owned the entirety of the end of the private way, the petitioners maintained enough of the way to establish adequate access and absorbed the rest of the land into the subject parcel. The site is improved with a two-family dwelling constructed circa 1880. The petitioners propose to demolish the existing dwelling and construct three single-family attached dwellings.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 7/25/2023
- Floor plans and elevations, prepared by MGD, architect, dated 5/15/2023
- Existing Conditions Site Plan, prepared by Spruhan Engineering, dated 8/16/2022
- Proposed Conditions Site Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 7/25/2023
 - North arrow is disoriented, points south

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to raze the existing two-family dwelling and construct three 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 15,000 square foot lot for single-family attached dwelling projects but allows for exceptions by special permit if the City Council determines that literal compliance is impractical, and an exception would be in the public interest. After combining the parcels, the resulting lot is 13,300 square feet. The petitioners seek a special permit to allow for a reduced lot area.
3. Section 3.2.4 requires a 25-foot rear setback unless an exception by special permit is granted by the City Council. The petitioners propose a rear setback of 14.8 feet, requiring a special permit.
4. There is an existing retaining wall along the eastern property line and new retaining walls are proposed along the south and western lot lines, connecting at the rear corner. The wall along the western lot line reaches a maximum height of four feet. Per section 5.4.2.B, a special permit is required for a retaining wall of four feet or more within a setback.
5. Per section 6.2.3.B.2, no parking space may be within 20 feet of a boundary line and no driveway may be located within 10 feet of a side or rear lot line, unless by special permit. The surface stall associated with the easternmost unit is located within 20 feet of the northern and eastern lot lines, and the driveway runs along the northern side lot line, requiring a special permit.

MR2 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	13,300 square feet	No change
Frontage	80 feet	80 feet	No change
Setbacks			
• Front	25 feet	27.5 feet	25.5 feet
• Side (east)	25 feet	11.6 feet	25.4 feet
• Side (west)	25 feet	99.7 feet	25.6 feet
• Side (north)	25 feet	Not applicable	± 45 feet
• Rear	25 feet	12.8 feet	14.8 feet*
Building Height	36 feet	32.9 feet	35.5 feet
Max Number of Stories	2.5 (3 by SP)	2.5	No change
Lot Coverage Max	25%	15.2%	24%
Open Space Min	50%	72%	53.4%
Lot Area Per Unit	4,000 square feet	6,650 square feet	4,433 square feet

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Requested Relief</i>	<i>Action Required</i>
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§5.4.2.B	To allow a retaining wall of four feet or higher in a setback	S.P. per §7.3.3
§6.2.3.B.2	To allow parking within 20 feet of a boundary line and a driveway within 10 feet of the side lot line	S.P. per §7.3.3

CITY OF NEWTONIN 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 three single-family attached dwellings with relief for reduced lot area, a reduced rear setback, to allow parking within 20 feet of a side lot line and a driveway within 10 feet of the side lot line, and to allow a retaining wall of four feet or higher within a setback 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 project as designed in the Multi Residence 2 district (MR-2) because it is a residential use in a residential district, and the neighborhood has existing structures with two-family and multifamily uses. (§7.3.3.C.1)
2. The proposed three single-family attached dwellings that require relief for reduced lot area, a reduced rear setback, parking within 20 feet of a side lot line, a driveway within 10 feet of the side lot line, and to allow a retaining wall of four feet or higher within a setback as designed will not adversely affect the neighborhood because the design will bring a nonconforming side setback into compliance and the proposed dwelling exceeds the lot area per unit required for single family attached dwellings. (§7.3.3.C.2)
3. The proposed residential project will not create a nuisance or serious hazard to vehicles or pedestrians because all parking will be contained on the site. (§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. Literal compliance with the required location of the parking and driveway on the site is impracticable due to the existing location of the driveway. (§5.1.13)
6. The site is an appropriate location for a retaining wall exceeding four feet in height within the side setback due to the grade the site. (§5.4.2.B and §7.3.3)

PETITION NUMBER: #318-23

PETITIONER: Nazzareno and Letizia Delicata

LOCATION: 0 Jewett Place and 15-17 Jewett Place, Ward 1, Newton, on land known as Section 11 Block 25 Lots 10 and 11, containing approximately 13,300 sq. ft.

OWNER: Leo J. Delicata

ADDRESS OF OWNER: 115 William Street
Portland, Maine 04103

TO BE USED FOR: Construction of three single-family attached residential units with a reduced lot area, a reduced rear setback, parking within 20 feet of a side lot line, a driveway within 10 feet of a side lot line, and a retaining wall of four feet or higher within a setback

RELIEF GRANTED: Special Permit per §7.3:

- To allow attached single-family dwellings (§3.4.1)
- To allow reduced lot area (§3.2.4)
- To allow reduced rear setback (§3.2.4)
- To allow parking within 20 feet of a side lot line and a driveway within 10 feet of the side lot line (§6.2.3.B.2)
- To allow a retaining wall of four feet or higher in a setback (5.4.2.B)

ZONING: Multi Residence 2 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. Site plan prepared by Spruhan Engineering signed and stamped by Christopher C. Charlton, Professional Engineer, Professional Land Surveyor, dated July 25, 2023.
 - b. A set of architectural drawings prepared by MGD+ LLC, unsigned and unstamped, dated May 15, 2023
 - i. "Architectural site plan (Sheet SD.02)
 - ii. "Front elevation" (Sheet SD.08)
 - iii. "Rear elevation" (Sheet SD.10)

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. All appliances and utilities for the building shall be all-electric, including heating and cooling.
6. 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. 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. 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.

7. 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 for the portion of the project for which occupancy is requested and the Petitioner has:
 - a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1, including the as built FAR.
 - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.
 - c. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
 - d. 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.
 - e. 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.
9. Provided that all other requirements in Condition #7 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).