



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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

**DATE:** February 1, 2024

**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 #79-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to amend the special permit to substitute a cash payment in lieu of providing the units at 136-144 Hancock Street

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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.



**136-144 Hancock Street**

## **Project Description**

### **Background**

In 2022 the petitioner obtained a special permit, SP#395-22 (**Attachment A**) and approval to rezone 136-144 Hancock Street (#394-22), containing approximately 58,492 square feet of land, from Single Residence 3 (SR-3) to Multi Residence 2 (MR-2). The approved project consists of 16 units in four buildings with 27 parking stalls. In 2023 the petitioner received approval to modify two of the conditions in SP#395-22. This amendment, SP#197-23 (**Attachment B**) modified the Vibration Control Condition and removed a condition related to accessibility that differed from the current standards required by the Massachusetts Architectural Access Board.

### **Amendment Request**

In accordance with the City's Inclusionary Zoning Ordinance, SP#395-22 requires the petitioner to provide two deed-restricted affordable housing units in the project that will be affordable to households earning 80% of the Area Median Income. The petitioner seeks to amend their special permit to substitute a cash payment in lieu of providing these affordable units, which is at the discretion of the City Council and subject to specific findings in accordance with §5.11.5 of the Zoning Ordinance.

The calculation of the cash payment under the Inclusionary Zoning Ordinance is determined based on the number of units in the proposed development and the current TDC (total development cost) for a new affordable unit. The Inclusionary Zoning Ordinance requires that 15% of this 16-unit development, or 2.4 units, must be affordable to households at or below 80% of the Area Median Income. According to the Cash Payment Calculation found in Sec. 5.11.5, the number of required units is multiplied by the City's current TDC of \$650,000<sup>1</sup>. Based on this calculation, the alternate payment amount for these affordable units is \$1,560,000. Condition #7 currently requires a fractional cash payment of \$260,000 based off of the inclusionary zoning provisions required in SP#394-22.

If approved, a revised condition requires an amendment to reflect that the petitioner will provide an increased cash payment of \$1,560,000 in total in lieu of providing two affordable units and a partial cash payment. Should this petition be approved, the project will remain 16 units in total, but the two units that would have been affordable will be market-rate.

As proposed, this amendment will also include the following changes to SP#395-22:

- Conditions 5, 6, 8, 9, 10 and 30.c, conditions related to the Inclusionary units, will be deleted in their entirety.

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<sup>1</sup> The average TDC per unit in Newton is recalculated by the Newton Housing Partnership and approved by the Director of Planning and Development no more than every three years. This was last calculated and approved in July 2022.

- Two conditions are erroneously labelled as #13. The second Condition #13 following Condition #31 will be amended by correcting the number and deleting e through h.
- The materials submitted indicates that the petitioner seeks to remove a condition in the special permit that requires a payment of \$88,973 for pedestrian and safety improvements in the vicinity of the project prior to the issuance of a building permit. This condition originated from a calculation of the 75% abatement of I&I funds which totaled \$177,946. This was later split with 50% going to the Affordable Housing Trust and 50% to fund pedestrian and safety improvements in the area. Planning does not support the elimination of 15.b. but would be amenable to changing the due date of the funds required in 15.b. with the release of occupancy for a percentage of the units. Planning will confer with the Law Department and provide more information at the hearing.

**Zoning Relief Requested**

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #395-22	S.P. per §7.3.3
§5.11.5.A.2	Request to allow a cash payment in lieu of providing two IZ units	S.P. per §7.3.3

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

**Standard of Review**

The City’s Zoning Ordinance states that City Council may grant a special permit allowing such a substitution of a cash payment to replace affordable units if they make a finding that there will be an unusual net benefit to achieving the City’s housing objectives as a result of allowing a cash payment rather than requiring the construction of the inclusionary units. These findings must include the following: consideration of the appropriateness of the development site location for income-eligible households, including proximity to and quality of public transportation, schools, and other services; the current balance of the Inclusionary Housing Fund<sup>2</sup>; and the purposes of the Inclusionary Zoning Ordinance. The Planning Department has attached a draft council order to this memorandum for when the time is appropriate.

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<sup>2</sup> As of February 1, 2024, Newton’s Affordable Housing Trust fund, which includes funding from the Community Preservation Act and Inclusionary Zoning cash payments, stands at \$2,030,822.50. According to 5.11.5(E) of Newton’s Inclusionary Zoning Ordinance, a cash payment made to the City’s IZ fund will be split equally between the City of Newton and the Newton Housing Authority.

**ATTACHMENTS:**

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

Middlesex South Registry of Deeds  
Electronically Recorded Document

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Recording Information

Document Number	: 12189
Document Type	: DECIS
Recorded Date	: February 02, 2023
Recorded Time	: 12:43:42 PM
Recorded Book and Page	: 81221 / 93
Number of Pages(including cover sheet)	: 17
Receipt Number	: 2888148
Recording Fee	: \$105.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

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#394-22

136-144 Hancock Street

CITY OF NEWTON

IN CITY COUNCIL

December 19, 2022

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

Section 30 of the Revised Ordinances of Newton, as amended, be and is hereby amended by amending sheets of plans entitled "City of Newton, Massachusetts, Amendments to Zoning Plans, adopted July 21, 1951, as amended from time to time," and the City of Newton Official Zoning Map as shown and maintained as part of the City's Geographic Information System (GIS), as amended from time to time, by changing certain boundaries from present zoning district as described below:

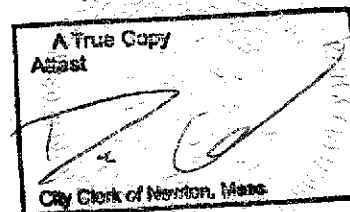
Change the following described real estate: all of the land located at 136-144 Hancock Street, also identified as Section 43 Block 31 Lots 01, currently zoned Single Residence 3 to Multi Residence 2, further described as follows:

Beginning at a point on the northerly side of Grove Street, said point being the northeasterly corner of the lot, the lot is bounded and described as follows:

- NORTHWESTERLY By land now of City of Newton, thirty-one and 26/100 (31.26) feet, as shown on said plan;
- SOUTHWESTERLY By land of said Newton on said plan, sixty-five feet (65) feet;
- NORTHWESTERLY By land of said Newton on said plan, thirty-eight and 97/100 (38.97) feet;
- NORTHWESTERLY By land of said Newton, eighty and eighty-nine (80.89) feet, as shown on said plan;
- NORTHWESTERLY By land of said Newton on said plan, ninety-eight and 34/100 (98.34) feet;
- NORTHWESTERLY By land of said Newton on said plan, fifty-three and 57/100 (53.57) feet;

Property Address: 136-144 Hancock Street, Newton

TITLE REF.: BOOK 5599 PAGE 293 (Deed)



SOUTHWESTERLY By Hancock Street, on said plan, sixty-five and 77/100 feet (65.77) feet;

SOUTHEASTERLY Along a curved line by Hancock Street two hundred forty-one and 26/100 (241.26) feet to a point located easterly along a curve to the left having a radius of fourteen and 81/100 feet, a length of twenty-seven and 64/100 feet, as shown in said plan; and

NORTHEASTERLY By Grove Street, four hundred (414.51) fourteen and 51/100 feet, to the point beginning.

Containing 58,492 square feet more or less. The zone change area is shown on a plan entitled "Plan of Land in Newton, Massachusetts showing area taken by city at #144 Hancock Street," dated November 18, 2021, VTP Associates, Land Surveyors - Civil Engineers, recorded with Middlesex South District Deeds as Plan No. 925 of 2021.

This change of zone Order accompanies Special Permit #395-22. The benefits of this change may only be exercised in accordance with the terms of such Special Permit #395-22, as defined therein.

To the extent any provision of this change of zone Order shall be deemed invalid or unenforceable, all remaining provisions shall remain in full force and effect regardless of such invalidity or unenforceability.

Under Suspension of Rules

Readings Waived and Extension of Time Approved

24 Yeas, 0 Nays

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on December 21, 2022. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

*[Signature]*  
~~(SGD) CAROL MOORE~~

ASSISTANT Clerk of the City Council



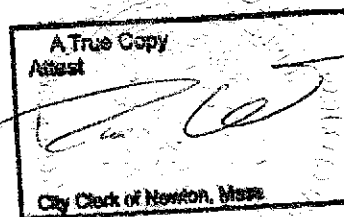
I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on December 21, 2022 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) CAROL MOORE

ASSISTANT Clerk of the City Council





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#395-22  
136-144 Hancock Street

CITY OF NEWTON

IN CITY COUNCIL

CITY CLERK  
NEWTON, MA 02459


December 19, 2022

ORDERED:

That the 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 a SPECIAL PERMIT/SITE PLAN APPROVAL to: allow multi-family dwellings ; allow single-family attached dwellings; allow a reduced rear setback; allow reduced lot area per unit; alter and extend a nonconforming side setback; waive 5 parking stalls; waive perimeter screening requirements; waive lighting requirements, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site in a Multi Residence 2 zoning district is an appropriate location for the proposed development as designed with 12 units with multi-family dwellings and four attached single-family dwellings in two structures and a reduced rear setback and a reduced lot area per unit as the development would preserve existing structures and create additional multifamily dwellings. (§7.3.3.C.1)
2. The proposed development as designed with 12 units with multi-family dwellings and four attached single-family dwellings in two structures and a reduced rear setback and a reduced lot area per unit as developed and operated will not adversely affect the neighborhood as the development would preserve existing structures and create additional multifamily dwellings. (§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. The site planning building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy project is designed to meet LEED Silver certifiability. (§7.3.3.C.5)
6. The proposed altered and extended nonconforming side setback would not be substantially more detrimental than the existing nonconforming use to the

A True Copy  
Attest



City Clerk of Newton, Mass.

neighborhood. §7.8.2.C.2)

7. Granting exceptions to literal compliance with certain parking requirements of the Newton Zoning Ordinance regarding the number of required parking stalls, perimeter screening requirements, and lighting, would be in the public interest as it would reduce the amount of paved surface and allowing the Petitioner to provide lower levels of lighting will benefit the nearby residential area. (§5.1.13)
8. In accordance with Section 29-169 of the Revised Ordinances of Newton, Massachusetts, 2017 (the "Revised Ordinances"), the Council finds there is good cause, based on recommendations from the City Engineer and the Director of Planning and Development and in part on other mitigation and community benefits offered by the Petitioner, to waive 75% of the infiltration/inflow calculation for the Project.

PETITION NUMBER: #395-22

PETITIONERS: Walker Center for Ecumenical Exchange

ADDRESS OF PETITIONER: 144 Hancock Street  
Auburndale, MA 02466

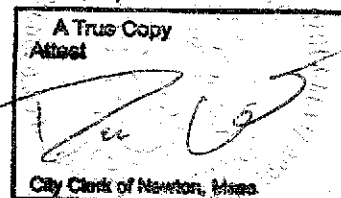
LOCATION: 136-144 Hancock Street, on land known as Section 43 Block 31 Lots 01, containing approximately 58,492 sq. ft.

OWNER: Walker Center for Ecumenical Exchange

ADDRESS OF OWNER: 144 Hancock Street  
Auburndale, MA 02466

TO BE USED FOR: 16 residential units in four buildings and 27 parking stalls

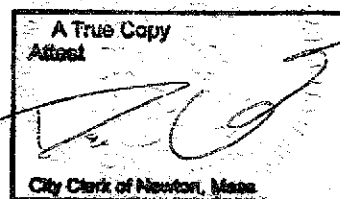
- EXPLANATORY NOTES:
- Special permit per §7.3.3 to
    - allow multi-family dwellings (§3.4.1)
    - allow single-family attached dwellings (§3.4.1)
    - allow a reduced rear setback (§3.2.4)
    - allow reduced lot area per unit (§3.2.4)
    - alter and extend a nonconforming side setback (§4.1.3, §7.8.2.C.2)
    - waive 5 parking stalls (§5.1.4, §5.1.13)
    - waive perimeter screening requirements (§5.1.9.A.1.ii, §5.1.13)
    - waive lighting requirements (§5.1.10.A, §5.1.13)



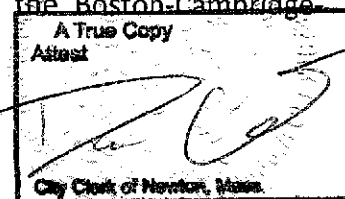
ZONING: Multi Residence 2 (MR2)

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 (collectively, the "Approved Plans"):
  - a. A site plan entitled "Zoning Plan, Newton, Massachusetts, Showing Proposed Conditions at 169 Grove Street and 144 Hancock Street," dated May 4, 2022, as revised through October 20, 2022, signed and stamped by Joseph R. Porter, Professional Land Surveyor (Sheet 1 of 3)
  - b. Architectural Plans entitled, "Civico Development, Grove Street Townhomes, Newton, MA 02446, prepared by Sustainable Comfort, dated August 19, 2022, consisting of the following sheets:
    - Material Palette (TSK0.1)
    - Building 1 Elevations (TSK2.0)
    - Building 1 Elevations (TSK2.1)
    - Building 2 Elevations (TSK2.2)
    - Building 2 Elevations (TSK2.3)
    - Street View Elevations (TSK2.4)
  - c. Architectural Plans entitled, "Civico Development, Grove Street Townhomes, Newton, MA 02446, prepared by Sustainable Comfort, dated August 31, 2022, consisting of the following sheets:
    - Basement (TSK1.0)
    - First Floor (TSK1.1)
    - Second Floor (TSK1.2)
    - Third Floor (TSK1.3)
  - d. Architectural Plans entitled, "Civico Development, 138 Hancock St- Barton House, Newton MA 02446," prepared by Sustainable Comfort, dated August 19, 2022, consisting of the following sheets:
    - Material Palette (BSK0.1)
    - West Elevation (BSK2.0)
    - North Elevation (BSK2.1)
    - South Elevation (BSK2.2)
    - Northeast Elevation (BSK2.3)
    - Southwest Elevation (BSK2.4)
    - Southeast Elevation (BSK2.5)
  - e. Architectural Plans entitled, "Newton, MA 02446, 138 Hancock St- Barton House," prepared by Sustainable Comfort, dated June 10, 2022, consisting of the following sheet
    - Barton Units Square Footage

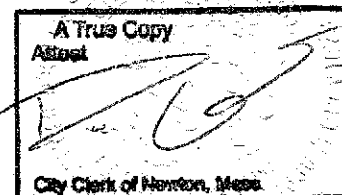


- f. Architectural Plans entitled, "Civico Development, 144 Hancock St- Walker House, Newton MA 02446," prepared by Sustainable Comfort, dated August 19, 2022, consisting of the following sheets:
- Material Palette (WSK0.1)
  - West Elevation (WSK2.0)
  - South Elevation (BSK2.1)
  - East Elevation (BSK2.2)
  - Southeast Elevation (BSK2.3)
  - Northeast Elevation (BSK2.4)
  - Northwest Elevation (BSK2.5)
  - Northeast Elevation (BSK2.6)
- g. Architectural Plans entitled, "Civico Development, 144 Hancock St- Walker House, Newton, MA 02446, prepared by Sustainable Comfort, dated August 31, 2022, consisting of the following sheets:
- Ground Floor Plan (WSK4.0)
  - First Floor Plan (WSK4.1)
  - Second Floor Plan (WSK4.2)
  - Third Floor Plan (WSK4.3)
- h. Landscaping plans entitled "Civico Development, 138-144 Hancock and Grove Street," prepared by Ryan Associates, dated October 10, 2022, consisting of the following sheets:
- Site Plan
  - Planting Plan
2. All residential units shall conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. The design and construction of the site and proposed structure shall comply with MAAB regulations and the Fair Housing Act.
3. The Petitioner shall retain a qualified accessibility consultant, not directly or indirectly affiliated with Petitioner, to independently review the building permit plans for compliance with MAAB requirements. The Petitioner shall submit the consultant's qualifications to the Inspectional Services Department. Prior to the issuance of a building permit, the consultant shall submit a report to the Inspectional Services Department detailing compliance with MAAB and identifying any variances needed.
4. Prior to the issuance of a certificate of occupancy, the Petitioner's accessibility consultant shall submit reports certifying the construction complies with MAAB and identifying any variances granted.
5. The Project shall contain 16 dwelling units. In accordance with the City's Inclusionary Zoning Ordinance, §5.11.4, the Project shall include two (2) affordable housing units (the "Inclusionary Units"), as follows:
- a. Two (2) of the residential units in the Project shall be affordable to households earning up to 80% of AMI, as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge

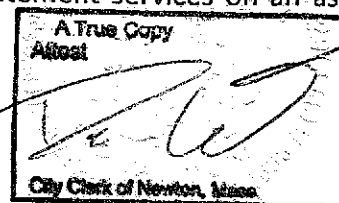


## Quincy, MA-NH HMFA ("Tier 1 Units").

6. The Petitioner, the Project, and the Inclusionary Units shall comply with all applicable provisions of the City's Inclusionary Zoning Ordinance, §5.11, in effect as of the date of this Special Permit/Site Plan Approval, regardless of whether such requirements are set forth herein.
7. The Petitioner shall provide a fractional cash payment of \$260,000 in accordance with the City's Zoning Ordinance, §5.11, prior to the issuance of any certificate of occupancy.
8. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall provide an updated Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan (AFHMP) for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the City of Newton Zoning Ordinance. The Inclusionary Housing Plan and Affirmative Fair Housing Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.8. of the Inclusionary Zoning Ordinance. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.
9. Prior to the issuance of any temporary or final occupancy certificates, the Petitioner, the City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Tier 1 Inclusionary Units in perpetuity.
10. Prior to the issuance of any temporary or final occupancy certificates, the Petitioner and the City will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Tier 1 Inclusionary Units in perpetuity.
11. No dwelling unit shall be constructed to contain or be marketed and/or sold as containing more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1.
12. Any guest suites or temporary housing that meet the definition of a dwelling unit under the zoning ordinance shall be counted as a dwelling unit for purposes of calculating the Project's inclusionary zoning requirement.
13. The Petitioner shall be responsible at its sole cost for trash and recycling disposal for the Project which shall comply with the City's Noise Control Ordinance.
14. The Petitioner shall make payments in the aggregate amount of \$59,316 to the City for infrastructure improvements for inflow and infiltration (I&I) in accordance with Section 29-169 of the Revised Ordinances. Payments shall be made as follows:
  - a. \$29,658 at the issuance of any building permit for the Project.
  - b. \$29,658 at the issuance of any certificate of occupancy (temporary or final) for the Project

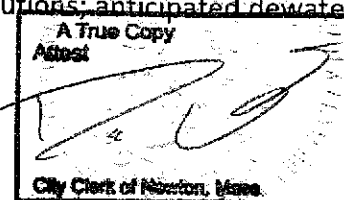


15. Prior the issuance of any building permit the Petitioner shall make a following payments:
  - a. \$88,973 to the Newton Affordable Housing Trust to support the creation and preservation of affordable housing in Newton.
  - b. \$88,973 toward pedestrian and safety improvements in the immediate vicinity of the area. This payment shall be made to a municipal account dedicated to such improvements and funds from the account shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law.
16. The Petitioner shall implement a Transportation Demand Management Plan to reduce vehicle trips to the site. The Plan shall include, but not be limited to providing secure bike racks and on-site bicycle storage.
17. 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. 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.
18. The Petitioner shall do the following to remediate pest and rodent activity:
  - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
  - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
  - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
  - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction assessment of the site and the neighborhood.
  - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as



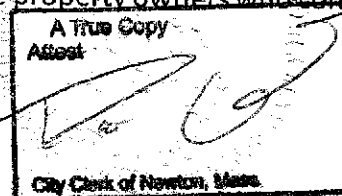
needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.

19. All construction activity shall be limited to 7:00AM-5:00PM Monday through Friday and 8:00AM-4:00PM on Saturdays, excluding holidays, unless waived by the Mayor in accordance with Revised Ordinances, §20-13.
20. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
  - a. 24-hour contact information for the general contractor.
  - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing and erosion control. All construction material deliveries shall be made on-site and no construction vehicles shall be parked on Hancock Street or Grove Street.
  - d. Proposed truck routes that minimize travel on local streets. All materials delivered via interstate highway shall use the exit closest to the site so as to minimize use of local roads for such purpose.
  - e. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy
  - f. 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.
  - g. 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.
  - h. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
  - i. The CMP shall also address the following: safety precautions; anticipated dewatering



during construction; site safety and stability; and impacts on abutting properties.

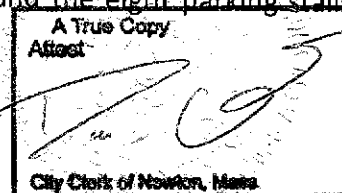
21. The Applicant shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
22. The Petitioner shall be responsible for repairing any damage to public ways and public property caused by construction activities or any construction vehicles traveling to or from the site. All repair work shall be done prior to the issuance of the final certificate of occupancy, unless the Commissioner of Public Works determines either: (a) that the damage to the public way is so extensive that it limits the use of the public way; (b) that the damage interferes with traffic flow; or (c) that the damage poses a threat to public safety. In such cases, the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
23. Prior to the issuance of any building permit for the Project, the Petitioner shall provide a Final Site Plan (which shall indicate the location of adequate snow storage area(s) or identify a suitable alternative for snow removal) for review and approval by the Department of Planning and Development, the Engineering Division of Public Works and the Fire Department.
24. The Petitioner, at its sole cost and expense, shall locate all utility lines servicing the Project from the right of way underground and shall also locate all utility service lines within the property underground.
25. The Petitioner shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment:
  - a. Prior to the issuance of any demolition, foundation or building permit, the Petitioner shall conduct a pre-construction survey of all buildings and structures within 250 feet of the Project (as measured from the Project's property lines) for which the owner of the building or structure has granted approval at no charge to the owners. The survey must include photos taken both inside and outside prior to construction to set a baseline of existing conditions. Copies of the survey and photos shall be provided to owners.
  - b. Prior to the issuance of any demolition permit, foundation or building permit, the Petitioner shall establish a \$100,000 vibration mitigation fund (or other security in a form satisfactory to the City Solicitor).
  - c. If a property owner has consented to a pre- and post- construction survey as set forth in this condition and the property owner believes its buildings or structures have suffered damage due to vibration impacts from the Project, the property owner may make a claim to the vibration mitigation fund by submitting its claim, along with supporting documentation and photographs, to an independent third party hired and paid for by the Petitioner, subject to review and approval by the City Solicitor, for the independent third party's review. Notice shall be provided to such private property owners on how to make a claim for damages. Only those property owners who consent





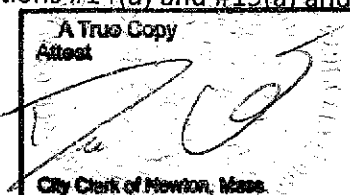
to a pre-construction survey as set forth above shall be eligible to make a claim to the vibration mitigation fund. If a claim is approved by the independent third party, property owners receiving payment from the mitigation fund must sign a release of claims as a condition to the receipt of such payment. In lieu of seeking payment from the vibration mitigation fund, a property owner may pursue a claim for damages for any amount through private action.

- d. The Petitioner shall engage a qualified professional to develop and prepare a vibration control plan demonstrating the following:
    - i. Measurements of static ground vibration prior to construction.
    - ii. Vibration level limits for demolition and construction activities based on building conditions and soil conditions. The limit should be determined using industry standards, provided that vibration level limits shall not exceed .50 peak particle velocity (PPV) at the property line of the Project.
  - e. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.
  - f. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
  - g. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.
  - h. The Petitioner shall submit the vibration control plan to the Commissioner of Inspectional Services for review and approval prior to the issuance of any demolition, foundation or building permit.
  - i. The Petitioner shall implement the approved vibration control plan. Vibration levels shall be regularly monitored during demolition and construction. The Petitioner shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
  - j. All work shall be performed within the vibration level limits established by the vibration control plan. If the vibration limit is exceeded, the construction activity causing the vibration shall cease and not resume until mitigation measures are implemented and notice is provided to the Commissioner of Inspectional Services.
  - k. The Petitioner shall provide written notice to all property owners within 250 feet of the Project 48 hours prior to vibration-related activity that includes an explanation of the proposed activity, address of the site, date and time of the work, and contact information of the contractor overseeing the work.
  - l. Following construction, the Petitioner shall re-inspect all homes, with approval of the owners, subject to the pre-construction survey to determine any damages caused by vibration. The Petitioner shall maintain records of all complaints it receives for vibration-related damages. All claims submitted to the mitigation fund shall be fully administered prior to the issuance of the final certificate of occupancy for the Project. Any monies remaining in the fund upon issuance of the final certificate of occupancy shall be retained by the Petitioner.
26. All 27 parking stalls (garaged and surface) shall be "EV ready" and the eight parking stalls

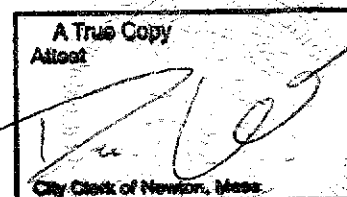


located in the townhouse component of the development shall have electric charging stations installed.

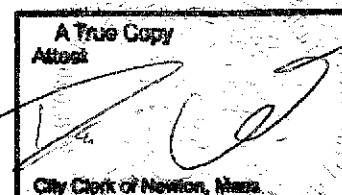
27. All buildings shall be designed and constructed to achieve LEED Silver Certifiability in accordance with the Sustainable Development Requirements set forth in Section 5.13.4 of the Zoning Ordinance. Further, the development shall be constructed and operated consistent with the provisions of a document entitled "136-144 Hancock Street & 169 Grove Street, Newton, MA - Energy Narrative," prepared by Sustainable Comfort, Inc., dated October 26, 2022, on file with the City Clerk's Office and the Department of Planning and Development.
28. Prior to issuance of a building permit, the Petitioner shall submit to the Planning Department the following:
- An updated Rating System Checklist enumerating the criteria set forth in the applicable green building rating system and indicating which technical and design requirements will be met in the green building project design and the resulting rating level of the project.
  - An updated Rating System Narrative describing the technical and design elements of the project that will be utilized to achieve compliance with the applicable green building rating system.
  - An updated Energy Narrative, describing the energy efficiency, renewable energy, and other technical and design elements of the project that serve to minimize energy use, make use of renewable energy sources, and demonstrate how close the project is to achieving net zero energy use status.
  - A document demonstrating the credentials of the project's designated green building professional.
  - An affidavit signed by the green building professional stating that he/she/it has reviewed all relevant documents and that to the best of he/her/its knowledge, the documents provided indicate that the project is being designed to achieve LEED Silver Certifiability.
  - The credentials of the project's green commissioning agent.
29. 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.
30. No building permit (other than a demolition permit) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
- 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.
  - Submitted the payments required in accordance with Conditions #14(a) and #15(a) and (b).



- c. Submitted an Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development in accordance with this Order, and §5.11.8 of the Zoning Ordinance.
  - d. 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.
  - e. 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.
  - f. 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.
  - g. Received approval for the vibration control plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
  - h. Submitted a LEED Checklist prepared and certified by a LEED Accredited Professional to the Director of Planning and Development, indicating which points the building intends to realize to demonstrate LEED certifiability at the Silver Level.
31. Prior to certificate of occupancy, the Petitioner shall submit to the Planning Department any updates to the above referenced documents along with the following:
- a. An affidavit certifying that the pre-construction commissioning process requirements of LEED Silver have been met and that the post-construction commissioning process requirements of Section 5.13 of the Zoning Ordinance were included in the scope of work and will be met, including a schedule of when each commissioning requirement was or will be met.
  - b. Credentials of the project's accredited Green Building Professional and an affidavit signed by that professional stating that he/her/it have reviewed all relevant documents and that to the best of their knowledge, the documents provided indicate that the project was built to achieve the requirements of Section 5.13 of the Zoning Ordinance.
  - c. Credentials of the project's accredited Green Building Professional and an affidavit signed by that professional stating that he/she/it has reviewed all relevant documents and that to the best of his/her/its knowledge, the documents provided indicate that the project was built to achieve meet the metrics of LEED Silver certification for the buildings.
13. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:



- a. Filed with the building permit record statements by a registered architect and a professional land surveyor certifying compliance with Condition #1, including the as built FAR.
  - c. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor.
  - d. Filed with the building permit record a statement by a registered landscape architect certifying compliance with the landscape plan referenced Condition #1.
  - e. Submitted the payments required in Condition #14(b)
  - f. Submitted to the Law Department copies of a fully executed Regulatory Agreement and Affordable Housing Restriction in accordance with this Order.
  - g. Provided evidence satisfactory to the Law Department that the Regulatory Agreements have been recorded at the Southern Middlesex District Registry of Deeds.
  - h. Inclusionary Units shall be completed and occupied no later than the completion and occupancy of the market-rate units. If the Inclusionary Units are not completed as required within that time, temporary and final certificates of occupancy may not be granted for the number of market-rate units equal to the number of Inclusionary Units that have not been completed.
  - i. 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.
  - j. 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.
  - k. Filed with the Department of Inspectional Services and the Department of Planning and Development a certificate from a licensed architect certifying that: (i) all dwelling units in the building for which a certificate of occupancy is requested have been constructed and conform with MAAB requirements for "Group 1" units.
  - l. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that utilities have been located underground for the portions of the Project for which a certificate of occupancy is requested to the extent required by this Order.
  - m. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that the criteria for LEED Silver level of construction of the subject building have been satisfied.
32. 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.



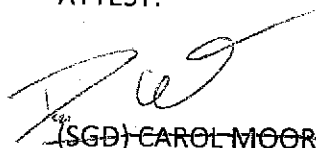
Under Suspension of Rules

Readings Waived and Extension of Time Approved

24 Yeas, 0 Nays

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on December 21, 2022. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

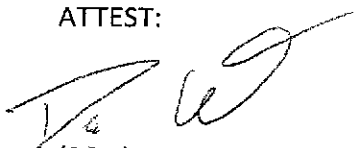


~~(SGD) CAROL MOORE~~

ASSISTANT Clerk of the City Council

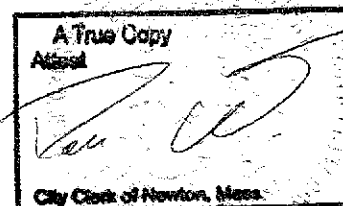
I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on December 21, 2022 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



~~(SGD) CAROL MOORE~~

ASSISTANT Clerk of the City Council



Middlesex South Registry of Deeds  
Electronically Recorded Document

This is the first page of the document - Do not remove

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Recording Information

Document Number	: 100680
Document Type	: DECIS
Recorded Date	: September 06, 2023
Recorded Time	: 02:10:09 PM
Recorded Book and Page	: 81968 / 557
Number of Pages(including cover sheet)	: 5
Receipt Number	: 2939152
Recording Fee	: \$105.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

RECEIVED

2023 AUG 16 PM 2: 30

CITY CLERK  
NEWTON, MA. 02450

CITY OF NEWTON

IN CITY COUNCIL

August 14, 2023

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, 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 amend Council Order #395-22, which allowed 16 dwelling units in four buildings with dimensional relief and parking relief to alter conditions concerning vibration control during construction and accessibility as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof.

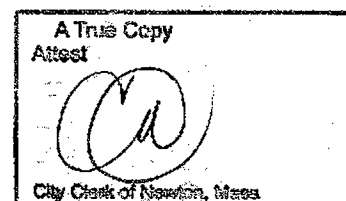
1. The specific site is an appropriate location for the amendment to Council Order #395-22 that alters the Vibration Control condition. (§7.3.3.C.1)
2. The specific site is an appropriate location for the amendment to Council Order #395-22 that eliminates the condition around Group 1 units as it was applied erroneously. (§7.3.3.C.1)
3. The amendments to Council Order #395-22 will not adversely affect the surrounding neighborhood because no changes to the project are proposed. (§7.3.3.C.2)
4. The amendment to Council Order #395-22 will not create a 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 because no changes are proposed to the site. (§7.3.3.C.4)

PETITION NUMBER: #197-23

PETITIONER: Walker Center for Ecumenical Exchange

Property Address: 136-144 Hancock Street, Newton 02466

TITLE REF.: BOOK 81221 PAGE 93 (Decision)



LOCATION: 136-144 Hancock Street, on land known as SBL 43, 31, 1, and 43, 31, 16 containing approximately 58,492 square feet of land

OWNER: Walker Center for Ecumenical Exchange

ADDRESS OF OWNER: 144 Hancock Street  
Newton, MA 02466

TO BE USED FOR: 16 dwelling units in 4 buildings and 27 parking stalls

EXPLANATORY NOTES: Amendment to Council Order #395-22

ZONING: Multi Residence 2

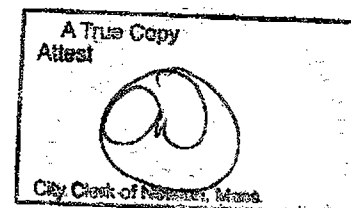
Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #395-22 by altering or eliminating Conditions 2 and 25 as set forth below. All other conditions of Council Order #395-22 remain in full force and effect except as modified below.

1. Condition #2 shall be eliminated.
2. Condition #25 shall be replaced in its entirety with the following language:

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:
  1. 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.
  2. Proof of notice to all properties within such scope that a preconstruction survey was offered at no cost to the property owner.
  3. A list of all properties that were surveyed.





- 4. 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.
- b. 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.
- c. 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.
- d. 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.

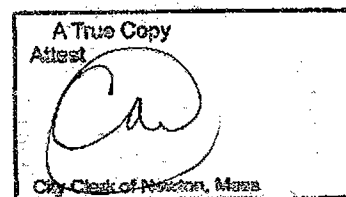
In the event the City subsequently adopts an Ordinance that governs the vibration impacts of construction and such ordinance is applicable to this Project and in effect prior to the issuance of a building permit, that Ordinance in its entirety shall apply to this special permit in place of this condition.

**Under Suspension of Rules**

Readings Waived and Extension of Time Approved

23 yeas 0 nays 1 absent (Councilor Bowman)

The undersigned hereby certifies that the foregoing copy of the decision of the Newton City Council granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the City Clerk on August 16, 2023. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.



ATTEST:



(SGD) CAROL MOORE

Clerk of the City Council

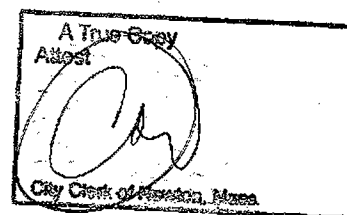
I, Carol Moore, as the Clerk of the City Council and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that twenty days have elapsed since the filing of the foregoing decision of the Newton City Council in the Office of the City Clerk on August 16, 2023 and that NO APPEAL of said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) CAROL MOORE

Clerk of the City Council





Ruthanne Fuller  
Mayor

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

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(617) 796-1089  
www.newtonma.gov

**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: January 5, 2024

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Terrence P. Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to amend Special Permit #395-22 to allow for a cash payment in lieu of providing 12 units**

Applicant: Terence P. Morris	
Site: 136-144 Hancock Street	SBL: 43031 0001
Zoning: MR2	Lot Area: 58,492 square feet
Current use: Under construction	Proposed use: 16 residential units in four buildings

### BACKGROUND:

The subject site consists of two lots totaling 58,492 square feet at the corner of Grove and Hancock Streets and is improved with multiple buildings constructed between 1850 and 1957. The petitioner was granted a special permit in 2022 to construct 16 residential units, of which two units were designated as “affordable units” to meet the inclusionary zoning requirements. The petitioner seeks to amend the special permit to substitute a cash payment in lieu of providing the units.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, dated 12/28/2023
- Proposed Conditions Plan, prepared by VTP, surveyor, dated 5/4/2022, revised 7/29/2023, 9/15/2023, 9/27/2023, 10/20/2023
- Special permits #395-22 and #197-23
- Description of proposed changes, prepared by Terrence P. Morris, attorney, submitted 12/28/2023

**ADMINISTRATIVE DETERMINATIONS:**

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1. The petitioner was granted a special permit to convert two existing buildings and construct two new buildings to accommodate 16 residential units. Per section 5.11.4, two of the units were required to be made affordable to 80% area median income. The petitioner seeks to amend the special permit to allow for a cash payment in lieu of constructing the two inclusionary units. Per section 5.11.5.A the City Council may grant a special permit upon making a finding that there will be an unusual net benefit to achieving the City's housing objectives as a result of allowing a cash payment rather than requiring the construction of the inclusionary units.

The proposed amendment requires elimination and/or modifications to several conditions of the special permit. Conditions 5, 6, 8, 9, 10 and 30.c are to be deleted in their entirety. The existing special permit erroneously lists two conditions as #13. The second Condition #13 following Condition #31 is to be amended by deleting e through h.

Condition #7 currently requires a fractional cash payment. This condition requires amendment to reflect that the petitioner will provide a cash payment as determined by the formula set forth in section 5.11.5.B.

The petitioner seeks to amend Condition 30.b by deleting the requirement for accordance with Condition 15.b.

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #395-22	S.P. per §7.3.3
§5.11.5.A.2	Request to allow a cash payment in lieu of providing two IZ units	S.P. per §7.3.3

CITY OF NEWTON  
IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the Site, as defined below, 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 amend Council Order #395-22, which allowed 16 dwelling units in four buildings with dimensional relief and parking relief, to allow for a cash payment in lieu of providing two affordable units as recommended by the Land Use Committee for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley.

1. The specific site is an appropriate location for the amendments to Council Order #395-22. (§7.3.3.C.1)
2. The amendments to Council Order #395-22 will not adversely affect the surrounding neighborhood. (§7.3.3.C.2)
3. The amendments to Council Order #395-22 will not create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. There will be an unusual net benefit to achieving the City's housing objectives as a result of allowing a cash payment rather than requiring the development of Inclusionary Units. (§5.11.5.A.2)

PETITION NUMBER: #79-24

PETITIONER: Walker Center for Ecumenical Exchange

LOCATION: 136-144 Hancock Street, on land known as SBL 43, 31, 1, and 43, 31, 16 containing approximately 58,492 square feet of land

OWNER: Walker Center for Ecumenical Exchange

ADDRESS OF OWNER: 144 Hancock Street  
Newton, MA 02466

TO BE USED FOR: 16 dwelling units in 4 buildings and 27 parking stalls

EXPLANATORY NOTES: Amendment to Council Order #395-22

ZONING: Multi Residence 2

Approved subject to the following Conditions.

This Special Permit/Site Plan Approval amends Council Order #395-22 by altering or eliminating Conditions 5, 6, 7, 8, 9, 10, 1, 30, 31, and 32. All other conditions of Council Order #395-22 and #197-23 remain in full force and effect except as modified below.

1. Conditions 5, 6, 8, 9, 10 shall be deleted in their entirety.
2. Condition 7 shall be deleted and replaced with the following: "The Petitioner shall provide a fractional cash payment of \$1,560,000 in accordance with the City's Zoning Ordinance, §5.11, prior to the issuance of any certificate of occupancy."
3. Condition 31.b shall be revised to read "Submitted the payments required in accordance with conditions #7, #15.a and #15.b"
4. Condition 31.c is to be deleted in their entirety.
5. Condition 32 shall be modified by deleting e through h.
6. Condition #7 shall be modified as follows: "The Petitioner shall provide a fractional cash payment of \$1,560,000 in accordance with the City's Zoning Ordinance, §5.11, prior to the issuance of any certificate of occupancy."
7. Condition 15.b. shall be modified to allow the payment at certificate of occupancy of the eighth unit.