Land Use Committee Report

City of Newton
In City Council

Thursday, March 5, 2020

Present: Councilors Lipof (Chair), Kelley, Greenberg, Markiewicz, Laredo, Auchincloss, Bowman

Absent: Councilors Downs

Also Present: Councilors Norton, Albright, Leary, Malakie, Crossley, Wright

City Staff Present: Deputy Director of Planning & Development Jennifer Caira, Chief Planner Neil Cronin, Planning Associate Katie Whewell, Associate City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at http://www.newtonma.gov/gov/aldermen/special_permits/current_special_permits.asp. Presentations for each project can be found at the end of this report.

#26-20 **Request to Rezone Approximately 4.4 acres to MU-3 to Create a Contiguous MU-3 Zone**
MD 399 GROVE OWNER, LLC/RAMIREZ CONCORD, LLC/BH NORMANDY RIVERSIDE, LLC/MASSACHUSETTS BAY TRANSPORTATION AUTHORITY petition for a change of zone to Mixed Use 3/Transit Oriented District for portions of land located at 355 Grove Street (currently zoned BU-2) and 399 Grove Street (currently zoned BU-5), also identified as Section 42, Block 11, Lots 3, 4, and 4A, abutting the existing MU-3 Zone.

Action: **Land Use Held 7-0; Public Hearing Continued**

#27-20 **Petition to allow Mixed Use Transit Oriented Development at Riverside Station**
MD 399 GROVE OWNER, LLC/RAMIREZ CONCORD, LLC/BH NORMANDY RIVERSIDE, LLC/MASSACHUSETTS BAY TRANSPORTATION AUTHORITY petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a mixed use, transit-oriented development of residential units, office, retail, personal services, restaurant, hotel, and related commercial uses not to exceed 1,025,000 square feet of gross floor area, with residential uses comprising not less than 60% of the total gross floor area with a residential density of not less than 800 square feet per unit with not less than 560 units nor more than 620 units with special permit relief and/or waivers as follows: as to dimensional standards, a development of more than 20,000 square feet of gross floor area, building height of up to 170 feet, buildings up to 11 stories, Floor Area Ratio of up to 2.5, beneficial open space of not less than 15%, increase of height of certain buildings with the Grove Street Area Corridor (to the extent necessary), and reduction in setback from Grove Street for certain buildings within the Grove Street Corridor Area (to the extent necessary); as to design standards, waiver of the sustainable development design standards and placement of a retaining wall greater than 4 feet in height located in a setback; as to uses, for-profit educational use, retail sales of over 5,000 square feet, restaurant with more than 5,000

square feet of gross floor area, personal service use of over 5,000 square feet, place of amusement, health club on ground floor, animal services, hotel, bank up to and over 5,000 square feet, theatre/hall, laboratory/research facility, parking facility, accessory, multi-level, parking facility, non-accessory, single level; as to parking, reduction of the residential parking requirement to 1.25 stalls per unit, reduction of the overall commercial parking requirement by 1/3, and waiver of parking stalls not to exceed 685 stalls, above and beyond the reductions specified above; as to parking facilities, waivers of the parking stall dimension requirements, the end stall maneuvering space requirements, the driveway entrance and exit requirements, the 5% interior landscaping requirements, the interior planting area requirements, the tree requirements, the bumper overhang requirements, the one-foot candle lighting requirement, the parking stall striping requirements (to the extent necessary), the curbing, wheel stop, guard rail, or bollard requirements, and the number of off-street loading facilities requirements; and as to signage, waiver of the number, size, type, location, and design requirements, all at 355 and 399 GROVE STREET on land known as Section 42, Block 11, Lots 3, 4 and 4A, containing approximately 13.05 acres of land in districts zoned Mixed Use 3 Transit Oriented (MU3), BU2 (a portion to be rezoned to MU3), BU5 (to be rezoned to MU3). Ref: Sec. 4.2.2.B.1, 4.2.2.B.3, 4.2.3, 4.2.4, 4.2.4.A.4, 4.2.4.B.3, 4.2.4.G.2, 4.4.1, 5.1.4, 5.1.4.A, 5.1.4.C, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.4, 5.1.8.B.6, 5.1.8.D.1, 5.1.8.D.2, 5.1.9.B.1, 5.1.9.B.2, 5.1.9.B.3, 5.1.9.B.4, 5.1.10.A.1, 5.1.10.B.3, 5.1.10.B.5, 5.1.12, 5.1.12.B.4, 5.1.13, 5.2, 5.2.13, 5.4.2.B, 5.12, 6.4.29.C.5, 7.3.3, 7.3.5, 7.4 of the City of Newton Revised Zoning Ordinance, 2017. Additionally, as to infiltration and inflow mitigation, an abatement of the infiltration/inflow mitigation fee pursuant to Section 29-170 of the City of Newton Revised Zoning Ordinance, 2017.

Action: **Land Use Held 7-0; Public Hearing Continued**

Note: Steve Buchbinder, offices of Schlesinger and Buchbinder, Walnut Street, represented the petitioner. The presentation, attached, presented details of the petitioner's proposals with regard to Stormwater and Sustainability.

Rich Holworth, Registered Professional Engineer presented an overview of the proposed stormwater improvements at the Riverside site. He noted that the petitioner has worked with the MWRA, City of Newton, MBTA, Mass DOT, DCR, Charles River Watershed Association and has conducted several field investigations. He stated that the site design has been guided by the efforts to protect existing natural resources, comprehensive soil erosion control, and enhancement of the water quality. Mr. Holworth explained that the Riverside site was originally mined for gravel and developed to support the MBTA train, the Hotel Indigo and parking. The site, within the Charles River Watershed discharges water runoff directly into the Charles River Basin. The site slopes along Grove Street toward the Hotel Indigo and very little stormwater controls are provided for on site. The proposed development of the site provides multiple improvements, including relocation of MWRA water main that bisects the site, preservation of the 60" diameter City of Newton storm Drain, removal of the overhead wires along Grove Street and implementation of a comprehensive stormwater management system and green infrastructure improvements. Mr. Holworth noted that the MWRA has expressed support for the relocation of the aging infrastructure.

Mr. Holworth stated that the replacement of large paved areas with buildings and open spaces will decrease the sediment load and the heat island effect. A large subsurface recharge system beneath the garage will help to reduce the peak rate of runoff. Best management practices for the site include permeable paving and sidewalks, rainwater harvesting, tree-ways with permeable paving, continuous tree trenches along Grove Street and Recreation Road, a green roof on building 3 and rain gardens and under consideration are bio retention areas along Route 128/the transit green/behind building 1.

New Ecology Project Manager Tom Chase presented an overview of the petitioner's sustainable development goals and commitments. At this time the petitioner has committed to achieving LEED Certifiability at the gold level, Passive House Design Certified in 3/8 buildings, electrification of the residential component of the project, EV charging for 10% of the non-MBTA parking spaces (additional 10% EV ready), an embodied carbon analysis to guide material selection, solar ready design on all building roofs and garages and green infrastructure and rainwater reuse for irrigation.

The City's peer reviewer, John Ford Civil Engineer, Horsley Whitten reviewed the Stormwater report and plans and confirmed that the approach and design is consistent with industry standards. He expressed support for the approach and design and noted that the proposed plans meet the regulatory goals. The proposed infiltration will reduce flow and volume, phosphorus and TSS loading estimates meet the regulatory requirements. Mr. Ford noted that at their suggestion, the petitioner has integrated green infrastructure systems. Additional information is still required and includes updated design plans and calculations, additional detail re the proposed rainwater infrastructure, engineering calculations, southern yard (north of building 1) drainage, and soil testing to verify infiltration assumptions. Horsley Whitten Licensed Site Professional Bryan Massa confirmed that groundwater contamination was not associated with the site and the petitioner will do work under a Response Action Plan.

Utile Inc. Cyrus Dahmubed reviewed the sustainability proposal. He noted that the project reduces the heat island, reduces the polluting runoff and confirmed that the strategic plan is consistent with the city's goals (i.e. passive house, LEED certifiability). Mr. Dahmubed expressed support for the inclusion of passive house principles, electric sourced heating and cooling, an embodied carbon analysis and the education and training of building operations for staff and residents.

Public Comment

Tom Powers, former Deputy Commissioner at the Department of Environmental Protection, spoke on behalf of the Lower Falls Improvement Association. He emphasized the importance of scrutinizing the stormwater controls to ensure the neighborhood is not negatively impacted. His presentation is attached. Mr. Powers noted that there is the potential for contamination to the Charles River if stormwater is not managed properly and infiltration goals are not met. He asked the Committee to ensure that the engineering is reviewed adequately, so there are no impacts on sewer overflow, to require modeling to support the design of the waste water collection system and to predict future performance, to monitor before and after construction to ensure the performance designed and expected is achieved, to ensure that water pressure and the water supply remains adequate, to ensure water pressure is sufficient for fire protection, to ensure that soil and groundwater contamination will not impact the public health or the Charles River and to require measures relative to soil control/removal at the site.

Green Newton Chair Dan Ruben expressed support for the proposed development noting that Green Newton's Building standards committee promotes four principles that reduce the climate change impacts for buildings. The four principles include Passive house certification, no fossil fuel combustion, oil embodied carbon building materials and smart growth planning that reduces fossil fuels use for transportation. Mr. Ruben noted that the petitioner has responded to each of Green Newton's requests and has committed to building according to passive house standards, using heat pumps rather than natural gas, performing energy modeling studies for each of the buildings, using passive house consultants and engineers and powering the hot water by electricity. Mr. Ruben suggested that the Riverside garage could be a good location to install solar panels but understands that the garage is jointly owned, so additional follow-up is needed. Mr. Ruben stated that he will provide a list of recommendations for Special Permit conditions.

Ron Parkinson, 21 Grayson Lane, noted that some houses in Lower Falls used to have basement sewer flooding. He asked whether the sewer flows are being reviewed and that this project will not exacerbate this issue.

Ted Chapman, 91 Cornell Street, expressed concern relative to the ambient noise in Lower Falls. He noted that the speed of traffic increased with the removal of the tolls on I-90. Mr. Chapman noted that the dB level is at 80 standing on Deforest Street at times during the day. He questioned whether buildings 1-3 will reflect additional noise. He questioned whether building treatments can be added to the buildings to minimize noise.

Andrew Smyth, 105 Hancock Street, submitted the attached comments. Mr. Smyth expressed concerns relative to site contamination and the exposure of the contaminated materials to the environment and neighborhood, the removal of soils from the site and the noise pollution from blasting during construction.

Councilor Questions and Comments

Stormwater

This is a significant improvement over the existing conditions. Is it possible to prevent stormwater runoff into the Charles completely?
A: Mr. Holworth noted that it would be difficult to entirely mitigate water runoff. The performance standards provide the opportunity to recharge the first inch (representing 90% of the rainfall events over the year).

What additional stormwater improvements can be made possible?

What is the target for stormwater capture?

Is water harvesting for irrigation under consideration?
A: Water harvesting for irrigation will be done in Buildings 3 & 4.

Are you considering greywater use in toilets?

A: No.

Who is funding the cost and completing the work for the relocation of the MWRA pipe?
A: The petitioner will be completing the work and funding the cost of relocating the MWRA pipe.

Electric

Where will the power come from for the site? Will the extra power that is required to serve the development be acquired in a way that service is not made worse for the existing number of residents?
A: David Roache, Mark Development VP of Development confirmed that Eversource is the electric provider for the site. He noted that capacity discussions with Eversource are ongoing and confirmed that it is likely that Eversource will provide two dedicated circuits that will serve the development.

Why not electrification for commercial uses?
A: Under mass law, we are not allowed to bill the tenants, so the owner would take the responsibility for the bills, etc. Additionally, capacity is an issue as well as not allowing gas for restaurant operators.

Can you add additional EV charging stations?
A: We've committed to an addition 10% of conduit. We can add additional conduit at any time. The challenge is bringing sufficient electric service to the site.

Why can't you go to all Passive House certification for all of the residential buildings?
A: It is an integrative design process. The studies will be completed as part of the building design process. We are committed to 3, we'll strive to get to 9 but have some concerns about the aesthetics and marketability.

Don't forget to add charging stations for electric bikes.

Can you investigate the feasibility of subsidizing the purchase of renewable energy credits?

Will you have 100% electric power?

Is there a way to craft an order that allows flexibility, but pushes the petitioner to include additional passive house buildings?

General

Is there any thought about bike maintenance station for people?
A: Yes, there will be one on site.

Will there be basement space?
A: There won't be classic basement space. There will be some space in the basement for storage, bicycle storage and equipment.

Will there be informational signs about the green infrastructure and/or the Charles?
A: We are discussing it and think it's a great idea.

Is there information on whether the petitioner will have to crush the buildings and leave the debris on site?

There are a lot of green walls/exteriors/green materials which could help minimize the noise.

Please make sure the noise on the other side of the two bridges is considered as well.

Look at the potential to connect the green line with the commuter rail through a shuttle service.

Committee members expressed support for the improvements to stormwater and the incorporation of sustainable principles. The Committee noted that it is critically important for the Planning Department and Law Department to begin drafting the Council Order conditions. The Committee was appreciative of the collaborative efforts between the petitioner, Green Newton and the LFIA. The Committee held items #26-20 and #27-20.

#67-20 **Petition to allow adult-use marijuana dispensary at 58 Cross St/1089 Washington St**
ASCEND MASS, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow retail marijuana sales and waivers to lighting requirements at 58 Cross Street/1089 Washington Street, Ward 3, West Newton, on land known as Section 31 Block 09 Lot 07, containing approximately 25,122 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec. 7.3.3, 7.4, 4.4.1, 5.1.10, 5.1.13, 6.10.3.D of the City of Newton Rev Zoning Ord, 2017.
Action: **Land Use Approved 6-0-1 (Auchincloss abstaining); Public Hearing Closed 03/05/2020**

Note: After the Chair read the item into the record, Atty. Ross confirmed that there are no additional updates to the petition. Councilor Auchincloss motioned to close the public hearing which carried 7-0. Committee members reviewed the findings and conditions as shown on the attached draft Council Order. Discussion relative to specific conditions and findings occurred as follows.

Finding 13. Should reflect "MBTA's current routes" not specific route numbers, given that the MBTA could change their routes.

Condition 2. (Appointment- Only Operations) The Committee deliberated maintaining appointment only operations or eliminating the condition. It was noted that the conditions vary from location to location and the "appointment only" operations ensure that there will be no queues outside of the facility. Atty. Ross noted that the Ascend facility has a parking lot. It was suggested that the "appointment only" condition was created in response to the queues at the Brookline NETA facility where there are no neighboring dispensaries. The Committee discussed eliminating the condition to require appointment only operations in lieu of a condition limiting the number of people queued. Ultimately the Committee remained supportive of appointment only operations, understanding that the petitioner may seek a determination that appointment only is no longer necessary six months after commencement of operations and after consultation with City departments on site security and pedestrian safety.

Condition 4. Hours of Operation

Committee members discussed hours of operation for Ascend. The Committee expressed support for maintaining the same hours of operation as approved for Garden Remedies and Cypress Tree however, Garden Remedies and Cypress Tree do not have consistent hours of operation. Hours of operation for each facility are shown below:

Garden Remedies
10:00 am – 8:00 pm Monday – Thursday, 10:00 am – 9:00 pm Friday and Saturday
Closed Sunday (12:00 pm – 6:00 pm once parking lot is constructed)

Cypress Tree
9:00 am – 9:00 pm Monday – Saturday, 12:00 pm – 6:00 pm Sunday

Ascend Proposal
9:00 am – 9:00 pm Monday – Saturday
12:00 pm – 6:00 pm Sunday

Committee members noted that the hours of operation should match the closest location (Garden Remedies) as the traffic conditions are similar. It was noted that Cypress Tree, like Ascend, has a parking lot where Garden Remedies does not. Atty. Ross stated that allowing operations from 10:00 pm – 9:00 pm allows extra time for visits to occur. He noted that it is not anticipated that there will be a significant number of customers from 9:00 am – 10:00 am. The Committee took a straw vote in favor of allowing hours of operation to be from 9:00 am – 9:00 pm.

Condition 10d. Providing a secure and ***Covered*** bicycle parking area on site.

Committee members asked that the draft order reflect that no stormwater will flow directly onto Cross Street, through implementation of a stormwater solution that will be approved by the Engineering Department and implemented at the Cross Street exit. With that, Councilor Kelley motioned to approve the item which carried 6-0-1 (Auchincloss abstaining).

The Committee adjourned at 10:00 pm.

Respectfully Submitted,

Richard Lipof, Chair

Riverside Station

Land Use Presentation

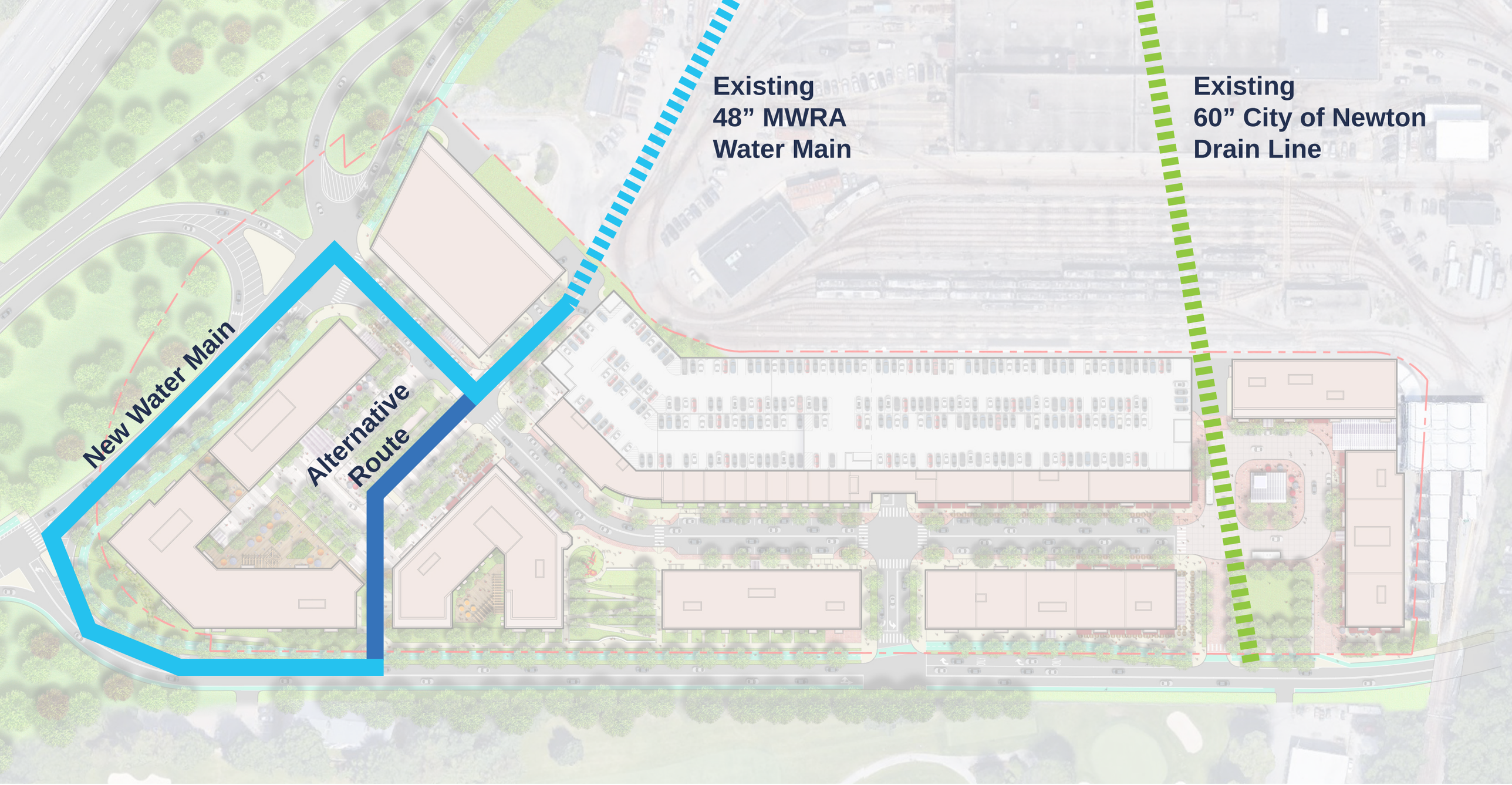
March 5, 2020

MARK DEVELOPMENT

Site Design and Infrastructure

MARK DEVELOPMENT

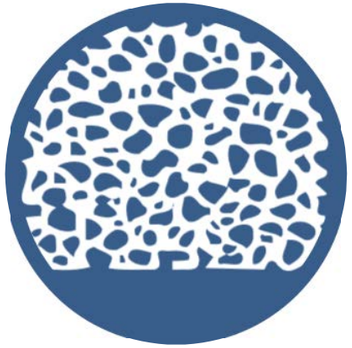
MARK DEVELOPMENT



MARK DEVELOPMENT

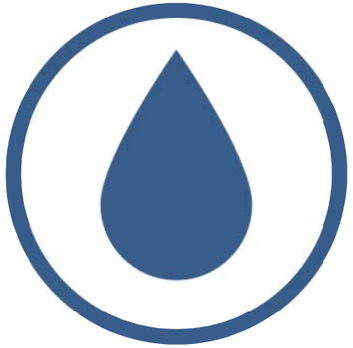
Stormwater Management System Goals

Protect Natural Resources



Comprehensive Soil Erosion and Sediment Control

Attenuate Peak Rates of Runoff



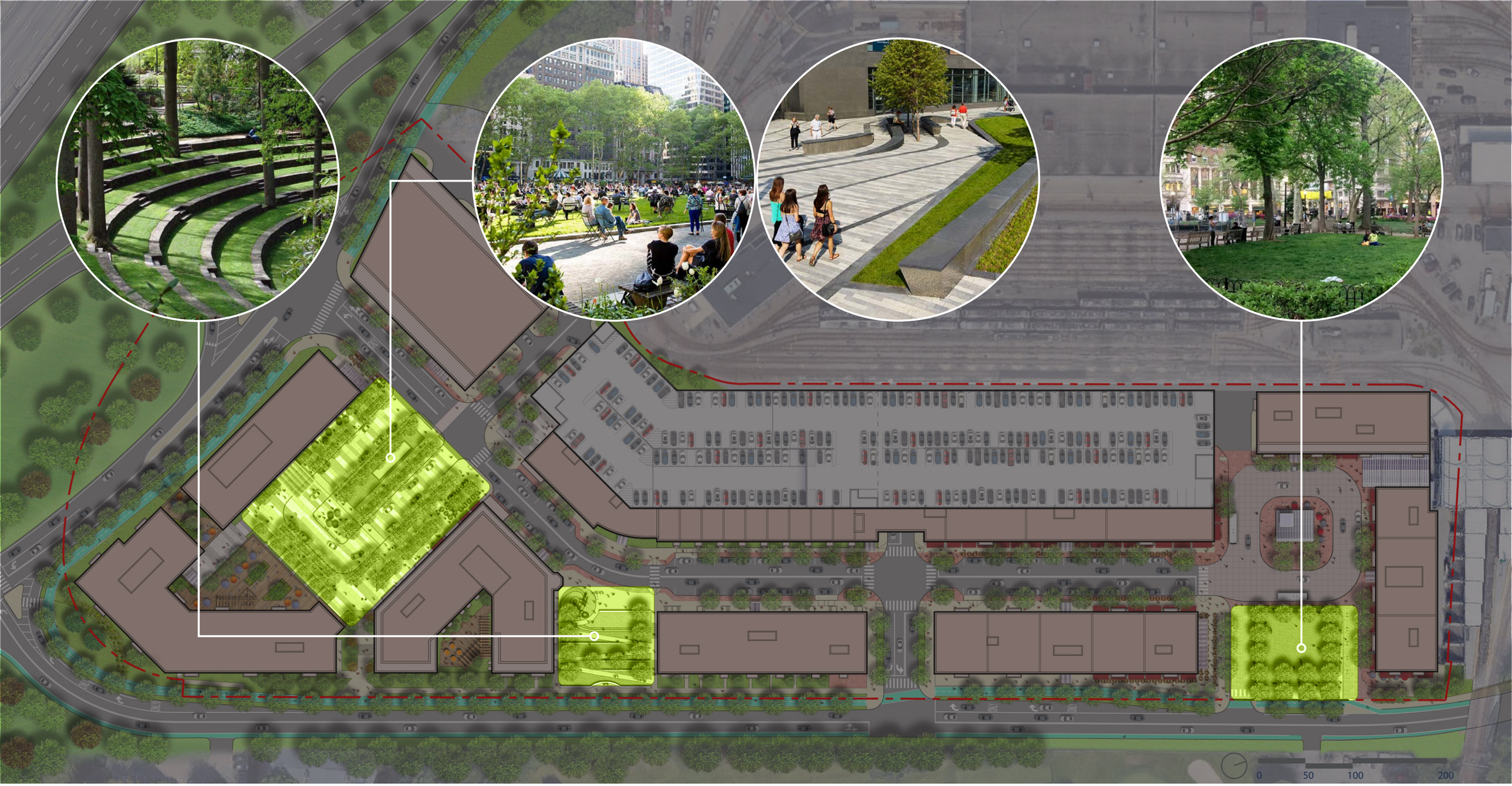
Enhance Water Quality

MARK DEVELOPMENT

Proposed Site Plan

MARK DEVELOPMENT

MARK DEVELOPMENT



MARK DEVELOPMENT

Treeway (Permeable Paving & Structural Soil)

Permeable Paving Field

Tree Trench / Planting / Lawn Zone

Green Roof (Planting & Permeable Surfacing)

Subsurface Infiltration System

MARK DEVELOPMENT

Proposed Green Infrastructure

MARK DEVELOPMENT

Sustainability

MARK DEVELOPMENT

Mark Development pledges the following commitments for the Riverside Development:

1. All Buildings will be LEED Gold Certifiable
2. Passive House design principles for the residential portions of the project
   (committed to achieving certification for three of the eight residential buildings)
3. Electrification for the residential portions of the project
   (excluding commercial buildings)
4. Electric Vehicle Charging stations for 10% of the project's non-MBTA parking
5. Embodied Carbon analysis guiding material selection
6. Solar Ready design on all building roofs and parking garages
7. Green Infrastructure inclusive of Rainwater Reuse for Irrigation

MARK DEVELOPMENT

LEED Certifiable

MARK DEVELOPMENT

LEED v4 Certifiable

Projects pursuing LEED certification earn points for various green building strategies.

Based on the number of points achieved, a project earns one of four LEED rating levels:

Certified	Silver	Gold	Platinum
40-49 points earned	50-59 points earned	60-79 points earned	80+ points earned

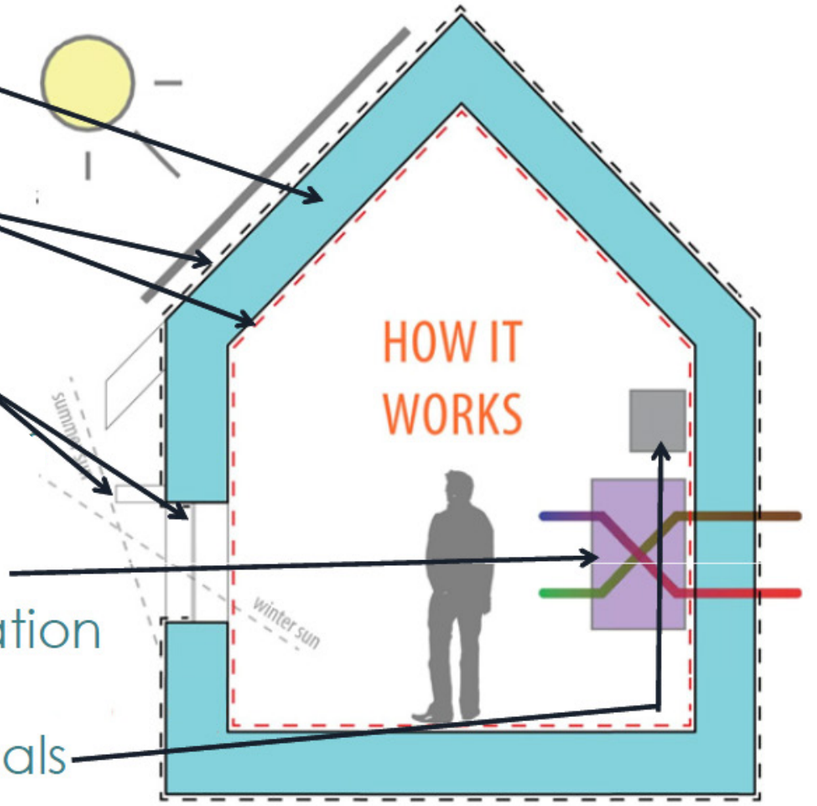
MARK DEVELOPMENT

What is Passive House?

MARK DEVELOPMENT

What is Passive House?

1. Continuous insulation
2. Air/wind-tightness - moisture performance
3. Optimizing solar gains
4. Indoor air quality – heat/ moisture recovery ventilation
5. Miniminimized mechanicals



INTEGRATED ENVELOPE AND SYSTEMS DESIGN

(Source: James Hartford, River Architects)

MARK DEVELOPMENT

Why do Passive House?

A set of design principles used to attain a quantifiable and rigorous level of energy efficiency within a specific quantifiable comfort level.

Long-term benefits include:

- Energy efficiency and reduced carbon emissions
- Superinsulation and airtight construction provide unmatched comfort
- Superb indoor air quality
- Resilient buildings
- Best path to Net Zero and Net Positive buildings by minimizing the load that renewables are required to provide

www.phius.org

MARK DEVELOPMENT

Passive House at Riverside

1. Three of the eight residential buildings will be Passive House certified.

2. The remaining five residential buildings will be designed with Passive House principles.

MARK DEVELOPMENT

Comparison

		Code Compliant	Passive House Principles	Passive House Certified
Site Energy Use Intensity	[kBtu/sf/yr]	**46.9***	**22.6**	**18.1**
Source Energy Use Intensity	[kWh/person/yr]	**13,323***	**6,420**	**5,150**

*From PNNL *Estimated Energy Use Intensity by Building Type – Standard ASHRAE 90.1-2013* table.

MARK DEVELOPMENT

What is Electrification?

for the residential portions of the project (excluding commercial buildings)

MARK DEVELOPMENT

What is Electrification? (excluding commercial buildings)

Replacing combustion-fuels with electric technologies, primarily for space and water heating.

- Reduces dependence on fossil fuels.
- As the grid becomes cleaner, the building becomes cleaner.

Zoning	No requirement
Proposed	All Residential buildings will use electrification exclusively

MARK DEVELOPMENT

What is Embodied Carbon?

MARK DEVELOPMENT

What is Embodied Carbon?

The emissions associated with building construction, including extracting, transporting, and manufacturing materials.

Zoning	No requirement
Proposed	Embodied Carbon analysis guiding material selection

MARK DEVELOPMENT

What is Solar Ready design?

MARK DEVELOPMENT

What is Solar Ready design?

Electrical, structural, and other design elements that make the building ready for renewable energy systems.

- Identify areas of the roof that will be free and clear of any mechanical systems or plumbing penetrations
- All required electrical chases from the roof into the electrical room will be included in the design and construction of the building
- Structural capacity for panels

MARK DEVELOPMENT

Solar Ready (excluding garage)

- Rooftop mechanical systems in all residential buildings are a significant barrier to available roof space for solar PV.
- The development of renewable energy systems in Massachusetts currently is also more challenging due to the end of the SREC market, the reduced incentives under the new SMART program, and changes to net metering caps and requirements.

Zoning	No requirement
Proposed	Solar Ready design

MARK DEVELOPMENT

Green Transportation Initiatives

MARK DEVELOPMENT

Green Transportation Initiatives

Multi-modal transportation to reduce single-occupancy vehicular travel.

- Full-service neighborhood with walkable streets
- Development adjacent to T-station
- Bicycle facilities (1 to 1 ratio)
- Car sharing
- EV charging parking spots for at least 10%* of parking spaces

*1,000 of the 1,990 parking spaces are allocated to the MBTA.

MARK DEVELOPMENT

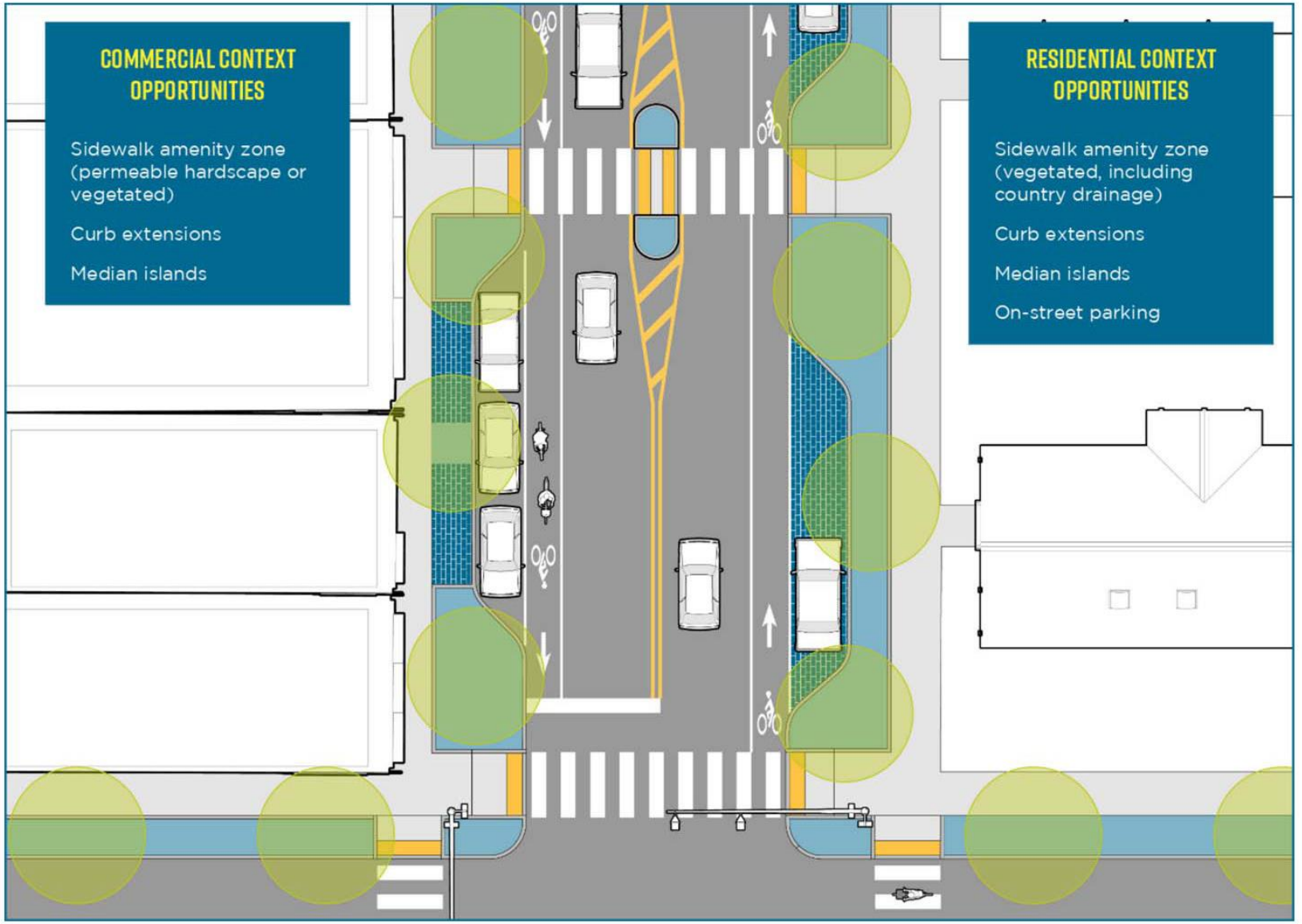
MARK DEVELOPMENT

Riverside – Peer Review Summary:
Civil Engineering, Environmental, & Sustainability

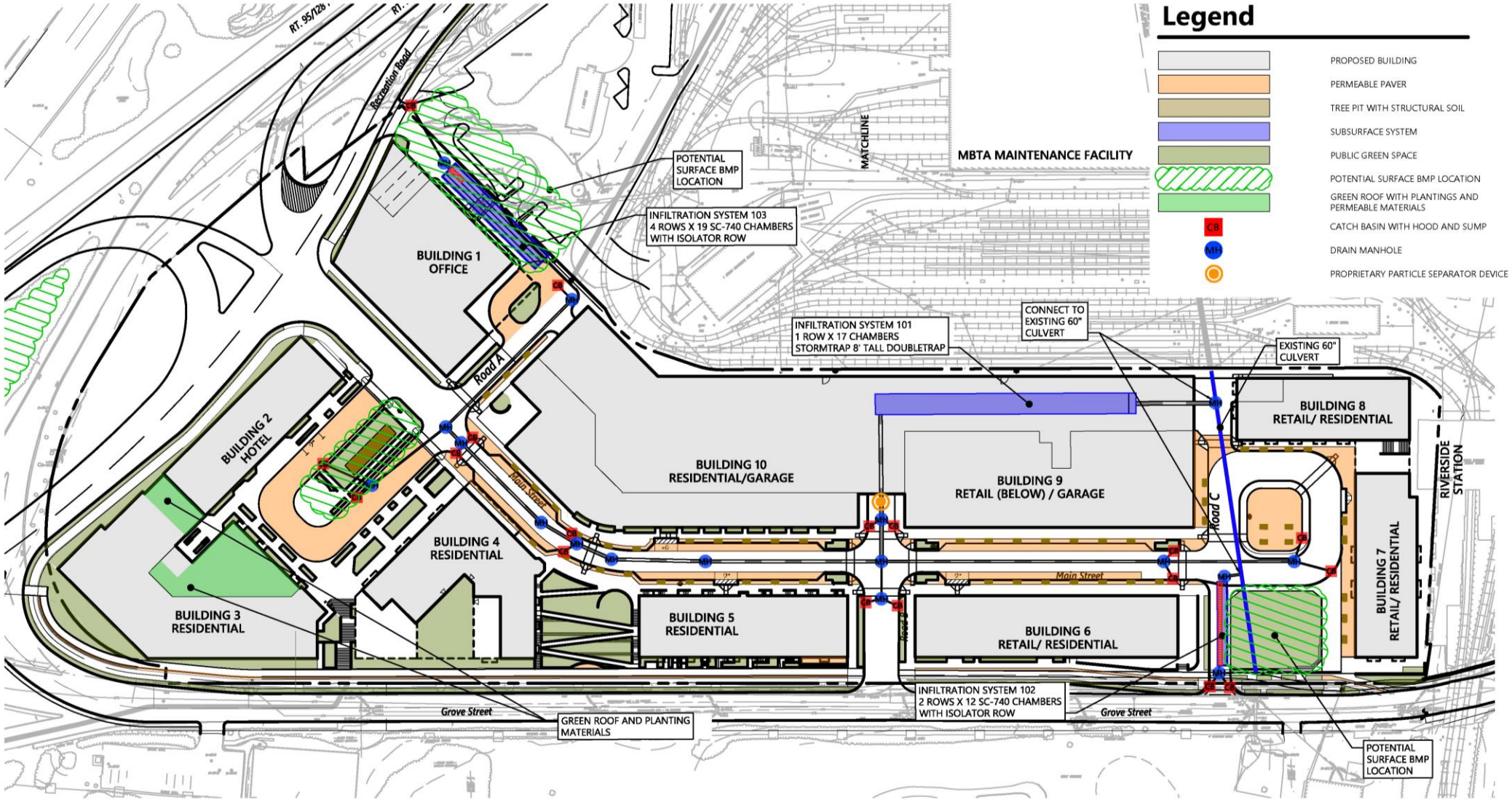
Drainage: General Comments

1. The proposed drainage design approach appears to meet regulatory goals.
2. Three proposed infiltration systems provide flow and volume reductions.
3. Proposed phosphorus loading reduction is 85% (TMDL target is 65%).
4. The proposed green infrastructure concept is consistent with MassDEP principles and the City's Street Design Guide.
5. More information is needed to verify the design and regulatory compliance.

Figure 3.10 Example Opportunities for Implementation of Green Infrastructure



\\vhb\gbl\proj\Wat-TS\10865.03 Mark Inv Riverside Newto\graphics\FIGURES\DEIR\Figure-7.3 - Proposed Green Infrastructure.dwg



0 50 100 200Feet

vhb

Figure 7.3.1

Proposed Green Infrastructure

Riverside Station Redevelopment
Newton, Massachusetts

Drainage: Additional Information Needed

1. Updated design plans and calculations including revisions and clarifications addressing March 3 memorandum comments.

2. Additional detail regarding proposed green infrastructure practices.

3. Clarification of “Southern Yard” drainage.

4. Inspection of the existing 60-inch culvert (before and after construction).

5. Additional soil testing to verify infiltration assumptions (at time of construction).

Environmental: General Comments

1. Three releases have been reported to the Massachusetts Department of Environmental Protection relating to the abutting MBTA Property.

- All three achieved regulatory closure consistent with the Massachusetts Contingency Plan (MCP).
- Groundwater surveys conducted as part of response actions at the MBTA property determined that groundwater flows away from the Development Project.

1. Construction activities are proposed to be managed under a Release Abatement Measure (RAM) prepared consistent with the MCP.

Sustainability: General Comments

1. The project's implementation will reduce the site's existing heat island effect and substantially decrease the amount of polluting runoff.

2. The petitioner's Sustainability Strategic Plan outlines commitments that are in accordance with the City's Sustainable Development Requirements.

3. The project includes commitments to sustainable design such as Passive House and LEED design strategies, as well as electric-source heating and cooling, and embodied carbon analyses.

Sustainability: Site-wide Strategies

1. The project will significantly reduce the existing heat island effect by substantially increasing tree canopy and implementing white roofs. Increases in landscaped areas and the treatment and return of groundwater will also drastically reduce amounts of polluting runoff.

2. The petitioner's commitment to 10% of parking spaces being Electric Vehicle charging stations, as well as a further 10% being EV charging station ready meets the City's goals and requirements, and may be further augmented by the implementation of EV charging stations by the MBTA.

3. The solar ready design prepares the project for future additional reductions in carbon consumption.

Sustainability: Building Strategies

1. The project has committed to Passive House certification for Buildings 7 and 8, and is studying extending this to the residential components of the remaining buildings, which will meet LEED Gold standards if Passive House is deemed unattainable.

2. The project will use electric source heating and cooling in the residential components, and is investigating their implementation in Buildings 1 and 2.

3. The project will employ embodied carbon analyses as well as education and training of building operations staff and residents.

Sustainability: Building Strategies

NEW ECOLOGY
Community-Based Sustainable Development

Riverside Redevelopment - Sustainability Commitments Summary														
Building	Building Type			Secondary Use		Newton Ordinance Sustainability Pathway		Construction Standards	Electrification	Embodied Carbon	Electric Vehicle Chargers	Electric Vehicle Ready	Solar PV	Solar PV Ready
[#]	[Type]	[Units]	[sf]	[Type]	[sf]	[12.4.A.1 - LEED Gold Certifiable]	[12.4.A.2 - Passive House]	[-]	[Yes/No]	[-]	[%]	[%]	[Y/N]	[Y/N]
1	Office	0	243,387	-	-	Certifiable	-	Market Standards	Explore Electrification	Guiding Material Selection	-	-	No	Yes
2	Hotel	150	77,300	-	-	Certifiable	-	Market Standards	Explore Electrification	Guiding Material Selection	-	-	No	Yes
3	Residential	137	153,683	-	-	Certifiable	Explore Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
4	Residential	107	122,810	Retail	3,792	Certifiable	Explore Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
5	Residential	50	57,200	-	-	Certifiable	Explore Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
6	Residential	57	65,135	Retail	6,886	Certifiable	Explore Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
7	Residential	46	54,265	Retail	7,785	-	Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
8	Residential	76	62,146	Retail	3,218	-	Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
9	Residential	44	42,330	Retail	21,561	Certifiable	Explore Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
9G	Garage	852 Spots	369,678	-	-	-	-	-	-	-	10%	10%	No	Yes
10	Residential	100	96,002	-	-	Certifiable	Explore Certification	Passive House Principles	Yes	Guiding Material Selection	-	-	No	Yes
10G	Garage	1138 Spots	293,512	-	-	-	-	-	-	-	10%	10%	No	Yes

LOWER FALLS IMPROVEMENT ASSOCIATION RIVERSIDE COMMITTEE

RIGHT SIZE RIVERSIDE
LFIA Riverside Committee

Presentation to the Land Use Committee

Water, Waste Water, and Environmental Issues

March 5, 2020

INTRODUCTION

- **The LFIA has assembled a group of technical specialists to review and critique the Riverside documents from the perspective of the Lower Falls and Auburndale neighborhoods. The group includes Civil Engineers (PE) and Environmental Specialists (including a Licensed Site Professional).**

- **Goal tonight: to highlight issues that need further examination prior to the issuance of the Special Permit and the start of construction.**

- **We note that Mark Development filed its Draft Environmental Impact Report earlier this week. We recognize that answers to some of our concerns may be contained in it.**

- **We are pleased that Mark Development has offered to have its team meet with our technical experts to cover any outstanding issues.**

MAIN SUBJECTS

- WASTEWATER
- WATER SUPPLY
- DEWATERING
- STORMWATER
- SITE CONTAMINATION
- CONSTRUCTION PLANNING

WASTEWATER

Preliminary Concerns/Data Needs

- **Potential sewer backups in homes and parks – an existing issue in Lower Falls and Auburndale / Lyons Park**
- **Increased likelihood of combined sewer overflows and associated surface water, wetland, and recreational impacts**
- **Wastewater collection system / CSO engineering evaluation, including modeling, is needed, to predict future performance and indicate possible mitigation actions**
- **Monitoring of pre-project and post-construction conditions is needed, to ensure adequately protective performance is achieved**

WATER SUPPLY

Preliminary Concerns/Data Needs

- **Water pressure: to what degree is water pressure in the neighborhood expected to change? What is the backup data that supports that conclusion?**

- **Fire protection: what size must the water line pipes be to preserve adequate pressure for fire-fighting? What is the backup data to support this conclusion?**

- **Rerouting the existing water supply pipeline: when is the re-routing expected to occur and what are the plans for capacity during the outage?**

STORMWATER

Preliminary Concerns/Data Needs

- **Potential contamination of the Charles River from stormwater impacts, including during construction**
- **Potential flooding or ponding if stormwater infiltration expectations are not met**
- **Confirm that proposed stormwater infiltration will not mobilize groundwater and soil contamination toward the Charles River**
- **Conduct stormwater monitoring – pre-construction, during construction, and post-construction – to ensure adequate performance and to guide mitigation if needed**
- **Confirm that proposed stormwater infiltration can be achieved given the water table depth, shallow bedrock, and variable hydraulic conductivity of sediment site conditions**

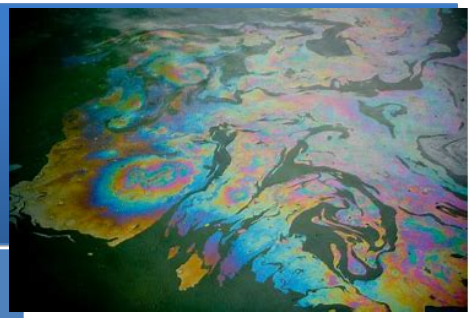
DEWATERING

Preliminary Concerns/Data Needs

We understand from the plans that large and deep excavations will occur.

- **How much infiltrating groundwater will be stored?**
- **Where will it be stored?**
- **For how long?**
- **How will it be treated?**
- **Where will it be discharged?**
- **What is the expected impact on the Charles River, if any?**

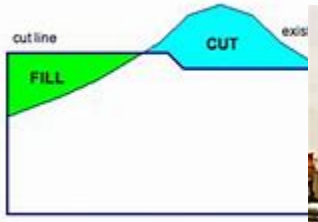
SITE CONTAMINATION



Preliminary Concerns/Data Needs

- **Confirm the basis for the soil contamination exemption based on historical fill rationale**
- **Identify what, if any, Activity and Use Limitations (AULs) will be established**
- **Confirm that soil and groundwater contamination will not impact public health (e.g., dust) and ecological receptors (e.g., Charles River)**
- **Confirm that soils stockpiled, brought onsite, and taken offsite will not be a risk**

CONSTRUCTION PLANNING



Preliminary Concerns/Data Needs

For the upcoming hearing on the construction management plan, we look forward to seeing plans addressing:

- **Cut and fill, including volume calculations and control and monitoring dust & soil quality**
- **Bedrock blasting & grinding, including vibration & noise impacts**
- **Construction-related dewatering and handling of resulting water**
- **Control and monitoring of stormwater quality**
- **Control and monitoring of vibration & noise impacts**

NEXT STEPS

- **The issues we have raised here and others like them will likely be best addressed by technical exchanges between the neighborhood experts and Mark Development's team at an upcoming meeting.**

- **We look forward to such an exchange and are grateful for Mark Development's willingness to engage in this process.**

- **We propose that we report back at a future hearing on any items we have not been able to resolve.**

Comments on the "Stormwater Report Riverside Station Grove Street, Newton Massachusetts" by VHB dated December 2019. Prepared by Drew Smyth a member of the neighborhood 105 Hancock Street Auburndale MA.

General – The stormwater report is missing key site data and analysis and although it purports to show improvements in stormwater quality will occur as a result of the project they are not demonstrated, will very likely result in negative impacts and there is no plan to quantify actual stormwater quality after establishment of the systems to demonstrate and guarantee these predictions. The stormwater plan also does not demonstrate any knowledge of Newton's Stormwater Pollution Prevention Plan for its MS4 stormwater system to which it is proposing to discharge nor the local applicable ordinances such as Newton Ordinance Number Z-45 30-5(c). The Stormwater Plan does not quantity a number of important parameters such as cut and fill amounts nor dealing with contaminated groundwater and runoff during actual construction. The Plan is almost entirely oriented towards post development and not to construction activities. The Plan checklist specifically states that the Construction Stormwater Plan will be **prepared later**. The **three-page** Appendix E construction stormwater plan **does not meet any of the USEPA standards** https://www.epa.gov/npdes/epas-2017-construction-general-permit-cgp-and-related-documents and the proponents plan to develop a formal plan later should not be allowed as the Federal requirements do not provide any review of these plans. The construction phase of the development poses the highest damages risk and should not be left to chance. There is no choreography of how the massive excavations will be handled and still maintain the ongoing transportation related duties. This plan should not be approved without significant additional characterization and favorable outcomes analysis and a program should be established to ensure proposed improvements really occur.

Page Specific Comments

1) *Stormwater Report Checklist page 3 of 8*- Box checked that indicates no disturbance to wetland resource area **appears incorrect**. Some new access roadway supports appear to be within 200 feet of a wetland and the project will involve new connections to the existing Runaway Brook underdrain discharging to wetlands and subject to Conservation Commission jurisdiction and oversight. The plan should identify all the aspects of their work that trigger Conservation Commission notifications and oversight.
2) *Stormwater Report Checklist page 4 of 8*-The property is not checked off as being a 21E site which appears to be **incorrect**. The MBTA property has Release Tracking Numbers (RTNs) 3-18501, 3-18969 and 3-10565 (22 acres – whole site)
3) *Stormwater Report Checklist page 5 of 8*-The site stormwater outfall is within the Interim Wellhead Protection Area for two public water supply wells in Weston wells 333000-03G and 333000—04G. The overflow discharge from the infiltration system continues to Runaway Brook outfall which *discharges* within the **IWPA so is covered by this requirement**. Note the stormwater that bypasses the interceptors by the current hotel Indigo and discharges along Recreation Road is also discharging within the IWPA. Note there are special requirements for these types of discharges about pretreatment before infiltration and limitation on proprietary treatment equipment use (see Mass Stormwater Handbook Volume 1).
4) *Stormwater Report Checklist page 8 of 8*-The checklist is not complete under standard 9 two blanks are not checked off implying the plan is **incomplete and substandard** such as the operation and maintenance budget which **is required** and the responsible party is likely not the property owner yet the blanks are **not checked off** and the associated documents not provided.

The plan **cannot be implemented** without these documents providing the developer approval and access to the property to maintain the BMPs

5) *Stormwater Report Checklist page 8 of 8*-TheStandard 10 section has several blanks these need to be checked and the corresponding documents provided. The **Plan is incomplete**.
6) *Page 2* – The plan does **not describe property ownership** considerations and access agreements
7) *Page 2* – The author claims without justification that the proposed project will improve stormwater quality. The report provides ***no*** existing water quality data for the current stormwater discharge and no water quality expectations for stormwater passing through groundwater as it discharges to the Charles River and, therefore, it is **not possible** for the project proponent to compare the proposed system to the current discharge at the point where the discharge enters the Charles River. The proponent's statement is qualitative at best and **entirely unsubstantiated** and very likely wrong. The stormwater discharges under the proposed development will certainly be different but there are **no assurances it will be better**. For example, the existing discharge has oil water separation and stormwater, although quickly conveyed to the River, is diluted and represent essentially undeveloped property contaminants. Existing stormwater data (which was not provided by the proponent is included as Attachment 1 by me). It is hard to see how the proposed plan will improve on existing water quality data. The sole parameter that did not meet water quality standards was pH and the proposed plan does not include pH neutralization. Under the proposed system there is a subsurface infiltration discharge that will ultimately discharge to the Charles River but only after much of it has passed under the rail track and maintenance facility contaminated soil at a higher flow rate mobilizing additional contaminants to a much greater extent than current. The proposed construction activities which will include extensive blasting which will further mobilize contaminants and add new contaminants and the new development structures will pose sources of additional contaminants that are not present in partially used daytime parking lots such as more litter, pet waste, chemicals associated with the new buildings and stack emissions from the building and building materials leaching from several stories of building façade which will become entrained in the rainwater and stormwater.
8) The proponent should utilize sampling data (Attachment 1) for the current discharge as a basis for evaluating future conditions improvements or drawbacks. The proponent is not proposing any method to evaluate whether the stormwater discharging to the River via groundwater discharge actually is better or much worse than current. A series of wells along the river should be installed and selected for monitoring pre-project and during the operational period. If a decline in water quality is noted the proponent should be responsible for addressing the degradation in groundwater. All maintenance and monitoring is based on the infiltration units themselves and not the overall water quality at the actual wetlands or Charles River discharge point. Be advised that the current data is **not sufficient** so additional data should be collected to characterize the discharge. The sampling should include sampling of Runaway Brook where it enters the site from Woodland Golf Course as well as at the point of discharge from the concrete pipe near the river. Sampling should include TSS, ammonia, phosphorous, BOD5, COD, metals, VOCs, semivolatiles, PCB/Pesticides and ecotoxicity sampling so that an existing baseline can be developed prior to project implementation and then checked against sampling during construction and afterwards on a quarterly basis. Only in this manner will it be known whether stormwater improvements are being made.

9) The proponent has not evaluated what happens when the stormwater discharge to Runaway Brook is severely cut back by rerouting existing stormwater to the infiltration system. This may be a very important impact as Runaway Brook (which currently receives nearly all the stormwater flow) drains the Woodland Gold Course and is probably laden with eutrophication chemicals such as ammonia and nitrogen and chemicals that cause low dissolved oxygen contents (vegetation, organics). By removing the Riverside contribution under low flow conditions these discharges will be at much higher concentrations and poorly flushed and may lead to algal blooms low dissolved oxygen along the exposed wetlands along the Charles River. There may be an aquatic ecological system that depends on the Runaway Brook flows that will be damaged by their severe reductions. It may also contribute to lower 10Q7 flows for the Charles River and to flow rates and temperatures in the Charles River that are important for herring run spawning and hatching. The dissolved oxygen level near shore and in Runaway Brook will undoubtedly decrease under the proposed scenario and may become anoxic and deadly to ecological receptors in the brook and receiving wetlands. The drainage channel associated with the current outfall is ice free when much of the River is frozen and is a congregation area for Geese and Swans and a valuable habitat.

10) An opinion on the Riverside Development proposal should be obtained from the Charles River Watershed Organization. The Newton Board of Health seems silent on the proposed development which is highly unusual for Massachusetts cities and towns. My experience with Health Departments in other cities such as Sherborn, Framingham, Stoughton and Burlington has shown active engagement by HD/BOH on these matters of public development and impacted waste sites but the Newton BOH is silent and indicated they have no involvement in contaminated sites leaving it up to MassDEP. In summary, there appears to be no local gatekeeper actually checking for environmental impacts to the Charles River and human health.

11) The project proponent needs to model the proposed groundwater table and gradients prior to and following the proposed subsurface infiltration systems to understand how groundwater contamination will be impacted at the site and downgradient rail maintenance facility and side gradient (AUL site at Riverside Office Park too). Fortunately, there is a relatively simple Excel spreadsheet model that can be developed to show the magnitude and areal impact of mounding under infiltration systems and its impact on existing groundwater levels by simply adding the interpolated mounding to existing groundwater contour maps. This has been done in other Massachusetts towns for much less impactful projects. It is recommended that the project proponents perform this assessment using the United States Geological Survey Scientific Investigation Report 2010-5102 scientific publication for such analyses or equivalent as has been done for other towns in Massachusetts. Note the Plan does include a mounding analysis but does not overlay the results on an existing groundwater map and provide their additive impacts as infiltration zones overlap to show a whole site groundwater map that recognizes the proposed infiltration units rising of the water table. Nor have they assessed how this impacts groundwater gradients, time of travel and mass flux of contaminants to the Charles River.

12) Page 3, 2nd paragraph – The report references "Runaway Brook" as a key surface water body but it is not labeled on either Figure 1, 2 or 3 of the report. Also the Charles River Reservation property which is the actual discharge point is not identified. The Charles River Reservation is a legally Protected Open Space.

13) Page 3, last two paragraphs – The report provides no description of the current regulatory environment of the affected existing discharge. The proponents did not describe that outfalls as a MS4 stormwater sewer regulated by Newton Public Works. They did not indicate that the outfalls are within the MS4 program as outfalls NEW-44B, NEW-47 and NEW-48. They did not discuss meeting any of the MS4 requirements for BMPs or the city ordinances (Newton Ordinance No Z-45 30-5(c) and required treatment requirements. The facility stormwater system should be compliant with Newtons Stormwater Management plan for MS4 discharges because the Riverside discharge is to these outfalls. The outfalls are currently labeled in the field but not described in the report. It appears like the authors did not even inspect the current stormwater system or do even cursory assessment of the legal framework. Additionally, it should be noted that outfall NEW-48 is in disrepair with 80% blockage of the discharge pipe by collapsed soil and rail ties and other debris are in the stormwater culvert. The project proponent should be required to address requirement by requirement what they are doing to meet the city ordinance and SWPPP plan for the MS4s to ensure their continued compliance.

There is a discussion of additional outfalls at the southern and western parts of the property collected by catch basins in Recreation Road. These stormwater discharges bypass the existing 60 inch culvert but are not shown in Figure 1, 2 and 3 where they discharge as is required. It is required for stormwater maps to show the direction of gradients on the property not just the direction of stormwater piping flows. Also there are meandering stormwater features and wetlands between the MBTA carhouse and the River that are readily visible on aerial maps that are not shown as stormwater features on the maps. This area is The Charles River Reservation and is not even identified in the report. The statement that the 60 inch culvert discharges directly to the Charles River is wrong. The discharge is to the Charles River Reservation wetlands and not directly to the River and the figures portraying it as such (Figures 2 and 3) are also wrong (see https://riversidegreenwayma.wildapricot.org/Pony-Truss-Trail). Attachment 2 provides a map I prepared of some of the important features of the stormwater system. It is also typical for stormwater maps to show water treatment BMPs. The existing oil/water separator does not appear to be shown.

14) Page 4 – The soils information provided for calculating infiltration rates lists only 1 test pit HA09-4 as a basis for estimate. Obviously, for a system that is designed to handle 33,000 cubic feet of infiltration it cannot be based on a single test pit location to be even close to reality. The soils vary substantially across the site and variations in hydraulic conductivity are by orders of magnitude. Each infiltration unit should have multiple test borings as the basis for infiltration estimates. If these estimates are wrong then there is a very high likelihood the systems will be incapable of infiltrating these large precipitation amounts which would result in surface upwelling and frozen, water logged streets and bypasses of the stormwater treatment systems. This issue cannot be readily addressed after the fact. The project proponents mention that they may do additional subsurface investigation but no timeline or investigation strategy is provided.

15) Page 4 hydrology – The hydrology section provides an analysis of stormwater flows based on hydrologic curve numbers rather than using *actual* data. There is an existing discharge that is conveniently routed through an easy to measure 60 inch culvert. The project proponent should actually measure in the field the flow rates throughout representative rainfall events to calibrate their model. Actual flows can be measured and then used to model flow conditions now for calibration and adjusted into the future based on changes in terrain. The proponent is taking

short cuts and relying on book values versus actually using real numbers which could be easily obtained and inspire believable future scenarios.

16) Page 5 – The proponent makes several claims about stormwater quality improvements but does not provide analytical data for stormwater particle size distribution, calibrated flow rates and other measures that are readily obtainable now and are necessary to model the stormceptor treatment efficiency rather book values and estimates are used. These claims, in the absence of actual site data, are not supported. Prior to the establishment of these long term systems, during construction, it is unclear how water quality will be adequately treated and tested prior to discharge.

17) The proposed new subsurface infiltration systems include units P101, P102 and P103 and together these excavations include about 8,500 cubic yards of excavated soil. The excavations are in areas where ash was discovered during subsurface investigation studies. If this soil had to be disposed offsite it would take roughly 564 large trucks to transport it. What is the plan for managing this or for even storing it onsite to keep it from being washed away in stormwater into the river or blowing around or interfering with the other project work? Why hasn't the city required the developer to create a cut and fill map and explain how soils will be managed? All similar large projects prepare these types of plans. Additionally, borings should be placed in each of these infiltration areas prior to excavation and should be contaminant characterized in advance of excavation. The depth to groundwater and infiltration rates of the soil should also be determined as they should be site specific. If the numbers are wrong insufficient infiltration will occur. It is also important to determine whether excavation dewatering will be required to install these units and to prepare in advance if needed.

18) The project has planned buried utilities throughout the site that go down several feet into the subsurface and will involve massive excavations and a need to maintain clean corridors for utility workers at a former industrial site. How will this be accomplished and similar to above how will all this additional soil be managed? The stormwater plan does not provide a plan for dealing with these deep excavations including soil disposal, odor control, fugitive dusts, side slope stability and shoring, and removal of groundwater encountered in the excavations. The large amount of soils removed will need to be stockpiled all the while the facility continues in use. It is very unclear how this excavation work will be choreographed to prevent disruption of MBTA station services and protecting ecological and human health and safety.

19) Pages 7, 8 and 9 – The proponent says that water quality will be improved but provides no plan for monitoring these improvements and ensuring they occur just equipment inspections that do not involve quantitative analysis for phosphorous, TSS or any of the other promised reductions. They also discuss regulatory aspects but do not specifically state the existing regulatory status of the discharges

20) The Charles River in addition to the standard TMDLs is also impacted by Polychlorinated biphenyls (PCBs) in fish. The site area contains PCBs but the authors do not provide any explicit controls for PCBs.

21) The detailed drawings of the infiltration systems are not clear on the overflow lines (although the map does show them) and there is not a clear discussion of the rate of overflow expected to the current Runaway Brook outfall. The proponents have not clearly defined how much water actually is discharged through infiltration and how much goes to the existing storm sewer. There is no clear water balance presented. I think there is confusion on this matter as only a fraction

of the water infiltrates but this is not made clear in the report in clear Tables or Graphics. The Report Figure 3 shows flow lines coming into the stormceptors but nothing going to the existing sewer. The plan requires NEW connections to the existing sewer and this needs to be made clear. It is one aspect that brings in Conservation Commission review.

22) The **Plan should include** a Cut and Fill map with summed cut and fill volumes. The applicant needs to determine how much excess material will be generated and where the soil can be stored awaiting disposal. This will also provide information about the amount of truck traffic required to dispose of excess soils and contamination encountered during the project. I have never heard of a project of this type that does not include cut and fill maps and associated volumes. **The amount of cut and fill required for this site is massive.**

23) Infiltration chamber P102 is close to historical boring and well RIZ-4. The authors did not include all the borings and water level measurements that have been taken. At RIZ-4 the depth to groundwater was 6 feet. So how is anyone going to put in an infiltration system that has sufficient vadose zone and cover allowances and achieve the required rate of drainage? It appears as if the infiltration site models have not used all the available data to determine groundwater depth and should include all historical wells and borings and ascertain whether the subsurface is acceptable for infiltration. All the wells are needed over time to also determine range in historical water levels. For example RIZ-4 has black organic muck and ash from 5 to 16 feet. It is hard to imagine these materials are conducive to infiltration.

24) Appendix D Long Term Pollution Prevention Plan – The operation and maintenance plan is much abbreviated from the manufacturer's recommended O&M. The project proponent should at least conduct the activities in conformance with the manufacturer's recommendations unless a valid basis for not following the standard is provided. The manufacturer O&M recommendations are attached as Attachment 3. The manufacturer of the stormwceptors has a weight limit (amount of soil cover allowed on the units). How is the project going to place the weight of the buildings and cars over the units and still meet the design guidelines and manufacturer specifications. The soil will be overly compacted and decrease permeability due to the extra weight and possibly crush the stormceptor units.

25) Appendix E is the construction stormwater plan. It is a few page checklist and 3 pages of text with few words. This is a very important aspect of stormwater planning as the stormwater risks are greatest during the construction phase. This plan does not discuss anything that will actually happen at the site in terms of exposures and locations and treatment stratagies. How are they going to deal with all the excavated soil and groundwater and maintain the site as operable. How are they going to meet the discharge limits prior to installation of the Infiltration systems. How will they deal with snow? There are a huge number of issues that have not been addressed. The proponents state that "The project is covered by a NPDES Construction General Permit but **no SWPPP has been submitted**. The SWPPP will be submitted BEFORE land disturbance begins" In other words, they are NOT preparing a real stormwater construction plan for City review but promise to provide it later. USEPA Stormwater Construction Plans are accomplished by filing a Notice of Intent for stormwater coverage and for the proponent to prepare a SWPPP by the time activities begin **but the USEPA doesn't review the plans** unless they go to the site. **The USEPA (not the State) has primacy in Massachusetts for stormwater programs**. You should not have the proponent start this very complex project without having **reviewed their plan in advance** as it jeopardizes the environment and health and safety. The Construction Stormwater

Plan should be prepared now as part of this Plan. The 3 page document included in Appendix E does not meet any of the USEPA standards https://www.epa.gov/npdes/epas-2017-construction-general-permit-cgp-and-related-documents.

26) Appendix F contains hydraulic calculations of stormwater loading based on book values for runoff coefficients. The actual discharge point at the 60-inch concrete culvert is a perfect place for **measuring flow to build a site specific estimate** that could later be updated to planned changes in the site. The concrete outfall is in perfect condition and has a free drop pool afterwards. A water level meter could be easily left in place to simply measure the flow rates over a storm duration based on the pipe flow shape characteristics. Due to the free drop you can easily even use a bucket to measure flow. There is no reason for a project of this size that the authors could not place a water level transducer in the discharge and record flows during a few stormwater events to develop site specific estimates that could then be used to calibrate their hydraulic model.

Attachments

Attachment 1 – Site Stormwater Sampling Data as Measured by Newton MS4 authority

Attachment 2 – Map of relevant site environmental features prepared by Drew Smyth, neighbor

Attachment 3 – Manufacture Specifications for Operations and Maintenance Plan

Attachment 1 – Site Stormwater Sampling Data as Measured by Newton MS4 authority

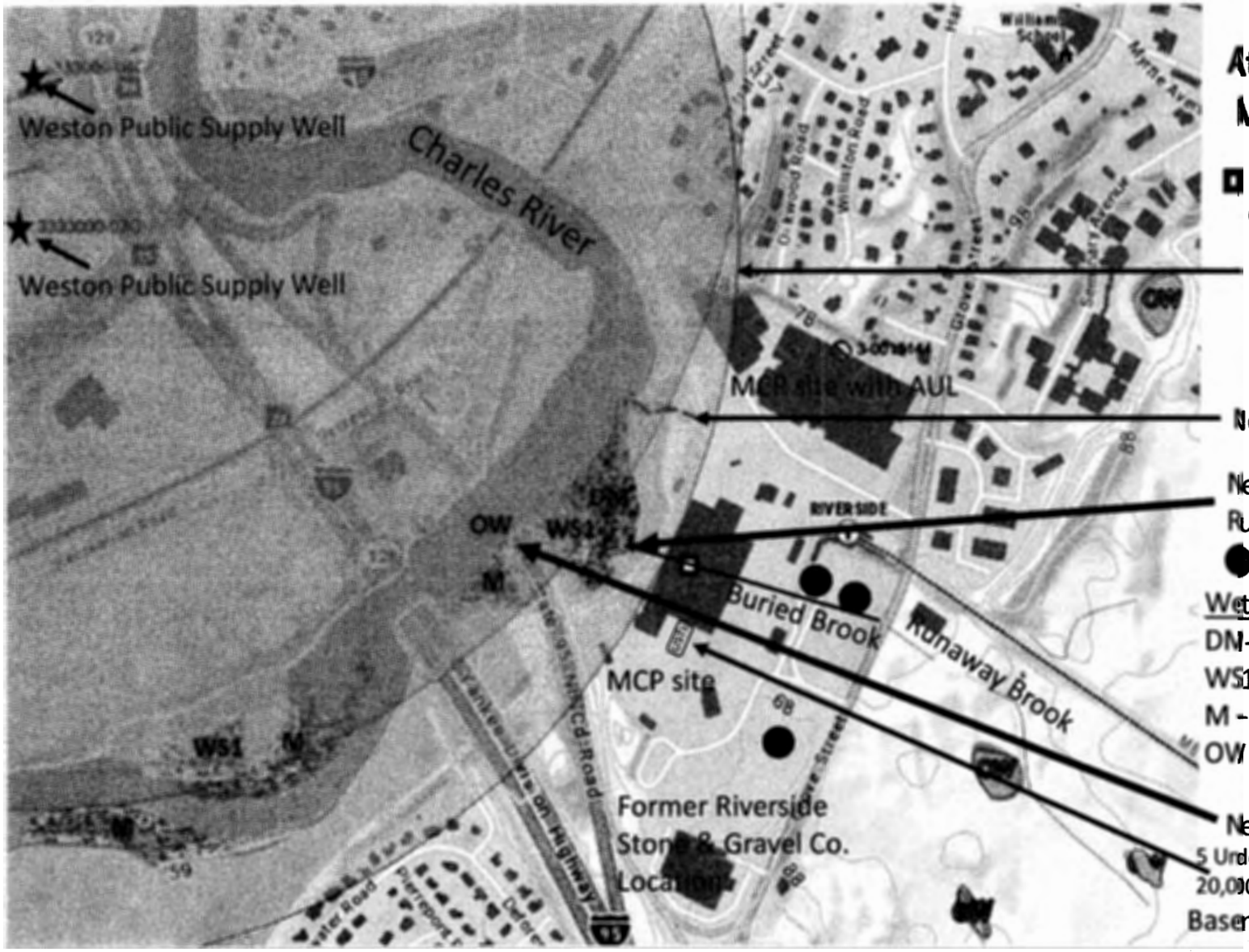
Attachment 1. MS4 Sampling Data for the Riverside Station

Outfall	Date	Rain inches last 24 hours	Weather	Flow Velocity	Odor	Color	Deposits stains	Water & sediment depth (feet)	floatables	clarity	chlorine mg/l	surfactants (ppm)	pH	fluoride (mg/l)	ammomia (ppm)	salinity (ppt)	E. Coli CFU/100 ml	total phosphorous
NEW-47	7/16/2019	<.1	Sunny	Fast	None	Clear	None	0.2	None	clear	0.1	0	7.52		0.1	0.6	<10	
NEW-47	11/20/2018	>0.1	Rain	Fast	None	Clear	None	0.17	None	clear	0	0	6.97		0.4	0.3	390	
NEW-47	8/24/2018	<.1	Sunny	Fast	None	Clear	None	0.04	None	clear	0	0.2	10.55		0	0.5	<10	<.02
NEW-47	9/1/2017	<.1	Sunny	Fast	None	Clear	None	0.12	None	clear		0	7.68	<.5	0	0.413	<10	
NEW-47	4/6/2017	>0.1	Rain	Fast	None	Brown	None	0	None	clear		0	6.78		0.2	0.331	160	
Outfall	Date	Rain inches last 24 hours	Weather	Flow Velocity	Odor	Color	Deposits stains	Water & sediment depth (feet)	floatables	clarity	chlorine mg/l	surfactants (ppm)	pH	fluoride (mg/l)	ammomia (ppm)	salinity (ppt)	E. Coli CFU/100 ml	total phosphorous
NEW-48	7/16/2019	<.1	Sunny	Medium	None	Clear	None	0.25	None	clear	0	0.25	7.39		0.1	0.3	270	
NEW-48	11/20/2018	>.1	Rain	Medium	None	Clear	None	0.42	None	clear	0	0.25	7.11		0.1	0.2	1500	
NEW-48	8/24/2018	<.1	Sunny	Medium	None	Clear	None	0.16	None	clear		0	7.55		0	0.4	610	<.02
NEW-48	9/1/2017	<.1	Sunny	Medium	None	Clear	sediments	0.16	None	clear		0	7.62	<.5	0	0.413	45	
NEW-48	4/6/2017	>.1	Rain	Medium	None	Clear	None	0	None	clear		0.5	6.57		0.1	0.427	170	

Flow velocity (feet/sec)

slow <0.5 medium 0.5-1.75 fast 1.75+

Attachment 2 – Map of relevant site environmental features prepared by Drew Smyth, neighbor



Attachment 2. Location Map Areas of Interest

- Hazardous Waste Large Quantity Generator
- Drinking Water Wellhead Protection Area Shown in pink
- Newton MS4 Outfall NEW-48
- Newton MS4 Outfall NEW-47
- Runaway Brook
- Ash and/or oil contamination

Wetlands

- DN- Deep Marsh
- WS1- Wooded Swamp Deciduous
- M - Shallow Marsh
- OW – Open Water

- Newton MS4 Outfall NEW-44B
- 5 Underground Storage Tanks - contaminated
- 20,000 gal x 3, 2,000 gal, 1,000 gallon

Basemap from MassDEP Oliver GIS

Attachment 3 – Manufacture Specifications for Operations and Maintenance Plan

12.0 Inspection and Maintenance

StormTech

12.1 ISOLATOR ROW INSPECTION

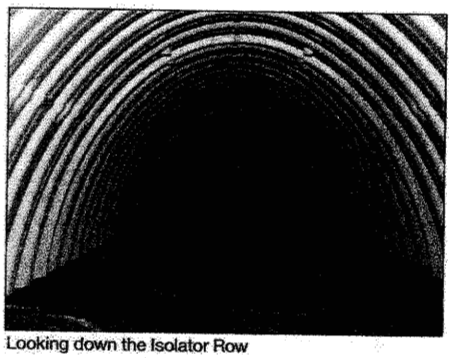
Regular inspection and maintenance are essential to assure a properly functioning stormwater system. Inspection is easily accomplished through the manhole or optional inspection ports of an Isolator Row. Please follow local and OSHA rules for a confined space entry.

Inspection ports can allow inspection to be accomplished completely from the surface without the need for a confined space entry. Inspection ports provide visual access to the system with the use of a flashlight. A stadia rod may be inserted to determine the depth of sediment. If upon visual inspection it is found that sediment has accumulated to an average depth exceeding 3" (76 mm), cleanout is required.

A StormTech Isolator Row should initially be inspected immediately after completion of the site's construction. While every effort should be made to prevent sediment from entering the system during construction, it is during this time that excess amounts of sediments are most likely to enter any stormwater system. Inspection and maintenance, if necessary, should be performed prior to passing responsibility over to the site's owner. Once in normal service, a StormTech Isolator Row should be inspected bi-annually until an understanding of the sites characteristics is developed. The site's maintenance manager can then revise the inspection schedule based on experience or local requirements.

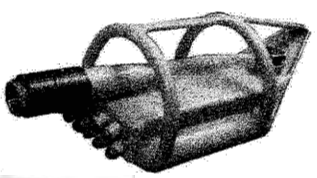
12.2 ISOLATOR ROW MAINTENANCE

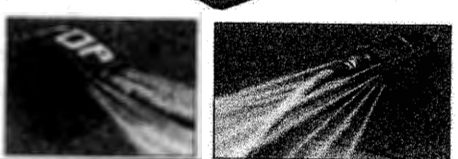
JetVac maintenance is recommended if sediment has been collected to an average depth of 3" (76 mm) inside the Isolator Row. More frequent maintenance may be required to maintain minimum flow rates through the Isolator Row. The JetVac process utilizes a high pressure water nozzle to propel itself down the Isolator Row while scouring and suspending sediments. As the nozzle is retrieved, a wave of suspended sediments is flushed back into the manhole for vacuuming. Most sewer and pipe maintenance companies have vacuum/ JetVac combination vehicles. Fixed nozzles designed for culverts or large diameter pipe cleaning are preferable. Rear facing jets with an effective spread of at least 45" (1143 mm) are best. The JetVac process shall only be performed on StormTech Rows that have AASHTO class 1 woven geotextile over the foundation stone (ADS 315ST or equal).



Looking down the Isolator Row

A typical JetVac truck (This is not a StormTech product.)





Examples of culvert cleaning nozzles appropriate for Isolator Row maintenance. (These are not StormTech products).

12.0 Inspection & Maintenance

STORMTECH ISOLATOR™ ROW - STEP-BY-STEP MAINTENANCE PROCEDURES

Step 1) Inspect Isolator Row for sediment

A) Inspection ports (if present)

i. Remove lid from floor box frame

ii. Remove cap from inspection riser

iii. Using a flashlight and stadia rod, measure depth of sediment

iv. If sediment is at, or above, 3" (76 mm) depth proceed to Step 2. If not proceed to Step 3.

B) All Isolator Rows

i. Remove cover from manhole at upstream end of Isolator Row

ii. Using a flashlight, inspect down Isolator Row through outlet pipe

1. Follow OSHA regulations for confined space entry if entering manhole

2. Mirrors on poles or cameras may be used to avoid a confined space entry

iii. If sediment is at or above the lower row of sidewall holes [approximately 3" (76 mm)] proceed to Step 2. If not proceed to Step 3.

Step 2) Clean out Isolator Row using the JetVac process

A) A fixed floor cleaning nozzle with rear facing nozzle spread of 45" (1143 mm) or more is preferable

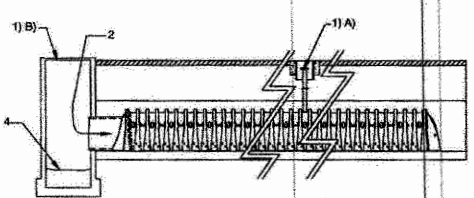
B) Apply multiple passes of JetVac until backflush water is clean

C) Vacuum manhole sump as required during jetting

Step 3) Replace all caps, lids and covers

Step 4) Inspect and clean catch basins and manholes upstream of the StormTech system following local guidelines.

Figure 20 – StormTech Isolator Row (not to scale)



12.3 ECCENTRIC PIPE HEADER INSPECTION

Theses guidelines do not supercede a pipe manufacturer's recommended I&M procedures. Consult with the manufacturer of the pipe header system for specific I&M procedures. Inspection of the header system should be carried out quarterly. On sites which generate higher levels of sediment more frequent inspections may be necessary. Headers may be accessed through risers, access ports or manholes. Measurement of sediment may be taken with a stadia rod or similar device. Cleanout of sediment should occur when the sediment volume has reduced the storage area by 25% or the depth of sediment has reached approximately 25% of the diameter of the structure.

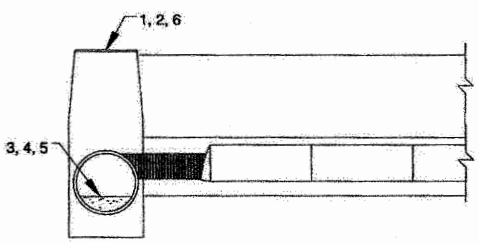
12.4 ECCENTRIC PIPE MANIFOLD MAINTENANCE

Cleanout of accumulated material should be accomplished by vacuum pumping the material from the header. Cleanout should be accomplished during dry weather. Care should be taken to avoid flushing sediments out through the outlet pipes and into the chamber rows.

Eccentric Header Step-by-Step Maintenance Procedures

1. Locate manholes connected to the manifold system
2. Remove grates or covers
3. Using a stadia rod, measure the depth of sediment
4. If sediment is at a depth of about 25% pipe volume or 25% pipe diameter proceed to step 5. If not proceed to step 6.
5. Vacuum pump the sediment. Do not flush sediment out inlet pipes.
6. Replace grates and covers
7. Record depth and date and schedule next inspection

Figure 21 – Eccentric Manifold Maintenance



Please contact StormTech's Technical Services Department at 888-892-2894 for a spreadsheet to estimate cleaning intervals.

Memorandum – Re: Summary of Environmental Due Diligence and Precharacterization Activities Riverside Station Redevelopment dated January 28, 2020 – Comments by a neighbor Drew Smyth 105 Hancock Street Auburndale MA

In reference to the above environmental study please consider the following comments.

General- The report is misleading and incomplete. The report glosses over the contamination present and implies that the soil is of good quality and that there are no risks and that any contamination found was exempt. Rather, the opposite is likely true. The contamination is probably not exempt as identified in the Massachusetts Contingency Plan requirements. In fact, the project proponents, by not reporting the contamination, were probably in violation of the regulations. The report does not describe the construction impacts nor describe how they will be dealt with other than to say a self-implementing RAM Plan will be forthcoming prior to ground disturbance. This gives no opportunity for Newton or any neighbor to review the plan prior to its implementation to discern whether these activities will in fact be safe or meet the standards. The RAM plan is a self-implementing plan meaning that no agency will necessary look at it. There is no oversight by MassDEP unless they decide to look at it or visit the site which is uncommon. Rather the plan is managed by a single Licensed Site Professional whom works for the developer. For a large project of this magnitude, in a neighborhood area, the neighbors should expect more. Further the plan describes how infiltration basins will be installed at the site however infiltration system 103 is located where the bedrock is only 5.5 feet deep per their boring logs for SH-103 in Attachment 3. There is no explanation of how this unit can be installed and operate deep into bedrock. The excavations are blow the water table and a plan for dewatering and disposal is not discussed. The plan calls for installing rock crushing machinery at the site and this will create lots of dust and noise and control of this is not discussed. Also a hotel developed in the mid 1960s will be demolished. Hotels of this vintage are expected to have asbestos, lead paint and Polychlorinated biphenyls (PCBs) were commonly used in mastic and caulk and other materials of construction. It is unclear how this demolition will proceed without risking contaminant exposure. There has not been a assessment of these materials in the hotel building components.

Page Specific Comments

Page 2, 1st paragraph – The proponents discuss cut and fill of soil but no where do they sum up these cuts and fills into numbers of cubic feet or yards to illuminate the massive excavations that will occur to implement the project. They provide no detailed maps or cross-sections showing this information. They have this information because they can not plan the construction activities without this information but appear to be withholding this information. The DEIR, recently released, also does not record the cut and fill volumes just a general contour map of changes. However, based on a rough calculation the area just around the Indigo Hotel it will result in 20,000 to 40,000 cubic yards and that does not include anywhere else on site, the deep infiltration units or the utilities. Imagine the whole Indigo Hotel footprint being stacked several stories high with excavated materials. This is a very large scale project that has not been adequately quantified by the developer. The developer plans to dispose of that soil by raising the whole site several feet. Hard to imagine how this happens without closing or curtailing the operability of the T station. The excavation by the hotel is proposed to be 30 feet deep. At that depth, there will inflow of groundwater that will need to be continuously disposed throughout occupation of the building and will be a problem to manage during construction as it will require dewatering and disposal.

Page 2, 1st paragraph – They say that for some buildings the ground improvement method will be full-displacement method and imply it will not generate any soil spoils without clarifying what that means. They are being vague in not described specifically which method they plan to use. There are several ground improvement methods such as vibro-compaction, injecting grout, and mixing stabillizers etc. The proponents should be specific about their plans so the environmental impacts can be assessed. Newton should also define proponent penalties for not implementing the plan in its entirety and for any gaps in the plan content.

Page 2, 1st paragraph – The proponents reference Figure 1 to show that 3 stormwater infiltration systems will be installed. Hopefully this is not the extent of their stormwater controls during construction. Again, they have promised to prepare a construction stormwater plan prior to starting the construction, but, this plan once again is never reviewed. The proponents only need to say they have a Plan when filing their Notice of Intent (NOI) to discharge stormwater and the USEPA has primacy in Massachusetts so they are in charge of enforcing and not Newton or the MassDEP. If someone from USEPA does not go to the site and check on the plan there is nobody that will see if it is being implemented and is even protective as written. The Plan should be made available to the public prior to any construction in order to check whether it meets the requirements and is safe for ecology and human health. Newton should also define proponent penalties for not implementing the plan in its entirety and for any gaps in the plan content. The requirements are described here - https://www.epa.gov/npdes/epas-2017-construction-general-permit-cgp-and-related-documents

Page 2, 1st - The proponents are proposing to dig (cut) soils at many places onsite and move (fill) them elsewhere onsite. Generally speaking, that is not allowed at a site like this. They are not allowed to move contaminated soil around to a less contaminated area. There is an MCP Construction Standard for this below that was never referenced or assessed. The requirement is that only similar soils can be exchanged and that contaminated soils must not be placed in areas of clean soils.

https://www.mass.gov/doc/wsc13-500-similar-soils-provision-guidance-0/download

Page 2, 1st - Note that the project will need to meet this standard "Anthropogenic Background/Historic Fill that is excavated must still be managed as a remediation waste if RCs are exceeded" (see hotlink below for quote) so the spreading of these materials around the site will be curtailed. The plan is to spread these materials over the site but that likely will not be possible. Figures 1 and 2 below show the locations where the quarry operations were conducted and where the historical filling occurred. You will note that the fill areas will coincide with a number of the planned building areas. This will likely lead to problems getting rid of this soil after excavation.

https://www.mass.gov/doc/anthropogenic-backgroundhistoric-fill-public-comment-draft/download

Page 2, 2nd paragraph – The proponents report implies that the facility has no impact on the Interim Wellhead Protection Area (IWPA) for the Weston Wells because that area crosses only the rail portion of the facility in the direction of the Charles River. However, the facility storm sewers directly discharge

into the IWPA and the groundwater from the site travels in the direction of the IWPA area. The subsurface infiltration of stormwater to the aquifer will speed up the transport of contaminants and mobilize them. The facility will be doing extensive soil compaction, excavation and blasting and that will also mobilize contaminants to the IWPA and Charles River.

Page 2, 3rd paragraph – The plan describes how Activity and Use Limitations (AULs) are not required for the site. However, there were detections of several contaminants above applicable soil standards so an AUL **will likely be** required for this site. The ash layer contains organic and metals contamination above the S-1 soil cleanup standard for residential use. The property has changed from commercial to residential and therefore an AUL will likely be necessary. The MassDEP's requirements for using an AUL are quoted below. The ash sampling showed that arsenic concentrations exceeded the values typical for even soils containing ash. The prior site investigations had never reported ash as exceeding a limit so it had not been previously reported.

"Summary of When AULs Are and Are Not Required [310 CMR 40.1012] The MCP specifies the conditions, based on the concentrations and location of OHM remaining at a disposal site and the risk characterization method, for which an AUL is or is not required. While the MCP carves out some exceptions, **an AUL is generally required any time the Exposure Point Concentrations (EPCs) of OHM left on site exceed a level of No Significant Risk for unrestricted use of the site. Even when such contamination is at depth and therefore no exposure is currently likely, an AUL may be necessary to prevent activities in the future that would result in the uncontrolled excavation of, and human exposure to, contaminated soils.**" (emphasis added)." Per https://www.mass.gov/doc/aul-guidance-public-review-draft-0/download

Page 4, 2nd paragraph – Although the report indicates that "No petroleum or decaying organic like odors were observed during drilling" there was no check item for listing this in the report. Rather the only quantitative measures of odor **did** detect in many borings VOCs using an analytical meter (MiniRAE 3000) expressly used for that purpose.

Page 4, last paragraph and beginning of page 5 – The proponent does describe that soil analytical methods did detect organic and metals contamination above human health criteria and that there is a risk to human health from these soils. However, they then make the unproven statement that the soils are exempt from the standards. They say this without having done the required assessment to prove this exemption. They found more oil and metals contamination during recent site investigations and failed to report it under the MCP as probably required. They said it is exempted but it is probably not. They did not go through the required checklist
https://www.mass.gov/files/documents/2016/08/qj/draft-historic-fill-technical-update-2016-05-20.pdf

The checklist for this determination includes:

"Historic Fill means Fill Material that based on the weight of evidence and consistent with the Conceptual Site Model:

(a) was emplaced before January 1, 1983 (the effective date of MGL c21E;

(b) may contain, but is not primarily composed of, construction and demolition debris, reworked soils, dredge spoils, coal, coal ash, wood ash or other solid waste material;

(c) was contaminated with metals, hydrocarbons, and/or polycyclic aromatic hydrocarbons prior to emplacement, at concentrations consistent with the pervasive use and release of such materials prior to 1983;

(d) does not contain oil or hazardous materials originating from operations or activities at the location of emplacement;

(e) is not and does not contain a generated hazardous waste, other than Oil or Waste Oil;

(f) does not contain chemical production waste, manufacturing waste, or waste from processing of metal or mineral ores, residues, slag or tailings; and

(g) does not contain waste material disposed in a municipal solid waste dump, burning dump, landfill, waste lagoon or other waste disposal location."

Regarding item a) The proponents have provided no evidence that the materials were put in place prior to 1983. The buried materials included root fragments at a depth of 10 feet which if they had been buried for a very long time may have already decomposed by now. It is commonplace in such determinations to provide topographic maps and aerial photos from prior to the 1980s to demonstrate that these areas had already been filled but none were provided. In fact, the MassDEP policy requires them to do these checks as stated in the document. Per the MassDEP "Aerial photos and topographic maps should be reviewed to document changes in topography which would indicate a filling history. These maps are readily available on various web sites and should be included in an appendix to the Permanent Solution Statement where a Permanent Solution relies on a Historic Fill determination. Available topographic maps date from 1893 to 1987 and aerial photos go back to 1938 for some areas although the quality varies. Topographic changes such as wetland to upland, the shapes of water bodies, the elimination or culverting of streams, and elevation changes should be identified." In fact an aerial I reviewed showed that area as a depression that probably was filled around 1994. See site aerials for 1994

https://www.historicaerials.com/viewer

Regarding Item b) There are borings such as HA09-9 where the boring logs recorded "70% coal dust, 10% coal ash, 10% slag, 10% brick" and "100% ash, coal, slag in fragments, particles, and specks" which doesn't meet the exemption since it is primarily composed of wastes.

Regarding item d) The materials disposed at the site were very likely generated at the site rather than materials brought in from elsewhere. That site had been occupied for at least 100 years as a rail facility and therefore any materials disposed to the site could be by the owner which makes the contaminated fill *not exempt*. The report does not describe any actions taken to identify the source of the fill materials.

Regarding item f) the fill material is not allowed to contain manufacturing and production waste but the emplaced fill includes slag fragments. The nature of that slag and even the coal ash has not been proven. It is typical to conduct microscopy or similar methods to assess the origin of the materials. The MassDEP guidance states that "Forensic analysis is a useful tool to support Historic Fill determinations in identifying ash and other components of the soil matrix which would provide a line of evidence for the origin of the OHM. Laboratories can use microscopy to identify particles in the soil matrix and to

selectively analyze samples. Typical ash analysis includes Polarized Light Microscopy (PLM), Scanning Electron Microscopy (SEM) and Energy Dispersive Spectroscopy (EDS).

Further note that the claim of anthropegenic releases associated with traffic or emissions or whatever does not work if the whole site does not reflect those patterns. Many parts of the site do not show this impact implying that it is not a regional release source.

In summary they did not provide any of the required evidence that this material qualifies as historic fill and did not even indicate whether a **Licensed Site Professional** (LSP) made the determination. The MassDEP specifically states that "LSPs must present a robust argument in this regard, including, as appropriate, literature citations, multiple lines of evidence and/or forensic analytical data". Yet this was not done and yet we are expected to believe the contaminated soil is safe and nonreportable whereas the more obvious reading of the rules and guidance is that it is probably not exempt and was not reported to the MassDEP as required. In any case they certainly did not make a convincing argument.

Page 5, 2nd paragraph – The paragraph discussing MCP exceedences does not discuss the 2-methylnapthalene exceedences. Note also that the arsenic value exceeded the Table 1 (see hot link below) values for even ash contaminated soils. The exceedance of the Table 1 values means that it should have been a reportable incident. The report indicates that these constituents had previously been identified in laboratory tests but they had never individually been reported so are not covered by the prior work. Further note that 3 borings had chemicals in this report that exceeded residential RCS-1/S-1 standards not just SH-109 as implied.

https://www.mass.gov/files/documents/2016/08/xl/backtu.pdf

Figure 1. The figure does not include the Weston and Sampson (2000) WS soil borings and wells nor the ATC (2000) GP borings and ATC wells. The Figure should be revised to show all the borings and wells.

Attachment C – Infiltration Basin 102 is located at a shallow bedrock location where the bedrock is only 5.5 feet below the ground surface as shown in the boring log for boring SH-103. It is hard to fathom how they are going to place a groundwater infiltration chamber here. They would have to do extensive bedrock blasting and excavation just to make room for the system and even then how would they get any infiltration into bedrock? This system design does not appear to be implementable.

Figure 1. Mining Excavation Areas probably filled with ash

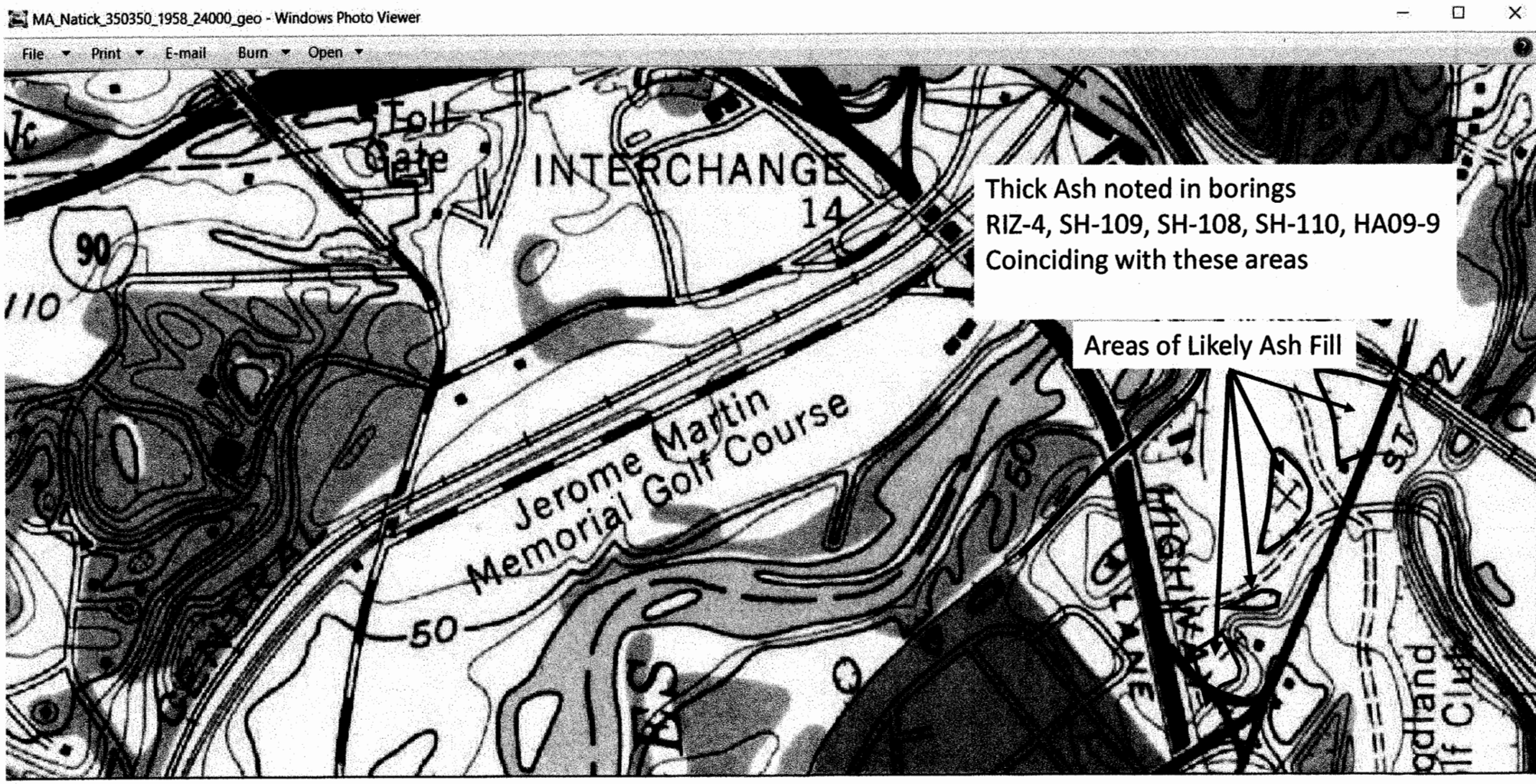
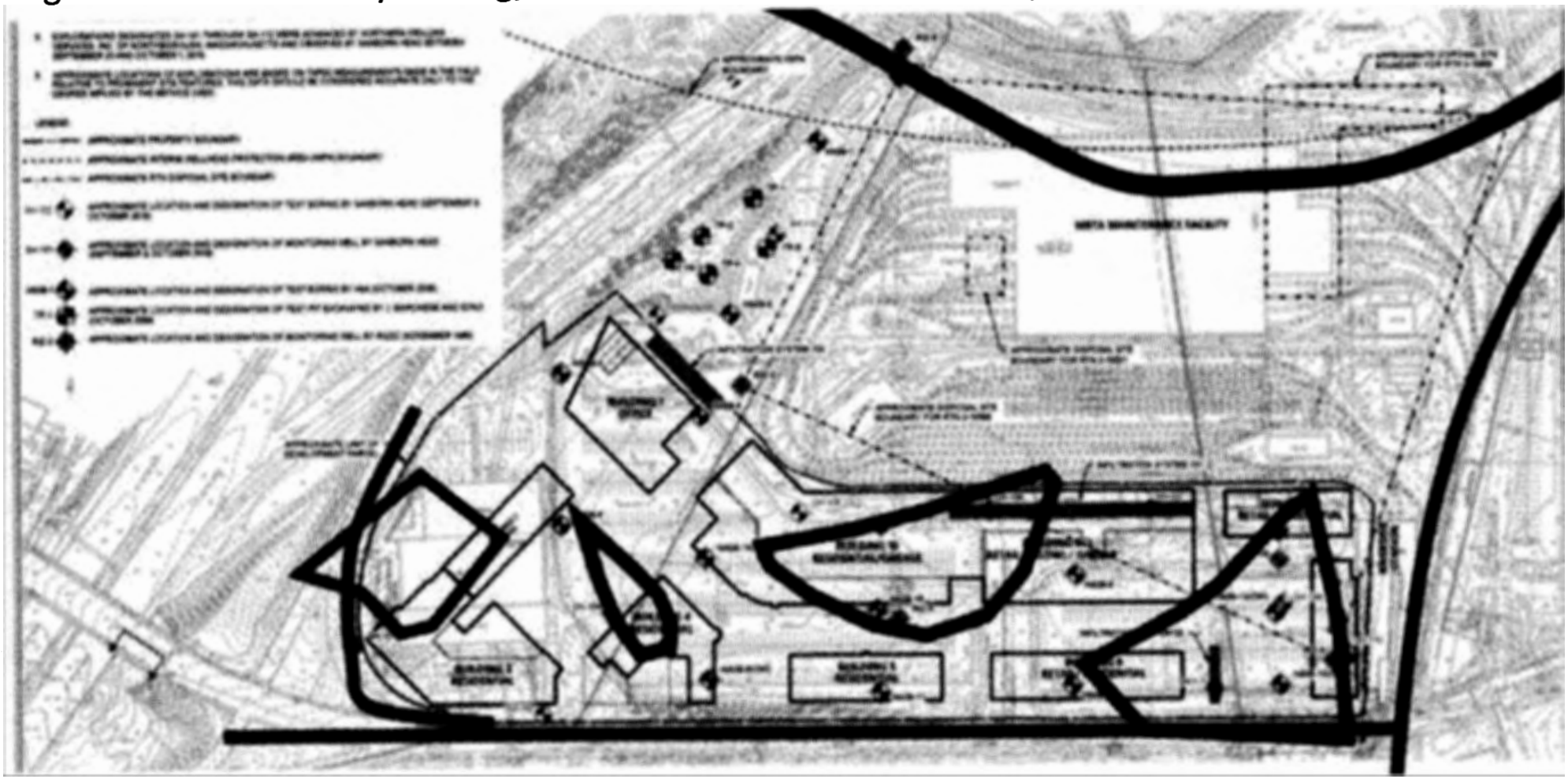


Figure 2. Areas of Likely Mining/Ash Fill Overlain on Site Development Plan



Attachment B
58 Cross St., 1089 Washington St.
#67-20

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 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 retail marijuana sales and waivers to the extent necessary for 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 is an appropriate location for the proposed Marijuana Retailer due to its location within the Business Use 2 zone. (§7.3.3.1)
2. The proposed Marijuana Retailer as developed and operated will not adversely affect the neighborhood given its proximity to the varied uses along the Washington Street Corridor and the petitioner's proposals to manage traffic and parking. (§7.3.3.2)
3. Access to the site over streets is appropriate for the types and numbers of vehicles involved given the site's proximity to regional roadways such as the Massachusetts Turnpike and Washington Street. (§7.3.3.3)
4. There will be no nuisance or serious hazard to vehicles or pedestrians due to the petitioner's upgrades to the site, including new sidewalks along the site's frontage and in the interior of the site. (§7.3.3.4)
5. Literal compliance with the lighting and parking requirements is impracticable due to the nature of the use, 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. ((§5.1.10, §5.1.13)

With regard to special permits concerning the Marijuana Retailer on site, pursuant to §6.10.3.G:

6. The lot is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§6.10.3.G.1.a)
7. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.3.G.1.b)

8. The Marijuana Retailer is designed to minimize any adverse impacts on abutters with reduced lighting, fencing, landscaping and site design that prohibits access to Cross Street. (§6.10.3.G.1.c)
9. The Marijuana Retailer is not located within a 500-foot radius of a public or private K-12 school. (§6.10.3.G.2.a)
10. Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Retailer will not create a significant adverse impact on nearby uses due to the appointment only system set forth in Condition 2. (§6.10.3.G.2.b)
11. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.3.G.2.c)
12. The building and site are accessible to persons with disabilities. (§6.10.3.G.2.d)
13. The lot is accessible to regional roadways and public transportation due to its location on Washington Street and proximity to the Massachusetts Turnpike, and MBTA bus routes 553, 554, and 59. (§6.10.3.G.2.e)
14. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.3.G.2.f)
15. The Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses given the mixed-use nature of the Washington Street Corridor and presence of commercial uses nearby that operate during similar hours. (§6.10.3.G.2.g)

PETITION NUMBER:	#67-20
PETITIONER:	Ascend Mass, LLC.
LOCATION:	58 Cross Street/1089 Washington Street, on land known as SBL 31, 09, 07, containing approximately 25,122 square feet of land
OWNER:	1089 Washington Street Limited Partnership
ADDRESS OF OWNER:	10 Newbury Street Boston, MA 02116
TO BE USED FOR:	Marijuana Retailer
CONSTRUCTION:	Concrete
EXPLANATORY NOTES:	To allow retail marijuana sales and waivers to the extent necessary for lighting requirements (§7.3.3, §7.4, §6.10.3.D, §4.4.1, §5.1.10, §5.1.13)
ZONING:	Business Use 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. Existing Conditions Site Plan signed and stamped by Gerry Holdright, Professional Land Surveyor, dated March 26, 2019.
   b. Proposed Site Plan, signed and stamped by Daniel F. Delany, Professional Engineer, prepared by Fuss and O'Neill, November 12, 2019, most recently revised February 6, 2020;
   c. Details, consisting of six sheets, CD-501-CD-506, signed and stamped by Daniel F. Delany, Professional Engineer, prepared by Fuss and O'Neill, November 12, 2019, most recently revised February 6, 2020;
   d. Site Landscape Plan, LP-101 signed and stamped by Daniel F. Delany, Professional Engineer, dated November 12, 2019, most recently revised February 6, 2020
   e. Floor Plans and Front Elevations A01 and A02 signed and stamped by Keith Bettencourt, Registered Architect, dated August 2, 2019.
   f. Proposed Site Lighting - Photometric, SL-101, prepared by Fuss and O'Neill, dated November 12, 2019 most recently revised February 6, 2020.
2. The petitioner shall see all visitors of the Marijuana Retailer on an appointment only basis. Given that the petitioner requires each customer to be served individually by a customer service representative, the "appointment only" requirement is intended to ensure a smooth flow of customers arriving to and leaving from the site, to avoid customer waiting outside the building for a customer service representative to be available, and to allow the petitioner to anticipate customer volume.

   The petitioner may use reasonable flexibility to accommodate customers where events such as, but not limited to, traffic delays, public transportation scheduling, or changes in customers' schedules affect the appointment schedule. The petitioner shall also accommodate those customers who need to wait inside the building either before or after their scheduled appointments. This "appointment only" condition will permit "first available" (i.e., no waiting period) appointments only when a customer service representative is immediately available to serve that customer.

   Six months after commencement of operations for the Marijuana Retailer authorized by this Order, the petitioner may submit a letter to the Commissioner of Inspectional Services, the Director of Planning and Development and the Clerk of the Council requesting to no longer require that all customers be served by appointments only. Such letter shall only be filed after the petitioner has completed the following:

   - Met with the Director of the Transportation Division of Public Works, the Director of Planning and Development, and the Newton Police Department to discuss pedestrian and traffic safety and site security.

- Met with the Director of the Transportation Division of Public Works, and the Director of Planning and Development regarding Transportation Demand Management in accordance with Condition #6 below.

3. The Commissioner of Inspectional Services and the Director of Planning and Development may administratively waive the "appointment only" requirement if they determine that the petitioner is able to maintain an orderly flow of patrons, accommodate all patrons waiting to see a customer service representative inside the building, and accommodate patron parking on site without the "appointment only" requirement. Prior to any decision on the petitioner's waiver request, the Commissioner of Inspectional Services and the Director of Planning and Development shall consult with the Land Use Committee of the City Council regarding the waiver request in the same manner as the Land Use Committee is consulted when a "consistency" ruling on a special permit is requested from the Commissioner of Inspectional Services.
4. The Marijuana Retailer may only operate between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and from 12:00 p.m. to 6:00 p.m. on Sunday.
5. If the appointment only condition is removed and at any time the Director of Planning in conjunction with the Commissioner of Inspectional Services, Chief of Police, and Commissioner of Public Works, determines there is a public safety concern due to the lack of appointments, the petitioner shall meet with the Director of Planning to discuss and implement measures to address concerns, including resuming appointments during peak periods.
6. Should any line form following the possible conclusion of the appointment only condition, lines must form only on the internal sidewalk and must not form on the Washington Street sidewalk for customers waiting.
7. There shall not be more than fifteen (15) staff members, on site at any one time not including delivery personnel.
8. Employees of the Marijuana Retailer shall not park on residential streets in the vicinity of the site. The Marijuana Retailer shall provide messaging to customers and employees in that parking on residential streets is prohibited.
9. The Petitioner shall update the sidewalks along the Washington and Cross Streets frontage, install a crosswalk across Cross Street, and install rain gardens on site to the satisfaction of the City Engineer. Such improvements shall be completed prior to the issuance of a temporary occupancy certificate.
10. 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:
    a. Displaying all transit schedules in a visible location at the dispensary;
    b. Provide pre-paid CharlieCard and/or Commuter Rail passes to any employee who can utilize the MBTA system to commute to the retailer;
    c. Participating in the City of Newton Bikeshare program;
    d. Providing a secure bicycle storage area on site;
    e. Incentives for employees to carpool with small bonuses or other programs;
    f. Establishing an on-site car-pool, rideshare program with guaranteed ride home; and

g. Reimburse employees who regularly walk to work the cost of a new pair of walking shoes each calendar year.

The Petitioner shall keep records detailing how employees are commuting to and from the site, including the number of employees utilizing transit, parking at satellite lots, and using alternative methods of transportation such as the bikeshare. Two months after the commencement of operations for the Marijuana Retailer, the petitioner shall provide an update to the Director of Planning and Development and the Director of Transportation regarding the results of the petitioner's TDM Plan for employees. Should the TDM plan be deemed insufficient, the petitioner shall be required to revise the TDM plan to the satisfaction of the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to meet again with the officials above at six months and at 12 months after the receipt of a temporary certificate of occupancy.

11. Security lighting shall be in accordance with the standards imposed by the Department of Public Health. Additionally, security lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.
12. The petitioner shall locate, secure, and screen the dumpster to minimize its visibility from the public way. The dumpster shall be kept closed and secured and the area surrounding the dumpster shall be kept free of debris.
13. The granting of a special permit to allow a Marijuana Retailer to operate at this site applies only to the petitioner and does not run with the land. When the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Cannabis Control Commission, the Marijuana Retailer use as well as the additional relief granted by this Order shall expire.
14. Snow shall not be stored on site.
15. Should the petitioner seek to extend the Marijuana Retailer authorized by this Order, including but not limited to, increasing the number of employees, or extending the hours of operation, it shall seek an amendment to this Order.
16. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
17. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
18. The petitioner shall maintain its registration with the Cannabis Control Commission. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the City Council, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
19. In order to provide information to the City regarding the operation of the Marijuana Retailer and the effectiveness of the mitigations and conditions imposed through this Council Order, the petitioner shall monitor the Marijuana Retailer's operation in the following areas and at

the following intervals, and shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, and such reports shall also be filed with the Land Use Committee of the City Council:

a. Within six (6) months and again at twelve (12) months of commencing operations of the Marijuana Retailer, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the Marijuana Retailer and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development have concerns and/or find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the Marijuana Retailer at this site. If the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall meet with the Director of Planning to see if further mitigations on the operation of the Marijuana Retailer are warranted to address such public safety or security of the facility concerns.

20. Prior to the issuance of a temporary certificate of occupancy, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works, the Inspectional Services Department, and the Department of Planning and Development.
21. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved security plan to the City of Newton Police Department for review and approval.
22. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved emergency response plan to the City of Newton Fire Department for review and approval.
23. Prior to the issuance of a temporary certificate or occupancy, the petitioner shall submit a state approved Operation and Management plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
24. Prior to the issuance of any occupancy certificate, the petitioner shall conduct a Pre and Post closed-circuit television inspection of the City's drainpipe in concert with the proposed overflow connection and provide an electronic copy of such inspection to the Commissioner of Public Works.
25. Prior to the issuance of any building permit for the Project the Petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent 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 of the project.

b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and from 8:00 a.m. to 7:00 p.m. on Saturdays. No construction is permitted on Sundays, or holidays except in emergencies, and only with prior approval from the Mayor or designee.

c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.

d. 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 and delivery vehicles, and location of any security fencing.

e. Proposed methods for dust control including, but not limited to: 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 and vibration control, in accordance with the City of Newton's Ordinances. 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 for protection of any existing trees to remain on the site.

h. A plan for rodent control prior to demolition, during demolition, and during construction.

i. The CMP shall also address the following:

- safety precautions;
- anticipated dewatering during construction;
- site safety and stability;
- impacts on abutting properties.

26. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:

a. Recorded a certified copy of this Council order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.

b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

c. Received approval of the final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.

d. Received approval of the Cross Street gate from the Fire Department.

e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

f. Provided updated site and landscape plans that show additional bicycle parking, as well as covered bicycle parking.

27. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
    a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
    b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
    c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works.
    d. Provided the City Engineer, Department of Inspectional Services, and the Department of Planning and Development with a recorded copy of the Operation and Maintenance (O & M) plan for Stormwater Management in accordance with Condition #20.
    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, final landscape features, fencing, and parking areas.
    f. Received approval from the appropriate City Departments in accordance with Conditions #20, #21, #22 above.
28. Notwithstanding the provisions of Condition #27 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.