



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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

**DATE:** March 15, 2023

**TO:** City Council

**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Joseph Iadonisi, Senior Planner

**SUBJECT:** **Working Session Memo for Petition #80-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to allow a series of retaining walls exceeding four feet in height in the front setback at 161 Pine Ridge Road, Ward 5, Waban, on land known as Section 53 Block 28 Lot 08, containing approximately 22,500 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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Originally scheduled for February 6, 2024, the petitioners for 161 Pine Ridge Road applied for and were granted a continuance. This memorandum is intended to provide information in advance of the scheduled public hearing for 161 Pine Ridge Rd. on March 19, 2024, supplementing and provide updates for the previously published planning memorandum.

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**Background**

The petitioner has already constructed the retaining walls in excess of four feet in height in the front setback that require relief and is now seeking relief after the completion of the walls in order to obtain a Certificate of Occupancy. During the period of the continuance, no modifications to the walls or revisions to the site or building plans have occurred. However, the continuance did allow time for the publication of the Engineering Memorandum.

**Summary of Engineering Memorandum**

Given the retaining walls were not depicted on the plans submitted for the original Building Permit, the Engineering Review did not occur until February 9, 2024. The Associate City Engineer reported that no weep-holes were present to allow the walls to drain and recommended an after-the-fact affidavit indicating that the walls were installed as designed and certifying their stability.

### **Summary of Project Description**

The subject property at 161 Pine Ridge Rd. consists of a single-family dwelling on a 22,500 square foot lot. The property is located in the Single-Residence 2 zone (SR2) and is abutted by single-family dwellings in close vicinity to the Waban Village Center. The Inspectional Services Department issued Building Permit 19-1588

(<https://newtonma.viewpointcloud.com/records/696024>) on May 4, 2022 for by-right renovations and additions to the property. The work has since been completed, but a Certificate of Occupancy has not been issued due to the construction of retaining walls exceeding four feet within the front setback. Given the retaining walls reach a cumulative height of 6.2 feet where four feet is the maximum height for retaining walls allowed by right, the constructed retaining walls require relief.

### **Analysis**

There have been no changes to the plan since the Planning Department Memorandum dated February 2, 2024 (Attachment B), and thus no change to the Planning Department's analysis of this project. However, the Planning Department recommends conditioning the approval of this Special Permit on the petitioner providing the recommended after-the-fact affidavit certifying that the walls were installed as designed and certifying the stability of the retaining walls.

### **ATTACHMENTS:**

- Attachment A:** Engineering Memorandum
- Attachment B:** Compiled Land Use Memorandum
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Council Order

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Council Andrea Kelly, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 161 Pine Ridge Road

Date: February 9, 2024

CC: Lou Taverna, PE City Engineer  
Barney Heath, Director of Planning  
Jennifer Caira, Deputy Director  
Katie Whewell, Chief Planner  
Alyssa Sandoval, Deputy Chief Planner

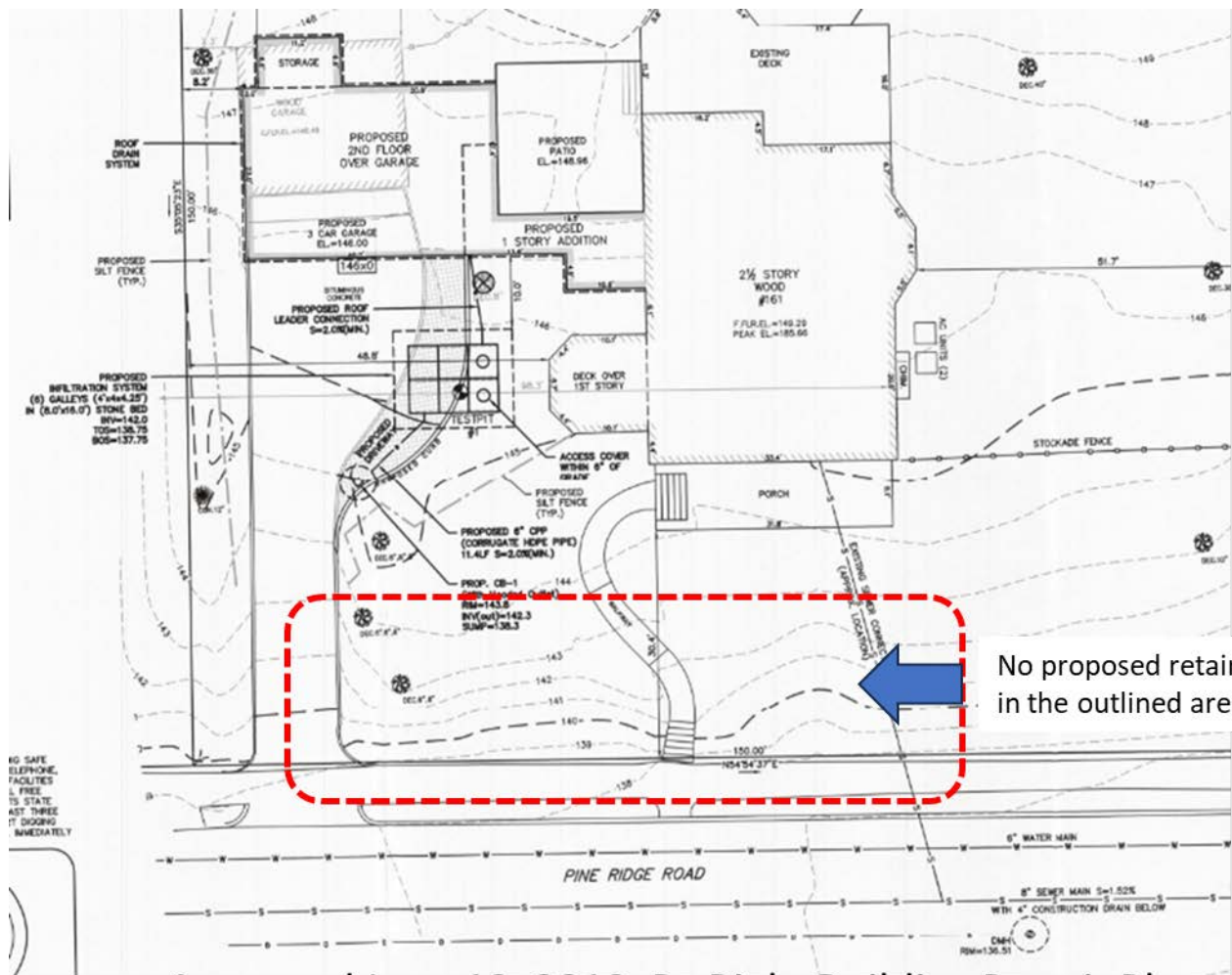
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In reference to the above site, I have the following comments for a plan entitled:

Topographic Site Plan  
Newton, MA  
Showing As- Built Conditions at  
#161 Pine Ridge Road  
Prepared by: VTP Associates, Inc.  
Dated: January 16,2023

Executive Summary:

On June 19, 2019, the homeowner received approval for a *By-right* building permit prepared by VTP Associates, (see plan).



**Approved June 19, 2019, By Right Building Permit Plan**

As can be seen on the approved site plan no retaining wall were proposed.

The as built plan submitted and the following photo shows two walls were constructed without review & approval. The lower wall is 2.8 feet high at the highest point (to the right of the photo); and the upper wall at its high point is 2.3 high near the stairs.

Based on the site visit yesterday the walls and the site appear to be stable; however, with all retaining walls proper drainage behind the wall is required to relieve hydrostatic pressure (any water that accumulates behind any wall) via weep holes. I did not observe any weep holes that would allow any water behind the wall to freely drain out. Either the landscape architect or engineer of record that designed the walls should submit an after the fact affidavit indicating that the walls were installed as they were designed and certify the stability of said walls.

Finally, the site plans shows a drainage system installation, it is paramount that the homeowner perform annual inspections and cleaning of the trench drain and underground infiltration

system to ensure proper performance and provide annual inspection report to the DPW Environmental Engineer. Ideally an Operations and Maintenance (O&M) plan prepared & stamped by the engineer of record for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.



This concludes my review if you have any questions or concerns, please feel free to contact me at 617-796-1023.

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.



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**PUBLIC HEARING MEMORANDUM**

**DATE:** February 2, 2023

**TO:** City Council

**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Joseph Iadonisi, Senior Planner

**SUBJECT:** **Petition #80-24** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct additions to allow a series of retaining walls exceeding four feet in height in the front setback at 161 Pine Ridge Road, Ward 5, Waban, on land known as Section 53 Block 28 Lot 08, containing approximately 22,500 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



**161 Pine Ridge Rd.**

*The Petitioner has requested a continuance of this item, it will be discussed in further detail at a future public hearing.*

## **Project Description**

### **Background**

The subject property at 161 Pine Ridge Rd. consists of a single-family dwelling with 6,429 square foot in gross floor area on a 22,500 square foot lot constructed circa 1910. The property is located in the Single-Residence 2 zone (SR2) and is abutted by single-family dwellings in close vicinity to the Waban Village Center. The Inspectional Services Department issued Building Permit 19-1588 (BP 19-1588) on May 4, 2022 for by-right renovations and additions to the property. The work has since been completed, but a Certificate of Occupancy has not been issued due to the construction of a retaining wall that qualifies as a series of retaining walls exceeding four feet within the front setback.

### **Special Permit**

Along with the renovations and additions to the dwelling, the petitioners conducted landscaping improvements at 161 Pine Ridge Rd. This included a series of retaining walls within the 25-foot front setback of the property. Given the retaining walls reach a cumulative height of 6.2 feet where four is the maximum height for retaining walls to be allowed by right, the constructed retaining walls require relief.

### **Analysis**

Planning is unconcerned with the proposed Special Permit to allow for the previously constructed retaining walls, however Planning encourages the petitioner to work closely with Engineering to provide the information they need for structural soundness and annual reporting to the DEP MS-4 permit requirements, which have been conditions of similar special permits. The retaining walls appear to be constructed solely for the purpose of landscaping the front yard. The retaining walls currently support a variety of trees and shrubs, including several river birches and removal of these retaining walls could lead to soil erosion and damage the existing vegetation. If the applicants had applied for a Special Permit prior to the construction of the walls, Planning may not have raised concerns per the zoning ordinance but would have deferred to Engineering review and approval of the walls.

#### **I. Zoning Relief Requested:**

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§5.4.2.B	Request to allow a series of retaining walls exceeding four feet within a setback	S.P. per §7.3.3

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

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

- The site in the SR2 zone is an appropriate location to allow for retaining walls in excess of four feet within the front setback. (§7.3.3.C.1)
- The retaining walls do not adversely affect the neighborhood. (§7.3.3.C.2)
- The retaining walls in excess of four feet within the front setback are no nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The retaining walls in excess of four feet within the front setback are not substantially detrimental to the neighborhood. (§7.8.2.C.2)

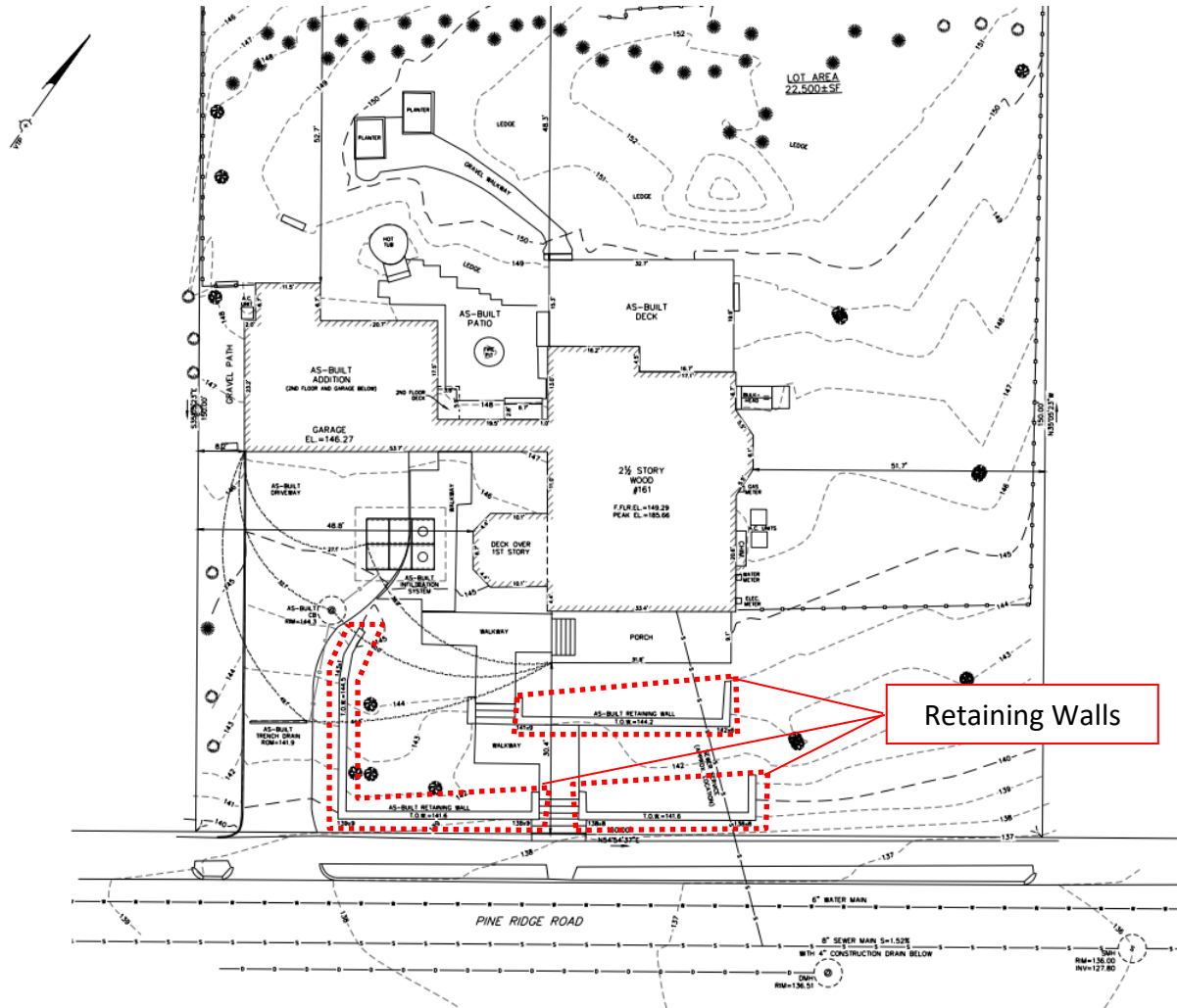
III. Project Proposal and Site Characteristics

A. Site - Existing Conditions

The property at 161 Pine Ridge Rd. features a 6,429 square foot gross floor area on a single-family dwelling on 22,500 square foot lot constructed circa 1910. The building is set back 30.4 feet where 25 feet is required. The front setback has an upwards slope of approximately six feet between the sidewalk and the front façade of the building. Within the front setback are three retaining walls, the two lower retaining walls border the driveway and sidewalk and are split by the sidewalk. The third retaining wall is located approximately halfway between the front porch and the sidewalk. The cumulative height of these retaining walls reaches 6.2 feet as measured by Sec. 5.4.2.A of the Zoning Ordinance.



### Existing Conditions- Site Plan



### PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If approved, the use will remain as a single-family, detached dwelling.

B. Site and Building Design

No additional work is planned per this Special Permit Application.

C. Parking and Circulation

The completed retaining walls have no impact on parking and circulation.

IV. Interdepartmental Review:

No additional reviews are required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.



**Ruthanne Fuller**  
Mayor

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

## ZONING REVIEW MEMORANDUM

Date: December 4, 2023

To: Anthony Ciccariello, Commissioner of Inspectional Services

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

Cc: Peter Sachs, Architect  
Jonahan and Rebecca Bristol, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

**RE: Request to allow a series of retaining walls exceeding four feet in height in the front setback**

Applicant: Jonathan and Rebecca Bristol	
<b>Site:</b> 161 Pine Ridge Road	<b>SBL:</b> 53028 0008
<b>Zoning:</b> SR2	<b>Lot Area:</b> 22,500 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

### BACKGROUND:

The property at 161 Pine Ridge Road consists of a 22,500 square foot lot improved with a single-family residence constructed circa 1910. A series of retaining walls were constructed in the front setback which exceed four feet in height, requiring a special permit.

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

- Zoning Review Application, prepared Peter Sachs, Architect, dated 11/9/2023
- Plan of Land, prepared by VTP Associates, surveyor, dated 1/16/2023

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners constructed a series of retaining walls in front of the dwelling creating terraced planting beds. The walls are within the 25-foot front yard setback required by section 3.1.3 and reach a maximum cumulative height of 6.2 feet. Per section 5.4.2.B, a special permit is required for retaining walls exceeding four feet within a setback.

See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§5.4.2.B	Request to allow a series of retaining walls exceeding four feet within a setback	S.P. per §7.3.3

### **Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

### **The following must be included when filing a Special Permit Application:**

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

### **Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners?      Y/N

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow for retaining walls over four feet for the reasons given by the Committee, through its Chair, Councilor Andrea Kelley:

1. The site in the SR2 zone is an appropriate location to allow for retaining walls in excess of four feet within the front setback given the topography of the properties on the northwest side of Pine Ridge Road with front yards that slope upwards. (§7.3.3.C.1)
2. The retaining walls do not adversely affect the neighborhood as they support additional landscaping with trees and ground cover. Additionally, properties on the northwest side of Pine Ridge Road have upwards sloping front yards with similar topography and grading. (§7.3.3.C.2)
3. The series of retaining walls in excess of four feet within the front setback are no nuisance or serious hazard to vehicles or pedestrians as they do not affect the site circulation. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)

PETITION NUMBER: #80-24

PETITIONER: Peter Sachs

LOCATION: 161 Pine Ridge Road, Ward 5, Waban, on land known as Section 53 Block 28 Lot 08, containing approximately 22,500 sq. ft. of land

OWNER: Jonathan Bristol

ADDRESS OF OWNER: 161 Pine Ridge Road  
Waban, MA 02468

TO BE USED FOR: Single-family dwelling

RELIEF GRANTED: Special Permit per §5.4.2.B to allow a series of retaining walls exceeding four feet within a setback

ZONING: Single Residence 2

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. Plot Plan prepared by VTP Associates dated January 16, 2023
2. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with for the portion of the project for which occupancy is requested and the Petitioner has:
  - a. Filed with the building permit record statements by a registered architect (or professional engineer) and a professional land surveyor (or professional engineer) certifying compliance with Condition #1.
  - b. Submitted final as-built survey plans in digital format, stamped and signed by a professional land surveyor or professional engineer, as applicable.
3. Submitted required documentation to the Engineering Division ensuring the structural soundness of the as-built retaining walls and obtained sign off from the Engineering Division of Public Works.