



Land Use Committee Report

City of Newton In City Council

Tuesday, August 7, 2018

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

Also Present: Councilors Albright, Downs, Krintzman, Norton, Brousal-Glaser

City Staff Present: City Solicitor Ouida Young, Chief Planner Jennifer Caira, Senior Planner Neil Cronin, Senior Planner Michael Gleba

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.

#398-18 **Petition to amend Council Order #285-17 at 392-396, 400 and 402-404 Langley Road**
LANGLEY MONTROSE, LLC. AND LANGLEY FARLOW, LLC. petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Board Order #285-17 to relocate Condition 22(h) from building permit requirements and insert it under Certificate of Occupancy requirements for 392-396, 400, 402-404 Langley Road, Ward 6, containing approximately 79,636 sq. ft. of land in a district zoned MR-2 and BU1. Ref: 7.3.3, 7.4, 7.3, 5.1.13, 3.4.1, 4.1.2.B.1, 5.1.4, 5.1.8.A, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.C.2, 5.1.9.A, 5.1.9.B, 5.1.10, and 7.8.2.C.2 of the City of Newton Rev Zoning Ord, 2015.

Please see the attached request to Withdraw without Prejudice

Action: **Land Use Approved Withdrawal without Prejudice 7-0 (Laredo not Voting)**

Note: Attorney Franklin Schwarzer, Schlesinger and Buchbinder, 1200 Walnut Street, presented the request for a withdrawal without prejudice on the request to move condition 22(h) in Special Permit Council Order #285-17 from issuance of a building permit a condition subject to issuance of the Certificate of Occupancy. Atty. Schwarzer noted that as the petitioner has achieved the condition and applied for the building permit, no amendment is necessary. Committee members expressed no concerns relative to the request. A motion to approve the withdrawal without prejudice carried unanimously.

#395-18 **Request for an Extension of Time for Special Permit #337-16 at 41 Dorset Road**
TIMOTHY LEARY petition for a TWO-YEAR EXTENSION OF TIME to EXERCISE Special Permit #337-16 to CONSTRUCT AN ACCESSORY APARTMENT approximately 846 sq. ft. above a three-car garage at 41 Dorset Road, Ward 5, Waban, Said EXTENSION OF TIME to

expire on December 19, 2019. Ref: 7.3, 7.4, 6.7.1.D, 3.4.3.A.4.c, 3.4.4.E.3 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved 7-0 (Laredo not Voting)

Note: Architect Andrew Falkenstein represented the petitioner, Timothy Leary to request an extension of time to exercise Special Permit Council Order #337-16 for 41 Dorset Road. After receipt of the Special Permit in 2016, the petitioner experienced delays due to civil engineering requirements as well as a dispute with the civil engineer. After resolving the dispute with the civil engineer, the petitioner applied for the building permit and was told that an extension of time was required. Mr. Falkenstein confirmed that the petitioner is prepared to begin construction once the extension of time is granted. Committee members expressed no concerns relative to the request and voted unanimously in favor of approval of the extension of time.

#396-18 Request for an Extension of Time for Special Permit #97-16 at 27 Waverley Avenue
ALICE SCHAEFER petition for a TWO-YEAR EXTENSION OF TIME to EXERCISE Special Permit #97-16 to allow an association of persons in a common dwelling where inhabitants will share common living spaces at 27 Waverley Avenue, Ward 1, Newton Corner, Said EXTENSION OF TIME to expire on June 8, 2019. Ref: Sec. 3.4.1, 5.1.4, 5.1.13, 5.1.7.A, 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord., 2015.

Action: Land Use Approved 7-0 (Laredo not Voting)

Note: Ms. Mary Elise Connolly, 27 Waverley Avenue, represented the petitioner and presented the request for an extension of time to exercise Special Permit Council Order #97-16 at 27 Waverley Avenue. Ms. Connolly noted that in order to begin construction to relocate five parking stalls from the front to the rear of the site, an extension of time is needed. The petitioner delayed construction due to the desire to evaluate the impact of construction at the abutting property. The petitioner has a parking plan and will begin construction once the survey is complete. Committee members questioned whether the Special Permit Council Order will need to be amended. Senior Planner Neil Cronin noted that the Special Permit Order required submission of a parking plan to the Planning Department for review prior to the issuance of a building permit and confirmed that the Planning Department will review the plan. Committee members expressed no concerns relative to the request and voted unanimously in favor the extension of time.

#338-18 Special Permit Petition to exceed FAR at 22 Beecher Place
BEN BRESSEL petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to enclose the front porches, adding approximately 158 sq. ft. to the structure, creating an FAR of .49 where .48 is allowed at 22 Beecher Place, Ward 6, Newton Centre, on land known as Section 81 Block 01 Lot 03 containing approximately 10,146 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.2.3, 3.2.11 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing Opened on June 26, 2018

Action: Land Use Approved 7-0 (Laredo not Voting); Public Hearing Closed 08/07/2018

Note: Petitioner Ben Bressel updated the Committee with changes to the proposed plan to allow FAR relief at 22 Beecher Place. At the initial public hearing on June 26, 2018, Committee members expressed concerns relative to granting FAR relief for new construction when the petitioner designed to the FAR limit at the site. It was noted that the petitioner purchased prefabricated homes after a miscalculation of square footage in atria space by the petitioner's architect. At the public hearing, Committee members urged the petitioner to evaluate considering other options for the front porch spaces. Mr. Bressel noted that the revised plans include a second door for each porch to create airlocked front vestibules.

A Committee member expressed support for the revised petition due to the de minimis request and the fact that the vestibules will serve as a permanent energy efficiency measure. No member of the public wished to speak. Councilor Lipof motioned to close the public hearing which carried unanimously. Councilor Lipof motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown on the attached presentation. Committee members agreed that the Council Order should include a condition requiring the front porches to remain air locked vestibules. Committee members voted unanimously in favor of the motion to approve.

#397-18 Special Permit Petition to increase FAR at 47 Rokeby Road

DARBY AND RANDI LEIGH petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a single-story two-car garage and front entry vestibule, creating an FAR of .41 where .39 is allowed and .39 exists at 47 Rokeby Road, Ward 5, Waban, on land known as Section 55 Block 39 Lot 29, containing approximately 9,280 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref. 7.3.3, 7.4, 3.1.3, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Action: Land Use Approved Subject to Second Call 6-0-2 (Laredo, Auchincloss not Voting); Public Hearing Closed 08/07/2018

Note: Architect Shannon Finley, Tiny Desk Designs, presented the request to exceed for a Special Permit to exceed the allowable FAR at 47 Rokeby Road. The petitioner proposes to construct a two-car garage and increase the size of the front vestibule. Ms. Finley demonstrated the proposed changes on the attached presentation. The petitioner proposes to use permeable pavers in the driveway and regrade around the side and rear of the garage to mitigate water runoff. Although the Engineering Department signed off on the plan, a revised site plan was submitted on August 7, 2018 (the date of the public hearing). Due to the addition of a terraced pathway between the lot line and the proposed garage, the Engineering Department must provide additional analysis. Ms. Finley stated that the terracing will serve as a natural means to manage water runoff and confirmed that Preservation Planner Jennifer Steel and the Historic Commission approve of the plans.

Senior Planner Michael Gleba reviewed the requested relief and criteria for consideration as follows.

Special permit per §7.3.3 to:

- exceed the maximum floor area ratio (FAR) (§3.1.9.A)

When reviewing the requested special permits the Council should consider whether:

- The proposed increase in FAR from 0.39 to 0.41, where 0.39 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9.A.2).

Mr. Gleba reviewed zoning and land use at the site and presented photos as shown on the attached presentation. He noted that the abutting property slants towards the petitioner's yard.

The Public Hearing was Opened.

Ms. Finley submitted the attached petition in support of the proposed project.

Dena David, 60 Rokeby Road, is in support of the proposed project. Ms. David noted that the garage is necessary for the petitioner who is a doctor and on-call 24 hours a day. Ms. David noted that because the street is a dead end, it is often plowed towards the end of the plowing route. Ms. David believes the design is consistent with the neighborhood character and she noted that this site is the only one on the street without a garage.

Laura Meagher, 342 Quinobequin Road, noted that she was not aware of the project until she received the legal notice. She is supportive of the project but has concerns about the Engineering details at the site. She wants to ensure that the Engineering standards will be met.

Paul David, 60 Rokeby Road, is in support of the proposed project. He noted that the petitioners have been conscientious in working through various issues and reached out to neighbors on Rokeby Road. He believes that many neighbors are in favor of the project and emphasized the importance of access to the cars, particularly during winter.

No other member of the public wished to speak. Councilor Crossley motioned to close the public hearing which carried 6-0 (Auchincloss not Voting). A Committee member noted that during 2010, the area experienced severe flooding. Committee members were supportive of the proposed plans but expressed concerns that no civil plans were submitted, and no Engineering memo was available for the proposed construction. Councilors questioned whether filtration units will be used and how water will be retained on site.

Mr. Gleba noted that while the Engineering Department has not had time to review the details submitted on August 7, 2018, it is their intent to do so to ensure that the storm water management plan for the site is sufficient. Committee members agreed that an assessment of the site's plan and storm water assessment should be provided prior to approval. Councilor Crossley motioned to approve the petition, subject to second call, pending an analysis by the Engineering Department. Committee

members reviewed the draft findings and conditions as shown in the attached presentation. Committee members Committee members voted 6-0-2 with abstentions from Councilors Laredo and Auchincloss who were not present for the presentation.

#294-18 **Special Permit Petition to allow development at 1314 Washington and 31, 33 Davis St.**
HQ, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a three-story addition in the BU1 district to be used for mixed uses, to allow a building in excess of 20,000 sq. ft., to extend the existing non-conforming structure with regard to height, to extend the existing non-conforming structure with regard to side setback, to allow a restaurant with more than 50 seats, to waive the requirement of using the A-B+C parking formula, to allow a reduction in the overall parking required by 1/3, to waive 27 parking stalls, to allow parking in the front and side setback, to allow reduced parking stall dimensions, to waive end stall maneuvering space requirements, to allow reduced aisle width, to waive perimeter screening requirements, to waive interior landscaping requirements, to waive requirements for interior planting area, tree planting, and bumper overhang area landscaping, to waive lighting requirements, to waive off-street loading facility requirements in Ward 3, West Newton, at 1314 Washington Street, 31 Davis Street and 33 Davis Street (Section 33 Block 10 Lots 01, 11, 12), containing approximately 30,031 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C.1, 7.8.2.C.2, 4.4.1, 6.4.29.C.1, 5.1.3.B, 5.1.13, 5.1.4, 5.1.4.C, 5.1.8.A.1, 5.1.8.A.2, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.C.1, 5.1.8.C.2, 5.1.9.A, 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, 5.1.12 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing Opened on June 12, 2018

Action: **Land Use Held 8-0; Public Hearing Continued**

Note: Atty. Steve Buchbinder, Schlesinger and Buchbinder, 1200 Walnut Street, presented an overview of changes to the proposed project at 1314 Washington Street and 31, 33 Davis Street, previously presented on June 5, 2018. Changes to the proposed plan include; a reduction in the number of restaurant seats from 150 to 120 resulting in a reduced parking waiver request (from 27-21 stalls) and the location of a 6' cedar fence on the eastern edge of the property to shield the abutter at 23 Davis Street. A parking availability study for West Newton Square has been completed and submitted as requested by the Planning Department. Additionally, the petitioner is meeting with the First Unitarian Universalist Church to discuss the option of funding and constructing parking for the church on the church property. Atty. Buchbinder demonstrated the proposed plans as shown on the attached presentation. It was confirmed that all loading and servicing for the proposed structure will be service from the parking lot. Additionally, all dumpsters and trash will be accommodated within the building. Two spaces will be reserved for loading and servicing during the morning to ensure that the service vehicles are able to park.

Mr. Gleba reviewed an overview of the updates to the Committee as follows:

- Petitioner has reduced restaurant seats for 150 to 120

- revised zoning memo indicates resulting reduced parking waiver from 27 to 21
- Petitioner has submitted parking counts memo. Transportation Division and Planning Department recommends resubmission with:
 - more detailed breakdown/categorization of parking spaces in area by availability to public (i.e., focus on capacity at public metered lots and on-street spaces
 - analysis of conditions on Friday and Saturday nights
- Petitioner has submitted plans showing fence along abutting property line and truck turning movement

Mr. Gleba demonstrated the revised site plan and truck turning movements in the parking lot submitted by the petitioner. He noted that the two spaces to be used for loading are also counted as spaces for available parking. Mr. Gleba presented the following next steps for the petitioner:

- Petitioner should submit revised parking study per Transportation & Planning recommendations
- Petitioner should provide additional information regarding:
 - deliveries to the site (especially the proposed restaurant), would be handled (i.e., whether on-street, in the rear of the structure, etc.)
 - Proposed Traffic Demand Management (TDM) plans and approaches
 - how the proposed development would address issues related to the efficient use and conservation of natural resources and energy

A Committee member questioned whether the church will be participating in the shared parking program, noting that the petitioner has proposed to construct parking as a public benefit.

Public Comment

Laurel Farnsworth, Vice Chair of Operations Council and Cahir of Building and Grounds for the First Unitarian Church, stated that there are 6 spaces for staff and a drop-off for up to 45 preschool students who park at Santander and walk to the church. Ms. Farnsworth noted that there are various programs who utilize parking at the site and at the Santander lot daily. They are concerned about the expense and liability associated with allowing public parking in their lot and cannot commit to shared parking.

Ted Hess-Mahan, noted that while the church may purchase insurance for the shared parking, the church is a non-profit institution and cost of insurance cost could be burdensome for the church. To maintain a tenancy, the church must provide parking and have historically had an agreement with the

bank. He noted that imposing parking on Dover institutions is one concern of the shared parking program.

Kirsten McCarthy Tuohy, 15 Davis Street, noted that the relief will negatively impact the residents in the area. Ms. McCarthy-Tuohy noted that there are discrepancies between the Stantec parking study and real conditions. She stated that the fence abutting Davis Street is not tall enough given the waivers for landscaping and noted that additional landscaping will increase the quality of life for the residents.

Norman Cerq, believes that the proposed project will help jumpstart improvements to West Newton Square and urged Committee members to approve the petition.

The Committee requested data on how many parking spaces the church is currently using. One Councilor noted that the church provides many community benefits to the public. The Public Hearing remains open. Councilor Kelley motioned to hold the item which carried unanimously.

#289-18 Special Permit Petition to amend Board Order #167-14 for Garden Remedies

GARDEN REMEDIES, INC/697 WASHINGTON STREET REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #167-14 to allow the retail sale of recreational marijuana and medical marijuana, to delete Condition #3 relative to customer appointments, to amend Condition #4 to allow up to 12 employees at one time, to amend Condition #5 to modify the hours of operation, to expand the premises to include additional space, to allow waivers to perimeter screening requirements, to allow waivers to interior landscaping requirements, to allow waivers for parking facility requirements for; parking in the front setback, waivers to interior landscaping, waivers for interior planting area requirements, waivers to requirements for tree planting, waivers to requirements for bumper overhang area landscaping, waivers to requirements for 1-foot candle lighting, waivers for retaining walls over 4' in height and a waiver for 5 parking stalls to the extent necessary in Ward 2, Newton at 697 Washington Street (Section 23 Block 19 Lot 01B), 691 Washington Street (Section 23 Block 19 Lot 01A), 681 Washington Street (Section 23 Block 19 Lot 01) and 2 Court Street (Section 23 Block 19 Lot 23), containing approximately 16,669 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: 7.3.3, 7.4, 5.1.8.A.1, 5.1.13, 5.1.9.A, 5.1.9.B, 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, 5.4.2.B of the City of Newton Rev Zoning Ord, 2015.

Public Hearing Closed (Opened on June 5 and June 26)

Action: Land Use Approved 3-1-3; (Auchincloss Opposed, Kelley, Laredo, Markiewicz abstaining, Lipof Recused)

Note: Attorney Buchbinder, Schlesinger and Buchbinder, 1200 Walnut Street, represented the petitioner, Garden Remedies. Public Hearings were held on June 5, 2018 and June 26, 2018. After the public hearing on June 26, 2018, Garden Remedies submitted a revised TDM, highlighting initiatives encouraging employees to walk, bike or take public transportation to work. The petitioner is committed to reimbursing employees for employees to park remotely. The original request for a Special Permit Petition included a request to add 18 hours of operation a week. The revised proposal adds 8 additional

hours each week (12:00 – 6:00 pm on Sunday, and one additional hour on Friday and Saturday from 8:00 pm – 9:00 pm). As concerns were raised relative to access of the site from Court Street the petitioner was asked whether parking could be accessed from Washington Street instead. Joe Porter has confirmed that due to the grading at the site, access to the site cannot be located on Washington Street.

Atty. Katherine Adams stated that after the June 26, 2018 public hearing, Garden Remedies responded to Committee member concerns that the petitioner was not operating as “appointment-only”. The petitioner overhauled their appointment system and required patients to book appointments three hours in advance. Patients who arrived before or after their appointment time were not able to be served and patients left dissatisfied and frustrated, having to book a new appointment and return to the site at a later time. Atty. Adams noted that having a degree of flexibility would allow Garden Remedies to service customers expeditiously as well as help to minimize traffic and visits to the site. Atty. Adams urged Committee members to allow “first available” appointments to customers who walk-in. She noted that the petitioner has an online appointment system, but it is anticipated that some customers will be walk-ins. The petitioner has proposed to have a “real time” clock on the website to encourage customers to visit during off-peak times. Additionally, the petitioner proposes to allow “express checkout” where customers can add product to an electronic shopping cart and receive an alert when the order is ready for pickup. Atty. Adams noted that NETA (Brookline RMD) operated “appointment only” for the first two weeks of operation before waving the condition. She noted that Garden Remedies will operate appointment only with the intent to request a Special Permit amendment to remove the condition to require appointment only.

It was acknowledged that the petitioner had a “walk-in appointment system” prior to the June 26 meeting. If a walk-in patient arrived when an appointment was available, the patient was able to book the appointment. Dr. Karen Munkacy stated that if no appointment was available, the patient would be turned away. She emphasized however that patient turnover is very quick and walk-in patients could typically be accommodated with an available appointment slot. Dr. Munkacy noted that with adult-use sales, customers would be required to come back and not stay at the site if an appointment was not available. Dr. Munkacy confirmed that the majority of patients were scheduling appointments in advance and that operations were successfully managed for a year and a half.

Some Councilors expressed concerns relative to managing customer traffic at the site and the “walk-in appointment” model. A Committee member questioned whether the petitioner could supply data relative to how many patients were booking in advance as opposed to walking in. Some Councilors noted that the petitioner has been operating and managing parking and traffic without any issues during the past year and a half. It was suggested that the petitioner can manage the flow without appointments/service limitations. A Committee member questioned whether recreational could be “delivery only”. It was confirmed that the Cannabis Control Commission does not currently permit delivery for recreational marijuana.

Atty. Adams noted that NETA (Brookline RMD) has 13 parking stalls. When they initially opened, the parking stalls were typically all used. Implementation of the “express checkout” and real time clock online reduced the use of the parking stalls.

Atty. Adams stated that the facility would have two tiers of appointments; express and consultation. While a first-time buyer would not be required to make a consultation appointment, they may. Garden Remedies currently has 6 employees and 20 appointments per hour. The expansion would allow Garden Remedies to operate with 12 employees and up to 38 appointments per hour, totaling 350 per day. A Councilor questioned whether the petitioner would consider not expanding the parking lot to minimize the impact on the neighborhood and require customers to use street parking. Mr. Cronin confirmed that the increased square footage of the facility and increase in number employees requires the petitioner to have 7 additional parking stalls. It was noted that without physical expansion of the facility, no additional parking stalls are required.

Committee members reviewed the draft findings and conditions as shown on the attached draft Council Order and made comments and changes as follows:

Finding 1. City Solicitor Ouida Young noted that there are not currently standards in the Newton Zoning Ordinance and suggested that the Committee could find the proposed location to be appropriate because there is an existing Special Permit for an RMD at the site and MGL 94G provides that existing medical facilities operating prior to 07/01/17 are legally allowed to co locate with adult-use facilities.

Findings 2- 4. Standard Requirements for Special Permits

Finding 5. Required for Medical Use

Finding 6. Required for Medical Use

Finding 7. The site consists of 3 lots (697, 691, 681) which are merged for zoning. The unimproved lot is where the parking facility will be constructed.

Finding 10. A Committee member noted that no changes are being made to the existing structure and as such, there is no need to mitigate aesthetic changes.

Finding 15 a-c. Findings for the Parking Waiver

The petitioner originally proposed to construct 13 stalls and add three additional stalls if needed. The petitioner agrees to construct 11 with the option to add more if necessary.

Conditions

1. Committee members questioned whether the petitioner would consider no expansion of the parking lot. Atty. Buchbinder confirmed that the petitioner would be amenable to not constructing the parking lot but believe it may be useful.
2. The Host agreement has been signed by the Mayor's Office and the petitioner is in compliance with the requirements.
3. Committee members acknowledged the need for an operations management system that manages volume. Committee members noted that strict appointment only operations may force visitors to make multiple visits to the site. Some Councilors felt that the petitioner should be allowed flexibility to manage operations. Councilors discussed whether a maximum occupancy limit might work but noted that enforceability may be difficult. Councilors were in agreement that the desire to limit visitors to the site is to ensure that customers are not overburdening the exterior of the facility and the neighborhood. Atty. Buchbinder noted that the petitioner has proposed to have a security stall member to manage operations outside the site. Committee members agreed that performance metrics should be established, and City Solicitor Ouida Young confirmed that she will draft this condition.
5. Allows all expanded Hours of Operation upon completion of the parking. Current hours of operation are 10:00 am – 8:00 pm Monday – Saturday. With expansion of the use the petitioner seeks to operate 10:00 am – 8:00 pm Monday – Thursday and 10:00 am – 9:00 pm Friday and Saturday, with no Sunday hours.
6. A Councilor emphasized the importance of the TDM Plan. It was suggested that the petitioner submit data to the Planning Department about the parking plan to be reviewed for effectiveness. Committee members questioned whether the Council Order should prohibit employee parking at the site given the petitioner's representation regarding employee parking. Committee members noted that there are several developments under construction in the neighborhood and noted that if it is determined that there is a surplus of parking at a later date, the petitioner may seek an amendment to the Special Permit.
7. Requires petitioner to conduct a parking study on the site as well as in the immediate area. If there is a need, the petitioner will construct additional stalls. Committee members were in agreement that 11 stalls are acceptable to start and if necessary they can expand up to 16 stalls.
8. Committee members questioned whether a police detail is necessary and recalled that it was determined unnecessary after the opening of the medical facility. Some Councilors felt that a police detail was excessive and argued that the Newton Police would be available if needed. Committee members agreed that as the facility opens it may be beneficial to have an on-site detail for 90 days.

Committee members expressed concerns relative to granting the petition to allow adult-use, knowing that there is a possibility that the question of whether the City will become an "opt out"

community will be on the ballot in the Fall. Additionally, Committee members noted that if the City does “opt out”, the approved Garden Remedies facility would become the only one in the City, potentially impacting the volume of customer and traffic to the site. City Solicitor Ouida Young confirmed that while there are arguments that go either way about what would happen if a ban goes in after granting the Special Permit. Committee members questioned whether the Committee can keep the petition in Committee until after a decision has been made. Atty. Young noted that the public hearing was closed on June 26, 2018 and the 90-day time frame for the Council to act expires on September 24, 2018. If the Council does not act within the 90-day period, a constructive grant will be issued to the petitioner. Committee members noted that if approved constructively, the site would not be subject to the conditions as drafted in Committee and would be subject only to the conditions that previously governed the medical facility. Committee members agreed to move the petition to the full Council. As the Council Order is subject to redrafting, Councilor Crossley motioned to approve the petition, subject to second call. Councilors Greenberg, Schwartz and Crossley voted in favor of approval, Councilor Auchincloss voted against approval and Councilors Kelley, Laredo and Markiewicz abstained. Councilor Lipof is recused.

#288-18 Special Permit Petition to allow RMD at 24-26 Elliot Street

CYPRESS TREE MANAGEMENT, INC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a registered medical marijuana dispensary in a non-conforming structure, to waive minimum stall dimensions, to waive minimum aisle width for two-way traffic, to waive perimeter screening requirements, to waive interior landscaping requirements, to waive requirements for interior planting, to waive requirement for interior tree planting, to waive requirements for bumper overhang area landscaping, to waive requirements for 1-foot candle lighting and to allow the RMD to be located within 500’ of a school at 24-26 Elliot Street, Ward 5, Newton Highlands, on land known as Section 51 Block 25 Lot 01, containing approximately 25,320 sq. ft. of land in a district zoned BUSINESS USE 2. Ref: Sec 7.3.3, 7.4, 6.10.3, 6.10.3.D.1, 6.10.3.F.2, 4.1.3, 6.10.3.D.5, 7.8.1.C.1, 7.8.2.C.2, 5.1.12, 5.1.13, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.C.1, 5.1.8.C.2, 5.1.9.A, 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 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing Closed (Opened on June 5 and July 10)

Action: Land Use Held 7-0; Public Hearing Closed 07/10/2018;

Note: Atty. Buchbinder presented updates to the Committee on the Special Permit Petition for an RMD at 24-26 Elliot Street. The public hearing was opened on June 5, 2018 and July 10, 2018. The public hearing was closed on July 10, 2018. After the last meeting, the petitioner submitted a letter addressing outstanding issues and has confirmed that they will operate as “appointment only”, will provide a police detail 3:45 pm -7:45 pm during the week for at least 180 days and will remove all snow from the site. The petitioner is committed to reimbursing employees for public transportation or transportation services (Lyft, uber, taxi). Additionally, they will encourage alternate modes of transportation including bike sharing and will provide walking shoe reimbursement for employees who walk to work. Atty. Buchbinder noted that there are 11 stalls at the front of the site in addition to 16-20

spaces for valet parking at the rear. It was noted that the petitioner is making a strong effort to address existing traffic control issues. Atty. Buchbinder confirmed that the petitioner will give the City an extension of time to act until October 20, 2018. Councilor Crossley motioned to hold the item which carried unanimously.

The Committee adjourned at 10:30 pm.

Respectfully Submitted,

Greg Schwartz, Chair

Department of Planning and Development



PETITION #338-18

22 BEECHER PLACE

SPECIAL PERMIT/SITE PLAN APPROVAL TO ENCLOSE THE FRONT PORCHES, ADDING APPROXIMATELY 158 SQ. FT. TO THE STRUCTURE, CREATING AN FAR OF .49 WHERE .48 IS ALLOWED



AUGUST 7, 2018

Requested Relief



Special permit per §7.3.3 to:

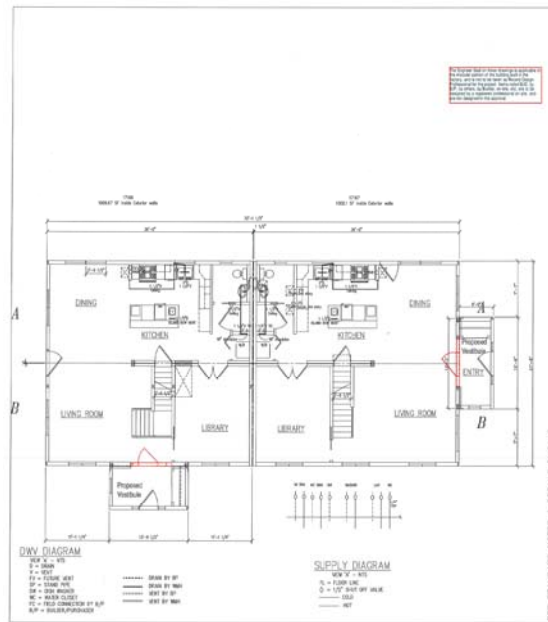
- exceed the maximum floor area ratio (FAR) (§3.1.9.A)

Criteria to Consider

When reviewing the requested special permits the Council should consider whether:

- The proposed increase in FAR from 0.48 to 0.49, where 0.48 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.2.11.A.2)

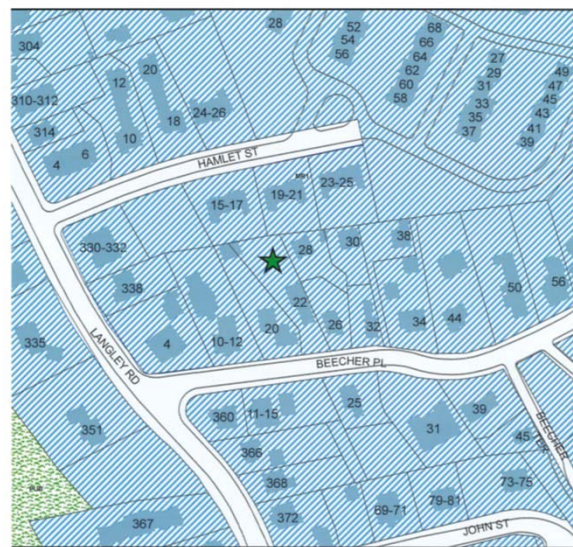
Modification



AERIAL/GIS MAP



Zoning



ATTACHMENT B

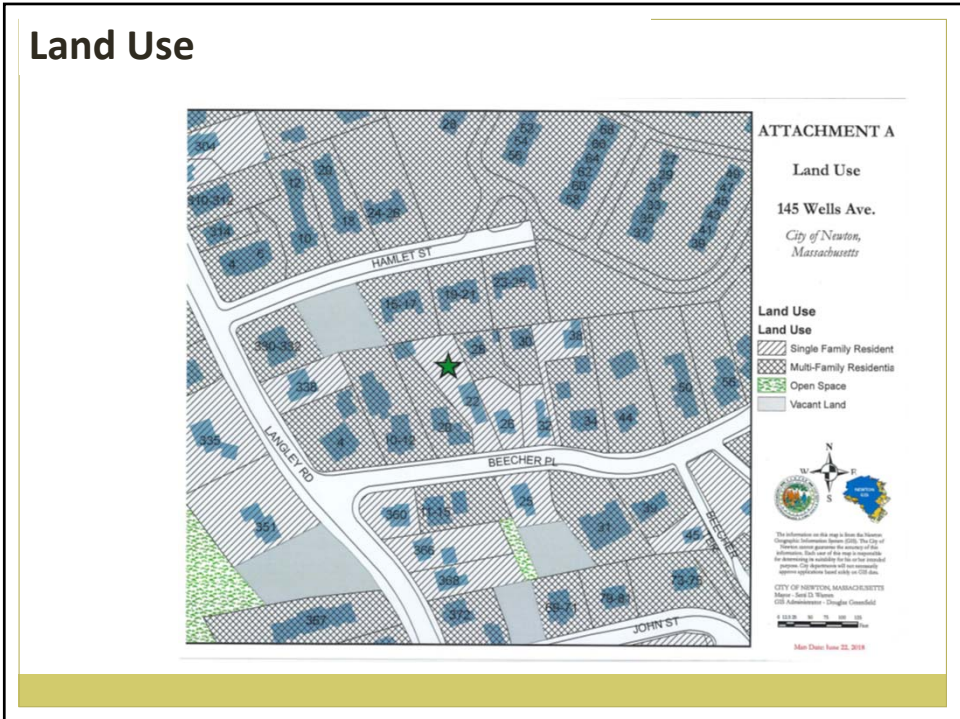
Zoning
22 Beecher Pl.
City of Newton,
Massachusetts

- Legend**
- Multi-Residence 1
 - Public Use

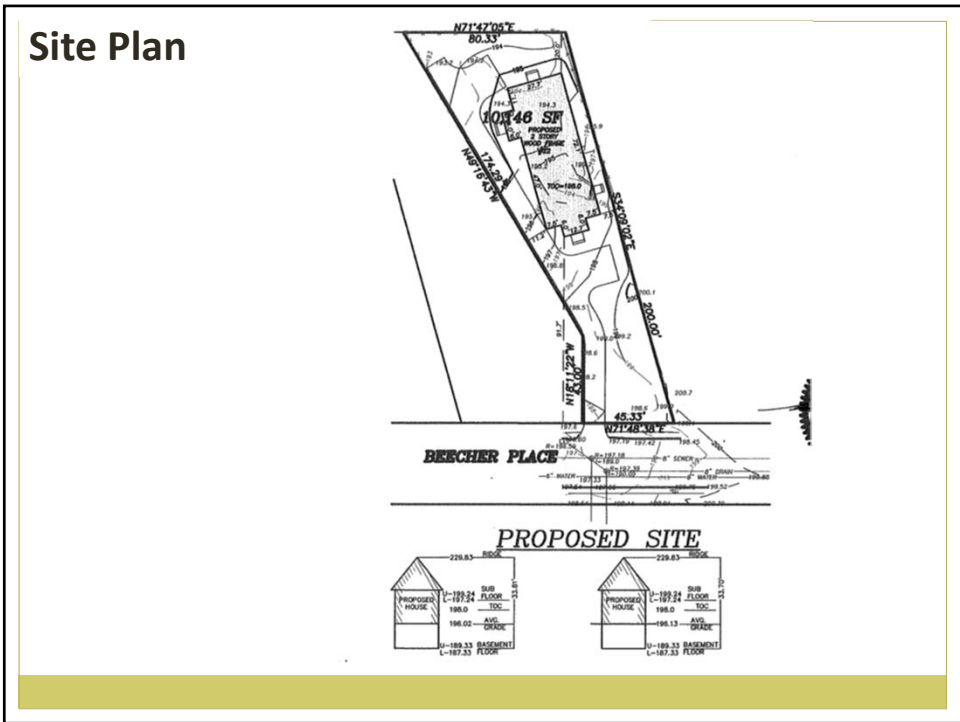


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton reserves the right to update the information. Each use of this map is independent. An electronic version of this map is available on the City of Newton website. City departments will not be responsible for any errors or omissions. For more information, please contact the City of Newton GIS Department. © Digital Greenfield
CITY OF NEWTON, MASSACHUSETTS
Mayor: David D. White
GIS Administration: Douglas Greenfield
Map Date: June 22, 2018

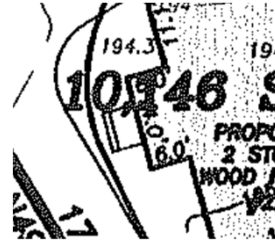
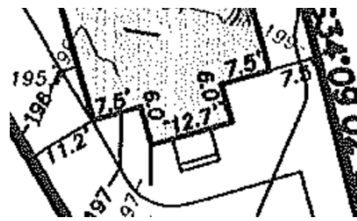
Land Use



Site Plan



Site Plan- Front & Left Sides details



Elevations



Photos



Photos



Photos



Photos



Photos

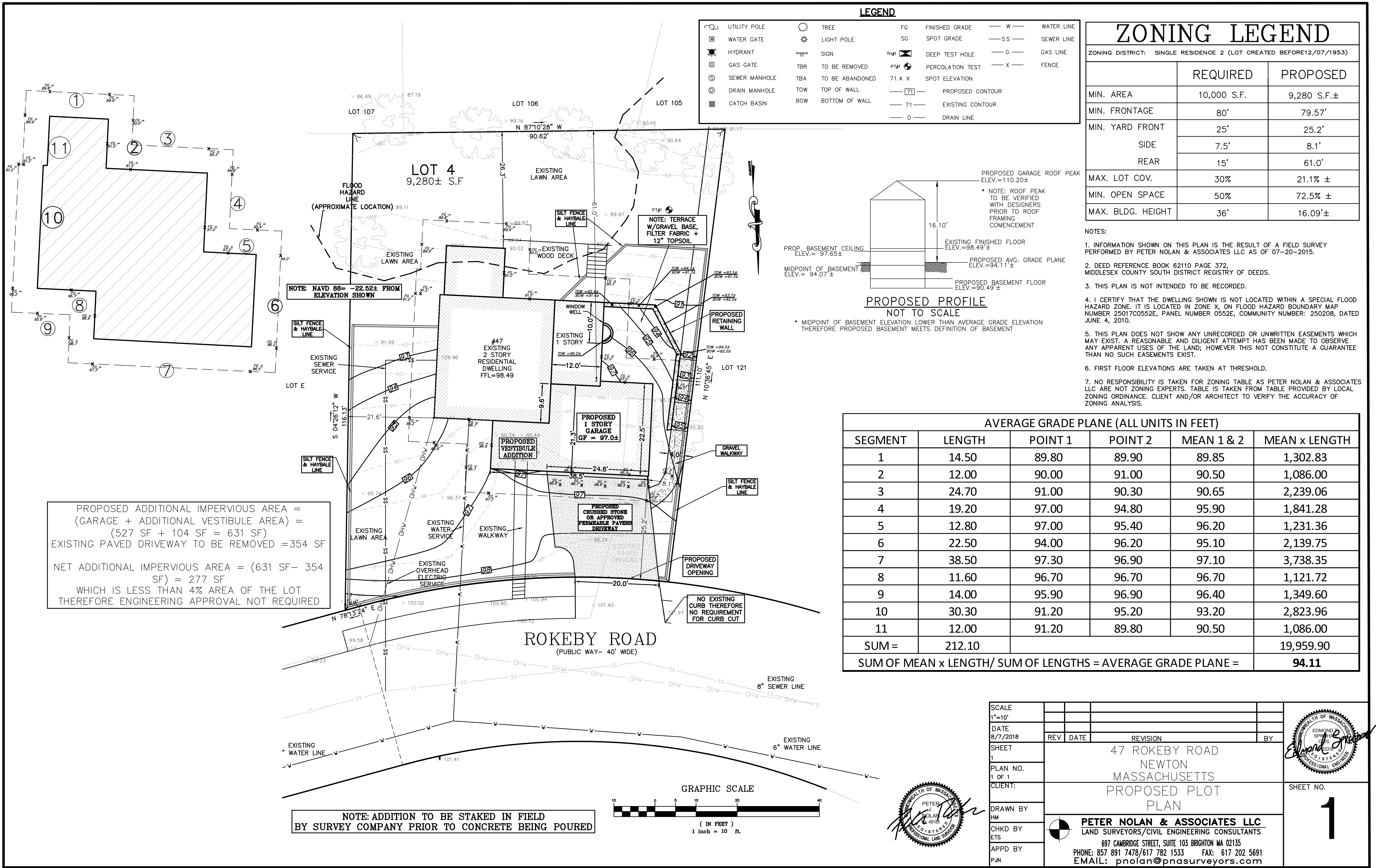


Proposed Findings

1. The expanded structure that would result from the proposed increase in floor area ratio (FAR) from 0.48 to 0.49, where 0.48 is the maximum allowed by-right will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as it will be similar in regard to those characteristics of other structures in the surrounding area and conform to other relevant dimensional requirements; further, the additions will have limited visibility given their scale and distance from the adjacent public way and properties.

Proposed Conditions

1. *Plan Referencing Condition*
2. *Standard Building Permit Condition.*
3. *Standard Final Inspection/Certificate of Occupancy Condition.*



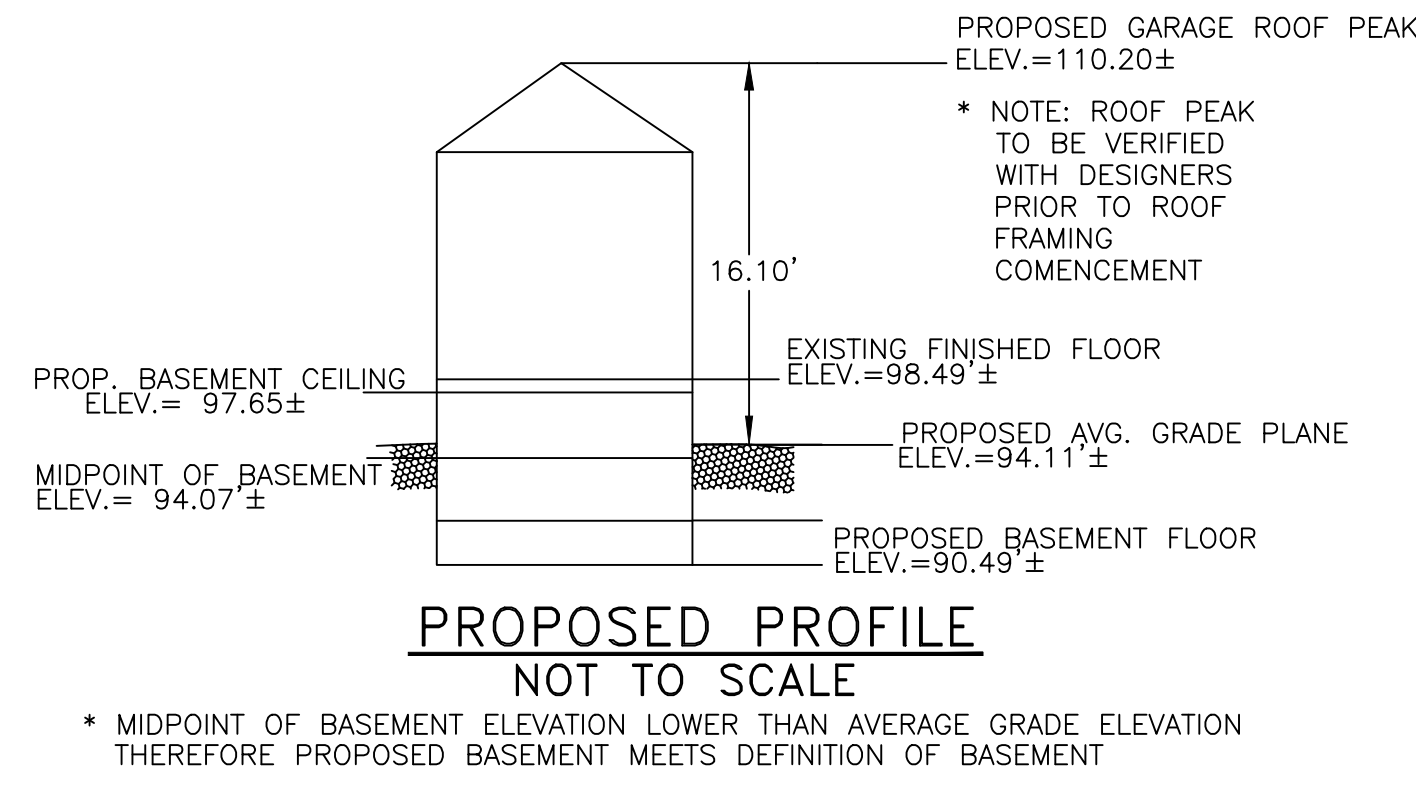
LEGEND

○	UTILITY POLE	○	TREE	FG	FINISHED GRADE	— W —	WATER LINE
⊠	WATER GATE	⊙	LIGHT POLE	SG	SPOT GRADE	— SS —	SEWER LINE
⊠	HYDRANT	⊠	SIGN	TH#1	DEEP TEST HOLE	— G —	GAS LINE
⊠	GAS GATE	TBR	TO BE REMOVED	PT#1	PERCOLATION TEST	— X —	FENCE
⊙	SEWER MANHOLE	TBA	TO BE ABANDONED	71.4 X	SPOT ELEVATION		
⊙	DRAIN MANHOLE	TOW	TOP OF WALL	— [71] —	PROPOSED CONTOUR		
⊠	CATCH BASIN	BOW	BOTTOM OF WALL	— 71 —	EXISTING CONTOUR		
				— D —	DRAIN LINE		

ZONING LEGEND

ZONING DISTRICT: SINGLE RESIDENCE 2 (LOT CREATED BEFORE 12/07/1953)

	REQUIRED	PROPOSED
MIN. AREA	10,000 S.F.	9,280 S.F.±
MIN. FRONTAGE	80'	79.57'
MIN. YARD FRONT	25'	25.2'
	SIDE	7.5'
	REAR	15'
MAX. LOT COV.	30%	21.1% ±
MIN. OPEN SPACE	50%	72.5% ±
MAX. BLDG. HEIGHT	36'	16.09'±



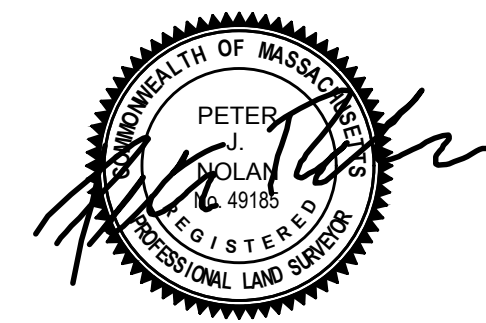
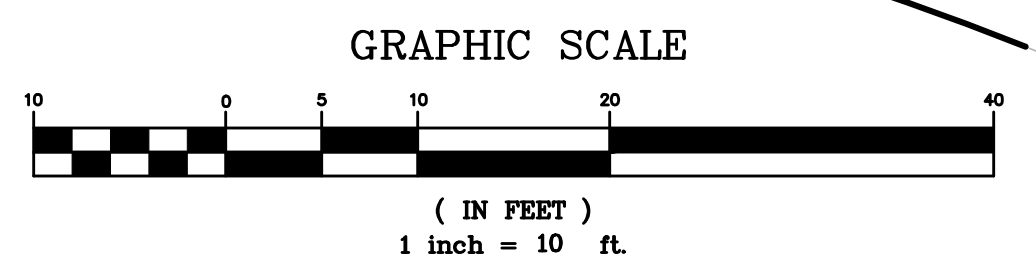
- NOTES:**
1. INFORMATION SHOWN ON THIS PLAN IS THE RESULT OF A FIELD SURVEY PERFORMED BY PETER NOLAN & ASSOCIATES LLC AS OF 07-20-2015.
 2. DEED REFERENCE BOOK 62110 PAGE 372, MIDDLESEX COUNTY SOUTH DISTRICT REGISTRY OF DEEDS.
 3. THIS PLAN IS NOT INTENDED TO BE RECORDED.
 4. I CERTIFY THAT THE DWELLING SHOWN IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE. IT IS LOCATED IN ZONE X, ON FLOOD HAZARD BOUNDARY MAP NUMBER 25017C0552E, PANEL NUMBER 0552E, COMMUNITY NUMBER: 250208, DATED JUNE 4, 2010.
 5. THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT USES OF THE LAND; HOWEVER THIS NOT CONSTITUTE A GUARANTEE THAN NO SUCH EASEMENTS EXIST.
 6. FIRST FLOOR ELEVATIONS ARE TAKEN AT THRESHOLD.
 7. NO RESPONSIBILITY IS TAKEN FOR ZONING TABLE AS PETER NOLAN & ASSOCIATES LLC ARE NOT ZONING EXPERTS. TABLE IS TAKEN FROM TABLE PROVIDED BY LOCAL ZONING ORDINANCE. CLIENT AND/OR ARCHITECT TO VERIFY THE ACCURACY OF ZONING ANALYSIS.

PROPOSED ADDITIONAL IMPERVIOUS AREA =
(GARAGE + ADDITIONAL VESTIBULE AREA) =
(527 SF + 104 SF = 631 SF)
EXISTING PAVED DRIVEWAY TO BE REMOVED = 354 SF
NET ADDITIONAL IMPERVIOUS AREA = (631 SF - 354 SF) = 277 SF
WHICH IS LESS THAN 4% AREA OF THE LOT
THEREFORE ENGINEERING APPROVAL NOT REQUIRED

AVERAGE GRADE PLANE (ALL UNITS IN FEET)

SEGMENT	LENGTH	POINT 1	POINT 2	MEAN 1 & 2	MEAN x LENGTH
1	14.50	89.80	89.90	89.85	1,302.83
2	12.00	90.00	91.00	90.50	1,086.00
3	24.70	91.00	90.30	90.65	2,239.06
4	19.20	97.00	94.80	95.90	1,841.28
5	12.80	97.00	95.40	96.20	1,231.36
6	22.50	94.00	96.20	95.10	2,139.75
7	38.50	97.30	96.90	97.10	3,738.35
8	11.60	96.70	96.70	96.70	1,121.72
9	14.00	95.90	96.90	96.40	1,349.60
10	30.30	91.20	95.20	93.20	2,823.96
11	12.00	91.20	89.80	90.50	1,086.00
SUM =	212.10				19,959.90
SUM OF MEAN x LENGTH/ SUM OF LENGTHS = AVERAGE GRADE PLANE =					94.11

NOTE: ADDITION TO BE STAKED IN FIELD BY SURVEY COMPANY PRIOR TO CONCRETE BEING POURED

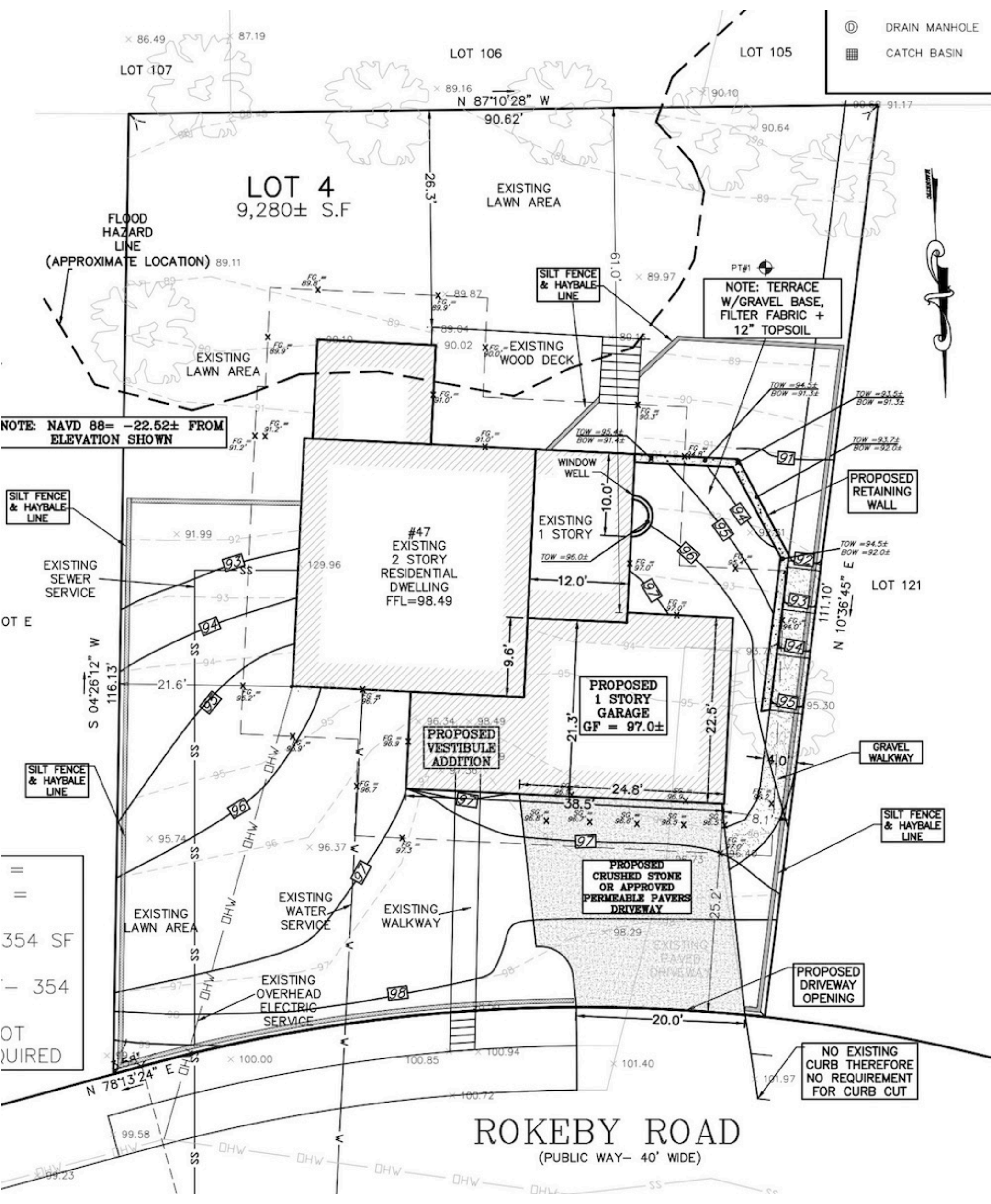


SCALE	1"=10'
DATE	8/7/2018
SHEET	1
PLAN NO.	1 OF 1
CLIENT:	47 ROKEBY ROAD NEWTON MASSACHUSETTS PROPOSED PLOT PLAN
DRAWN BY	HM
CHKD BY	ETS
APPD BY	PJN
PETER NOLAN & ASSOCIATES LLC LAND SURVEYORS/CIVIL ENGINEERING CONSULTANTS 697 CAMBRIDGE STREET, SUITE 103 BRIGHTON MA 02135 PHONE: 857 891 7478/617 782 1533 FAX: 617 202 5691 EMAIL: pnolan@pnasurveyors.com	



SHEET NO.
1

- ⊙ DRAIN MANHOLE
- ▣ CATCH BASIN



LOT 4
9,280± S.F.

LOT 106

LOT 105

LOT 107

N 87°10'28" W
90.62'

EXISTING
LAWN AREA

FLOOD
HAZARD
LINE
(APPROXIMATE LOCATION) 89.11

NOTE: TERRACE
W/ GRAVEL BASE,
FILTER FABRIC +
12" TOPSOIL

NOTE: NAVD 88 = -22.52± FROM
ELEVATION SHOWN

SILT FENCE
& HAYBALE
LINE

EXISTING
SEWER
SERVICE

LOT E

SILT FENCE
& HAYBALE
LINE

354 SF
- 354

LOT
REQUIRED

#47
EXISTING
2 STORY
RESIDENTIAL
DWELLING
FFL=98.49

WINDOW
WELL

EXISTING
1 STORY

PROPOSED
RETAINING
WALL

PROPOSED
1 STORY
GARAGE
GF = 97.0±

PROPOSED
VESTIBULE
ADDITION

GRAVEL
WALKWAY

SILT FENCE
& HAYBALE
LINE

EXISTING
LAWN AREA

EXISTING
WATER
SERVICE

EXISTING
WALKWAY

PROPOSED
CRUSHED STONE
OR APPROVED
PERMEABLE PAVERS
DRIVEWAY

PROPOSED
DRIVEWAY
OPENING

EXISTING
OVERHEAD
ELECTRIC
SERVICE

NO EXISTING
CURB THEREFORE
NO REQUIREMENT
FOR CURB CUT

ROKEBY ROAD
(PUBLIC WAY - 40' WIDE)





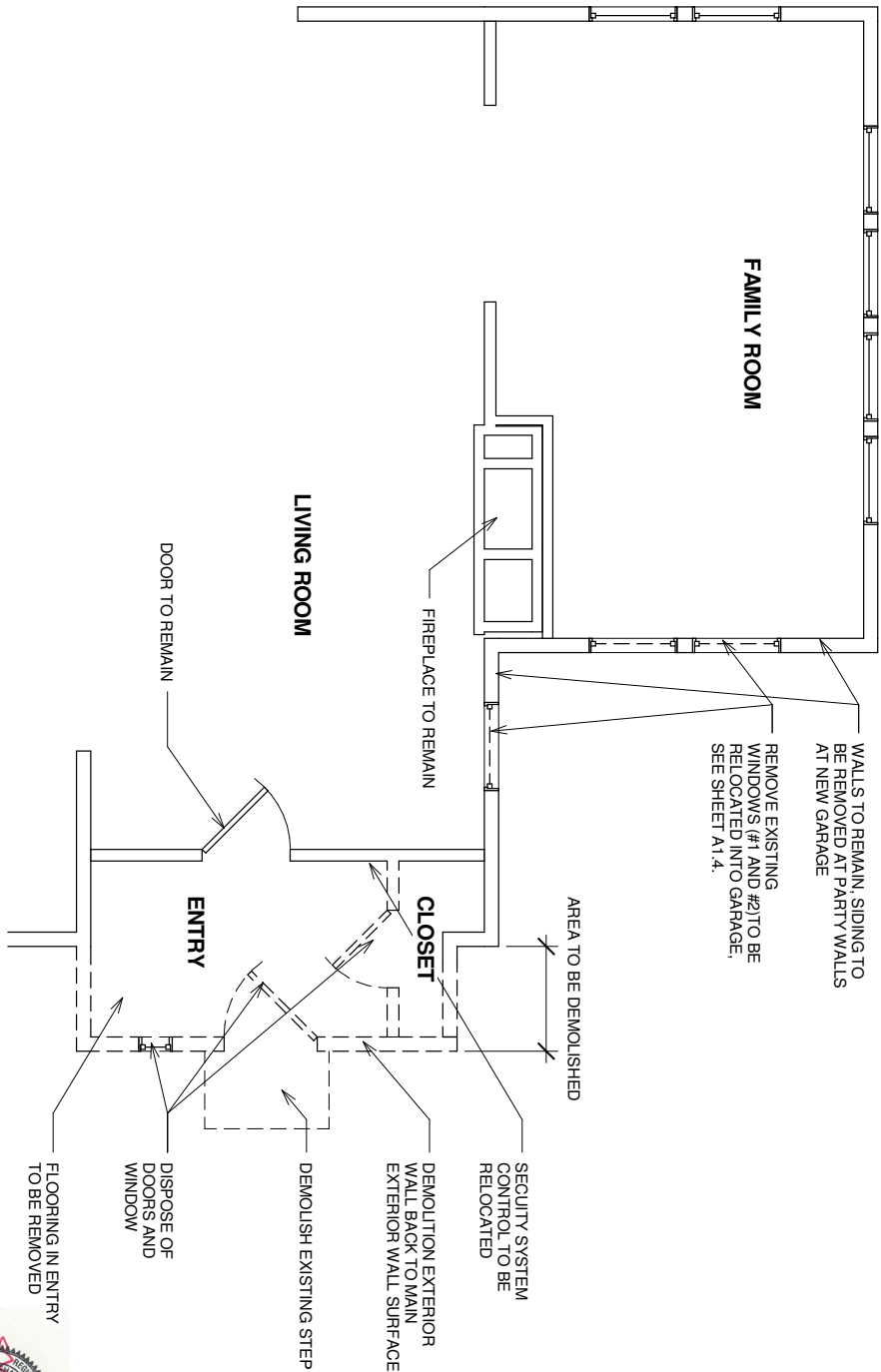






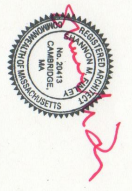
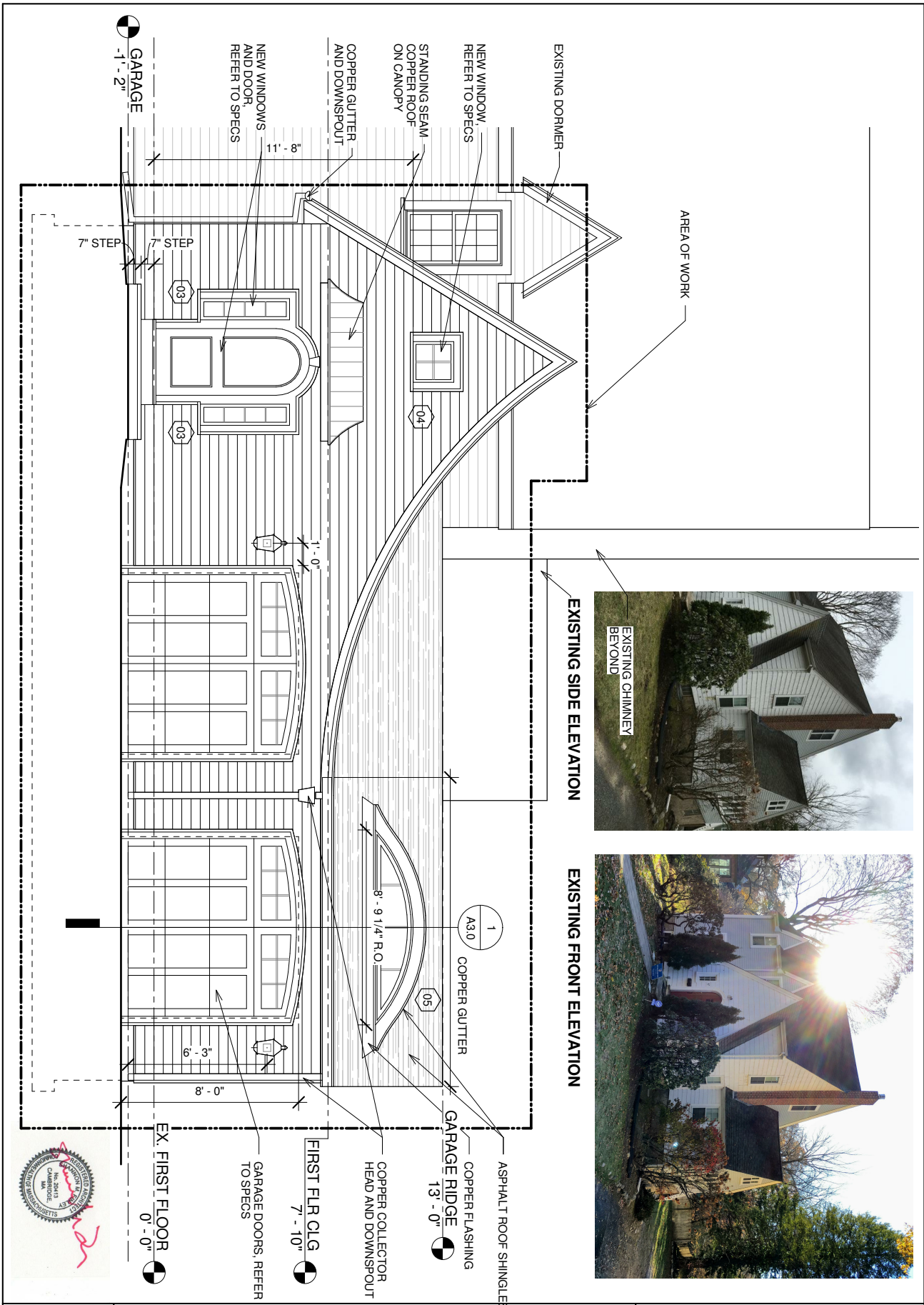





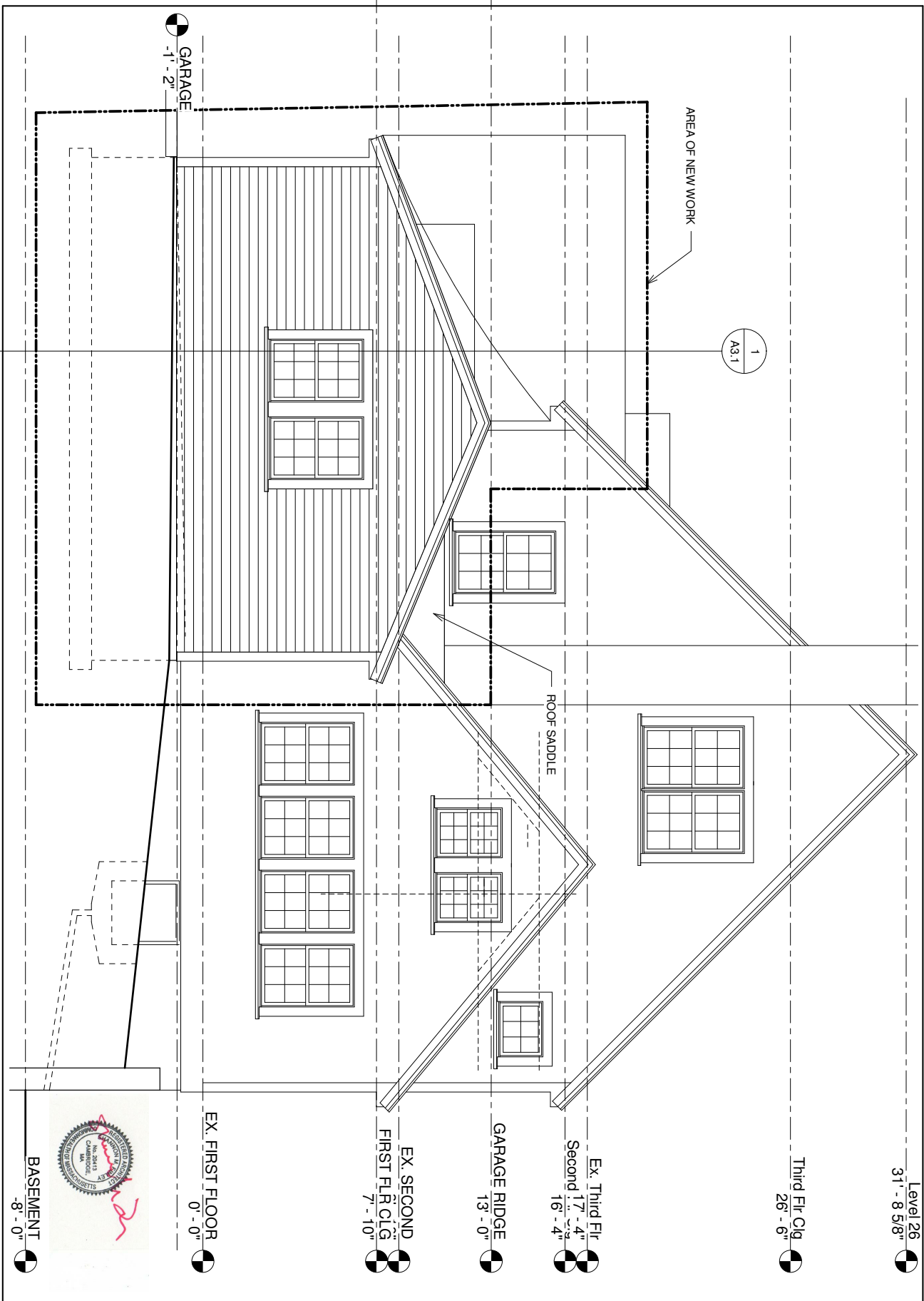


A1.2	FIRST FLOOR- DEMOLITION PLAN	PERMIT SET	tiny desk designs 10 Perry Street Cambridge, MA 02139 617-233-3245
	LEIGH RESIDENCE- GARAGE 47 ROKEYB ROAD, WABAN, MA 02468	ISSUE DATE 04/14/18 REVISION DATE 06/25/18	

Scale 1/4" = 1'-0"



<p>A2.0</p> <p>Scale 1/4" = 1'-0"</p>	<p>FRONT ELEVATION</p>	<p>PERMIT SET</p>	<p>tiny desk designs 10 Perry Street Cambridge, MA 02139 617-233-3245</p> 
	<p>LEIGH RESIDENCE- GARAGE 47 ROKEYB ROAD, WABAN, MA 02468</p>	<p>ISSUE DATE 04/14/18 REVISION DATE 06/25/18</p>	
	<p>Scale 1/4" = 1'-0"</p>		



<p>A2.1</p> <p>Scale 1/4" = 1'-0"</p>	<p>SIDE ELEVATION</p>	<p>PERMIT SET</p>	<p>tiny desk designs 10 Perry Street Cambridge, MA 02139 617-233-3245</p>
	<p>LEIGH RESIDENCE- GARAGE 47 ROKEYB ROAD, WABAN, MA 02468</p>	<p>ISSUE DATE 04/14/18</p> <p>REVISION DATE 06/25/18</p>	

Department of Planning and Development



PETITION #397-18

47 ROKEBY ROAD

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT A
SINGLE-STORY TWO-CAR
GARAGE AND FRONT ENTRY
VESTIBULE, CREATING AN FAR
OF .41 WHERE .39 IS ALLOWED
AND .39 EXISTS



AUGUST 7, 2018

Requested Relief



Special permit per §7.3.3 to:

- exceed the maximum floor area ratio (FAR) (§3.1.9.A)

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The proposed increase in FAR from 0.39 to 0.41, where 0.39 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§3.1.9.A.2).

AERIAL/GIS MAP



Zoning



ATTACHMENT B

Zoning

47 Rokeby Rd.
City of Newton,
Massachusetts

Legend

- Single Residence 2
- Public Use

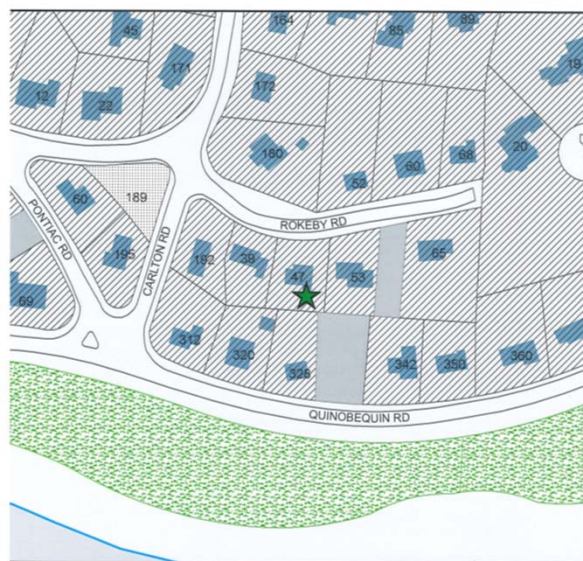


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for use in the intended purpose. City departments will not accept any responsibility based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Barbara Fuller
GIS Administrator - Douglas Greenfield

Map Date: July 27, 2018

Land Use



ATTACHMENT A

Land Use

47 Rokeby Rd.
City of Newton,
Massachusetts

Land Use

- Single Family Resident
- Mixed Use
- Open Space
- Vacant Land

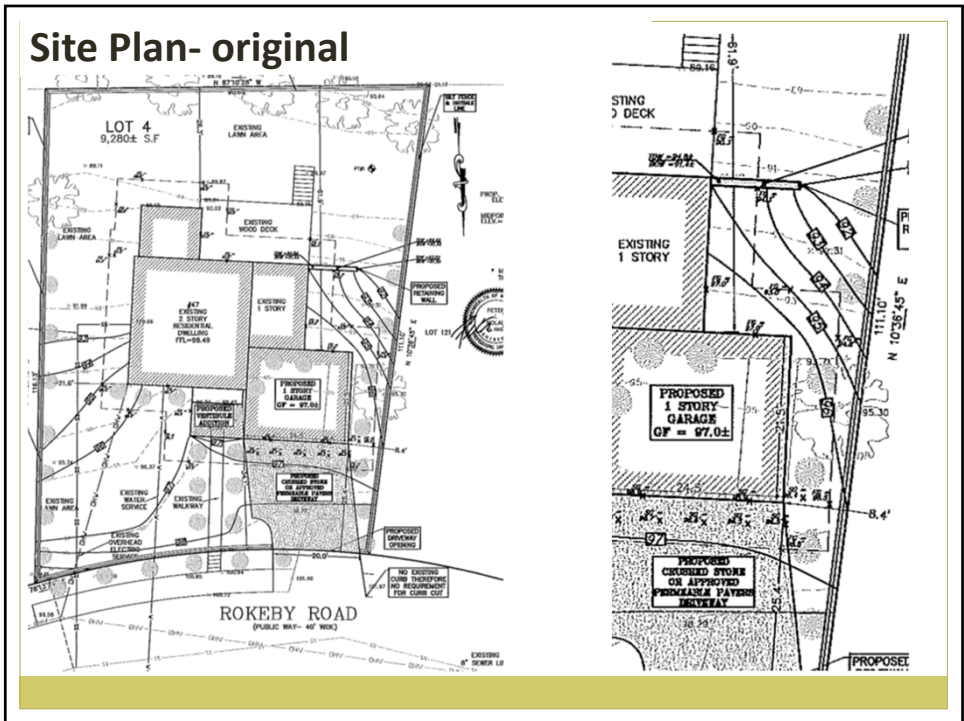


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for use in the intended purpose. City departments will not accept any responsibility based solely on GIS data.

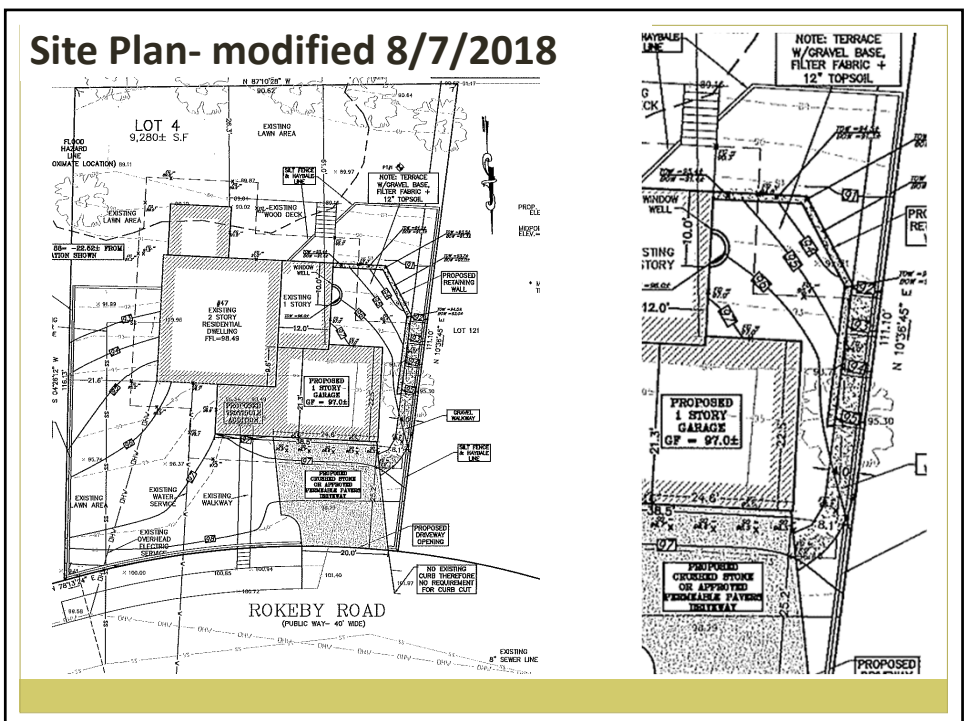
CITY OF NEWTON, MASSACHUSETTS
Mayor - Barbara Fuller
GIS Administrator - Douglas Greenfield

Map Date: July 27, 2018

Site Plan- original



Site Plan- modified 8/7/2018



Elevations- Front (6/25/2018)



Elevations- Right Side (6/25/2018)



Photos



Photos



Photos



Photos



Photos



Photos



Proposed Findings

1. The expanded structure that would result from the proposed increase in floor area ratio (FAR) from 0.39 to 0.41, where 0.39 is the maximum allowed by-right will be consistent with and not in derogation of the size, scale and design of other structures in the neighborhood and conform to other relevant dimensional requirements (§3.1.9),
2. The proposed attached garage will provide off-street, enclosed space for the required parking stalls.

Proposed Conditions

1. Plan Referencing Condition
2. Operations and Maintenance Plan (O&M) Condition
3. The driveway shall be constructed of crushed stone or permeable pavers and shall not be otherwise paved or surfaced except as specifically provided by an amendment to this special permit.
4. Standard Building Permit Condition.
5. Standard Final Inspection/Certificate of Occupancy Condition.

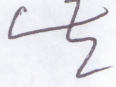
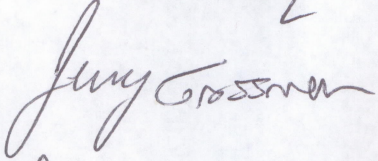
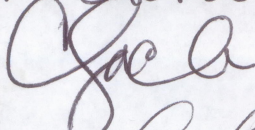
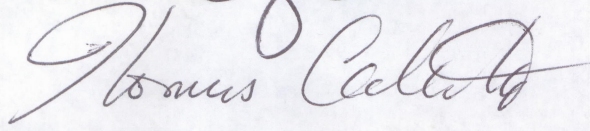
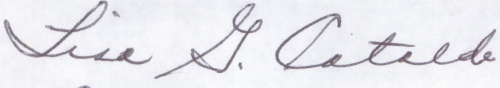
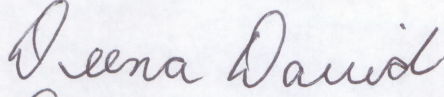
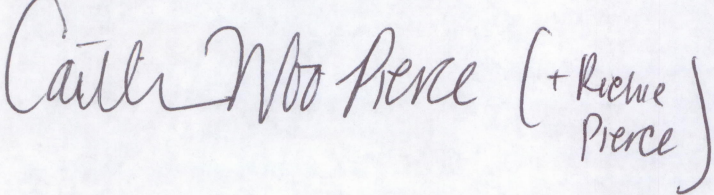
August 1 2018

To the Land Use Committee of Newton Massachusetts and Whom It May Concern,

We, the undersigned abutters and neighbors of 47 Rokeby Road Waban MA, fully support the Leigh family's efforts to build a two-car garage and expanded entryway. We further support their request for a Special Permit to exceed the maximum FAR in order to allow their project to be built.

Thank you for your consideration and for your time.

Sincerely,

<u>Name/Signature</u>	<u>Address</u>
Aaron France 	192 CARLTON RD Waban, MA 02468
Jung Grossman 	
Caitlin Sacha + Scott Edinburgh 	52 Rokeby Road Waban, MA 02468
Thomas Calabro 	65 Rokeby Rd Waban, MA 02468
Lisa S. Cataldo 	SAME
Deena David 	60 Rokeby Rd. WABAN, MA
Caitlin No Pierce (+ Rachee Pierce) 	53 Rokeby Rd Waban, MA

From: Chenson Chen ckchen244@gmail.com
Subject: Fwd: Re: 47 Rokeby Rd- Planning Dept. memo
Date: August 6, 2018 at 12:44 PM
To: Darby J. Leigh darbyleigh@aol.com, Randi Leigh rdleigh@gmail.com

----- Forwarded Message -----

Subject: Re: 47 Rokeby Rd- Planning Dept. memo
Date: Mon, 6 Aug 2018 09:58:19 -0400
From: Chenson Chen <ckchen244@gmail.com>
To: Michael Gleba <mgleba@newtonma.gov>

Hello Michael,

Thanks for taking the time to discuss my neighbor's proposed addition at 47 Rokeby Rd. Based on discussions with my neighbors and review of the planned changes (available online), I have no objections to their special permit request for an increase in FAR (floor area ratio) to 0.41 (max allowable is 0.39) assuming that their project is conforming in all other aspects (which I believe it is). As we discussed, some regrading of 47 Rokeby Rd is planned, and I will defer to the planning committee's review of water drainage/flow and regrading when final plans are received. I did speak directly to my neighbor, Darby Leigh, and their architect Wed or Thurs of last week; updates to address water issues were still in progress.

Regards,
Chenson Chen (39 Rokeby Rd)

On 08/03/18 4:01 PM, Michael Gleba wrote:

As we discussed. Please let me know if you have any questions.

Best,
Michael

Michael Gleba
Senior Planner
City of Newton
Planning and Development Department
617-796-1123

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.



Virus-free. www.avg.com



1314 WASHINGTON

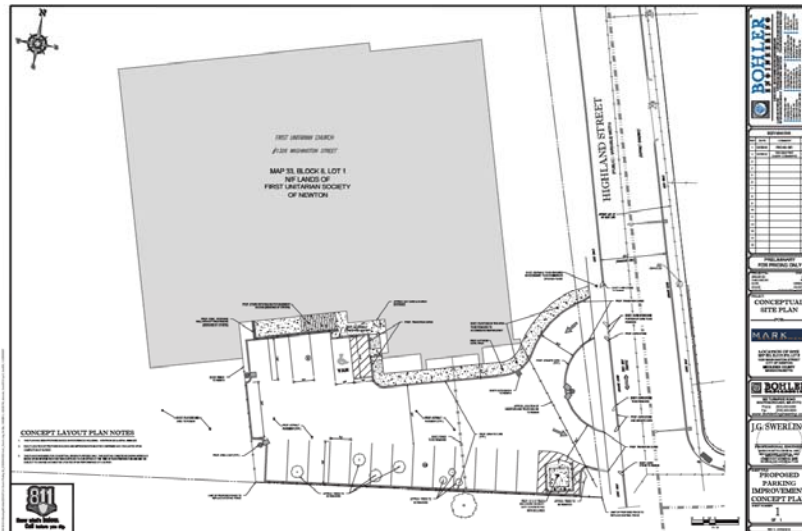
Public Hearing Presentation
AUGUST 7, 2018



Schlesinger and Buchbinder, LLP
Attorneys at Law

MARK
DEVELOPMENT

ELKUS | MANFREDI
ARCHITECTS



1314 WASHINGTON STREET
Boston, Massachusetts

Proposed Parking Improvement Concept Plan
August 7, 2018

MARK
DEVELOPMENT

ELKUS | MANFREDI
ARCHITECTS





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 amend Council Order #167-14 to modify conditions pertaining to operation, to allow the retail sale of recreational marijuana, to allow parking within the front setback, to allow a retaining wall exceeding four feet in the setback, and to allow waivers to the requirements of parking facilities containing more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for the amendments to Council Order #167-14 because the existing Registered Marijuana Dispensary (RMD) meets the standards of the Newton Zoning Ordinance concerning Registered Medical Marijuana Dispensaries. (§7.3.3.1)
2. The proposed marijuana establishment as developed and operated resulting from the amendments to Council Order #167-14, will not adversely affect the neighborhood because the site is located along a mixed use corridor with sufficient on-site parking. (§7.3.3.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians resulting from the amendments to Council Order #167-14 because sidewalks will be installed along Court and Washington Streets thereby increasing pedestrian safety and access in the area. (§7.3.3.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because the site is proximate to regional roadways and public transportation. (§7.3.3.4)

With regard to special permits amending the operations of the RMD on site, pursuant to §6.10.F:

5. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana. (§6.10.F.1)
6. The lot is at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate in a structured, scheduled manner as more specifically described in Guidance for Municipalities Regarding the Medical Use of Marijuana, updated December 13, 2013, issued by the Massachusetts Executive Office of Health and Human Services, or from a house of worship or religious use. (§6.10.F.2)

7. The lots are designed such that they provide 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.F.3)
8. Traffic generated by client trips, employee trips, and deliveries to and from the RMD will not create a significant adverse impact on nearby uses. (§6.10.F.4)
9. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§6.10.F.5)
10. The Petitioner is not proposing to alter the exterior of the building, thereby retaining the structure's and site's compatibility with other buildings in the area and will not have to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§6.10.F.6)
11. The building and lots are accessible to persons with disabilities. (§6.10.F.7)
12. The lots are accessible to regional roadways and public transportation. (§6.10.F.8)
13. The site is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§6.10.F.9)
14. The marijuana establishment's hours of operation will have no significant adverse impact on nearby uses. (§6.10.F.10)

With regard to special permits for the number of parking stalls and various requirements for the design of parking facilities, pursuant to §5.1.8.A.1, §5.1.9.A, §5.1.9.B, §5.1.10.A.1, and §5.1.13:

15. The Council finds that exceptions to the parking requirements, including to locate parking within the front setback, to waive the screening requirements, to waive interior landscaping requirements, and to waive the lighting requirements, are in the public interest or in the interest of safety or protection of environmental features for the following reasons:
 - a. The location of parking within the front setback allows for the most efficient layout of the parking lot, including compliant parking stalls and a two-way drive aisle;
 - b. The waivers of interior landscaping and perimeter screening help maximize the number of parking stalls available to guests of the marijuana establishment, and a sufficient number of trees will be added to improve screening from the residences to the north; and
 - c. The waiver to allow for reduced parking lot lighting is in the public interest and the interest of the residential properties to the north.

16. The Council finds the site consists of three lots under common ownership that have merged for the purposes of zoning and are treated as such. This Special Permit/Site Plan Approval hereby governs the site in its entirety.

With regard to special permits for a retaining wall exceeding four feet within a setback, pursuant to §5.4.2 and §7.3.3:

16.17. A retaining wall exceeding four feet within the setback is appropriate given the grade of the lot and the wall allows for a level parking field.

PETITION NUMBER: #289-18

PETITIONER: Garden Remedies, Inc.

LOCATION: 697 Washington Street, on land known as SBL 23, 19, 1b, containing approximately 16,669 square feet of land

OWNER: 697 Washington Street Realty Trust, Mark Donato, Trustee

ADDRESS OF OWNER: 1211 Washington Street
Newton, MA 02465

TO BE USED FOR: Marijuana Establishment

CONSTRUCTION: Brick

EXPLANATORY NOTES: §7.3.3 to amend Council Order #167-14 to amend the conditions pertaining to operations and to allow the sale of adult use (recreational marijuana); §5.1.8.A.1 and §5.1.13 to allow parking in the front setback; §5.1.9.A and §5.1.13 to waive the perimeter screening requirements; §5.1.9.B and §5.1.13 to waive the interior landscaping requirements; §5.1.10.A.1 and §5.1.13 to waive the lighting requirements; and §5.4.2. and §7.3.3 to allow a retaining wall exceeding four feet in a setback.

ZONING: Business 2 District

Approved subject to the following conditions:

This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #289-18 are null and void.

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. Area Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated February 28, 2014, revised October 6, 2014, and May 1, 2018

- b. Topographic Site Plan, Prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated March 15, 2018.
 - c. Grading and Drainage Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated May 1, 2018.
 - d. Parking and Layout Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated March 15, 2018, revised April 24, 2018.
 - e. Floor Plans, signed and stamped by Michael R. Davis, Registered Architect, dated March 19, 2018.
 - f. Proposed Lighting Plan, prepared by Omni-Lite, Inc., dated May 30, 2018.
 - g. Proposed Plan Detail Wrought Iron Fence Entry, prepared by Phillip H. Bakalchuk, Registered Architect, dated May 20, 2014.
 - h. Proposed Landscape Plan, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, dated April 24, 2018.
 - i. Sign Plan, prepared by GenSign, dated April 15, 2014.
2. The petitioner shall comply with the Community Host Agreement on file with the City Clerk.
 3. The petitioner shall see patients and customers on an appointment only basis, with a minimum of three hours between the time between scheduling the appointment and arriving on site.
 4. Until such time as the petitioner receives a final inspection from appropriate City Departments for the parking facility and interior renovation, the petitioner shall allow the retail sale of recreational marijuana and shall operate the marijuana establishment ~~operate the RMD~~ under the following conditions:
 - a. Hours of operation shall be from 10:00 a.m. to 8:00 p.m. Monday through Saturday Thursday, and from 10:00 a.m. to 9:00 p.m. on Friday and Saturday; the marijuana establishment shall not be open on Sunday. ~~only~~
 - b. There shall be no more than six employees on site at any one time.
 5. Upon receipt of a final inspection from appropriate City Departments for the parking facility at 681 Washington Street and the interior renovation, the petitioner shall ~~allow the sale of recreational marijuana and shall~~ operate the marijuana establishment under the following conditions:
 - a. Hours of operation shall be from 10:00 a.m. to 8:00 p.m. Monday through Thursday, from 10:00 a.m. to 9:00 p.m. Friday and Saturday and from 12:00 p.m. to 6:00 p.m. on Sunday.
 - b. There shall be no more than twelve employees on site at any one time.
 6. The petitioner shall implement a Transportation Demand Management Plan to prevent employees from occupying parking stalls in the surface parking facility and on-street parking stalls. The Plan shall include, but not be limited to:
 - a. Displaying all transit schedules in the immediate area, including a pedestrian wayfinding map, in a central location within the facility;
 - b. Participating in the City of Newton Bikeshare program. If the program is unsuccessful, the petitioner shall purchase no less than three bikes for employees to commute to and from work;

- c. Providing a secure bicycle storage area on site;
 - d. Establishing an on-site car-pool, rideshare program with guaranteed ride home;
 - e. Reimbursing employees commuting to the site via transit; and
 - f. Subsidizing the cost of parking and the cost of travel to the site from satellite parking facilities.
7. Six months after receipt of occupancy certificates for the parking facility and the interior renovation, the Petitioner shall conduct a parking utilization study outlined and approved by the Director of Planning and Development and the Director of Transportation. The petitioner shall be required to expand the parking facility to 16 stalls should the Directors of Planning and Development determine such based on the findings of the parking study.
- Additionally, 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.
8. The petitioner shall employ a City of Newton Police Detail on the site during all operating hours for the first ninety days of recreational use sales. If at the end of the ninety days, the Director of Planning and Development, in consultation with the Director of Transportation and the Newton Police Department, determines the City of Newton Police Detail is still necessary, the Petitioner shall continue to employ a City of Newton Police Detail until deemed unnecessary by the officials stated. In the event a City of Newton Police Detail is not available, the petitioner shall obtain a private detail.
9. The petitioner shall employ a security professional to monitor the property, including the surface parking lot, during all operating hours. The petitioner shall make the security professional available to consult with the Newton Police Department, Newton Fire Department, and other law enforcement agencies.
10. The petitioner shall limit on-site transactions to one ounce of marijuana, or its equivalent in whatever form the marijuana is dispensed, per customer per site visit, with the balance of the order, if any, delivered to customers' homes, provided home delivery is allowed by the Cannabis Control Commission.
11. Perimeter lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plans identified in Condition 1 above.
12. The petitioner shall locate and screen the dumpster to minimize its visibility from the public way. The dumpster(s) shall be kept closed, and the area surrounding the dumpster shall be kept free of debris.
13. The granting of a special permit to allow a marijuana establishment to operate at this site applies only to the petitioner and does not run with the land. At such time as the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Massachusetts Department of Public Health and/or the Cannabis Control Commission, the marijuana establishment granted by this Council Order shall terminate.

14. The petitioner shall maintain its registration with the Massachusetts Department of Public Health and/or the Cannabis 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.
15. 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.
16. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works.
17. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
18. Prior to the issuance of any Building Permit for the Project, the petitioner shall pay the sum of \$25,000 to the City for the cost and installation by the City of a bus shelter along the Project's Washington Street frontage. The petitioner shall have no obligation regarding the ongoing maintenance or repair of said bus shelter.
19. Prior to the issuance of any temporary occupancy certificates for the Project, 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. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
20. 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. Made a payment to the City in accordance with Condition #18.
 - d. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, 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.
 - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
21. 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 and engineer certifying compliance with Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - 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 Department and that the O&M plan has been recorded at the Middlesex Registry of Deeds.
 - d. 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.
22. Notwithstanding the provisions of Condition #21 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings 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.