



# CITY OF NEWTON, MASSACHUSETTS

City Hall

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[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

**To:** Zoning Board of Appeals Members

**From:** Brenda Belsanti

**Date:** October 10, 2024

**Subject:** Materials for **October 16, 2024** Public Hearing

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### Packet 1

Hello,

Please see the following supplemental materials for the upcoming hearing on October 16, 2024 Public Hearing. The following board members are scheduled to sit: *Michael Rossi (Chair), Brooke Lipsitt, Stuart Snyder, Elizabeth Sweet, William McLaughlin, Denise Chicoine (alternate) and Jennifer Pucci (alternate).*

1. October 16, 2024 Meeting Agenda
2. Resident emails (3) regarding 78 Crafts Street dated September 18, 2024 to October 3, 2024.
3. Resident emails (4) regarding 41 Washington Street dated September 3, 2024 to September 6, 2024.
4. Letter from the League of Woman Voters of Newton dated September 19, 2024.
5. Planning Working Session Memorandum – 41 Washington Street with draft decision attachment dated October 10, 2024.
6. Planning Working Session Memorandum – 78 Crafts Street with preliminary draft decision attachment dated October 10, 2024.

Thank you,

Brenda Belsanti

**[bbelsanti@newtonma.gov](mailto:bbelsanti@newtonma.gov)** |



# CITY OF NEWTON, MASSACHUSETTS

## Zoning Board of Appeals

### AGENDA

**Meeting Date:** October 16, 2024.  
**Location:** Hybrid—Council Chamber (Room 207) & Zoom  
**Time:** 7:00pm

Ruthanne Fuller  
Mayor

Barney Heath,  
Director, Planning &  
Development

Brenda Belsanti  
ZBA Clerk

#### Members

Michael Rossi, Chair  
Brooke Lipsitt, Vice Chair  
William McLaughlin  
Stuart Snyder  
Elizabeth Sweet  
Denise Chicoine, Alternate  
Jennifer Pucci, Alternate  
Lei Reilley, Alternate

1000 Commonwealth Ave  
Newton, MA 02459  
T 617-796-1000  
[www.newtonma.gov](http://www.newtonma.gov)

This meeting will be a hybrid meeting that will take place at Newton City Hall City Council Chamber (Room 207) and virtually via Zoom. To view and participate <https://newtonma-gov.zoom.us/j/85334447396> or dial +16465588656,,85334447396#

- #08-23** 41 TusNua LLC, requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a 16-unit residential development on a 25,902 square foot lot located at 41 Washington Street within a Single-Residence 3 (SR-3) zoning district. The proposed development would consist of reconfiguring the existing dwelling and constructing an addition. The proposal includes 4 affordable units.
- #11-23** 78 Crafts Street Newton LLC, requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a 307-unit residential development on a 4.76 square acre lot located at 78-84 Crafts Street, 68-70 Crafts Street, 9 Maguire Court, 17-19 Maguire Court, 67R Court Street, 63 Court Street, 13-15 Maguire Court, 24 Maguire Court, 31 Maguire Court, and 31R Maguire Court within the Multi-Residence 1 (MR-1) and Manufacturing (M) zoning districts. The proposal includes 62 affordable units and 263 parking spaces.
- 3. Adjournment**

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec.504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. For Telecommunications Relay Service, please dial 711 or call City Hall's TTY/TDD line at 617-796-1089.

-----Original Message-----

From: Julia Talcott <juliamtalcott@gmail.com>

Sent: Tuesday, September 3, 2024 6:52 PM

To: Brenda Belsanti <bbelsanti@newtonma.gov>

Cc: jlvito19@gmail.com; gluckers@aol.com; Jennifer Murphy <save.hunnewell@gmail.com>

Subject: 41 Washington Street

[You don't often get email from [juliamtalcott@gmail.com](mailto:juliamtalcott@gmail.com). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

[DO NOT OPEN links/attachments unless you are sure the content is safe. ]

Hello Ms Belsanti,

Thank you for taking the time to listen to our neighborhoods concerns.

I am a direct abutter to the proposed 40b project at 41 Washington Street, Newton Corner. I have spoken in meetings and written letters previously but I wish to register my complaint once again about this project.

What the developer has proposed is a completely inappropriate spot for such a massive building. The water concerns are much better explained by others, but they threaten our entire neighborhood. The parking and congestion to our block is a big concern to me as well. 16 units is far too many to wedge into that building and lot, and I do not think that the 4 "affordable" units are enough to make it worth it. It seems so apparent to me that their insistence on 16 units just plain greed.

In 2008 we built a Silver Leeds house at 80 Elmhurst Road designed carefully with an eye to conservation, and if this building is completed as planned it will directly block our southwest sunlight. The "shadow" study they did was not accurate, and only portrayed a limited aperture. As residents trying to put up a new building in 2008 we were put through rigorous inspections by the City; how will this building be monitored when it bypasses everything Newton zoning has worked towards?

I know Newton and the City of Boston in general is concerned about housing and I understand that this could help with that problem. I urge you to ask the ZBA to cut back on the scope of this project at the very least, but stopping it completely would be even better.

Thank you,

Julia Talcott  
80 Elmhurst Road

-----Original Message-----

From: Paul Fair <pgf12758@icloud.com>

Sent: Thursday, September 5, 2024 6:11 AM

To: Brenda Belsanti <bbelsanti@newtonma.gov>

Subject: 41 Washington

[DO NOT OPEN links/attachments unless you are sure the content is safe. ]

Hi Brenda,

Please share my email with the board for the 41 Washington Street 40B ZBA meeting on September 9.

As I mentioned in the last meeting, if there were no water issues, the abutters and neighbors would not care if housing was built behind 41 Washington Street.

My neighbors and I have sent in multiple photos and video depicting our water issues which have gotten worse when they leveled a lot of the backyard for Parking We find it deplorable, that these developers were not fined for adding a parking lot without obtaining a permit first. We do not believe the city inspected the parking area after it was installed. Because surely if they had, they would have required the owner of 41 Washington Street to install a catch basin to capture the water run off. This water run off is causing foundation damage to the abutter's homes and garages. When this water runoff freezes, it creates safety issues for pedestrians and automobiles on Grasmere street (photographs of ice streams were previously submitted to the ZBA.)

By allowing this project it will affect all the houses to the side and downhill of 41 Washington Street. I know this because I've lived in my home on Merton Street (directly behind 41 Washington Street) for 65 years. As a teenager I hung out with friends in many of the homes that surround 41 Washington Street and these basements did not have water issues or flooding like they do today. Allowing this 16 unit development will compromise the cities stormwater structure which is already having a hard time dealing with the heavier rains due to climate change.

I'm asking the board to vote this project down unanimously. Thank you for your time.

Sincerely,

Paul Fair

20 Merton Street

August 27, 2024

Brenda Belsanti  
Clerk to Zoning Board of Appeals  
1000 Commonwealth Avenue  
2nd Floor  
Newton MA, 02459

Attn: Zoning Board of Appeals,

We, the undersigned abutters and neighbors, are writing to ask that the 41 Washington Street 40B application be denied as this project will cause multiple problems for the whole neighborhood, involving potentially major expenses and loss of safety involving pedestrians, cyclists, automobile traffic and trash collection. 41 Washington Street is a “gateway to Newton” and it should be a safe and welcoming. We have provided compelling reasons below as evidence that this project does not meet local concern.

1. Exacerbation of Groundwater and Stormwater Problems
2. Vital information that has been requested but not provided (1) long-term groundwater monitoring, (2) mounding analysis and (3) 3D model of the project
3. Inappropriate Massing and Scale
4. Developer’s Demonstrated Lack of Candor and Integrity
5. Traffic and Safety Concerns
6. Newton’s Proven Commitment to Creating Regional Housing

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### **1. Exacerbation of Groundwater and Stormwater Problems**

Our number one concern has been and continues to be groundwater and stormwater. This was true when the developer proposed adding a very large single-family home to the rear lot, and it is even more of a concern now given the size and scale of the proposed development. It bears repeating that 41 Washington sits atop an historic wetland, whose existence was documented in city records as early as 1892. The groundwater is so abundant, in fact, that a previous owner was able to create a duck pond in the backyard simply by using excess groundwater.

We have a very high-water table and poor clay soils and our issues have grown worse with climate change. Over the decades, many abutters and neighbors, particularly those of us downgrade from 41 Washington, have been forced to fight groundwater incursions into our basements with expensive sump pumps, French drains, and dry wells. The delicate hydrologic balance of our area is already being disrupted by wetter summers and wetter winters and

climate scientists predict this will only get worse. Other MA towns (Leominster) have also experienced historic unprecedented flooding. The Northeast is getting wetter and hotter faster than the rest of the US. Adding a 30,000 sf structure is unwise and threatens the homes of abutters and downgrade neighbors.

## **2. Vital information requested but not provided**

### Long-Term Groundwater Monitoring

During various public hearings, Councilor Alison Leary along with several neighbors have requested the developer install a long-term groundwater monitoring system to better understand peak flows throughout the year prior to any approval. Monitoring would identify how seasonal variations in rainfall impact the water table. The impact of increased precipitation on stormwater runoff, proposed groundwater infiltration and subsequent rise in groundwater levels needs to be evaluated. To our knowledge, the ZBA has not required the developer to conduct these tests.

### Mounding Analysis Needed

Mr. Lombardo, our pro bono water engineer has also stressed the need for a mounding analysis to be completed because of the high-water table and the placement of the infiltration system.

### 3D Model of the Project Needed

During public hearings, we have repeatedly requested a computer-generated 3D model that depicts how this 4-story structure would appear juxtaposed to the abutting homes. We have been told that a virtual 3D model would not be costly or difficult to produce yet we have never received one. A picture is worth a 1000 words, and we believe that a 3D model would reveal how this proposed structure would dwarf abutting homes.

## **3. Inappropriate Massing and Scale**

This oversized 40B project would shoehorn 16 units onto a 0.59 acre lot in an SR3 residential neighborhood comprised primarily of single and 2-family homes. At 16 units, we are looking at a 160% increase to the density of this small residential block. This massive boxy structure would tower over neighbors at 4 stories and almost 44 feet tall. The Floor Area Ratio (FAR) between the total amount of usable floor area of this proposed structure and the total area of the lot is more in line with dense or urban construction projects. In August 2023 the developers proposed the FAR of 1.05 and 25,000 square feet. In May 2024, the FAR ballooned to 1.16 and 33,000 square feet. The Newton's planning department also raised concerns about FAR given that 1.16 is over 3 times the maximum FAR in an SR3 zone.

### Developer Unwilling to Reduce Height and FAR

The developer has continued to be unwilling to work with the ZBA and neighbors to decrease the building height and FAR. Both the Urban Design Commission (UDC) and the ZBA requested a reduction of units from 16 to 12, which the developer's attorney stated the developer does not want to do.

In addition, the UDC offered the following assessment about this proposal:

"As per the executive summary, it seems there were perhaps 26 items where the proponent is asking for a waiver, including FAR, and building height. It is a single-family zoned neighborhood. And it seemed like there were so many things here that are disturbing and bothersome and it's quite a lot. This maybe is a new trend to pop these things into neighborhoods, but it seemed like with so many exceptions, that it was going a little bit too far in that direction. For this site and neighborhood, it seems like there certainly were a lot of exceptions and UDC understands that the applicant is not subject to existing zoning but it's a question of maybe the correct thing to do is the appropriate thing to do."

The aesthetics, while slightly improved since the last iteration, continues to be out of step with our historic neighborhood. They have, in fact, rejected requests by the UDC and ZBA to alter the roofline to help it blend better within existing houses. In a neighborhood of historic Victorian homes, many residents are upset with the plan to demolish the existing 1891 Victorian.

### Adverse Impact to Abutters

We want to remind the Board that this project directly impacts 10 abutters as depicted in the image below. Among the many issues of concern, abutters reasonably fear the noise from 16 HVAC condensers and 16 families would make quiet enjoyment of their backyards untenable.

### Excess Density Harms Future Condo Residents

We believe the inappropriate scale will also be a detriment to future condo residents. The project's excess density necessitates a number of undesirable set-ups including tandem parking and under-sized parking stalls. All vehicles will need to conduct tight 3 point turns to exit while the accessible van will need to complete 4 separate maneuvers to exit the garage. The trash removal plan is also wrought with problems for future residents and the neighborhood. We anticipate long periods of noise while the trash and recycling are being picked up for all 16 units; along with odors from spills and trash that is not correctly disposed. The idea that a private waste hauler will park a giant truck for extended time on busy Washington Street is going to cause blockage for cars in both directions, not to mention any resident looking to leave the parking garage. There will be long wait times as an individual rolls out dumpsters from the garage with multiple trips to the Washington Street curb.

Unfortunately, forcing this scale of structure onto a small residential lot means the developer does not have the space to build a handicapped ramp and is asking for a waiver. ADA Coordinator Joni Fairley “noted new construction should have a ramp or walkway for all visitors and this configuration may require a variance from the Architectural Access Board.” To us, this alone is evidence that this structure is too large for the site footprint.

#### **4. Developer’s Demonstrated Lack of Candor and Integrity**

##### Unfit to Participate in 40B Program

Any substantial building on this lot will require extensive mitigation and meticulous engineering to keep from inundating neighboring properties. The site topography, the close proximity of numerous abutters and downgrade properties, and the poor clay soil all demand precise building practices. It cannot be overstated that any scale of building on the 41 Washington lot will create additional water issues for neighbors that must be understood, planned for, and mitigated in advance. After the 41 TusNua LLC developers installed an unpermitted parking lot behind the existing house, for example, water began flowing non-stop from either the sump or holding tank of the property at 47 Washington Street, which sits on the corner of Washington & Grasmere Streets.

Given their history, we have no reason to believe these developers will behave any more professionally than they have in the past nor do we feel comfortable that they will properly execute the infiltration system to the exacting standards required. The Commonwealth of Massachusetts has a duty to ensure that applicants have the character, experience and overall fitness to participate in the 40B program. The need for affordable housing cannot trump the need for basic developer trustworthiness. Allowing unprofessional and/or unethical developers is not just a threat to abutters and neighbors but also to any future residents of the 40B project.

#### **5. Traffic and Safety Concerns**

We remain concerned about the increased traffic, street parking and visibility issues that this oversized project will create. Exiting Grasmere Street onto Washington St is already very difficult because of the cars regularly parked on Washington Street. Adding 20 vehicles entering and exiting just east of Grasmere will decrease safety for condo residents as well as residents exiting Grasmere St. Children in the Hunnewell Hill neighborhood must cross Washington in order to walk to the elementary and middle schools and to catch the bus to Newton North High School on Waverley Ave. Additional traffic increases the risk of pedestrian strikes. This issue is exacerbated by the Exit 127 traffic circle as vehicles speed down the Washington Street hill toward the circle.



## 6. Newton's Proven Commitment to Creating Regional Housing

The City of Newton reached the 10% Safe Harbor figure in January 2024 and we believe still has three separate 40B projects in various stages of consideration that if approved will create approximately 245\* additional units.

- West Newton Armory, 43 units 100% affordable (43 total)
- 78 Crafts St, 62 units at 50% AMI (307 total)
- Northland Needham & Oak Sts, ~140 units affordable (820 total)

*\* This figure does not include Family Aid's proposed 42 temporary housing units at 1650 Washington intended to help families facing homelessness.*

Moreover, not only is Newton doing its share meeting the regional need for *affordable* housing, our City will also be creating thousands more market-priced units over the coming years as an MBTA Community. This large influx of housing units should drive down prices overall through the market forces of supply and demand.

We ask that you carefully weigh the pros and cons of this 40B proposal within this larger context. While other projects yet to be approved offer great upside, we strongly believe that the 41 Washington project does little to meet local need and will likely cause great harm to abutters and neighbors.

To recap, we believe:

- Newton is currently meeting regional housing needs (affordable and market-rate) and will do so well into the future.
- The Project as proposed will cause significant harm to neighbors and condo owners while barely making a dent in increasing regional housing affordability.
- The size and massing are far out of scale with the neighborhood.
- The site is technically challenging with potential to cause extensive harm to neighbors' homes.
- Applicant is unfit and should not be eligible to be a state-sanctioned developer.
- Traffic safety is a major concern, becoming more so day by day: this project is, you might say, positioned at the opening gate of the Washington Street traffic runway.

Thank you for taking the time to hear our concerns.

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<b>Name</b>	<b>City</b>	<b>State</b>	<b>Postal Code</b>	<b>Country</b>	<b>Signed On</b>
<b>Jodi Vito</b>	Newton	MA	2458	US	2024-08-27
<b>Andy Gluck</b>	Newton	MA	2458	US	2024-08-27
<b>William Walker</b>	Newton	MA	2458	US	2024-08-27
<b>Laura DeDominicis</b>	Newton	MA	2458	US	2024-08-27
<b>Naomi Levin</b>	Newton	MA	2460	US	2024-08-27
<b>Scott Whitehouse</b>	Newton	MA	2458	US	2024-08-27
<b>Nancy Lopin</b>	Newton	MA	2461	US	2024-08-27
<b>James McCartney</b>	Newton	MA	2458	US	2024-08-27
<b>Beth Goldstein</b>	Newton	MA	2458	US	2024-08-27
<b>erica schwartz</b>	newton	MA	2458	US	2024-08-27
<b>Diane Sakakini-Rao</b>	Newton	MA	2458	US	2024-08-27
<b>Rosalind Williams</b>	Newton	MA	2458	US	2024-08-27
<b>Lisa Underkoffler</b>	Newton	MA	2458	US	2024-08-27
<b>Edwin Luethy</b>	Newton	MA	2458	US	2024-08-27
<b>Michelle Markert</b>	Newton	MA	2460	US	2024-08-27
<b>Jon Inwood</b>	Brooklyn	NY	11226	US	2024-08-27
<b>Harper Humphrey</b>	St. Petersburg	FL	33703	US	2024-08-27
<b>Daniel Vito</b>	Dorchester	MA	2121	US	2024-08-28
<b>Edward Rao</b>	Newton	MA	2458	US	2024-08-28
<b>Patricia Adair</b>	Newton	MA	02458-2230	US	2024-08-28
<b>Kevin Vito</b>	Newton	MA	2458	US	2024-08-28
<b>Lauren Puglia</b>	Newton	MA	2461	US	2024-08-28
<b>Anne Swager</b>	Newton	MA	2458	US	2024-08-28
<b>Jennifer Murphy</b>	Newton	MA	2461	US	2024-08-28
<b>Christopher Murphy</b>	Newton	MA	2458	US	2024-08-28
<b>Alexander Southall</b>	Newton	MA	2458	US	2024-08-28
<b>Laura Johnson</b>	Newton	MA	2459	US	2024-08-28
<b>Judith Siporin</b>	Newton	MA	2459	US	2024-08-28
<b>Barbara Whitesides</b>	Newton	MA	2459	US	2024-08-28

<b>Erika Rikhiram</b>	Clermont	FL	34711	US	2024-08-29
<b>Nuala Heespelink</b>	Newton	MA	2459	US	2024-08-29
<b>Jingbo Ye</b>	Newton	MA	2460	US	2024-08-29
<b>Fang Han</b>	Newton	MA	2459	US	2024-08-29
<b>Tom Schmeisser</b>	Newton	MA	2458	US	2024-08-29
<b>Liam Ryan</b>	Boston	MA	2128	US	2024-08-30
<b>Marilou Shaughnessy</b>	Newton	MA	2458	US	2024-08-30
<b>Susan Thompson</b>	Newton	MA	2458	US	2024-08-31
<b>Ann Irwin</b>	Newton	MA	2459	US	2024-09-02
<b>Ia Topuria</b>	Newton	MA	2458	US	2024-09-02
<b>Gitika Srivastava</b>	Brooklyn	NY	11216	US	2024-09-02
<b>Laura Saltonstall</b>	Newton	MA	2458	US	2024-09-02
<b>Katherine Barton</b>	Newton	MA	2458	US	2024-09-02
<b>Christopher Perruzzi</b>	New York	NY	10011	US	2024-09-02
<b>Alina Duckham</b>	Newton	MA	2458	US	2024-09-02
<b>Claire F. Barton Sheridan</b>	Weymouth	MA	2190	US	2024-09-02
<b>Imran Malek</b>	Newton Center	MA	2459	US	2024-09-02
<b>Donna Manley</b>	Newton	MA	2458	US	2024-09-02
<b>Katharine Saltontall</b>	Massachusetts	MA	2458	US	2024-09-02
<b>Julia Talcott</b>	Newton	MA	2458	US	2024-09-02
<b>Matthew Kenslea</b>	Newton	MA	2459	US	2024-09-02
<b>Carolyn Judge</b>	Newton	MA	2459	US	2024-09-02
<b>Margaret Szerlip</b>	Newton	MA	1930	US	2024-09-02
<b>Larissa Levin</b>	Newton	MA	2459	US	2024-09-02
<b>Zoey Perse</b>	Toronto	MA	M6P	Canada	2024-09-02
<b>Linda H Tracy</b>	Newton	MA	2458	US	2024-09-02
<b>Barbara Kenslea</b>	Newton Center	MA	2458	US	2024-09-02
<b>Paul Rosenstrach</b>	Newton	MA	2459	US	2024-09-02
<b>Susan Minai-Azary</b>	Newton	MA	02458-2211	US	2024-09-02
<b>Rebecca McLeod-Barnett</b>	Newton	MA	2458	US	2024-09-02
<b>Mary Lyons Hunter</b>	Newton	MA	2458	US	2024-09-02
<b>Laura Goldworm</b>	Boston	MA	2130	US	2024-09-02

<b>Sophia Vito</b>	Providence	RI	2907	US	2024-09-03
<b>Deirdre Madden</b>	Newton	MA	2458	US	2024-09-03
<b>Laura Woodward</b>	Newton	MA	2458	US	2024-09-03
<b>Ann Rounseville</b>	Newton	MA	2458	US	2024-09-03
<b>Rebecca Connors</b>	Newton	MA	2458	US	2024-09-03
<b>Mara Chernin</b>	Newton	MA	2468	US	2024-09-03
<b>Jen Chamberlain</b>	Newton	MA	2459	US	2024-09-03
<b>Sami O'Reilly</b>	Newton	MA	2459	US	2024-09-03
<b>Elizabeth Gagnon</b>	Newton	MA	2458	US	2024-09-03
<b>Dinorá Justice</b>	Newton	MA	2458	US	2024-09-03
<b>Sue Dickinson</b>	Newton	MA	2459	US	2024-09-03
<b>Ciara Aglira</b>	Fort Myers	FL	33908	US	2024-09-03
<b>Nathalie H</b>	Newton	MA	2459	US	2024-09-03
<b>Raymond Ethier</b>	Newton	MA	2458	US	2024-09-03
<b>Deborah Ethier</b>	Newton	MA	2458	US	2024-09-03
<b>Paul Gair</b>	Niagara Falls		L2G	Canada	2024-09-03
<b>Tullia Visco</b>	Newton	MA	2459	US	2024-09-03
<b>Cathy Perkins</b>	Longwood	FL	32750	US	2024-09-03
<b>Susan Donnellan</b>	Lexington	MA	2420	US	2024-09-03
<b>Myra Ferree</b>	Newton	MA	O2458	US	2024-09-03
<b>Jason Jaroszewski</b>	Newton	MA	2459	US	2024-09-03
<b>Sigmund Kharasch</b>	Newton	MA	2458	US	2024-09-03
<b>Jen Gilbert Linden</b>	Newton	MA	2458	US	2024-09-03
<b>Bryn Smith</b>	Newton	MA	2458	US	2024-09-03
<b>Laura Shaw</b>	Brewster	MA	2631	US	2024-09-03
<b>Michael Raposa</b>	Dover	NH	3820	US	2024-09-03
<b>kathleen Kyrtzoglou</b>	Chestnut Hill	MA	2467	US	2024-09-03
<b>Dale Hagen</b>	Fontana	CA	92336	US	2024-09-03
<b>Rachel Kantor</b>	Newton	MA	2458	US	2024-09-03
<b>Liliana Richard</b>	Newton	MA	2459	US	2024-09-03
<b>Mary Miller</b>	Newton Center	MA	2459	US	2024-09-03
<b>Leslie John</b>	Newton	MA	2459	US	2024-09-03

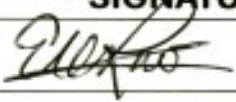






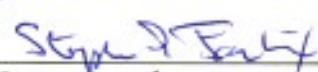
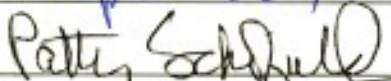
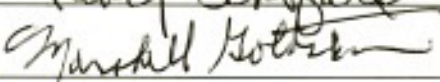

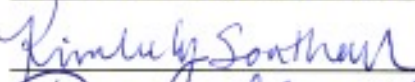

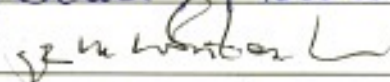
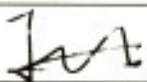
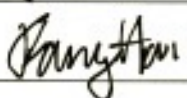
<b>Angela Rubin</b>	Boston	MA	2458	US	2024-09-03
<b>robert Imperato</b>	Newton	MA	2459	US	2024-09-03
<b>Carol McNally</b>	Newton	MA	2458	US	2024-09-03
<b>Nancy Netzer</b>	Newton	MA	2458	US	2024-09-03
<b>Claudia Doherty</b>	Newtonville	MA	2460	US	2024-09-03
<b>Melinda Shockley</b>	Newton	MA	2458	US	2024-09-03
<b>James Ng</b>	Newton	MA	2458	US	2024-09-03
<b>Howard Kantor</b>	Newton	MA	2458	US	2024-09-03
<b>Arlene Kantor</b>	Newton	MA	2458	US	2024-09-03
<b>Maria Ng</b>	Newton	MA	2459	US	2024-09-03
<b>Robert Silberman</b>	Newton	MA	2458	US	2024-09-03
<b>Michael Sinisi</b>	Newton	MA	2458	US	2024-09-03
<b>Daniel McDonald</b>	Newton	MA	2458	US	2024-09-03
<b>Lucy Lu</b>	The Bronx	NY	10457	US	2024-09-03
<b>Antonio Borja</b>	Newton	MA	2458	US	2024-09-03
<b>Madison Roach</b>	Newton	MA	2459	US	2024-09-03
<b>sheryl lazear</b>	Newton	MA	2458	US	2024-09-03
<b>Erin Valenti</b>	Newton	MA	281	US	2024-09-03
<b>Jennifer Goldberg</b>	Newton	MA	2459	US	2024-09-03
<b>Eric Secemsky</b>	Newton	MA	2458	US	2024-09-03
<b>Silva Sarkissian</b>	Framingham	MA	1702	US	2024-09-03
<b>Andrew Sarkissian</b>	Chestnut Hill	MA	2467	US	2024-09-03
<b>Dawn Mcneal</b>	Fergus Falls	MN	56537	US	2024-09-03
<b>Lee Pagani</b>	Newton	MA	2458	US	2024-09-03
<b>Patricia Lee</b>	Newton	MA	2459	US	2024-09-03
<b>Ryziel Syr'Noyr</b>	Bronx	NY	10462	US	2024-09-04
<b>Gregg Levine</b>	Astoria	NY	11102	US	2024-09-04
<b>Maria Steele</b>	West Newton	MA	2465	US	2024-09-04
<b>Donna Harris</b>	Newton	MA	2458	US	2024-09-04
<b>Annette Kaplan</b>	Newton	MA	2458	US	2024-09-04
<b>Stacy Coons</b>	Ogden	UT	84414	US	2024-09-04
<b>Matthew Zavisch</b>	Spring	TX	77379	US	2024-09-04

<b>Rebecca Vizulis</b>	Newton	MA	2459	US	2024-09-04
<b>Andris Vizulis</b>	Newton	MA	2458	US	2024-09-04
<b>R. Harvey Bravman</b>	NEWTON	MA	2458	US	2024-09-04
<b>Linda Salvucci</b>	Newton	MA	2461	US	2024-09-04
<b>Don Salvucci</b>	Newton	MA	2458	US	2024-09-04
<b>Michael Lyons</b>	Newton	MA	2458	US	2024-09-04
<b>Marisa Ng</b>	Newton	MA	2458	US	2024-09-04
<b>Rachel Ng</b>	Newton	MA	2459	US	2024-09-04
<b>Ellen Parker</b>	Newton	MA	2459	US	2024-09-05

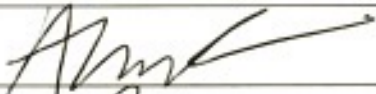
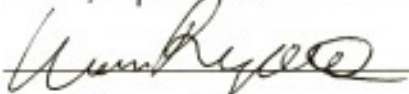


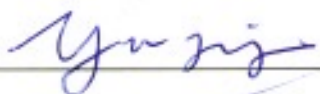







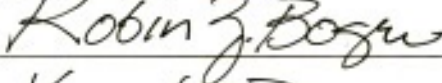
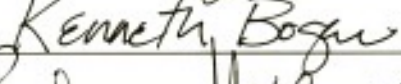
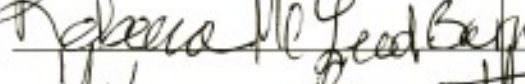

- Traffic and safety issues remain a concern

Thank you for taking the time to hear our concerns.

1st Page of Signatures

SIGNATURE	PRINTED NAME	ADDRESS
	EDWARD RAO	111 Grasmere St.
	ANDY GLUCK	19 Merton St.
	KIM GLUCK	19 MERTON ST.
	MARY WALKER	56 Washington St.
	WILLIAM WALKER	56 Washington St
	JUDITH SIPORIN	300 Franklin St.
	KATHLEEN FAUTEUX	71 Elmhurst Rd.
	STEPHEN FAUTEUX	71 Elmhurst Rd.
	PATTY SCHOFIELD	17 Washington St.
	Marshall Goldstein	17 Washington St
ALEXANDER SOUTHALL		75 Elmhurst Rd.
	Kimberly Southall	75 Elmhurst Rd.
	RACHEL KANTOR	125 Grasmere St.
	George A. White	127 Grasmere Street
Barbara Whitesides	Barbara Whitesides	124 Grasmere St.
Diane Sakakin-Rao	DIANE SAKAKIN-RAO	111 Grasmere St
Rosalind Williams	Rosalind Williams	83 Grasmere St.
Marilou Shaughnessy	Marilou Shaughnessy	58 Elmhurst Rd.
	Jingbo Ye	47 Washington Se
	Fang Han	47 Washington St

# 2ND Signature Page.

SIGNATURE	PRINTED NAME	ADDRESS
	Allison Perse	18 Wm. Hensmore Rd, Newso,
	Ivan Ryan	125 Grasmere St
	Jennifer Murphy	112 Grasmere St
	Quan Lu	36 Washington St.
	JING YUAN	36 Washington Street
	Ig Topuria	9 Hunnewell Ave
	Benjamin Whitesides	9 Hunnewell Ave
	Patty Adair	5 Willard St.
	Ed Buckner	6 Willard St.
	JODI VITO	128 Grasmere St
	Kevin Vito	128 Grasmere St.
	Paul Fear	20 Merton St
	ROBIN Z BOGER	200 CHURCH ST. PEAR
	KENNETH BOGER	200 CHURCH ST. PEAR
	Rebecca McLeod Barnett	11 Barnes RD.
	Myron Barnett	11 Barnes RD.



September 6, 2024

Zoning Board of Appeals (ZBA)  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

Sent via email to Clerk [bbelsanti@newtonma.gov](mailto:bbelsanti@newtonma.gov)

Dear Chair Rossi and ZBA members:

Re: 41 Washington Street – Proposed Development  
Ground and Surface Water Management  
Safety Issue

The applicant's August 9, 2024 revised project Plans (7 Sheets) contain the note on Sheets 2 and 3:

NOTE: SPRUHAN ENGINEERING, P. C., ACCEPTS NO LIABILITY FOR GROUND WATER OR OTHER SURFACE WATER IN BASEMENT

In my professional engineering opinion, the City of Newton / the ZBA should reject the project as this statement has the significant potential of creating safety problems at the property.

If you have any questions on these comments, please do not hesitate to contact me by telephone (617) 964-2924 or E-mail [Pio@LombardoAssociates.com](mailto:Pio@LombardoAssociates.com).

Yours truly,



Pio S. Lombardo, P.E.  
President

cc: Councilor Maria Scibelli Greenberg  
Newton Corner Neighborhood Association



**From:** Angela Brooks <angela.r.brooks@gmail.com>  
**Sent:** Wednesday, September 18, 2024 7:48 PM  
**To:** Brenda Belsanti <bbelsanti@newtonma.gov>  
**Subject:** 78 Crafts Street

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Brenda, I had to log off of the ZBA meeting just now but I wanted to be sure to send my support for the project at 78 Crafts Street.**

**Newton is deeply in need of more housing, and especially affordable housing, and this project offers an unmatched opportunity for both. If we are to be a truly 21st century city, we must find our way to yes a on projects like these. And we must welcome new neighbors like all those who would move in at 78 Crafts Street. I certainly do!**

**It is so important for our city that projects like these go through, and after so much collaboration, I hope this one will.**

**Thank you for your work on behalf of our city,  
Angela Brooks  
5 Marshall Street**

**From:** Damien Croteau-Chonka <damien.cc@gmail.com>  
**Sent:** Sunday, September 22, 2024 12:44 PM  
**To:** Brenda Belsanti <bbelsanti@newtonma.gov>  
**Subject:** Re: Strong support for the 78 Crafts Street project

**[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Hello, I've written previously to the ZBA in support of the 78 Crafts Street project, when I believe it was slightly larger overall and there were a couple more deeply affordable housing units in the works.**

**I want to reiterate my strong support for this transit-oriented development and the rare and transformational opportunity it presents.**

**Who gets to be a long-term resident of Newton? I hope it will be 59 families who might not have the chance otherwise.**

**Thank you.**

**Damien Croteau-Chonka  
32 Orchard Ave.  
West Newton, MA 02465**

**On Mon, Jan 22, 2024 at 9:35 AM Damien Croteau-Chonka <[damien.cc@gmail.com](mailto:damien.cc@gmail.com)> wrote:**

**Dear Members of the Zoning Board of Appeals,**

**I am writing because I strongly support the 78 Crafts Street project.**

**In repurposing an old industrial zone, this project proposal will allow many more people to live within walking distance of the village center of Newtonville and its many shopping and transit options.**

**Most importantly though, the proposal presents a rare opportunity for more deeply affordable housing in Newton with units for tenants at 50% AMI.**

**Indeed, increasing rental options at all income levels is a key component of making Newton a vibrant and livable city into the future. I urge you to ensure that the final unit total remains stable as the project evolves based on board and community feedback. It is for these reasons that I ask you to ultimately grant the Comprehensive Permit.**

**Thank you for your consideration.**

**Damien Croteau-Chonka  
32 Orchard Ave.  
West Newton, MA 02465**

**From:** ROBERT O'HARE <81ohare@comcast.net>

**Sent:** Thursday, October 3, 2024 8:06 AM

**To:** Brenda Belsanti <bbelsanti@newtonma.gov>

**Subject:** 78 Craft Street **[DO NOT OPEN links/attachments unless you are sure the content is safe. ]**

**Brenda**

**Maria and I enjoyed speaking with you before the September 18th ZBA meeting. As you may recall, Maria, my daughter Lauren and I reside at 81 and 87 Prescott Street and have attempted to have the ZBA request modifications to the height of Building B. I believe that Boylston Properties made substantial changes to Building A and several alterations to Building C and D to lessen the impact that these building have on the adjacent neighborhood. Unfortunately, there has not been any meaningful change to the height of Building B that addresses the concerns raised by us.**

**I understand the Chairman Rossi indicated at the last meeting that the public comment period at these public hearings is over and that the ZBA is in the final review process before the Comprehensive Permit will be voted on by the ZBA. Consequently, this is my last chance to seek ZBA's assistance in reducing the height of a portion of Building B at the far end of the Craft Street project from six to four floors.**

**According to the architectural plans submitted by Boylston Properties, Building B will have one three-bedroom and two one-bedroom on each of the two top floors that is the subject of my request. Eliminating, these two floors will not have any adverse impact on the financial success for Boylston Properties, nor should it result in any reduction of the number of affordable units that are part of the ZBA's Comprehensive Permitting review. It will, however, have a profound impact on the Prescott Street neighborhood. Reducing these two floors from a portion of Building B represents about a 2% deduction on the 293 units being proposed and equates to a reduction of about 10% of the original 317-unit project.**

**As a way of recapping, Boylston Properties intends to build 293 units with 57 units designated as affordable. If ZBA was to take my suggestion under consideration, Boylston Properties would still be able to construct 287 units without having to reduce any of the units that Boylston Properties set aside as affordable. I believe that this proposal is a win/win situation for Prescott, for the proponents of affordable housing since it does not require any reduction in the number of proposed affordable unit and a minimum impact on the Boylston Properties' bottom-line profits.**

**Brenda I would appreciate if you would forward this email to the members of the ZBA for their consideration and should any member have any questions I can be contacted at [81ohare@comcast.net](mailto:81ohare@comcast.net).**

**Thanks you**

**Robert O'Hare**

**Maria O'Hare**

**Lauren Sullivan**

**Brian Sullivan**



P.O. Box 610207 Newton, MA 02461  
[www.lwvnewton.org](http://www.lwvnewton.org) | [info@lwvnewton.org](mailto:info@lwvnewton.org)

September 19, 2024  
Newton Zoning Board of Appeals  
Newton City Hall  
1000 Commonwealth Avenue  
Newton MA 02459

Dear Chairperson Michael Rossi and Members of the Zoning Board of Appeals,

On behalf of the League of Women Voters of Newton (**LWVN**) Board of Directors, we are writing to express our support for the request of Boylston Properties for a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, for a project to feature 295 residential units on a 4.76 square acre lot located on Crafts Street in the MultiResidence 1 and Manufacturing zoning districts. The all-residential project will feature four multifamily buildings as well as a separate two-story parking structure and will include 278 parking stalls. The proposal includes 59 affordable units (20 percent) at 50 percent of area median income (AMI), and affordability protections will be placed on these units in perpetuity.

The Crafts Street Project will help make Newton's housing stock more diverse by providing an alternative to single-family homes, which many people – from young professionals, to seniors looking to downsize, to people who work in Newton – are looking for but cannot find. In addition, 59 of the units will be affordable at 50 percent of AMI, a much deeper level of affordability than the legally required 80 percent of AMI. We believe that the deeper affordability of these units is critical to help meet community needs for low-income families and individuals, particularly given the shortage of affordable housing in the City and surrounding cities and towns.

The project is designed to meet one of the two Passive House standards, which will substantially reduce the project's energy consumption over its lifetime. The project plans include a solar feasibility study for the roofs of the residential buildings and the parking structure. The project will also include infrastructure for future charger-ready parking spaces. The developer will conduct a Life Cycle Assessment in order to evaluate the environmental impact of the project over its life. The project is within walking distance of commuter rail, which should reduce reliance on cars. The plans include open space and plans for pedestrian and bicycle circulation and safety.

The Crafts Street Project will help meet goals common to the City of Newton and LWVN:

- increasing housing diversity;
- building sustainably;
- mitigating the use of cars;
- encouraging biking and walking; and
- increasing tax revenue for the City.

*The League of Women Voters encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.*

The LWVN's support is in alignment with:

1. League of Women Voters, US positions in the 2022-2024 "Impact on Issues: A Guide to Public Policy Positions" (page 150) *"that every person and family should have decent, safe, affordable housing. State and local Leagues have worked to increase the supply of housing for people with low and moderate-incomes through efforts to change zoning laws and set up shared housing services."* And (page 110) *"The League believes that climate change is a serious threat facing our nation and our planet. The League believes that an interrelated approach to combating climate change—including through energy conservation, air pollution controls, building resilience, and promotion of renewable resources— is necessary to protect public health and defend the overall integrity of the global ecosystem."*
2. League of Women Voters, Massachusetts position (found on page 53 of the June 2023 "WHERE WE STAND Program Book") *"to press for an increased supply of low- and moderate-income housing using different approaches [,including] . . . abolition of local restrictive zoning and building code requirements."*
3. Newton's Comprehensive Plan, 2011 (page 5-12) *"We want our stock of housing to match the social and economic diversity of our population. That requires increasing both rental and home ownership opportunities for the entire range of low-, moderate-, and middle-income families . . ."* And (Page 8-8) *"Increase energy efficiency and sustainable practices in buildings and infrastructure. In the short term, this would involve encouraging owners to retrofit existing buildings to upgrade their energy using elements and systems. In the longer run, use of high-performance building standards for renovations and new construction is necessary, which can be encouraged by means of various incentives and as a condition of obtaining special permits and variances."*
4. LWVN's 2023-2024 Program: Positions on (i) Land Use, (ii) Housing, and (ii) Environmental Quality. (<https://lwnnewton.org/wp-content/uploads/2023/07/LWVN-Program-Plan-2023-24.pdf>)

In alignment with Newton's Comprehensive Plan and LWV values and positions, we ask the Zoning Board of Appeals to vote to approve a Comprehensive Permit for the Crafts Street Project.

Sincerely,

*Frieda Dweck Jane Harper*

Frieda Dweck and Jane Harper  
Co-Presidents  
League of Women Voters, Newton



Ruthanne Fuller  
Mayor

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

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

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## WORKING SESSION MEMORANDUM

**DATE:** October 11, 2024  
**MEETING DATE:** October 16, 2024  
**TO:** Zoning Board of Appeals  
**FROM:** Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Deputy Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
  
**COPIED:** Mayor Ruthanne Fuller  
Jonah Temple, Deputy City Solicitor  
City Council

The Planning Department is providing the following information for the upcoming working session. The public hearing for this petition was closed at the last hearing on September 9, 2024. This information is supplemental to staff analysis previously provided at the public hearing.

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**PETITION #08-23**

**41 Washington Street**

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As discussed at the September 9<sup>th</sup> meeting of the Zoning Board of Appeals, attached are draft denial findings for the Board to consider.

**Attachment A:** DRAFT Denial Decision





Ruthanne Fuller  
Mayor

# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1120 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086  
www.newtonma.gov

## ZONING BOARD OF APPEALS

Brenda Belsanti, Board Clerk

### DECISION

#### **41 Washington Street, Newton, Massachusetts Comprehensive Permit**

**Decision Number:** #08-23

**Date Application Filed:** August 15, 2023

**Applicant:** 41 TusNua, LLC

**Premises Affected:** 41 Washington Street, Newton, Massachusetts Assessor's Map, SBL 71029 0007

**Relief Requested:** Comprehensive Permit, G.L. c. 40B, §§ 20-23

**Public Notice:** August 30, 2023 & September 6, 2023.

**Public Hearing Dates:** September 13, 2023; November 29, 2023; January 10, 2024; April 3, 2024; May 15, 2024; July 11, 2024; September 9, 2024

**Decision of the Board:**

**Members Voting:** Michael Rossi (Chair), Brooke K. Lipsitt (Vice Chair), William McLaughlin, Stuart Snyder, and Elizabeth Sweet

**Date of Decision:**

## PROCEDURAL HISTORY

1. On July 10, 2023, the Massachusetts Housing Finance Agency (“MassHousing”) issued a Project Eligibility Letter (“PEL”) to 41 TusNua, LLC (the “Applicant”).
2. On August 15, 2023, the Applicant submitted an application for a Comprehensive Permit pursuant to G.L. c. 40B, §§ 20-23 to the Newton Zoning Board of Appeals (the “Board”). The Application proposed to construct 16 residential home ownership units, including 4 affordable housing units (the “Project”) on approximately 0.6 acres of land located at 41 Washington Street, Newton, Massachusetts (the “Site”).
3. The Board opened a duly noticed hybrid public hearing on September 13, 2023. Additional sessions of the public hearing were held on November 29, 2023; January 10, 2024; April 3, 2024; May 15, 2024; July 11, 2024; and September 9, 2024.
4. The Board conducted a duly noticed site visit on October 20, 2023.
5. During the course of the public hearing, City staff, boards/commissions, peer reviewers, community members, and technical experts submitted extensive oral and written testimony with respect to the Project on issues of: site design; open space; landscaping; lighting; sewer and drainage; massing; scale; pedestrian scale; height; streetscapes/public realms; architecture; feasibility of the parking plan; geotechnical studies including but not limited to foundation method, construction means and methods, groundwater impact, soil conditions and testing for hazardous materials; construction management and planning; protection of abutters’ properties during construction; emergency access during construction; sustainability; parking adequacy, design, management, and ratios; shadow impacts; traffic impact and access studies; traffic and pedestrian safety; traffic demand management; rubbish and recycling management; site circulation, access/egress; adequacy of transit service; signage; accessibility; water table, flooding, flood plain, and compensatory flood storage; stormwater management; integration and coordination of functions occurring in the ground plane including but not limited to truck deliveries, trash/recycling pickup, and loading zones; snow removal; engineering; infiltration and inflow; design; environmental concerns; greenspace and recreation areas; site control, and the City’s Comprehensive Plan and Housing Strategy.
6. The following consultants and independent peer reviewers assisted the Board in its review of the Application:
  - a. Transportation:  
Stephen Siragusa, M.S., Traffic Engineer  
Wayne Keefner, PE, PTOE, LEED AP Senior Project Engineer, Senior Associate  
BSC Group
  - b. Site Design, Open Space, Civil Engineering, Stormwater, Flooding:

Janet Carter Bernardo, P.E.  
Jonas Procton, P.E.  
Horsley Witten Group

7. The following representatives and members of the Applicant's development team presented oral and written testimony to the Board:
  - a. Stephen J. Buchbinder, Esq., Schlesinger and Buchbinder, LLP
  - b. John Pears, Landscape Architect
  - c. Blair Hynes, Verdant Landscape Architect
  - d. Stephen Martorano, Bohler Engineering
  - e. Robert Michaud, MDM Transportation Consultants, Inc.
  - f. Edmond Spruhan, Civil Engineer
  - g. Valerie Moore, Partner, Nutter
8. The Board closed the public hearing on September 9, 2024.
9. The Board deliberated on the application at a meeting held on October 16, 2024, and voted to deny a Comprehensive Permit based on the findings set forth herein.

### **FINDINGS**

1. The Board has a proven track record of approving Comprehensive Permits. Since 2018, the Board approved seven comprehensive permit applications totaling 1,182 units of housing, 395 of those units are designated as deed restricted affordable units.
2. As of January 8, 2024, the City achieved Safe Harbor under the Housing Unit Minimum calculation with 10.2% of SHI Eligible Housing units.
3. The Site is located at 41 Washington Street (SBL 71029 0007) in the Single Residence 3 zoning district. The Site is located in the Hunnewell Hill neighborhood of Newton Corner.
4. The surrounding neighborhood is predominantly comprised of single-family residential uses and nonconforming two-family uses in a single residence zone. The only use allowed in this zoning district is single-family residential. The pattern of the neighborhood consists of Queen Anne and Italianate style homes.
5. The ten residences within the Washington Street, Grasmere Street, Merton Street, Elmhurst Road block that surround and abut the Site are predominately single-family homes. Seven of the properties are improved with single-family homes and three have nonconforming two-family homes, including an existing two-family home currently on the Site. All homes within this block appear single family in character, maintain the low residential density, and most maintain the Victorian typology of the area.

6. The Site consists of 25,902 square feet and is improved with nonconforming two-family home with a large rear yard, evidenced by the rear setback of 133.3 feet.
7. The existing dwelling is referred to as the George H. Hastings House and the pavilions, gables, bay windows and corner tower are reminiscent of Queen Anne style architecture. There are many notable features outlined by the Massachusetts Historical Commission such as its shingle style architecture with a fieldstone first story, corner tower, and porte cochère. Other details such as cropped shingle raking eaves, jambs in the gable window, and shingled parapet in the side bay are Shingle style in origin. The proposed demolition of this dwelling would result in a severe alteration of the streetscape and loss of a historic resource in a low-density residential neighborhood.
8. The Project proposes a floor area ratio of 1.16, where .36 is the maximum allowed as of right and .26 exists. Floor area ratio is intended to measure the bulk of a project in relation to the size of the lot. The floor area ratio proposed is excessive and out of scale with the single residence neighborhood and surrounding buildings on Washington Street. The Applicant declined to consider any reduction in massing or rearticulation of massing for the building.
9. The Project proposes a lot area per unit of 1,619 square feet where 10,000 square feet per unit is the minimum allowed as of right. Lot area per unit is intended to measure residential density. The existing lot area per unit is 12,951 square feet per unit. The lower range of lot area per unit for this area is approximately 4,000 square feet per unit, with two-family uses on approximately 8,000 square foot lots along the southern side of Washington Street. As proposed, the Project is severely out of scale with the density and single family residential pattern of the neighborhood.
10. The Project is incompatible with the surrounding neighborhood due to the chosen density of the development and limitations of the Site. As a result of the Project's excessive and out of scale massing and density brought on by the strict confines of the Site, the abutters and the neighborhood would be negatively impacted by loss of privacy, increased noise and light, as well as traffic and parking problems caused by site operations.
11. The Project proposes a 32.9% lot coverage, exceeding the 30% maximum allowed as of right for the single residence 3 zoning district. The proposed exceedance of lot coverage results in approximately an additional 770 square feet of impervious area on the large lot. A reduction in lot coverage/smaller footprint would reduce impervious surfaces and could mitigate any adverse impacts of high groundwater in this area.
12. Two iterations of the Project were reviewed by the City's Urban Design Commission. The most recent design was described by the Commission as a big bulky box on a single residence 3 parcel. They noted the proposed four story building was too big, with too many units, that drives other issues that need to be resolved.

13. The Urban Design Commission criticized the design and roof configuration as not being contextual with the neighborhood. The Applicant declined to redesign the roof to be in character with the single residence neighborhood with historic Queen Anne dwellings. The Urban Design Commission also noted the attractiveness of Washington Street with overwhelmingly Victorian architecture.
14. The proposed building's front entrance is seven feet above grade, accessed from Washington Street by stairs. As such, the design necessitates a "second entrance" with a lift which renders the main stairway front entrance inaccessible to people with disabilities. Planning staff, the City's ADA coordinator and members of the Board expressed concern with this design and the likelihood that it did not comply with Massachusetts Architectural Access Board regulations.
15. Members of the Board questioned whether the configuration of the garage will work, with the applicant stating that larger vehicles, such as a pickup truck, would not be able to park within the garage and all moving operations will need to take place from Washington Street. The city's on call consultant for traffic and site circulation, BSC, raised questions and concern throughout the process as to whether the electrical room and water/sprinkler room meets building code requirements. The tandem configuration of stalls directly adjacent to the water/sprinkler room and electrical cage present likely obstructions to these rooms when vehicles are parked in stalls 16, 17, 19. The floorplans also indicate that the trash room's door would conflict with the accessible stall's (stall 20) access aisle, creating a conflict for people with disabilities utilizing the accessible stall. The overall configuration of the garage does not meet safety code requirements and will create future conflicts and adverse impacts to the neighborhood.
16. The Board finds that the proposed development as designed at this location is not appropriate. The four-story Project with three times the floor area ratio than is allowed as of right is out of scale and inconsistent with the surrounding neighborhood, all within a single residence zoning district. The proposed multifamily building typology with four stories, a flat roof, roof deck, above grade entrance, and partially below grade garage is extremely out of character with the neighborhood and is inconsistent with the existing lower density land uses of the neighborhood.

### **Comprehensive Plan**

17. The City's Comprehensive Plan and zoning ordinance, including the recently approved overlay district to comply with the MBTA Communities Act, focuses on locating multi-family and mixed-use housing near many of the City's village centers. The intent of the City's development plan is to enhance village centers and allow the development of buildings and uses in appropriate locations. The closest village center that was identified for the Village Center Overlay District is the Newtonville Village Center, which is

approximately two miles away. The site is not an appropriate location for the additional density, as it is not proximate to any Village Center that has been approved for the overlay district. The project does not support the intent of encouraging development that fosters compact, pedestrian-oriented villages.

18. The City's Comprehensive Plan states that development is to be guided to reflect the character held or sought by existing residential neighborhoods, protecting the qualities of that which exists. The proposed Project does not support this intention with the demolition of a notable Victorian dwelling that positively contributes to the overall streetscape and character of the neighborhood. The Project introduces a new building typology to the neighborhood of well-preserved Victorian and Italianate-style dwellings, thus being out of character and scale of the neighborhood.
19. Strategic Approaches outlined in the Comprehensive Plan to serve housing goals include:
  - a. Siting residential development that is well located in relationship to transportation, schools, commercial services, large employers, and existing patterns of residential type and character benefit the City in multiple ways.
  - b. Mutual benefits can come from planning for housing and economic development in concert. Housing retained or developed in or near village centers supports village businesses, and having a broad array of village services within walking distance benefits residents. That linkage strengthens the vitality and quality of life for the area.
  - c. Preservation of housing stock, especially smaller homes, can help to maintain the scale, character, and distinctiveness of our neighborhoods, as well as serves to protect the City cultural heritage and meet its housing goals.
  - d. Design that shows careful respect for neighborhood context by avoiding potentially disruptive impacts, can make such development a more welcome addition to the vicinity, thus serving both design and housing objectives.

The project as proposed does not meet any of the set forth actions to serve housing while acting in concert with other goals and efforts of others.

### **Stormwater**

20. The rear yard of the Site slopes down approximately 14 feet from the rear of the existing dwelling to the northwest corner of the lot. Numerous mature trees are shown on the existing conditions, many with diameters of 30 inches. Several of these trees were removed during the course of the public process for the Comprehensive Permit application, further exacerbating existing drainage issues.
21. In 2019 and 2020, the Applicant submitted an application for a special permit from the City Council to develop the Site as a rear lot subdivision, which would result in two single-family homes on the 25,902 square foot lot. During the special permit public hearing, concerns about flooding in the area were raised and testimony from abutters and neighbors

was provided regarding the high water table, poor soil, and experience with their properties flooding. Many abutters testified to investing in sump pumps with backup batteries, French drains, drywells, and other containment systems, which indicate high groundwater which comes up from the bottom in the area. During Hurricane Irene, credible testimony indicated abutters' basements filled with up to six inches of standing water. Following a denial recommendation from the Land Use Committee of the City Council, the Applicant withdrew its special permit application. Since the 2020 special permit application and subsequent withdrawal, the City and region has seen more intense storms, with higher amounts of rain occurring in shorter periods of time, leading to flooding and drainage issues.

22. The City has experienced more intense days of high rainfall and increased flooding due, in part, to the effects of climate change. The 2022 Massachusetts Climate Change Assessment, prepared by the Executive office of Energy and Environmental Affairs and Massachusetts Emergency Management Agency, stressed three findings: that temperatures have gone up over the years and will continue to increase; there will be both fewer rainy days and more intense rainstorms; and sea levels will rise and combine with more powerful coastal storms.
23. The City's stormwater management system is strained by increased volumes of runoff from more frequent and higher intensity storms. Compounding the issue is a trend of increasing impervious areas and elevated grades around new structures limiting natural infiltration. Further, stormwater runoff from impervious surfaces is the greatest source of pollution to Newton's ponds, lake, and waterways.
24. Due to the severe storms in the region and effects of climate change, the City's Stormwater Ordinance rules and regulations are stricter than the state stormwater regulations to properly manage stormwater in a responsible and sustainable manner. The purpose of this ordinance is to protect, maintain, and enhance public safety as well as environmental health and general public welfare. This ordinance focuses on controlling the volume and rate of stormwater runoff resulting from land disturbing activities (both during and after such activities), managing stormwater at its source, and directing storm water into the ground rather than sending it into storm drainpipes and channels. The local ordinance explicitly protects flooding onto abutters properties and the Engineering Division of Public Works has discretion to require stormwater measures that go beyond state standards if they are necessary to ensure there won't be flooding, adverse impacts or harm to abutters. In requiring the mounding analysis, the Engineering Division acted within its powers and discretion under the local ordinance to ensure no adverse impacts to abutters.
25. During the project eligibility process, the Engineering Division of Public Works raised concerns with the Applicant's ability to keep the previously proposed underground garage dry. The Engineering Division commented that seasonal high ground water table during the Spring months would be higher due to the Project and stated that due to concerns

regarding flooding, additional soil testing would need to be done. Under the prior special permit review, the Associate City Engineer recommended that the Applicant install an interceptor/French drain which would act as a backstop to prevent the migration of water underground to the neighborhood.

26. During the public hearing, credible testimony was repeatedly submitted from abutters about increasing flooding and water issues in the neighborhood area that affect their properties and necessitates ongoing measures such as the installation of French drains and sump pumps. Testimony from the abutters point to the sponge-like conditions of the Site and poor soil conditions. Following the construction of a parking area, the abutter at 47 Washington Street experienced non-stop water flow from the sump or holding tank.
27. During the course of the public hearing, both the City's Engineering Division of Public Works and the Board's on-call consultant, Horsley Witten, advised that the Applicant conduct a mounding analysis to determine if there is any breakout out of stormwater above the land and demonstrate that the proposed stormwater system is dewatered within 72 hours (so the next storm can be stored for exfiltration). Based on this expert advice, the Board required that the Applicant conduct this analysis. The Applicant, however, declined to submit a mounding analysis, thus failing to ensure no adverse impacts to abutting properties.
28. Analysis has shown that there are flaws in the design of the stormwater system with insufficient separation between the bottom of the basin and seasonally high groundwater and will cause flooding on abutting properties due to a rise in the level of groundwater. Due to the specific nature of the site and surrounding area, including history of flooding, common standard design separation is insufficient.
29. The City's on call consultant, Horsley Witten, conducted a mounding analysis using the Hantush method, the standard method for modeling groundwater mounding height and extents. The mounding analysis indicated that the height of groundwater mounding underneath the proposed infiltration chamber system would not rise to the bottom elevation of the system. However, the mounding analysis indicated that groundwater mounding would occur at heights of up to 0.92 feet at neighboring buildings, impacting water seepage into the buildings. The Applicant declined to revise the design of impermeable barriers that will limit the lateral extent of groundwater mounding at neighboring buildings, thus demonstrating a major flaw in their system. The Applicant also declined to provide calculations that demonstrate that the revised design will not result in adverse mounding at the neighboring buildings. This analysis and failure of the Applicant to remedy the seepage by redesigning impermeable barriers results in a significant local concern of groundwater impacts and harm to the abutters which outweighs the regional need for housing.
30. The Applicant refused to consider the abovementioned issues and stated on the record that they will not conduct the mounding analysis, as required by the City's Engineering



Division of Public Works, Horsley Witten, and the ZBA. Because the Associate City Engineer has determined it is required by local stormwater ordinance and peer reviewer analysis shows it will increase water problems for abutters, the Project fails to meet local requirements and regulations and will result in harm to the abutters.

31. Overall, the Board finds that local concern for flooding on abutting properties outweighs the local need for affordable housing. As designed, the Project will exacerbate an existing situation. Mounding of groundwater will significantly worsen the situation. Abutting basements will intersect with the mound, which will create an adverse impact and harm to abutters because groundwater would be mounding higher than abutting properties. While the mounding issue is complex, the Applicant refused to study or mitigate the local concern despite acknowledging the local concern.

### **Concluding Findings**

32. The Board heard from City staff, members of the City Council, boards, commissions, departments, and residents and has taken that testimony into account. The Board finds that local concerns of stormwater, groundwater mounding and the subsequent impact to abutters, increased density, and proposed scale of the project outweigh the regional need for affordable housing.
33. Given the Board's numerous concerns with the project's site, design and impact on abutting properties, as well the developer's refusal to address these concerns despite acknowledging them, the Board finds that the Local Concerns cannot be properly addressed through conditional approval.
34. At no time during the public hearing did the Applicant indicate that any condition or reduction in units may render the Project uneconomic.
35. The Board has determined that the above issues are Local Concerns that outweigh the regional need for affordable housing and for which adequate mitigation measures either are not possible or were refused to be provided by the Applicant.
36. Given the Board's numerous concerns with the project's site, design and impact on abutting properties, as well the developer's refusal to address these concerns despite acknowledging them, the Board finds that the Local Concerns cannot be properly addressed through conditional approval.

### **DECISION**

Pursuant to Chapter 40B, after convening a public hearing and making findings of fact, the Board **DENIES** a Comprehensive Permit to the Applicant for the Project.



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

Ruthanne Fuller  
Mayor

Barney S. Heath  
Director

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## WORKING SESSION MEMORANDUM

DATE: October 11, 2024  
MEETING DATE: October 16, 2024  
TO: Zoning Board of Appeals  
FROM: Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Deputy Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Alyssa Sandoval, Deputy Chief Planner for Current Planning  
COPIED: Mayor Ruthanne Fuller  
City Council

The Planning Department is providing the following information for the upcoming working session. The public hearing for this petition was closed at the last hearing on September 18, 2024. This information is supplemental to staff analysis previously provided at the public hearing.

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**PETITION #11-23**

**78 Crafts Street**

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### I. Proposed conditions

Staff have attached a preliminary draft of the proposed conditions the Board to consider as Attachment A. Some of these key conditions are highlighted below.

### II. Analysis

#### A. Project Unit Mix and Affordability

**Affordability:** The 59 affordable units proposed in this project will remain affordable at the levels approved in the Comprehensive permit in perpetuity (Condition 11). Fifty-nine (59) units will be made available to households earning at or below 50% of Area Median Income (AMI). The location of these units will be evenly distributed on the site and the unit mix will be comparable to the market rate units. (Condition 13). One parking stall will be provided free of charge for each affordable unit (Condition 50).

**Payments:** The applicant will pay a total of \$721,638.00 for the Inflow and Infiltration fee. The applicant has agreed to a further payment of \$1,158,888.00 for additional off-site improvements in the vicinity of the project. (Condition 19 & 20)

**Mitigation:** The applicant will be required to design and construct the work outlined in Conditions 21 -25, including traffic signal and intersection improvements, traffic calming, and pedestrian accessibility improvements. These conditions have been vetted by the Department of Public Works who have indicated they are satisfied with the condition language as applicable to their review at building permit and occupancy should this project be approved.

**Water and drainage:** No local or state standards regarding stormwater or groundwater will be waived for this project (Condition 57). The applicant will also be responsible for granting an easement to the City for the existing water main (Condition 26), making upgrades to the existing culvert (Condition 27), and a construction feasibility study (Condition 28).

**Construction:** Staff have recommended limiting construction activity on the site to certain hours to minimize negative impacts on abutters (Condition 30), pest remediation (Condition 31), and measures to mitigate vibration impacts (Condition 32). A construction management plan outlining plans to manage potential nuisances including noise, dust, and traffic on and off of the site will be required. (Condition 33)

**Lighting:** Members of the Board questioned whether lighting levels could be adjusted to further screen abutters from impacts of the level of lighting proposed for the garage. Planning staff has proposed a condition that sets lower lighting standards for foot candles along the perimeter of the garage and lighter levels after 10 pm as well as fully shielded lights on the garage (Condition 41).

**Transportation Demand Management:** The applicant will commit \$150,000 to an alternative transit reimbursement fund to incentivize alternatives to driving. If after five years there is money left in this account, the remaining balance will be returned to the City and used to fund other transit initiatives in the neighborhood (Condition 53). The condition also requires the applicant to update and report to the City the transportation patterns of residents.

**Landscaping:** All landscaping shown in approved plans must be maintained in good condition and inspected annually(Condition 62).

## Attachment A

### CONDITIONS

#### GENERAL CONDITIONS

1. All buildings, parking areas, driveways, walkways, landscaping, and other site features associated with this Comprehensive Permit shall be located and constructed consistent with the plans identified in Schedule A, which are incorporated by reference (collectively, the “Approved Plans”).
2. Prior to the issuance of any building permits, the Applicant shall submit a complete final set of architectural plans including elevations, signed and stamped by an architect, and dimensioned site plans, engineering plans, stormwater drainage plans, landscaping plans, and utility plans, signed and stamped by a professional engineer, consistent with the Approved Plans referenced in Condition #1.
3. With respect to the Applicant’s request for waivers from local ordinances and regulations, the Board approves only those waivers listed in this Decision. The Project shall comply with all applicable local ordinances, rules, and regulations not expressly waived, including the payment of all applicable permit fees. The Project shall also comply with all applicable state and federal laws, codes, regulations, and standards.
4. The City will not issue a building permit for the Project without final approval from the Subsidizing Agency.
5. Before any site clearing, grading, demolition, or construction may begin on site, the Applicant shall submit a municipal lien certificate that shows all assessments and betterments have been paid in full and there are no outstanding municipal liens on the property.
6. Prior to the issuance of any building permit for the Project, the Applicant shall provide an Approval Not Required (“ANR”) or “81X” plan combining the seven lots into one lot to the City Engineer for review, approval and/or endorsement. Once approved, the plan must be recorded at the Middlesex South Registry of Deeds. A certified copy of the recorded plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.
7. Unless extended by the Newton Zoning Board of Appeals upon a finding of good cause, this Comprehensive Permit Decision shall lapse and become void if construction is not commenced within three years of the date on which it is filed with the City Clerk, not including the time required to pursue or await the determination of an appeal pursuant to G.L c. 40B. For purposes of this paragraph only, commencement of construction is defined as the issuance of a building permit (other than a demolition permit) for all or any portion of the Project.
8. This Comprehensive Permit Decision, and all conditions herein, shall run with the land and be binding on any heirs, successors, or assigns of the Applicant. In the event that this Project, the comprehensive permit, or any of the obligations therein are sold, transferred, or otherwise

made the obligation(s) of an entity other than the original Applicant, the successor or assignee shall be bound by all of the terms and conditions of this Comprehensive Permit Decision.

**HOUSING CONDITIONS**

9. The Project shall include 295 units of rental housing, as listed in the following table:

<b>Unit Type</b>	<b>Total Number of Units</b>	<b>Number of Affordable Units</b>
Studio	45	9
One Bedroom	125	25
Two Bedroom	94	19
Three Bedroom	31	6

10. Twenty percent (20%) of the units in the Project, which is 59 units, shall be and shall remain affordable housing units in perpetuity for households earning at or below 50% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA (the "Affordable Units"). The AMI used for establishing rent and income limits for the Affordable Units must not exceed 50% of AMI.
11. All 59 Affordable Units shall be and shall remain deed-restricted affordable in perpetuity at the affordability levels set forth herein. A deed restriction shall be executed and recorded in the form of a Regulatory Agreement and Use Restriction as defined in and required by 760 CMR 56.05(13) and subsequently through a regulatory agreement with the City as required by Condition #18.
12. All units, including both the Affordable Units and the market rate units, shall be eligible for inclusion on EOHLC's Subsidized Housing Inventory (SHI) in perpetuity in accordance with EOHLC Guidelines.
13. Unless otherwise required by the subsidizing agency, the Affordable Units shall be dispersed evenly throughout the Project and have approximately the same bedroom "ratio" or "mix" as the other units in the Project.
14. The Affirmative Fair Housing Marketing and Resident Selection Plan shall meet the requirements of EOHLC's Guidelines for G.L. c. 40B Comprehensive Permit Projects. The Applicant shall provide evidence of the subsidizing agency's approval of the Affirmative Fair Housing Marketing and Resident Selection Plan prior to commencing any marketing of the units.
15. At no point will the number of Certificates of Occupancy issued for Affordable Units be less than 25% of all Certificates of Occupancy issued.

16. No unit or building shall be constructed to contain or be marketed and/or rented as containing more bedrooms than the number of bedrooms indicated for said unit in the Approved Plans referenced in Condition #1.
17. The Applicant shall work with the Planning and Development Department to request that 25% of the Affordable Units be awarded to households with local preference during the initial lottery, with at least one of the local preference units being a fully accessible unit.
18. A second Regulatory Agreement (the “City Regulatory Agreement”), in a form approved by the City Law Department, shall be entered into by the Applicant and the City and shall be executed and recorded prior to the expiration of the initial Regulatory Agreement and shall remain effective for as long as the Project exists. The Applicant shall enter into the City Regulatory Agreement to continue such restrictions and the terms of the City Regulatory Agreement shall be consistent with the terms of this Decision and with the customary terms of the City’s Regulatory Agreements. At a minimum, the City Regulatory Agreement shall require: (i) that the Project shall remain 20% affordable in perpetuity; (ii) that 20% of the units in the Project shall be affordable and rented to low income households as that term is defined in G.L. c. 40B, §§ 20-23 as set forth in Condition #10; and (iii) reasonable annual monitoring and reporting to be paid by the Applicant to ensure compliance. The City Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the City.

#### **MITIGATION & OFFSITE IMPROVEMENT CONDITIONS**

19. The Applicant shall make payments in the aggregate amount of \$721,638.00 to the City for infrastructure improvements for inflow and infiltration (I&I). Payments shall be made as follows:
  - a. \$360,819.00 prior to the issuance of the first building permit for the vertical construction of the Project; and,
  - b. \$360,819.00 prior to the issuance of the first dwelling unit occupancy permit (temporary or final) in the Project.
20. The Applicant shall make payments in the aggregate amount of \$1,158,888.00 to the City for off-site transportation, pedestrian, safety, and accessibility improvements in the area bordered by Watertown, Adams, Walnut, and Washington streets in the vicinity of the Project. Payments shall be made as follows:
  - a. \$579,444.00 prior to the issuance of the first building permit for the vertical construction of the Project; and,
  - b. \$579,444.00 prior to the issuance of the first unit occupancy permit (temporary or final) in the Project.

21. The Applicant shall design, construct, and install, at its sole cost and expense, improvements to the Washington Street and Crafts Street intersection in close consultation with the Department of Public Works as follows:

- a. Design and implementation of an optimal traffic signal timing, phasing and coordination plan.
- b. Installation of traffic signal equipment upgrades to improve traffic operations during peak and off-peak periods. The following equipment/licenses are required as part of this improvement:
  - i. NEMA cabinet / controller
  - ii. NEMA cabinet foundation / modification
  - iii. FMU / Licenses
  - iv. 360-degree detection camera
- c. Monitoring and adjusting of signal timing and phasing as necessary in coordination with the City.

Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit design plans to the Commissioner of Public Works and Director of Planning and Development for review and approval. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Applicant shall complete this work in accordance with the approved plans and the improvements inspected and approved by the Commissioner of Public Works. The Applicant shall be responsible for obtaining all necessary permits and approvals to complete the work.

22. The Applicant shall design, construct, and install, at its sole cost and expense, improvements to the Route 16 and Crafts Street intersection in close consultation with the Department of Public Works as follows:

- a. Design and implementation of an optimal traffic signal timing, phasing and coordination plan.
- b. Installation of vehicle detection and pedestrian countdown signal heads. The following equipment/licenses are required as part of this improvement:
  - i. 360-degree cameras
  - ii. Controller upgrades
  - iii. Eight (8) Countdown Pedestrian Signal Heads

Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit design plans to the Commissioner of Public Works and Director of Planning and Development for review and approval. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Applicant shall complete this work in accordance with the approved plans and the improvements inspected and approved by the Commissioner of Public Works. The Applicant shall be responsible for obtaining all necessary permits and approvals to complete the work.

23. The Applicant shall design, construct, and install, at its sole cost and expense, improvements to the intersections at Washington Street and Lewis Terrace, Washington Street and Adams Street, and Washington Street and Jackson Road in close consultation with the Department of Public Works as follows:

- a. Design and implementation of an optimal traffic signal timing, phasing and coordination plan.
- b. Installation of vehicle detection and pedestrian countdown signal heads. The following equipment/licenses are required as part of this improvement:
  - i. Lead Pedestrian Interval (LPI) phasing
  - ii. New max channel NEMA signal cabinet, controller and foundation
  - iii. Vehicle detection on Washington Street approaches
  - iv. Install pedestrian countdown signal heads where missing at the Jackson Road and Washington Street east leg
- c. Construct sidewalks to fill the existing gap in the pedestrian network east of Lewis Terrace where there is a well-worn pedestrian path.

Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit design plans to the Commissioner of Public Works and Director of Planning and Development for review and approval. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Applicant shall complete this work in accordance with the approved plans and the improvements inspected and approved by the Commissioner of Public Works. The Applicant shall be responsible for obtaining all necessary permits and approvals to complete the work.

24. The Applicant shall design, construct, and install, at its sole cost and expense, improvements at Adams Street in close consultation with the Department of Public Works as follows:

- a. Design and construct three raised pedestrian crossings(s).
- b. Install two Radar speed signs.
- c. Install one (1) Rectangular Rapid Flashing Beacon (RRFB).

Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit design plans to the Commissioner of Public Works and Director of Planning and Development for review and approval. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Applicant shall complete this work in accordance with the approved plans and the improvements inspected and approved by the Commissioner of Public Works. The Applicant shall be responsible for obtaining all necessary permits and approvals to complete the work.



25. The Applicant shall design, construct, and install, at its sole cost and expense, pedestrian bump outs with new crossings and RRFB's at the Crafts/Clinton/Maguire and Crafts/Ashmont intersections in close consultation with the Department of Public Works. Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit design plans to the Commissioner of Public Works and Director of Planning and Development for review and approval. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Applicant shall complete this work in accordance with the approved plans and the improvements inspected and approved by the Commissioner of Public Works. The Applicant will also be responsible for restoring the pavement to an acceptable condition in coordination with the City Engineer. The Applicant shall be responsible for obtaining all necessary permits and approvals to complete the work.
26. Prior to the issuance of a certificate of occupancy (temporary or final), the Applicant shall grant a 20-foot-wide permanent easement to the City for access and future maintenance of the water main in a form approved by the City Solicitor. The location of the easement and final water main design and configuration shall be reviewed and approved by the Commissioner of Public Works. The proposed domestic water main for the Project shall be constructed, tested, funded by the Applicant, and installed in accordance with all applicable laws, ordinances, and regulations, including but not limited to the DPW Standards (provided that such laws, ordinances, regulations and standards shall be applied in a manner consistent with all other projects in the City of Newton). Upon completion, all ownership rights, title and interest in the water main shall be conveyed to the City. The Applicant shall prepare and submit to the City's Engineering Division two mylar plans for the Utility Easement, which at a minimum shall show the property limits, the proposed utility easement with compass bearings & distance and the total square footage of the easement. The plans must be stamped by a professional Registered Land Surveyor and suitable for recording at the Registry.
27. Prior to issuance of a certificate of occupancy (temporary or final), the Applicant shall replace the existing concrete box culvert [36" x 48"] within the City easement. The replacement concrete box culvert shall be designed for H-20-wheel loading and/or design an encasement structure that would transfer the truck/traffic load off the existing culvert and transfer the anticipated loads to the surrounding soils as shown in the following schematic. The Applicant shall coordinate with DPW on the installation of the structure. The City (through the Commissioner of Public Works) shall inspect and approve the culvert design and replacement. Upon completion, all ownership rights, title and interest in the water main shall be conveyed to the City. The Applicant shall prepare and submit to the City's Engineering Division two mylar plans for the Utility Easement, which at a minimum shall show the property limits, the proposed utility easement with compass bearings & distance and the total square footage of the easement. The plans must be stamped by a professional Registered Land Surveyor and suitable for recording at the Registry.
28. Prior to the issuance of a building permit (temporary or final), the Applicant shall develop a construction feasibility study to be reviewed and approved by the City (through the Commissioner of Public Works). The construction feasibility study shall set forth the means and methods of how the excavation for the foundation of the parking garage will be secured, shored and made safe so as not to cause harm to the culvert. The study must also set forth how

the parking garage must be maintained in perpetuity so as not to impact the flow of water nor cause flooding on or off site. This feasibility study shall include a detailed site plan that delineates the actual limits of the existing box culvert alignment and the easement.

### **CONSTRUCTION CONDITIONS**

29. The Applicant shall pay the reasonable fees for the third party review of the building permit plans or documents described herein or for inspections required during the construction phase if deemed necessary by the Commissioner of Inspectional Services.
30. All construction activity shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-6:00PM on Saturdays, excluding holidays, unless waived by the Mayor in accordance with Revised Ordinances, §20-13. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed.
31. The Applicant shall do the following to remediate pest and rodent activity:
  - a. Prior to issuance of any demolition or building permit, the Applicant, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and a plan for preventing pest migration off-site during demolition and construction.
  - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
  - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the Project, and take whatever action the Operator deems necessary to control pest infestation and migration.
  - d. Prior to issuance of the final certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction assessment of the site and the neighborhood.
  - e. In the event the Pest Control Operator determines that demolition or construction activity is causing or has caused off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the Applicant shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.

32. The Applicant shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment:

- a. Prior to the issuance of a demolition or building permit by the Commissioner of Inspectional Services for any demolition, site work, or construction activities that requires: (i) the driving of piles or piers, (ii) the removal or alteration of ledge, or (iii) soil reinforcement or compaction by vibratory roller, other than compaction of soil for decks, patios, landscaping work, sidewalks, driveways, retaining walls, accessory buildings with a ground floor area up to 700 square feet, the Applicant shall submit the following to the Commissioner of Inspectional Services:
  - i. A vibration control plan signed and stamped by a licensed and insured professional engineer that determines and identifies the surrounding properties that may be affected by vibration from the proposed construction activities; the basis and standards used for that determination; and the recommended vibration level limits and monitoring services to be provided for the duration of the construction activity for protection of the identified properties.
  - ii. Proof of notice to all identified properties that may be affected that a preconstruction survey was offered at no cost to the property owner. The notice must also include an estimated construction timeline and contact information for the person responsible for the construction activity.
  - iii. A list of all properties that were surveyed. The Applicant shall also provide a copy of the results of the survey to the owner of the property that is surveyed.
  - iv. The vibration control plan shall also identify any properties that may be affected by vibration that are landmarked, located in an historic district established pursuant to G.L. C. 40C, or listed on the national register of historic places, individually or as part of a historic district, and state any specific protective measures or monitoring necessary to protect those properties.
  - v. Any other plans or specifications as the Commissioner of Inspectional Services may require, including but not limited to revisions to the submitted vibration control plan.
- b. As an alternative to the required vibration control plan and other required submissions set forth in Condition 32 above, the Applicant may submit a signed and stamped letter from a licensed and insured professional engineer stating that a vibration control plan and monitoring are not necessary based on the scope of the work, site conditions or construction methods. Such letter must detail the basis of the opinion that no vibration control plan, monitoring or controls are necessary. No additional submissions will be required unless the Commissioner of Inspectional Services or their designee determines that compliance with Condition 32 is necessary due to the nature of site or the proposed work.

- c. The submitted vibration control plan shall be implemented and adhered to during all relevant construction activity. The Applicant shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
  - d. Following construction and prior to the issuance of a certificate of occupancy, the applicant shall cause all properties that received a preconstruction survey to be reinspected, subject to the property owner's approval, to determine any damages caused by vibration. The Applicant shall also provide a copy of the results of the survey to the owner of the property that is surveyed.
33. Prior to the issuance of any building permit for the Project the Applicant shall submit a Construction Management Plan ("CMP") for review and approval by the Commissioner of Inspectional Services; the Director of Planning and Development; the Commissioner of Public Works; the Commissioner of Parks, Recreation, and Culture; the City Engineer; and the Chief of the Fire Department. The Applicant shall comply in all material respects with the final Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Decision and shall include, but not be limited to, the following provisions:
- a. 24-hour contact information for the general contractor of the Project.
  - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated milestones and completion dates.
  - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging area(s) for construction and delivery vehicles, and location of any security fencing.
  - d. 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; and locating a truck washing station to clean muddy wheels on all trucks and construction vehicles before exiting the site.
  - e. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise-producing staging activities should be located as far as practicable from noise sensitive locations.
  - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
  - g. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
34. The Applicant shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.

35. The Applicant shall be responsible for repairing any damage to public ways and public property caused by any construction vehicles traveling to or from the Site. All repair work shall be done prior to the issuance of the final certificate of occupancy for the final dwelling unit in the Project, unless the Commissioner of Public Works determines either: (a) that the damage to the public way is so extensive that it limits the use of the public way; (b) that the damage interferes with traffic flow; or, (c) that the damage poses a threat to public safety. In such cases, the repair work must be initiated within one month of the Commissioner's making such determination, shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame as determined by the Commissioner.
36. All sidewalks and the path located within the Site shall be designed as shown on the Approved Plans referenced in Schedule A and shall be open to the public. All internal roadways shall be designed as shown on the Approved Plans, referenced in Schedule A.
37. As shown on the Approved plans referenced in Schedule A, a portion of the emergency access drive internal to the Site shall be constructed of grass pavers to allow for groundwater recharge and a reduction in stormwater runoff.
38. All sidewalks and pedestrian ramps located within the Site or along the Site's frontage on public ways shall be ADA compliant unless a variance for noncompliance is granted by the Massachusetts Architectural Access Board. Applicant shall submit a letter of compliance prepared by a professional engineer registered in the state of Massachusetts to the Director of Planning and Development prior to the issuance of any certificate of occupancy (temporary or final) for the final dwelling unit.
39. The Applicant shall underground all lateral utility connections from the right of way to the structure(s) as well as utility connections internal to the Site.
40. Prior to the issuance of any building permit for the Project (other than a demolition permit), the Applicant shall prepare and submit a final Site Plan and Site Circulation Plan for review and approval by the Chief of the Fire Department that confirms the Fire Department will have sufficient access to all buildings, confirms that fire access will function safely, and shows all hydrants and fire connections, and other features as may be required for Fire Department approval.
41. Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit a final photometric plan detailing lighting location and levels to the Department of Planning and Development for review and approval. Exterior pole lighting shall include fully shielded fixtures. Garage lighting shall not exceed one (1) foot candle of light at the perimeter of the top story of the garage adjacent to property lines and shall not exceed three (3) foot candles of light at any location. Garage lighting shall include timing devices to control the hours set for illumination. All garage outdoor lighting shall be reduced to no more than one (1) foot candle of light after 10 pm.

## SUSTAINABILITY CONDITIONS

42. The Applicant shall design the Project to meet Passive House standards and achieve certification in accordance with Passive House Institute US (PHIUS), the Passive House Institute (PHI), or other recognized Passive House Standards and/or certification organization. The Applicant shall comply with all applicable sustainable design provisions set forth in Section 5.13 of the Revised Ordinances.
43. The Applicant shall complete an embodied carbon analysis to guide materials selection during design and construction. The analysis will include but not be limited to materials for concrete, framing, cladding, and insulation. Such analysis shall be provided to the Director of Planning and Development prior to the issuance of the first building permit for vertical construction of the Project.
44. Ten percent (10%) of all parking stalls shall be equipped with electric vehicle charging stations and an additional Ten percent (10%) will be EV ready.
45. All building roofs that are not essential locations for mechanical systems (which the Applicant must make reasonable efforts to consolidate) shall be solar ready. To the extent feasible, the Applicant will utilize such building roofs for actual installation and implementation of sustainable strategies including photovoltaic panels, green roofs and/or reflective roof materials. A final roof mapping plan shall be submitted to the Director of Planning and Development for review and approval prior to the issuance of a building permit for vertical construction.
46. The Applicant shall utilize sustainable building materials and systems including, but not limited to:
  - a. water efficient domestic plumbing fixtures;
  - b. energy efficient light fixtures;
  - c. programmable thermostats;
  - d. building-level and unit-level electricity and water metering;
  - e. building systems commissioning;
  - f. low VOC building materials and finishes;
  - g. fresh air supply and bathroom and kitchen exhaust provided in every apartment; and
  - h. construction and demolition waste will be recycled and diverted, as possible, by the receiving facility.

## TRAFFIC/PARKING CONDITIONS

47. The Project shall include 278 parking stalls.
48. Of the six (6) visitor parking stalls, at least one (1) shall be ADA accessible.
49. The cost of tenant parking for market-rate units shall be charged separately from residential tenant rents, and the rental period cannot commence prior to, nor extend past the end of, the rental period of the unit.
50. One (1) parking stall shall be available for each Affordable Unit without charge to the tenant of such unit.
51. The Applicant shall provide storage for at least one hundred and three (103) bicycles within the Project as shown in the Approved Plans. There will be a total of seventy-one (71) secure interior bike parking spaces and thirty-two (32) exterior spaces.
52. The Applicant shall implement a Transportation Demand Management Plan (“TDM Plan”) to reduce reliance on motor vehicle transportation in accordance Conditions #52-55. The TDM Plan shall be submitted to the Director of Planning and Development prior to the issuance of the first building permit for vertical construction of the Project for review and approval. Any updates to the TDM Plan should be reviewed and approved by the Director of Planning and Development and Director of Transportation.
53. As part of the TDM Plan, the Applicant shall commit \$150,000.00 to a TDM Program Incentive Fund, to be funded over three years beginning with the first certificate of occupancy. TDM Program Incentive Fund will be used to provide reimbursements for MBTA transit passes, bike share programs, car share programs and similar alternate transportation methods to reduce single-occupancy vehicle (SOV) trips for all residents. To the extent that funds remain unused five years following the issuance of the final certificate of occupancy, the Developer will use said funds to improve access to alternative modes of transportation to SOV travel for residents of the Project or toward promotional events for residents that are focused on non-SOV travel.
  - a. As part of the TDM Program Incentive Fund, the Applicant shall:
    - i. Offer to new residents at their request: 1) an unlimited bus/subway pass (Monthly LinkPass, currently \$90 per month); or 2) a 50 percent discount on the cost of a Zone 1 Commuter Rail monthly pass (currently \$214 per month); for the first six (6) months of tenancy limited to two (2) passes per unit.
    - ii. Offer new residents that sign a 12-month lease an annual BlueBikes or equivalent bike share membership (currently \$129 per year), limited to two (2) memberships per unit.
    - iii. Coordinate with a car-share service provider (i.e., Zipcar or similar) to locate up to two (2) car-share vehicles at the Project site for use by residents.

- iv. Provide new residents, at their request, an annual ZipCar (or other competing provider) membership (currently \$90/year), limited to two (2) memberships per unit.
- b. The Applicant shall provide reports each year, annually on the anniversary of the issuance of the certificate of occupancy, of the number of transit passes issued and funds expended pursuant to this condition, for a period of five years.
- c. The Applicant shall ensure that each unit is entitled to equitable access to this fund to ensure each unit has the opportunity to use alternate transit with the goal of reducing vehicle trips.

54. The TDM Plan shall also include, but not be limited to the following:

- a. An onsite Transportation Development Management Coordinator (“TDMC”). The TDMC shall be responsible for managing the pass program and bike share membership program.
- b. Provide information on MBTA schedules and fares, and the schedules for the City’s GoGoNewton shared ride service will be provided in a central location, included in resident informational packets, and provided on the website for the Project.
- c. Locate a transit screen or other equivalent display will be provided in the primary building lobby (Building B) to display real-time traffic and bus location information (similar to <https://transitscreen.com/>).
- d. Monitor TDM effectiveness through surveys (as described in more detail in Condition 53 below) and other tools and adjust as necessary. Surveys shall be submitted to the City annually upon completion.
- e. Provide weather protected bicycle parking will be provided for up to 71 bicycles and a bicycle repair/fixit station will be available for use by residents.
- f. The cost of parking will be unbundled from resident leases and offered separately at market rates that are consistent with those charged for similar parking in the City.
- g. The number of parking spaces that are available per unit shall not exceed one (1) parking space following the full lease-up of the Project. If the Monitoring Program demonstrates that excess parking is available after full lease-up, the Developer may allow residents of the Project to lease one (1) additional parking space.
- h. Provide guidance on the directions to the bicycle parking within the Project site and the travel route to the Newtonville Commuter Rail Station and other destinations within the City.



55. As part of the TDM Plan, the Applicant shall conduct post-development traffic and parking monitoring, and a resident survey program in order to evaluate the success and to refine the elements of the TDM program, and to validate the trip projections for the Project. The report will document the number of building occupants and how the occupants of the building are commuting, to the fullest extent possible. The report will document the traffic volumes associated with the building as occupied at the time that the traffic counts are completed, on-site parking, bicycle commuting, and use of public transportation, and any other alternative modes of transportation to SOVs.

- a. The Monitoring Program will commence upon achieving 90 percent occupancy and will continue on an annual basis for a minimum of two years. The duration of the Monitoring Program may be extended for additional one-year increments beyond the initial two-year period if requested by the Director of Planning and Development to the extent that the results of the Monitoring Program indicate an exceedance of Baseline Data Thresholds (defined below).
- b. The Monitoring Program report shall be provided to the Director of Planning and Development or their designee within 2-months after the completion of the data collection effort and annually thereafter for the duration of the Monitoring Program.
- c. Corrective measures shall be required if the Monitoring Program indicates any of the following in relation to the baseline data (the “Baseline Data Thresholds”):
  - i. The measured traffic volumes that are associated with the Project exceed the predicted traffic volumes that are documented in the Transportation Impact Assessment and subsequent supporting documents prepared for the Project by more than 10 percent for the level of occupancy of the Project at the time that the traffic counts are performed;
  - ii. The parking occupancy exceeds 95 percent during the monitoring period;
  - iii. There is evidence of increased parking on proximate neighborhood streets that can be attributed to the Project; or
  - iv. Residents of the Project are observed parking along Court Street, Crafts Street, Clinton Street or Lincoln Road.
- d. If corrective measures are necessary, the Applicant shall identify and undertake corrective measures in conjunction with the appropriate parties including the City by and through the Director of Planning and Development. Additional measures will be developed in consultation with and with input from Director of Planning and Development and tailored to respond to particular concerns. Solutions may include without limitation:
  - i. Sign and pavement marking installation;

- ii. Expansion of the TDM program to provide additional measures and incentives to reduce traffic and parking demands;
- iii. Increasing the parking fee;
- iv. Addition of measures to discourage SOV travel and encourage use of bicycles, public transit, carpooling and walking; and
- v. Informing residents of off-site parking regulations.

The identified corrective measures, if any, will be documented in the Monitoring Program report, and will identify the appropriate parties responsible for implementation, required approvals, and the timeline for implementation. The status of implementation of the identified improvement measure will be documented in the subsequent Monitoring Program report.

56. Any wayfinding signage or signage installed along the Project's frontage, including the freestanding monument sign at the corner of Crafts Street and Maguire Court, shall undergo review and approval by the Transportation Division of the Department of Public Works to ensure clear site lines for vehicles entering and exiting the site.

### **STORMWATER/ENVIRONMENTAL CONDITIONS**

57. The Applicant shall comply with the City's Stormwater Ordinance and the Massachusetts Stormwater Handbook (MSH) Standards.
58. Prior to the issuance of any building permit for the Project (other than a demolition permit), the Applicant shall submit final engineering, utility, and drainage plans, a Long-Term Pollution Prevention Plan (LTPPP), and an Operations and Maintenance Plan for stormwater management ("O&M Plan") for review and approval by the City Engineer. Once approved, the O&M Plan must be adopted, implemented, and maintained by the Applicant and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
59. The Applicant shall submit annual reporting of the actual operations and maintenance data of the installed stormwater systems to the City Engineer, in a form and manner as determined by the City Engineer.
60. Prior to the issuance of any building permit for the Project (other than a demolition permit), the Applicant shall confirm to the satisfaction of the Engineering Division the adequacy of the proposed closed pipe sizes in accordance with the City Stormwater Ordinance.
61. The Applicant shall notify the City and provide copies of any filings made in accordance with the Massachusetts Contingency Plan relating to any historical release of hazardous materials or the discovery of any new release.

## **ONGOING CONDITIONS**

62. The landscaping, berm, fencing, screening, and other site features shown on the approved plan shall be maintained in good condition in perpetuity. The plantings shall be inspected annually, and any plant material that has become diseased or dies shall be replaced as soon as feasibly possible with similar material.
63. The Applicant shall be responsible at its sole cost for trash and recycling disposal for the Project. The hours for trash collection shall be limited to the hours of 7am-4pm on Monday through Friday.
64. The Applicant shall be responsible for keeping all internal roadways, sidewalks and pedestrian paths clear of snow to always ensure safe and reliable access to and from all buildings. To the extent snow removal is necessary, such removal shall be conducted pursuant to a Snow Removal Plan, which shall be maintained on file at the Project and be available for review upon request by the Director of Planning and Development.
65. The Applicant shall be responsible in perpetuity for the maintenance of the tot lot and all bicycle/pedestrian paths located within the Site at the Applicant's sole expense.

## **CONDITIONS PRECEDENT TO THE ISSUANCE OF BUILDING PERMITS**

66. No foundation building permit shall be issued pursuant to this Comprehensive Permit until the Applicant has:
  - a. Recorded a certified copy of this Decision at the Middlesex County (South) Registry of Deeds and filed proof of such recording with the City Clerk, the Clerk of the Zoning Board of Appeals, and the Department of Planning and Development.
  - b. Submitted a site plan showing the layout of the building(s) and extent of the foundation.
  - c. Obtained a written statement from the Director of Planning and Development that confirms that the site and building permit plans are consistent with the Approved Plans.
  - d. Submitted a municipal lien certificate showing all assessments and betterments have been paid in full and that there are no outstanding municipal liens on the Site in accordance with Condition #5.
  - e. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Chief of the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with Condition #33.
  - f. Submitted to the Chief of the Fire Department for review and approval final site circulation plans and building plans which shall include all required information on

- proposed sprinkler and alarm systems, access to buildings, and all hydrants and fire connections.
- g. Submitted engineering, utility and drainage plans and an O&M Plan for review and approval by the City Engineer in accordance with Condition #58.
  - h. Submitted to the Director of Planning and Development copies of the embodied carbon analysis in accordance with Condition #43.
67. No building permit for vertical construction shall be issued pursuant to this Comprehensive Permit until the Applicant has:
- a. Submitted a foundation as built plan, final site and building plans which shall include all required information for building code review and approval and consistency with the Approved Plans in accordance with Condition #2.
  - b. Obtained a written statement from the Director of Planning and Development that confirms that the final site and building permit plans are consistent with the Approved Plans.
  - c. Submitted evidence of Final Project Approval by the subsidizing agency.
  - d. Submitted evidence of the subsidizing agency's approval of the Affirmative Fair Housing Marketing and Resident Selection plan.
  - e. Provided a fully executed Regulatory Agreement and proof of recording with the City Clerk, the Clerk of the Zoning Board of Appeals, and the Department of Planning and Development.
  - f. Submitted the portions of the payments required in accordance with Conditions #19 and 20.
  - g. Submitted plans to the appropriate City Departments for review and approval regarding the off-site improvements in accordance with Conditions #21 through #25.
  - h. Submitted a final photometric plan for review and approval by the Director of Planning and Development in accordance with Condition #41.
  - i. Submitted to the Director of Planning and Development information evidencing design compliance with Passive House certification standards in accordance with Condition #42.
  - j. Submitted a Transportation Demand Management Plan for review and approval by the Director of Planning and Development in accordance with Condition #52.

**CONDITIONS PRECEDENT TO THE ISSUANCE OF OCCUPANCY PERMITS**

68. No temporary occupancy permit shall be issued pursuant to this Comprehensive Permit until the Applicant has:

- a. Filed with the Board's Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect, professional land surveyor, and registered landscape architect certifying compliance with Condition #1 for the portion of the project for which a temporary occupancy permit is requested.
- b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in digital format for the portion of the project for which a temporary occupancy permit is requested.
- c. Received a statement from the City Engineer certifying that all engineering details have been constructed to standards of the Department of Public Works for the portion for the portion of the project for which a temporary occupancy permit is requested.
- d. Completed all landscaping in compliance with Condition #1 related to or for the portion of the project for which an occupancy permit is requested.
- e. Submitted the portions of the payments required in accordance with Conditions #19 and #20.
- f. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing, and parking areas related to or for the portion of the Project for which an occupancy permit is requested.
- g. Filed with the Department of Inspectional Services and the Department of Planning and Development a letter of compliance prepared by a professional engineer certifying that all sidewalks and accessible ramps are ADA compliant.
- h. Submitted to the Director of Planning and Development evidence of completion of off-site improvements in accordance with Conditions #21 through 25, which requires the off-site improvements to be complete prior to the issuance of the final dwelling unit's certificate of occupancy.

69. No final certificate of occupancy for the final dwelling unit in the Project shall be issued until the Applicant has:

- a. Filed with the Board's Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect, professional land surveyor, and registered landscape architect certifying compliance with Condition #1 for the portion of the project for which a final occupancy permit is requested.

- b. Received a statement from the City Engineer certifying that all engineering details have been constructed to standards of the Department of Public Works.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that the undergrounding of utilities has been completed in accordance with Condition #39.
  - d. Submitted to the Director of Planning and Development information evidencing that the project has been constructed in compliance with Passive House certification standards in accordance with Condition #42.
70. Provided that all other requirements in Condition #68 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may in their discretion issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).