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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

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.

PETITION #11-23

78 Crafts Street

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:

Unit Type	Total Number of Units	Number of Affordable Units
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).