



Ruthanne Fuller  
Mayor

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

#137-18  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

---

## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** June 8, 2018  
**MEETING DATE:** June 12, 2018  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Neil Cronin, Senior Planner  
**CC:** Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

---

### PETITION #137-18

**189-193 Adams Street/19 Quirk Court**

Special Permit/Site Plan Approval to allow a four-story, 18-unit multi-family dwelling with residential units on the ground floor, exceeding 20,000 square feet with a floor area ratio (FAR) of 1.31; waivers to the parking standards, reduction to 1.25 parking stalls per unit, waivers to the parking facility lighting and landscaping requirements, and to allow the lot area per unit to be reduced to allow for a density bonus.

The Land Use Committee (Committee) held public hearings on this petition on Tuesday, April 3, 2018, and Tuesday May 15, 2018. The public hearings were held open for the petitioner to respond to questions and concerns raised in the Planning Department's memoranda and at the public hearings by the Committee as well as by members of the public. This memo reflects those issues and concerns, as well as revised materials submitted by the petitioner as of June 8, 2018.

### Plan Modifications

The petitioner submitted revised plans showing a reduction in the size of the structure from four stories to three stories. This change has the following implications:

- Reduction in height from 41 feet to 33 feet;
- Reduction in the number of units from 18 to 15 (removal of three, 3-bedroom units);
- Reduction in the FAR from 1.37 to 1.03;
- Reduction in the total square footage from 26,602 to 19,922 square feet; and

- Increase in the parking ratio from 1.5 to 1.8 stalls per unit.

Subsequently, the petitioner does not require the following special permits to construct the development:

- To allow a four-story structure;
- To allow a FAR of 1.37;
- To allow development exceeding 20, 000 square feet; and
- To reduce the lot area per unit requirement to allow a density bonus.

### **Design**

The architecture of the structure has changed from a Second Empire design featuring a mansard roof to an Italianate design with a flat roof and bracketed eaves. The Planning Department consulted with the Chief Preservation Planner who believes the design is more in keeping with the scale and massing of the existing historic structure.

### **Parking**

The development requires 30 parking stalls per the Newton Zoning Ordinance (Ordinance) for 15 units. The petitioner is seeking to provide 27 stalls, for a ratio of 1.8 stalls per unit. The petitioner's parking study of three nearby multi-family developments suggests a ratio of 1.5 stalls per unit is appropriate. The petitioner was able to confirm two of the three developments were fully occupied, while the third development had one vacant unit. As such, the petitioner has provided the option to remove four parking stalls in the surface parking facility in favor of additional open space, decreasing the parking ratio from 1.8 to 1.5 stalls per unit. The Planning Department supports the findings of the study, and suggests the petitioner provide 23 stalls with the option to expand to 27 stalls, should the need arise. Staff suggests the petitioner demonstrate such need in a form sufficient to the Director of Planning and Development and the Director of Transportation.

### **Driveway Access**

Access to the site is provided via a proposed 20-foot wide curb cut leading to a 15-foot shared passageway. The dwelling to the north at 183 Adams Street is located within this passageway which shrinks the access between that dwelling and the proposed structure, limiting two-way vehicular travel. Additionally, there is a utility pole located within the passageway directly behind the sidewalk. The petitioner is proposing to improve upon the existing conditions by pushing the building back seven feet to create a front setback of ten feet and to increase the setback on the side of the passageway by two feet. The Planning Department consulted with the Transportation Division and believes the proposed access is sufficient due to these improvements and the low trip generation of the development. To add an additional layer of safety, the petitioner is proposing to install signals at the front, side and at the rear of the structure to notify vehicles and pedestrians of cars entering and exiting. Staff does not feel this signal is necessary but does not have an objection to the petitioner installing it.

### **Transportation Demand Management**

The petitioner is proposing several measures to reduce the reliance upon cars in the development. The petitioner has committed to providing the City with up to \$25, 000 for the purchase and installation of

a bus shelter along the project's frontage, as well as providing sheltered bicycle parking, and removing the cost of car parking from rent. These measures are in addition to locating new development in a mixed use area along a transit route and close to amenities on Watertown Street. The Planning Department is supportive of these measures for a project of this scale.

### **Inclusionary Zoning**

The petitioner submitted a revised Inclusionary Housing Plan (IHP), reserving two of the 15 units as Inclusionary Zoning Units. The IHP states the two inclusionary units will be deed restricted in perpetuity for households earning up to 65% of Area Median Income (AMI). The Housing Division reviewed the revised IHP and found it acceptable. Should this petition be approved, the petitioner will be required to submit the IHP with additional documentation to the Department of Housing and Community Development (DHCD) for review and approval prior to the issuance of a building permit. Prior to the issuance of a temporary certificate of occupancy, the petitioner will be required to enter into a Regulatory Agreement and Declaration of Restrictive Covenants with the City, and DHCD to ensure the Inclusionary Units are eligible for listing on the Subsidized Housing Inventory.

### **Lighting**

The petitioner requested a waiver from this requirement to reduce the level of lighting, which the Planning Department supported due to the proximity to abutters' rear yards. The Planning Department is supportive of the level of lighting proposed for the parking facility but believes there is too much light trespass onto the adjacent property to the north at 183 Adams Street. Staff suggests the petitioner reduce the mounting height of the fixtures or shield them to reduce the amount of light trespass.

### **Neighborhood Compatibility**

The Planning Department maintained the site is an appropriate location for a dense, multi-family development due to the walkability of the neighborhood and proximity to amenities on Watertown Street as well as transit. However, staff felt the structure, at four stories, did not fit the scale of development in the neighborhood. Staff believes the redesigned structure alleviates these concerns and better fits the neighborhood.

### **ATTACHMENTS:**

- Attachment A:** Engineering Review Memorandum, dated June 8, 2018  
**Attachment B:** DRAFT Council Order

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – #189-198 Adams St & 19 Quirk Court

Date: June 8, 2018

CC: Barney Heath, Director of Planning  
Jennifer Caira, Chief Planner  
Lou Taverna, PE City Engineer  
Nadia Khan, Committee Clerk  
Neil Cronin, Sr. Planner

---

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

*Topographic Site Plan  
Showing Proposed Conditions at #189-193 Adams Street & 19 Quirk Court  
Prepared By: VTP Associates Inc.  
Dated: February 23, 2018  
Revised: April 23, 2018*

*Executive Summary:*

This application entails the demolition of an existing two-half story building, and auxiliary buildings on two lots totaling 19,349 sq. ft. [0.44ac]. If the special permit is approved an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots be combined into one lot.

The current use is a soccer club, landscape company, storage yard, and storage garages. The new development is a multi-family residence consisting of 18-units on four stories. The site has access on Adams Street (which was reconstructed last year), and off Quirk Court & a 15' wide passageway along the northeast property line. Due to limited sight

distance I would recommend that the access on Quirk Court be restricted to one-way into the site.

The site is relatively flat, having a high point at elevation 53-feet near the southern property line and gently slopes towards the northeast at elevation 51-feet. The engineer has designed a stormwater collection system to capture and infiltrate all the runoff from the City's 100-year design storm of 8.87 –inches over a 24-hur period; one soil evaluation (test pit) was provided with the Stormwater report that confirms the soil map and design assumption, however should this permit be approved an additional soil test will be required for the system located beneath the ramp to the underground garage. An impervious barrier around its perimeter will be required for the large infiltration system proposed within the parking lot. The system will improve the overall stormwater quality and significantly reduce surface runoff from the site to the abutting properties and Adams Street. Clarification is needed however for the proposed pump chamber; the site plan is a bit convoluted. It appears that the proposed trench drain is within the garage; therefore it must be connected to the sanitary sewer via an MDC gas trap.

The Operations & Maintenance plan for the proposed stormwater improvements is acceptable, however; the O&M plan needs to add sweeping of the parking lot and ramp into a regular schedule to ensure long-term maintenance and performance of the system. Once approved the O&M shall be recorded with the Middlesex Registry of Deeds and incorporated into the condominium or Homeowners Association.

Since the site had various landscape equipment and vehicles a concern is contained soils, has a 21E environmental investigation been performed, if so a full report should be submitted to the Board of Health and Engineering. How will trash & recycling be addressed for this project? Snow storage areas should be identified on the plans.

The engineer of record has demonstrated via turning template that an aerial ladder fire truck can turn onto the property and access the rear portion of the building, but will eventually have to make a 3-point turn to exit. The engineer of record needs to demonstrate that automobiles can safely maneuver within the parking garage.

Finally as Adams Street was reconstructed last year, pavement restoration shall be from curb line to curb line milled & overlaid for the entire frontage. Any sidewalk & curb damaged shall be replaced in kind.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.

2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. The Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be updated to reflect the sweeping requirements from above and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted to the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to have this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.

3. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*

2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

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

If you have any questions or concerns please feel free to contact me @ 617-796-1023.



CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 19, 922 square foot, 15-unit multi-family structure with residential units on the ground floor, of three stories and 33 feet in height, to allow a floor area ratio (FAR) of 1.03, to reduce the parking requirement from two to 1.5 stalls per unit, to allow parking within the front setback, to reduce the minimum stall dimensions, and to waive the dimensional and design controls for parking facilities containing more than five stalls, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- 1) The site is an appropriate location for the building as designed, given the neighborhood's scale of development and the proximity to amenities on Watertown Street and transit. (§4.3.2.B.1; §4.3.3 and §7.3.3.C.1)
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood because the petitioner submitted studies indicating the project will not affect vehicular traffic in the area and the petitioner has agreed to implement measures to encourage alternative modes of transportation. (§7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians as the building will be pushed back from the front property line allowing for increased site distance for vehicles entering and exiting. (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's location in a walkable, transit served environment, and it's proximity to the Nonantum Village Center. (§7.3.3.C.4)
- 5) Exceptions to the parking requirements, including reducing the number of stalls from two per unit to 1.5 per unit, to locate parking within a front setback, to waive the dimensional and design controls for parking facilities containing more than five stalls are in the public interest for the following reasons:

- a. The site is located in a dense, walkable neighborhood close to the Nonantum Village Center, and is served by transit. The Petitioner will also implement a Transportation Demand Management Program to discourage automobile use.
- b. Reducing the minimum parking stall dimensions, and the minimum width of maneuvering aisles, while locating parking within a front setback, makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
- c. Existing fencing will be replaced with landscaping to screen the surface parking facility from abutting properties. Additionally, lighting will be minimized to mitigate trespass onto neighboring properties while still lighting the facility to ensure safety.
- d. Reducing the minimum width of an entrance/exit drive allows for a continual street wall along Adams Street, enhancing the pedestrian experience, while providing adequate access.

(§5.1.4, §5.1.8.A.1, §5.1.8.B.1, §5.1.8.B.2, §5.1.8.C.1, §5.1.8.C.2, §5.1.8.D.1 §5.1.9.A §5.1.10 and §5.1.13)

PETITION NUMBER: #285-17

PETITIONER: 189-193 Adams Street, LLC

ADDRESS OF PETITIONER: 64 Waban Street  
Newton, MA 02458

LOCATION: 189-193 Adams Street and 19 Quirk Court

OWNER: 189-193 Adams Street, LLC

ADDRESS OF OWNER: 64 Waban Street  
Newton, MA 02458

TO BE USED FOR: A multi-family development consisting of 15-units, including ground-floor units, and a surface parking facility, hereinafter the "Project."

EXPLANATORY NOTES: Special permits per §7.3.3: To allow a 15-unit multi-family structure with ground-floor units of three-stories, 33 feet in height, and an FAR of 1.03 (§4.4.1, §4.1.2.B.3, §4.1.3); To reduce the parking requirement to 1.5 stalls per unit (§5.1.4 and §5.1.13); To allow parking in the front setback (§5.1.8.A.1 and §5.1.13); To waive the

parking stall dimensional requirements (§5.1.8.B.1, §5.1.8.B.2, and §5.1.13); To waive the minimum width of maneuvering aisles (§5.1.8.C.1, §5.1.8.C.2, and §5.1.13); To waive the minimum width of an entrance/exit drive (§5.1.8.D.1 and §5.1.13); To waive the perimeter screening requirements of parking facilities containing more than five stalls (§5.1.9.A and §5.1.13); To waive the lighting and surfacing requirements of parking facilities containing more than five stalls (§5.1.10 and §5.1.13).

ZONING: Business Use 1

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
  - a. Site/Civil plans, prepared by VTP Associates, signed and stamped by Joseph R. Porter, Professional Land Surveyor, and Marc Besio, Professional Engineer, consisting of the following four (4) sheets:
    - Topographic Site Plan, dated February 12, 2018, revised March 7, 2018, March 23, 2018, and May 8, 2018.
    - Grading, Drainage, and Utility Plan, dated February 12, 2018, revised March 7, 2018, March 23, 2018, and May 8, 2018.
    - Detail Sheet, dated February 12, 2018, revised March 7, 2018, and May 8, 2018.
    - Turning Radii Plan, dated March 6, 2018, revised March 23, 2018, and April 23, 2018.
  - b. Architectural Plans entitled, “The Residences at 189 Adams Street” 189-193 Adams Street Newton Massachusetts”, prepared by Innovative Collaborations, Inc., consisting of thirty (30) sheets:
2. To minimize unnecessary parking stalls, the surface parking facility shall be constructed with ten stalls in favor of additional green space at the southern portion of the site. The parking facility shall be expanded to eleven stalls only if the petitioner demonstrates a need for such stalls. The petitioner shall submit evidence demonstrating such need to the Director Planning and Development and Director of Transportation, no less than one year from the issuance of a final certificate of occupancy for the Project. Upon approving the expansion, the Director of Planning and Development and the Director of Transportation shall reserve the right to require additional information of the Petitioner.
3. In accordance with the City’s Inclusionary Zoning Ordinance (§5.11.4), two (2) of the residential units in the multi-family structure shall be made available to households earning

at or below 65% 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. Monthly housing costs (inclusive of heat, hot water, electricity, domestic water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery, 70% of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).

4. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any temporary occupancy certificates, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
5. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.
6. The petitioner shall comply with the City's Tree Preservation Ordinance.
7. Prior to the issuance of any building permit for the Project, the petitioner shall pay the sum of \$25,000 to the City for the cost and installation by the City of a bus shelter on the petitioner's frontage along Adams Street. The petitioner shall have no obligation regarding the ongoing maintenance or repair of said bus shelter.
8. The cost of residential tenant parking shall be charged separately from residential tenant rents, provided, however that one parking stall shall be provided for the household of each Inclusionary Unit which needs a parking stall without charge to the tenant of such unit.
9. Prior to the issuance of any building permit for the Project, the petitioner shall provide an Approval Not Required ("ANR") plan combining the lots into one lot to the City Engineer for review and approval. Once approved, the ANR plan must be recorded at the Middlesex Registry of Deeds. A certified copy of the ANR plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.
10. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the new units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.

11. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance
12. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
13. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works.
14. At the Petitioner's sole expense, the petitioner shall locate all utility service lines on site underground from the right of way into the site.
15. Prior to the issuance of any building permit for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioners at the Middlesex South District Registry of Deeds and implemented. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
16. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
17. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
  - a. 24-hour contact information for the general contractor of the project.
  - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity relating to the nearby public school in determining hours and routes for construction vehicles.
  - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
  - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building

- materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
- f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
  - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
  - h. A plan for rodent control during construction.
  - i. The CMP shall also address the following:
    - safety precautions;
    - anticipated dewatering during construction;
    - site safety and stability;
    - impacts on abutting properties.
18. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
19. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
  - d. Received approval from Director of Planning and Development for the Inclusionary Housing Plan and Affirmative Fair Housing and Resident Selection Plan which shall be authorized by the Mayor and provided evidence of submission of the Local Action Unit Application to DHCD.
  - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
  - f. Submitted a final plan of land, recorded at the Middlesex Registry of Deeds, to the Engineering Division of Public Works in accordance with Condition #11.
  - g. 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 Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.

- h. Make the payments to the city required under Condition #6.
20. The Petitioner shall be responsible for repairing any and all damage to public ways and property by any construction vehicles and any work completed within the City's right of way. All repair work shall be completed to the satisfaction of the Engineering Division of Public Works prior to the issuance of a temporary Certificate of Occupancy,
21. No temporary occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition 1.
  - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
  - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
  - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
  - e. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Units has been completed to the Director of Planning and Development for review and approval.
  - f. Entered into a Regulatory Agreement and Declaration of Restrictive Covenants for each of the Inclusionary Units with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
  - g. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units such that no more than seven market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
  - h. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy

pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.