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**Barney S. Heath**  
Director

**PUBLIC HEARING/WORKING SESSION MEMORANDUM**

**DATE:** October 5, 2018  
**MEETING DATE:** October 9, 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 three-story, 12-unit multi-family dwelling with residential units on the ground floor, with a floor area ratio (FAR) of .99, 33 feet in height, to allow parking within the setback, to waive the minimum aisle width, and to allow waivers to the parking facility lighting and landscaping requirements.

The Land Use Committee (Committee) held public hearings on this petition on Tuesday, April 3, 2018, Tuesday, May 15, 2018, and Tuesday, June 12, 2018. The petition failed to pass at the City Council on Monday August 13, 2018 and was recommitted to the Committee. At the direction of the Law Department, the petitioner submitted a new application that has been advertised and noticed. Subsequently, the Committee will hold a new public hearing on Tuesday, October 9<sup>th</sup>. This memo will outline the differences between the new petition and the petition that was approved by the Land Use Committee on Tuesday, June 12<sup>th</sup>.

**Program Modifications**

The approved petition contained 15 residential units, the petitioner proposes to reduce the number of units to 12. The unit mix is as follows: two 1-bedroom units, seven 2-bedroom units, and three 3-bedroom units. Two of these units will be Inclusionary Zoning Units (IZ Units) available to households earning up to 65% of Area Median Income; both units are proposed to be 2-bedroom units. The petitioner is proposing 1,000 square feet of office space on the first floor of the building, fronting

Adams Street. Office uses are as of right in the Business Use 2 (BU-2) zone and staff believes the space(s) is at a size that is not likely to adversely affect the neighborhood.

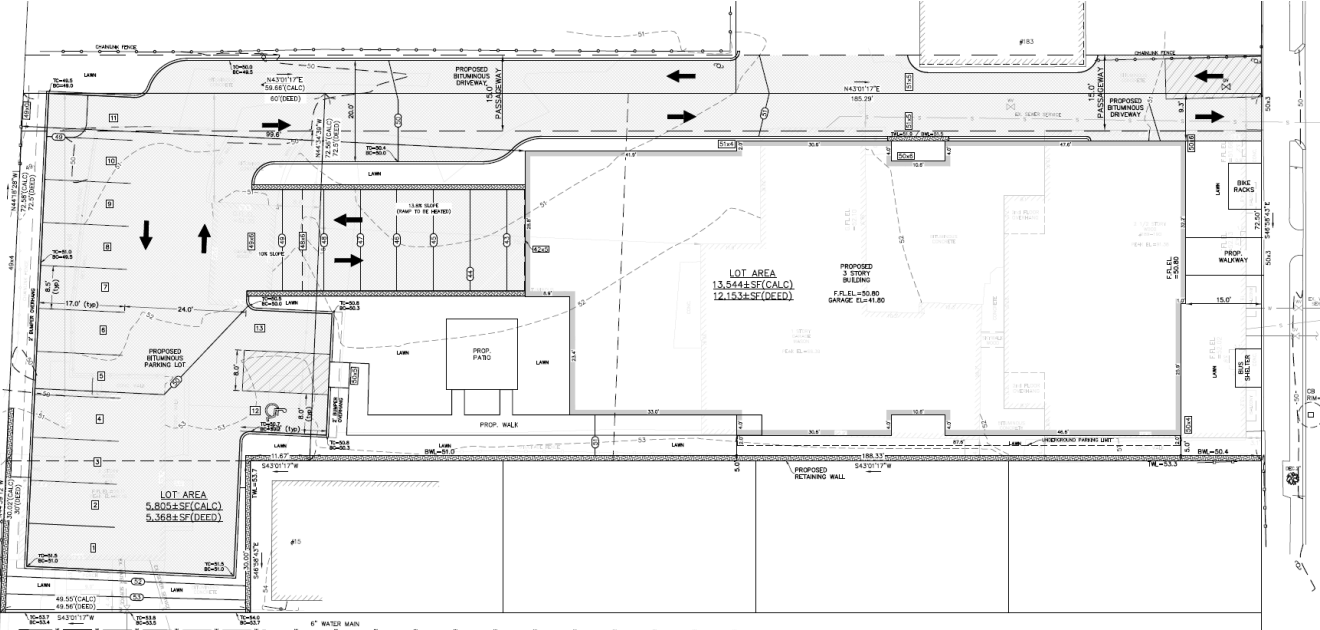
**Building Design**

The proposed building, at three stories and 33 feet in height, is the same building previously approved by the Committee. The building also maintains the Italianate style of architecture that is in keeping with the existing historic structure. The footprint of the structure is largely the same, as well as its location. The largest change is that the building is now setback from its northern (right) boundary by 14.3 feet, rather than 9.3 feet. The building is set back ten feet from Adams Street, the minimum allowed. Otherwise, the structure complies with the remaining dimensional standards of the BU-2 zone.

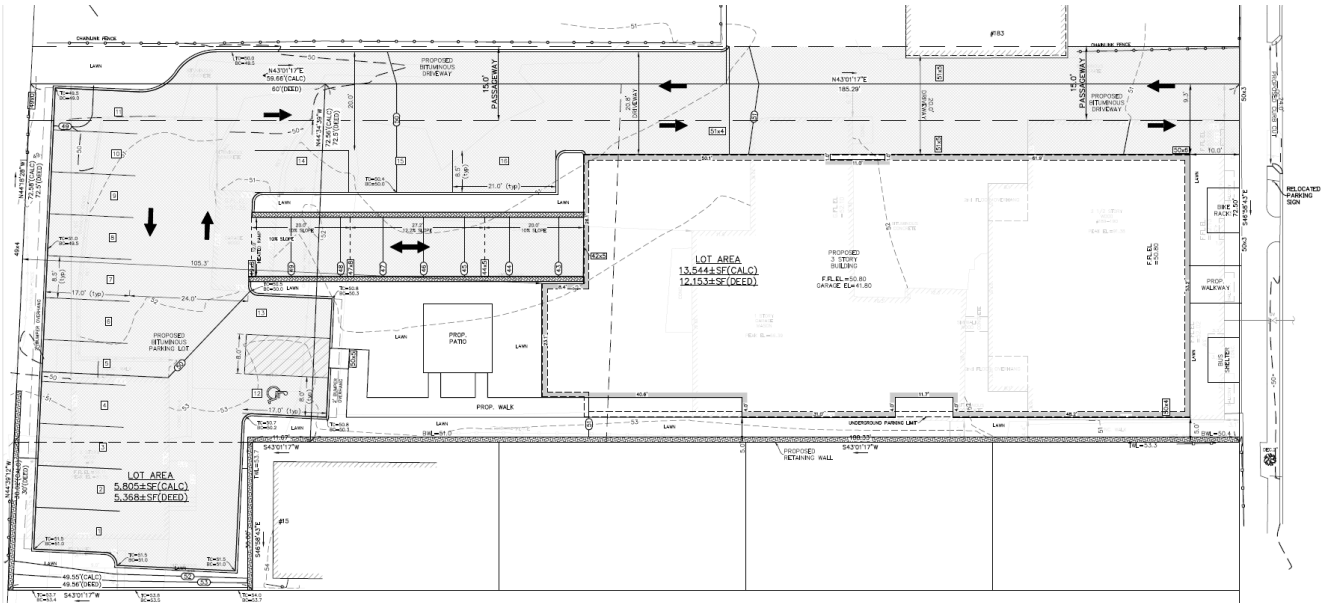
**Driveway Access**

The site has access from Adams Street via an existing curb cut at the northeast corner of the site. The driveway is part of a 15-foot wide shared passageway with the abutters to the north at 183 and 175 Adams Street, and 19 Quirk Court. The dwelling at 183 Adams Street encroaches into the passageway approximately 35 feet from the right of way, restricting two-way travel. The petitioner initially proposed enough space directly behind the sidewalk to allow for a vehicle to idle and wait for a separate vehicle to exit before continuing into the site. Instead, the petitioner proposes to increase the width of the curb cut to 24 feet, allowing vehicles to enter and exit the site without idling or affecting traffic on Adams Street. In conjunction to this widened curb cut, increasing the setback to 14.3 feet allows for a 20-foot wide drive aisle the entire length of the driveway, allowing for two-way travel.

**Previously Approved Site Plan**



### Proposed Site Plan



### Parking

The development requires 28 parking stalls per the Newton Zoning Ordinance for 12 residential units and 1,000 square feet of office space. The petitioner is providing twelve stalls in the below grade parking garage and 16 surface parking stalls to the rear of the site. The approved petition only contained 13 stalls in this rear facility, some of which were located within setback distances. The widened driveway, along with a slightly redesigned structure, allows for three tandem, parallel stalls to the southern side of the drive aisle. The petitioner is seeking a waiver of the stall dimensions from 9 feet wide to 8.5 feet wide, which was included in the approved petition. The Planning Department is unconcerned with the waiver and supports the overall design of parking on site.

### Inclusionary Zoning

Due to the number of units proposed in the development, the petitioner is required to provide two IZ Units. The petitioner provided a revised Inclusionary Housing Plan (IHP), stating that two 2-bedroom units will be deed restricted in perpetuity to households earning up to 65% of Area Median Income. The Housing Division reviewed the revised IHP and suggests that one of the IZ Units be a 2-bedroom unit and the other be a 3-bedroom unit to better reflect the unit mix of the project. Additionally, one unit in the development shall be a "Group 2A" unit per the Massachusetts Architectural Access Board that is designed spatially for immediate wheelchair use. 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 IZ 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 suggests the petitioner reduce the mounting height of the fixtures or shield them to reduce the amount of light trespass onto the abutting property to the north.

**ATTACHMENTS:**

**Attachment A:** DRAFT Council Order

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, 119 square foot, 12-unit multi-family structure with residential units and office space on the ground floor, of three stories and 33 feet in height, to allow a floor area ratio (FAR) of .99, 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 parking is accommodated on site. (§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 its proximity to the Nonantum Village Center. (§7.3.3.C.4)
- 5) Exceptions to the parking requirements, including waving the dimensional standards of parking stalls, locating parking within a front setback, and waiving the dimensional and design controls for parking facilities containing more than five stalls are in the public interest for the following reasons:
  - a. 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.

- b. 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.

(§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 12 units, including ground-floor units, 1,000 square feet of office space on the ground floor, and a surface parking facility, hereinafter the "Project."

EXPLANATORY NOTES: Special permits per §7.3.3: To allow a 12-unit multi-family structure with ground-floor units of three-stories and 33 feet in height, with an FAR of .99 (§4.4.1, §4.1.2.B.3, §4.1.3); 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 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.A and §5.1.13).

ZONING: Business Use 2

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
  - a. 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, May 8, 2018 and September 7, 2018.
    - Grading, Drainage, and Utility Plan, dated February 12, 2018, revised March 7, 2018, March 23, 2018, May 8, 2018 and September 11, 2018.
    - Detail Sheet, dated February 12, 2018, revised March 7, 2018, and May 8, 2018 and June 27, 2018
    - Turning Radii Plan, dated March 6, 2018, revised March 23, 2018, April 23, 2018, June 27, 2018 and September 5, 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. 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).
3. 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.
4. 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.

5. 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.
6. The cost of residential tenant parking shall be charged separately from residential tenant rents, provided, however that the cost of one parking stall shall be included in the monthly housing costs for each Inclusionary Unit.
7. The petitioner shall provide space for not less than 30 bicycles in the below grade garage. Additionally, the petitioner shall install a bike rack along the Adams Street frontage capable of accommodating not less than six bicycles.
8. 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, the Director of Planning and Development, and the Commissioner of Inspectional Services.
9. 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.
10. 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
11. 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.
12. 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.
13. 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.
14. Prior to the issuance of a temporary certificate of occupancy 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.

15. 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. Such plan shall be accompanied with approval from the abutter at 175 Adams Street for the improvements within their ownership interest in the shared passageway. Otherwise, the plan shall not include such improvements.
16. Prior to the issuance of any building permit for the Project, the petitioner shall provide a final Photometric Plan for review and approval by the Director of Planning and Development.
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 prior to demolition, during demolition, and 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 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 #7.
  - g. Submitted a final photometric plan in accordance with Condition #16.
  - h. 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.
  - i. Make the payments to the city required under Condition #5.
20. The Petitioner shall mill and overlay Adams Street from curb line to curb line along the Project's frontage. This work shall be completed to the satisfaction of the Engineering Division of Public Works prior to the issuance of a temporary Certificate of Occupancy for

the Project. The petitioner shall also be responsible for repairing all damage to public ways and property by any construction vehicles. All repairs to sidewalks and curbing shall be compliant with modern design standards.

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. Received approval from the City Engineer for the Operation and Maintenance (O & M) plan for Stormwater Management from the City Engineer. Such plan shall be recorded by the petitioners at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works and the Director of Planning and Development.
  - d. 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.
  - e. 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.
  - f. 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.
  - g. 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.
  - h. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units such that no more than six market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
  - i. 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.