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Candace Havens  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 10, 2013  
Land Use Action Date: September 24, 2013  
Board of Aldermen Action Date: November 18, 2013  
90-Day Expiration Date: December 2, 2013

DATE: September 6, 2013

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Stephen Pantalone, Senior Planner

SUBJECT: **Petition #237-13**, Seventy Five to Seventy Seven Auburn St. Trust, for a SPECIAL PERMIT/SITE PLAN APPROVAL to reconfigure an existing two-family dwelling into three units each with a 2-car garage and to construct two additional attached dwelling units with 2-car garages at the rear for a total of five units at **75-77 Auburn Street**, Ward 3, Auburndale, on land known as SBL 33, 6, 42, containing approx. 31,437 s.f. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-15 Table 1, 30-9(b)(5) and (b)(5)(b), of the City of Newton Rev Zoning Ord, 2012.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



**75-77 Auburn Street**

### **EXECUTIVE SUMMARY**

The property at 75-77 Auburn Street consists of a 31,437 square foot lot improved with a two-family 2½-story residence, constructed in approximately 1853 and modified in 1918. The petitioner is proposing to demolish a portion of the existing structure and to build four new single-family attached dwelling units on-site. The existing two-family structure will become an attached single-family residence. The petitioner is requesting a special permit to allow for the creation of five single-family attached dwelling units, to locate a structure fifteen feet from the side lot line, to exceed maximum lot coverage of 25%, and to locate a driveway five feet from the side lot line. The Newton Historical Commission has approved the massing and elevations.

The petitioner is proposing to demolish the deck, porch, and garage of the existing structure, and to construct two new 2½-story attached dwelling units with two-car garages directly behind the remaining structure. The petitioner also proposes to construct two new 2½-story attached dwelling units with two-car garages on the east side of the property. The existing driveway on the east side of the property will be extended towards the rear to access the proposed dwelling units. The existing driveway on the west side of the site will be expanded slightly and will access the proposed garage for the existing dwelling unit. There is vegetation along most of the property lines that provides screening from abutters.

The proposed site plan will add significant mass to the site and increase the intensity of its use. However, because of the size of the site the increase in density would not be out of character with the neighborhood in terms of lot area per unit. The additional mass will be partially screened from the street by utilizing recesses in the structure towards the rear of the site. The petitioner should work with abutters to provide screening that addresses their concerns.

The petitioner is requesting zoning relief from the side setback requirement, to locate a driveway five feet from the side lot line, and to exceed maximum lot coverage. While each of the zoning reliefs sought is relatively minor, the Planning Department believes that there are no significant aspects of this site that make it impractical to adhere to the dimensional requirements, other than the desire for five units. The Planning Department suggests that the petitioner reduce the number of proposed units to four, or reduce the size of the proposed units to meet the dimensional requirements for the site. Reducing the number of units would allow the petitioner to meet the dimensional requirements, reduce the mass and length of the structure on the west side of the site, reduce the proposed increase in density, and potentially eliminate one of the two curb cuts on the site. Reducing the size of some of the proposed units may allow for greater diversity in housing type, and may allow the site plan to meet the dimensional requirements.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The site is an appropriate location for the proposed five unit single-family attached dwelling use and structures.
- The use as developed will not adversely affect the neighborhood.
- Access to the site over streets is appropriate for the types and numbers of vehicles involved.
- The lot coverage of 26% where 25% is allowed is appropriate, and literal compliance with this requirement is impractical due to the location, size, frontage, depth, shape, or grade of the lot.
- The location of a driveway less than five feet from the side lot line is appropriate, and literal compliance with this requirement is impractical due to the location, size, frontage, depth, shape, or grade of the lot.
- The location of a structure less than twenty five feet from the side lot line is appropriate, and literal compliance with this requirement is impractical due to the location, size, frontage, depth, shape, or grade of the lot.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located at 75-77 Auburn Street between Gilbert Street and Crescent Street in an area zoned as Multi-Residence 1. The site is in a predominantly single-family and two-family residential neighborhood with a small number of multi-family and manufacturing uses. The lots surrounding the site tend to be much smaller, typically less than 20,000 square feet. It appears that the only site in the neighborhood with single-family attached dwellings is at 94 Crescent Street.

B. Site

The site consists of 31,437 square feet of land and is improved with a two-family 2½-story house with an attached garage. The existing building was built in 1853 and then modified in 1918. The site has two curb cuts which service a driveway that loops around the rear of the home. The site has a large backyard, evidenced by the site's open space ratio of 72%. Vegetation and/or fencing screen most of the lot from abutters, except on the western portion of the site from the abutting

property's garage to the street. The only significant grading on the site is under the existing house which sits on a small knoll.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The petitioner is proposing to increase the number of dwelling units on the site from two to five by converting the existing two-family structure to a single-family attached, and by building four new attached single-family dwelling units.

The additional units would more than double the density on the site. However, because of the size of the lot and the size of the surrounding lots the project would not be out of scale with the neighborhood in terms of lot area per unit.

#### B. Building and Site Design

The petitioner is proposing to demolish the existing deck, screened-in porch, and garage from the rear of the existing structure. The petitioner is then proposing to construct two single-family attached dwelling units with attached two-car garages behind the existing structure, and two new single-family attached dwelling units with attached two-car garages on the east side of the site in a second structure. Each unit will have an at-grade patio. The petitioner is proposing to extend the existing driveway on the east side of the site towards the rear of the property to provide access to the proposed garages.

The elevations and massing were approved by the Newton Historical Commission and reflect the existing Greek Revival style. The proposed elevations show that the new attached dwellings behind the existing structure will not extend over the existing house and will include recesses at different points to break up the mass. The proposed dwellings will also taper in from the existing house so that the mass will be reduced towards the northwestern corner.

All five of the attached dwellings will have three bedrooms, including a master bedroom with walk-in closets, three to four bathrooms, and loft space. The two units on the east side of the site will have offices.

The petitioner is requesting a special permit to locate a structure (Unit 5) 15 feet from the side lot line, to exceed maximum lot coverage of 25% by 1%, and to locate a driveway (Unit 1) five feet from the side lot line. The Planning Department believes that there are no unique aspects of this site that make it impractical to adhere to the zoning regulations, other than the desire for five

three-bedroom units. The by-right alternative for this site is a two-family structure.

The Planning Department also notes that the addition of two attached dwelling units with garages behind the existing structure will create a continuous structure of approximately 138 feet in length. The effect of the massing of the structure has been reduced by creating lower roof lines, by screening most of the structure from property abutters, and by recessing Unit 2 and Unit 3 to reduce their visibility from the street.

The Planning Department suggests that the petitioner reduce the number of proposed units on the site to four, or reduce the size of the proposed units to meet the dimensional requirements. Eliminating Unit 3 would allow the petitioner to shift Units 4 and 5 to be in compliance with the dimensional requirements, eliminate having three attached structures in a row, and mitigate the visual impact of the proposed project on abutters and the neighborhood. Reducing the size of some of the units may allow for greater diversity in housing type, and may allow the site plan to meet the dimensional requirements.

C. Parking and Circulation

The petitioner is proposing to maintain the two existing curb cuts into the site. The curb cut on the west side of the property will access the existing dwelling unit's garage, and the curb cut on the east will access the new units' garages. The driveway on the west side of the property will be located within five feet of the side lot line. The Planning Department's preference is to adjust the site plan so that all garages on the site are accessed by the east driveway, and to eliminate the driveway and curb cut on the west side of the property.

D. Landscape Screening

Based on the Planning Department's site visit there is an existing stockade fence on a portion of the western property line, a wire fence on a portion of the eastern property line, and large trees along most of the property lines. The existing stockade fencing and the vegetation provide screening from most of the property abutters. The proposed landscaping plan maintains most of the existing screening on the site and adds additional screening towards the front of the site on the east and west sides of the property. Planning Department suggests that the petitioner maintain existing screening and provide additional screening where requested by abutters, and particularly along the western property line in the front and rear of the site.

The petitioner should also submit an application with the Tree Warden indicating

the trees that they are proposing to remove and their caliber-inches. The petitioner should provide a copy of the application to the Planning Department.

#### IV. TECHNICAL REVIEW

##### A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum, (**ATTACHMENT A**), provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to allow for single-family attached dwellings, to exceed maximum lot coverage, to locate a proposed structure fifteen feet from the side lot line, and to locate a proposed driveway five feet from the side lot line.

##### B. Engineering Review

The Engineering Division Memorandum, (**ATTACHMENT B**), provides an analysis of the proposal with regard to engineering issues. The Memorandum noted that the proposed drainage system is based on assumed infiltration rates. The petitioner should update the proposed infiltration system for actual testing results before receiving approval.

##### C. Fire Department Review

The petitioner received site review approval from the Fire Department.

#### V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-9(b)(5), to allow the creation of single-family attached dwellings
- Section 30-5(b)(5)(b), 30-15 Table 1, to locate a proposed structure 15 feet from the side lot line
- Section 30-5(b)(5)(b), 30-15 Table 1, to exceed maximum lot coverage of 25%
- Section 30-9(b)(5)(a), 30-9(b)(5)(b), to locate a proposed driveway five feet from the side lot line

#### VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Zoning Review Memorandum
- Attachment B:** Engineering Review Memorandum
- Attachment C:** Zoning Map
- Attachment D:** Land Use Map
- Attachment E:** Newton Historical Commission Approval



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**Attachment A**

Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: July 3, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Terrence Morris, attorney representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to create five single-family attached dwellings on a lot

Applicant: Luis Diazgranados, Manager DT-ARCO, LLC	
Site: 75-77 Auburn Street	SBL: 33 06 0042
Zoning: MR-1	Lot Area: 31,437 square feet
Current use: Two -family dwelling	Proposed use: Five single-family attached dwellings

### BACKGROUND:

The property at 75-77 Auburn Street contains an existing two-family dwelling built in approximately 1853. It was converted to a two-family residence around 1918, and interior and exterior modifications reflect this conversion. The applicant proposes to reconfigure the existing two unit building with a new addition consisting of a third unit and a two-car garage. Two additional attached dwelling units with two-car garages are proposed at the rear of the site in a separate building for a total of five units on the site.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 5/20/13
- Site Plan – Existing Conditions, prepared by VTP Associates, dated 4/24/13
- Site Plan – Proposed Conditions, prepared by VTP Associates, dated 4/24/13
- Proposed Unit Floor Plans, signed and stamped by Ronald F. Jarek, Architect, dated 5/9/13

### ADMINISTRATIVE DETERMINATIONS:

1. The subject property is located in the MR-1 zoning district. The applicant is proposing five single-family attached dwelling units on a 31,437 square foot lot. Section 30-9(b)(5) of the Newton Zoning Ordinance allows single-family attached dwellings in one or more groups provided that the applicant obtains a special permit from the Board of Aldermen.



2. The applicant proposes to re-use the existing driveways on either side of the house to serve the five proposed units. The driveway on the left side of the property will be widened to 15 feet, and will be within the 10 foot setback requirement. Section 30-9(b)(5)a) requires that no driveway be located within ten (10) feet of the side lot line. The applicant must obtain a special permit from the Board of Aldermen per Section 30-9(b)(5)b) to waive this requirement.
3. The applicant proposes to locate Unit 5’s garage within 15 feet of the side setback, where 25 feet is required. The applicant proposes a lot coverage of 28%, thereby exceeding the maximum allowed by the Ordinance of 25%. The applicant must obtain a waiver from the side setback and lot coverage requirements per Section 30-9(b)(5)(b).
4. The site is currently used as a two-family dwelling. The applicant proposes to add three additional dwelling units by special permit for a total of five dwellings. This increase triggers the inclusionary housing provisions of Section 30-24(f), which would apply to a residential project allowed by special permit that increases the number of existing units by more than two, per Section 30-24(f)(2). Since Section 30-24(f)(2) applies, the applicant elects to satisfy the inclusionary housing requirement consistent with Section 30-24(f)(4), which allows a cash payment in lieu of providing an affordable unit when the total number of dwelling units proposed will not exceed six units.

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	15,000 sf	31,347 sf	No change
Lot Area Per Unit	4,000 sf	n/a	6,270 sf
Frontage	80 feet	138 feet	No change
Setbacks			
• Front	25 feet	27.5 feet	No Change
• Side	25 feet	20.5 feet	25 feet
		20.5 feet	<b>15 feet</b>
• Rear	25 feet	107.9 feet	25 feet
Building Height	36 feet	33.6 feet	29.8 feet
Max Number of Stories	2.5	2.5	2.5
Lot Coverage	25%	8.2%	<b>26%</b>
Open Space	50%	72.4%	56.7%
Parking Stalls	2 stalls/unit	2	10

5. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§30-9(b)(5)	Allow the creation of single-family attached dwellings	S.P. per §30-24
§30-15 Table 1, §30-5(b)(5)(b)	Locate a proposed structure 15 feet from the side lot line	S.P. per §30-24
§30-15 Table 1, §30-5(b)(5)(b)	Exceed maximum lot coverage of 25%	S.P. per §30-24
§30-9(b)(5)(a), §30-9(b)(5)(b)	Locate proposed driveway five feet from the side lot line	S.P. per §30-24

**CITY OF NEWTON  
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – #75-77 Auburn Street

Date: July 24, 2013

CC: Lou Taverna, PE City Engineer  
Linda Finucane, Associate City Clerk  
Alexandria Ananth, Chief Planner  
Katy Holmes, Sr. Planner  
Stephen Pantalone, Planner

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

*Topographic Site Plan  
Newton, MA  
Showing Proposed Conditions at  
#75 & 77 Auburn Street  
Prepared by: VTP Associates Inc.  
Dated: May 28, 2013  
Revised: July 15, 2013*

Executive Summary:

This project has five residential units on a 31,437 square foot lot. The proposed drive of 16' does not meet the standard 18' requirement of the Fire Department for access.

A drainage study was submitted, however it is based on assumed infiltration rates, actual on site soil testing is required. Since there are three independent systems; 3- test pits and 3- percolation teats are required before the system design can be approved.

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 that will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted 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 Homeowners Association.
3. Based on the size of the proposed system, a minimum of \$10,000.00 should be funded as seed money by the developer in an account held by the Homeowners Association. This fund will be utilized so that proper inspections, maintenance and cleaning of the drainage system and driveway are performed biannually.
4. Since the proposed systems are less than 10-feet from the property line, impervious barriers are needed along each system.
5. There is an error in the hydrocad report where the routing diagram should be

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 proposed service connection of 6" is inadequate and shall be enlarged to an 8" collector pipe, from which the 6" service connections can be installed.
2. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
3. 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.
4. All new sewer service and/or structures shall be pressure tested or video taped 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.***
5. 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. For water quality issues a fire hydrant will be required at the end of the proposed water main. This hydrant will be utilized for flushing out the main as required.
3. 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.
4. 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. As of January 1, 2009, 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. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed. *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.












# Land Use Map 75-77 Auburn Rd.

*City of Newton,  
Massachusetts*

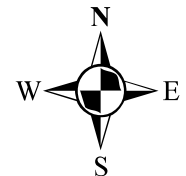
**Legend**

-  Building Outlines
-  Streets - Pavement Edge

**Land Use**

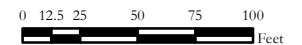
-  Single Family Residential
-  Multi-Family Residential
-  Industrial
-  Open Space
-  Vacant Land

**ATTACHMENT D**



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: September 03, 2013





Setti D. Warren  
Mayor

# ATTACHMENT E

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Candace Havens  
Director

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## RECORD OF ACTION:

**DATE:** July 30, 2013

**SUBJECT:** 75-77 Auburn Street

At a scheduled meeting and public hearing on July 25, 2013 the Newton Historical Commission, by vote of 4-0,

**RESOLVED** to waive the demolition delay at 75-77 Auburn Street based upon submitted plans for additions with the following conditions: (1) that existing trim details be repaired and retained or replicated in new wood trim; (2) that wood columns and all wood simulated divided light windows with a 2/2 muntin pattern be used; (3) that cementitious-fiberboard clapboards are approved using the smooth exterior finish; (4) that wood garage doors be used; (5) that stone paver aprons at the garage entrances be used; (6) that wood shutters be used on the existing building; that wood balustrades be used and (7) and final review and approval by staff is required prior to issuance of a building permit.

### Voting in the Affirmative:

Donald Lang, Chair

David Morton, Member

Rodney Barker, Member

Nancy Grissom, Member

Brian Lever, Commission Staff