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Candace Havens  
Director

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**MEMORANDUM**

Public Hearing Date: September 11, 2012  
Land Use Action Date: November 27, 2012  
Board of Aldermen Action Date: December 3, 2012  
90-Day Expiration Date: December 10, 2012

DATE: September 7, 2012

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning ET  
Alexandra Ananth, Senior Planner

SUBJECT: Petition **#211-12**, Robert & Patricia Welbourn petition for A SPECIAL PERMIT/SITE PLAN APPROVAL to construct retaining walls greater than four feet in height within the required setbacks to provide access to a basement garage to a new single-family dwelling at **24 Wilde Road**, Ward 5, Waban, on land known as SBL 55, 19, 5, containing approximately 8,446 square feet of land in a district zoned SINGLE RESIDENCE 2. Ref: 30-24, 30-23, 30-5(b) and (b)(4) 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.



## EXECUTIVE SUMMARY

The petitioner's property consists of 8,446 square foot lot improved with a single-family residence. The petitioner is proposing to demolish the existing dwelling and to construct a new single-family residence in its place. The lot slopes up and in order to provide access to a proposed basement garage, the petitioner is proposing to construct retaining walls greater than four feet in height within the front and side setbacks for which they must seek relief. All other aspects of the proposed new house meet the City's zoning requirements.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider whether the proposed change in grade and retaining wall would have any adverse impacts on the neighborhood.

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

#### A. Neighborhood and Zoning

The subject site is located on Wilde Road in Waban. The neighborhood is improved with single-family residences and is zoned Single Residence 2.

#### B. Site

The site consists of 8,446 square feet of land improved with a two-story single-family residence. The lot is quite narrow and somewhat triangular in shape. There is an almost 20 feet difference in elevation from the existing driveway (139 feet elevation) to the rear of the site (157 feet elevation). The site levels off towards the back of the lot where there is an existing play structure.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

The petitioner is not proposing any change is the use of this lot.

#### B. Building and Site Design

The petitioner is proposing to demolish the existing single-family residence and to construct a new single-family dwelling in its place. The proposed new residence is also two-stories and conforms to all zoning requirements. However, in order to provide access to a basement garage, the petitioner is proposing to construct a series of retaining walls greater than four feet in height within the front and along the southwest side setbacks. The proposed maximum height of retaining walls in setbacks is 8.5 feet in the side setback.

C. Parking and Circulation

The proposed residence contains a one-car garage and one exterior stall located in the front and side setback, which meets the parking requirements. Although the Planning Department likes that the garage is located on the side of the proposed new residence, we are concerned that the driveway is quite narrow and that backing out of the garage may be problematic. The petitioner is not able to move the house over due to the narrow lot and required setbacks and has indicated that they believe they can live with this condition.

D. Landscape Screening

The Planning Department did not require a landscape plan as part of this petition but notes that the petitioner will likely need to remove a large street tree to provide access for the proposed new driveway. This will require a public hearing with the City's Tree Warden. The Planning Department recommends that the petitioner work with the City to locate a new street tree somewhere in the immediate area to replace the lost tree. We also recommend that the petitioner submit a tree preservation plan and work with immediate abutters to protect any trees located close to the lot lines whose roots may be impacted by the proposed construction.

IV. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum (**ATTACHMENT "A"**) provides a complete analysis with respect to zoning. The petitioners are seeking a special permit to construct retaining walls greater than four-feet in height in the front and side setback.

B. Newton Historical Commission

The Newton Historical Commission originally reviewed the project and placed a one-year demolition delay on the existing structure as it was considered to be historically significant. In February 2012, the Commission waived the demolition delay based on submitted plans. However, the original delay expired in July of 2012 and no further design review is required.

C. Engineering Division

The Engineering Division reviewed plans for the proposed project (**ATTACHMENT "B"**) and notes that details for the proposed retaining walls should be submitted prior to the issuance of a building permit.

V. ZONING RELIEFS SOUGHT

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

- Section 30-5(b) and (b)(4), to construct retaining walls greater than four-feet in height within a required setback.

VI. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

**ATTACHMENT A: ZONING REVIEW MEMO**

**ATTACHMENT B: ENGINEERING DIVISION MEMO**

**ATTACHMENT C: ZONING MAP**

**ATTACHMENT D: LAND USE MAP**



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City of Newton, Massachusetts  
Department of Planning and Development  
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211-12  
ATTACHMENT "A"

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Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: June 12, 2012

To: John Lojek, Commissioner of Inspectional Services

From: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning ET

Cc: Patricia Welbourn, applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: Request to allow retaining walls greater than four feet in a required side setback

Applicant: Robert and Patricia Welbourn	
Site: 24 Wilde Road	SBL: 55019 0005
Zoning: SR2	Lot Area: 8,446 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

### BACKGROUND:

The property at 24 Wilde Road consists of an 8,446-square foot lot improved with a single-family dwelling. The applicant proposes to demolish the existing dwelling and construct a new single-family dwelling. In order to provide access to a basement garage, the applicant proposes to construct retaining walls greater than four-feet in height within required setbacks.

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

- Architectural plans showing proposed floor plans and elevations, unsigned, unstamped, and undated
- Proposed site plan, signed and stamped by Michael S. Kosmo, Civil Engineer and Bruce Bradford, Surveyor, dated 11/30/11, revised 5/2/12
- Existing site plan, signed and stamped by Bruce Bradford, dated 4/6/11
- FAR Worksheet, signed by Patricia Welbourn, dated 5/30/12
- Average Grade Plane Calculation, per calculations by Everett Brooks, signed by Patricia Welbourn, dated 5/30/12
- Copy of building permit, dated 1926
- Record of action from the Newton Historical Commission to waive the demolition delay at 24 Wilde Road based on the plans submitted, dated 2/23/12

**ADMINISTRATIVE DETERMINATIONS:**

1. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	<b>8,446 square feet</b>	<b>No change</b>
Frontage	80 feet	<b>65 feet</b>	<b>No change</b>
Setbacks			
• Front	25 feet	<b>24.7 feet*</b>	25.7 feet
• Side	7.5 feet	7.8 feet	7.5 feet
• Rear	15 feet	131.1 feet	101.9 feet
FAR	.41	.22	.41
Building Height	36 feet	29.2 feet	29.4 feet
Maximum Stories	2.5	2	2
Max. Lot Coverage	30%	12.0%	20.5%
Min. Open Space	50%	85%	73%

\* When the dwelling was constructed, the Zoning Ordinance allowed porches of a certain size to extend into the front setback. The ordinance subsequently changed, making the existing front setback legally nonconforming.

2. Per Section 30-5(b)(4), a special permit is required to construct a retaining wall greater than four-feet in height within a required setback distance. The applicant's site plan shows several retaining walls greater than four-feet in height located within the required side setback distance from the southern property line. To construct these walls as proposed, the applicant must obtain a special permit from the Board of Aldermen, per Section 30-5(b)(4).
3. Section 30-19(d)(1) requires two off-street parking stalls per single-family dwelling. The applicant's plans show two conforming parking stalls, one located in a garage and one located in the driveway outside. The exterior parking stall is located within the front and side setbacks, which is permitted per Section 30-19(g)(1). To locate the parking facility as shown, no additional zoning relief is required.
4. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-5(b) and (b)(4)	Construct retaining walls greater than four-feet in height within a required side setback	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 – 24 Wilde Road

Date: September 4, 2012

CC: Lou Taverna, PE City Engineer (via email)  
Linda Finucane, Associate City Clerk (via email)  
Eve Tapper, Chief Planner (via email)  
Alexandria Ananth, Sr. Planner (via email)

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

*24 Wilde Road  
Site Plan of Land in  
Newton, MA  
Prepared by: Everett M. Brooks Company  
Dated: November 30, 2011  
Revised: 2/8/12  
5/2/12*

*Executive Summary:*

The existing single-family dwelling will be demolished and replaced with a new single-family dwelling. In order to provide access to a basement garage, the applicant proposes to construct a series of retaining walls greater than 4' within the setbacks of the lot.

To facilitate the construction of these retaining walls, a great number of trees will have to be cut down along the northern property line and (without having the property line delineated on site), it is possible that trees on the neighboring property maybe impacted if roots need to be cut in order to construct the wall. Based on the plan a 48" diameter deciduous City tree will also have to be cut down, to provide access for a new driveway opening; this will require a Public Hear with the Tree Warden.

Retaining walls within Setbacks:

1. Details for the retaining walls are needed, specifically the design of the wall, material, footing details, backfill material, and drainage from behind the wall. A Structural Engineer will have to design and certify its stability and safety.
2. All walls over 4-feet in height will require a safety fence along the top of the wall.
3. Depending on the wall design, the applicant may need an easement from the neighbor at # 34 Wilde Road for its placement and construction this needs to be addressed.
4. Stability of the hillside specifically along #34 Wilde Road.

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 material, construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor.
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 submitted drainage analysis methodology is acceptable, however; there are several math errors that need to be corrected to reflect the design intent.
2. 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.
3. 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.



Sewer:

1. 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 my result in the delay of issuance of the Utility Connection Permit.
2. 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 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.***

Water:

1. All water connections must 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.

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, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *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.

211-12

# Zoning Map 24 Wilde Rd.

*City of Newton,  
Massachusetts*

**Legend**

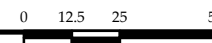
-  Single Residence 2
-  Building Outlines
-  Surface Water



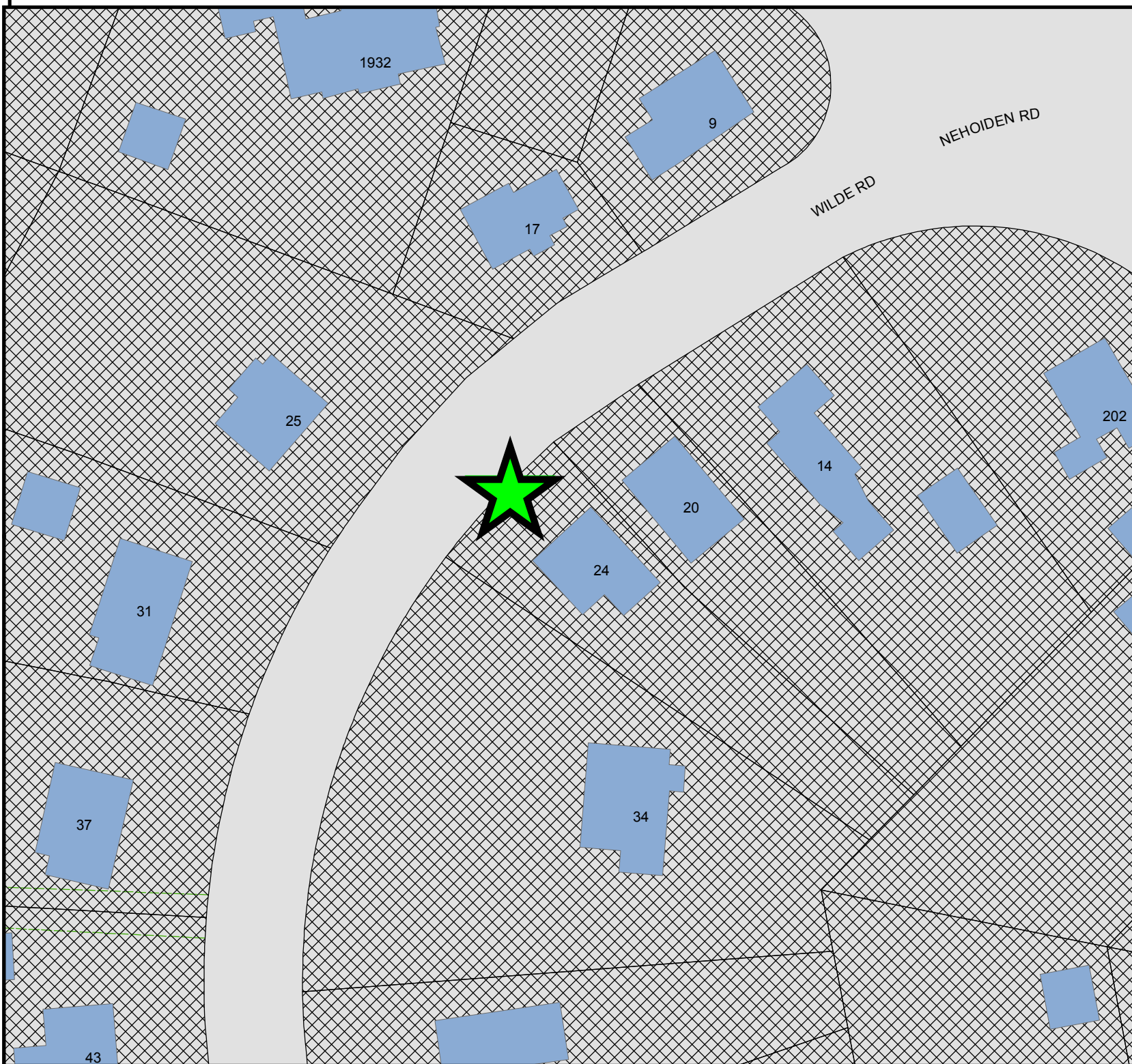
**ATTACHMENT "C"**

The information on this map is derived from a Geographic Information System. The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not be held liable for any errors or omissions. Applications will be approved based solely on the information provided on the application.

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



Map Date: September 07, 2012








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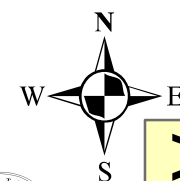
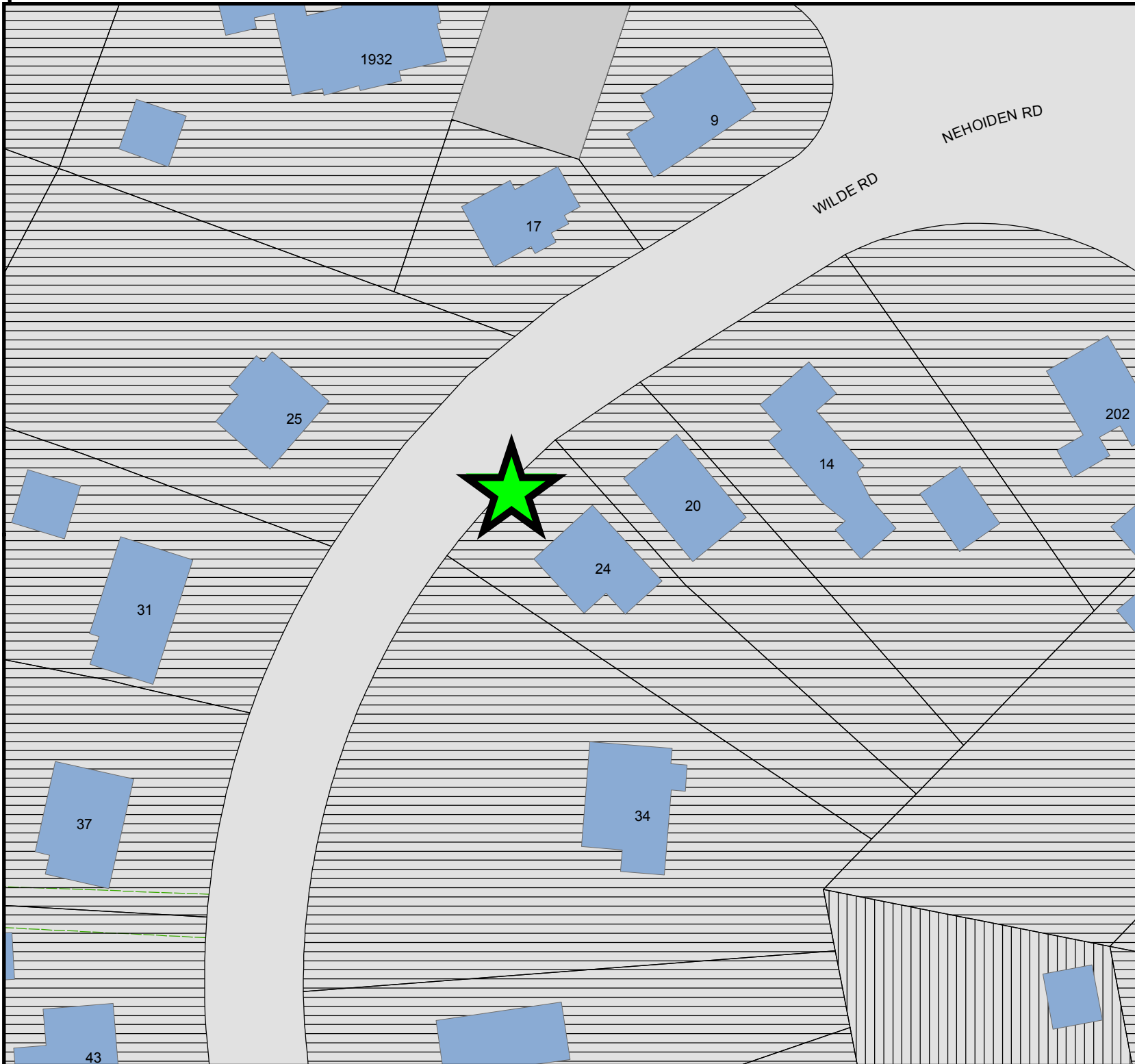
# Land Use Map 24 Wilde Rd.

*City of Newton,  
Massachusetts*

**Legend**

**Land Use**

-  Single Family Residential
-  Mixed Use
-  Vacant Land
-  Building Outlines
-  Surface Water



**ATTACHMENT "D"**

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

