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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	May 9, 2017
Land Use Action Date:	July 18, 2017
City Council Action Date:	July 24, 2017
Expiration Date:	August 7, 2017

DATE: May 5, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Michael Gleba, Senior Planner

SUBJECT: **Petition #97-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to use a portion of the legally nonconforming wholesale site to cut and fabricate stone countertops, further extending the nonconforming use to manufacturing at 966 WATERTOWN STREET, Ward 3, West Newton, on land known as SBL 31005 0003, containing approximately 13,408 sq. ft. of land in a district zoned BUSINESS 1. Ref. 7.3.3, 7.4, 4.4.1, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



**966 Watertown Street (northern portion
of 1239-1247 Washington Street)**

EXECUTIVE SUMMARY

The subject of this petition, 966 Watertown Street, is the northern portion of a 13,408 square foot lot parcel with an address of 1239-1247 Washington Street. Located in a Business 1 (BU1) district, the parcel is improved with a multi-tenanted, one-story, 12,498 square foot brick building built circa 1925.

The petitioner currently operates in a 6,562 square foot area in the northern portion of the existing building and site that is the subject of this petition as a granite and marble wholesaler. Accessory to that use, cutting and fabrication of material is performed. This portion of the building has been used for wholesale business purposes since 1946, and Inspectional Services Department files indicate that the City has acknowledged that a wholesale business use at this location is legally nonconforming. The Commissioner of Inspectional Services has determined that the accessory stone cutting and fabrication is considered a manufacturing use and therefore requires a special permit to extend the existing nonconforming use.

Given the nature of stone cutting the Planning Department has some concerns regarding the requested relief, related to possible noise, dust and water impacts generated by such a use.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The specific site is an appropriate location for the stone cutting and fabrication use (§7.3.3.C.1);
- The stone cutting and fabrication use as developed and operated will adversely affect the neighborhood (§7.3.3.C.2);
- There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);
- The stone cutting and fabrication use will be substantially more detrimental than the existing nonconforming use is to the neighborhood (§7.8.2.C.2).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located between Watertown and Washington streets, west of Davis Court. While the land uses along Washington Street are predominantly commercial, those along Watertown Street are mixed, with those westward of the site commercial and mixed use, and those eastward of the site mostly single- and multi- family dwellings. Properties to the north are similarly mainly residential, with exceptions being the Eden Playground and the Newton

Community Service Center on Waltham Street (**Attachment A**).

The zoning in the surrounding neighborhood is similarly mixed, with most properties in the immediate area zoned as BU1, with Business 2 (BU2) and Multi Residence (MR1) zones located to the east and Single Residence 3 (SR3) and MR1 predominant to the north and northwest, respectively. There are also several Public Use (PU) zoned lots interspersed throughout the area (**Attachment B**).

B. Site

The site is a 13,408 square foot through-block lot, located between Watertown and Washington streets and bounded by Davis Court along its eastern property line. Located in a BU1 zoning district, it is improved with a 12,498 square foot, one story, multi-tenanted, brick building built circa 1925 that occupies most of the site. The lot slopes upward from Watertown Street to Washington Street, and there is a small paved area along its Watertown Street frontage used for vehicular access and parking.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The 6,562 square foot northern portion of the structure that is the subject of this petition has been used for wholesale business purposes since 1946, and documentation in the Inspectional Services files indicates that the City has acknowledged that a wholesale business is a legally nonconforming use at this location. The petitioner currently operates as a granite and marble wholesaler, and, accessory to that purpose performs the cutting and fabrication of material, operations that are considered a manufacturing use.

Given the nature of stone cutting, the Planning Department has some concerns related to the possible noise, dust and water impacts generated by such a use. In response to these concerns, on May 3 the petitioner provided the attached building code summary discussing approaches to these issues (**Attachment C**). Planning staff forwarded this correspondence to Conservation Commission staff, who was satisfied by it, and the Fire Department who had not responded at the time of the writing of this memorandum. As the summary does not directly address noise issues, the Department recommends that the petitioner be prepared to discuss them at the public hearing.

Also, the Planning Department notes that the petition is only for the northern portion of the building and site, comprising approximately 6,562 square feet of the existing building's floor area. In the event a special permit is granted pursuant to this petition, the Planning Department recommends that the sought manufacturing use be specifically limited to this portion of the building and site and that this be a condition of any Order.

B. Building Design

No exterior changes to the existing brick structure are proposed.

C. Site Design

The petitioner is not proposing any changes to the site.

D. Parking and Circulation

The petitioner is not proposing any changes to the site's parking or circulation. As the applicant is converting existing space already occupied by the business from wholesale to manufacturing, and the manufacturing use has the same parking requirement as the existing wholesale business use the parking requirement will be unchanged.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**Attachment D**) provides an analysis of the proposal with regard to zoning. The petitioner is seeking the following relief:

- Special Permit per §7.3.3 of Section 30, to extend the existing nonconforming use (§4.4.1; §7.8.2.C.2).

B. Engineering Review

The proposal does not require review by the Engineering Division at this time.

C. Newton Fire Department

At the time of the writing of this memorandum Planning staff is awaiting a response from the Fire Department to the building code summary referenced above.

V. PETITIONER'S RESPONSIBILITIES

The Planning Department recommends that the petitioner should be prepared to discuss issues related to noise and other operational issues at the public hearing, as well as respond to any comment or concerns that the Fire Department might indicate in advance of the hearing.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Petitioner's Building Code Summary dated May 3, 2017
- Attachment D:** Zoning Review Memorandum
- Attachment E:** DRAFT Order

ATTACHMENT A

Land Use








893-5 Watertown St.

*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

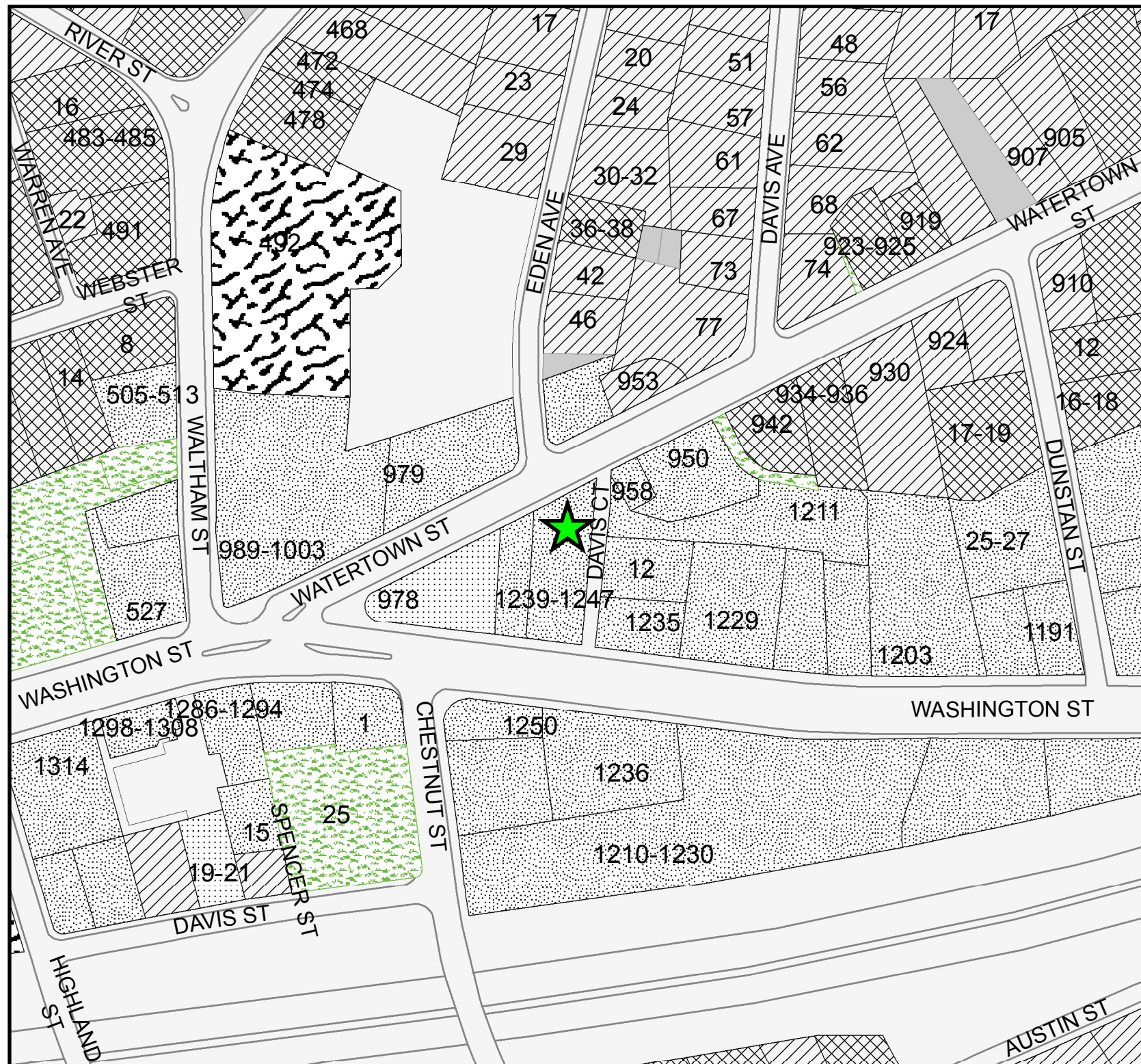


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 50 75 100 125 150 175 200 225
Feet

Map Date: May 04, 2017



ATTACHMENT C



FOOD SERVICE RESIDENTIAL HISTORIC RENOVATION

May 3, 2017

Re: 966 Watertown Street
West Newton MA 02465

Building Code Summary

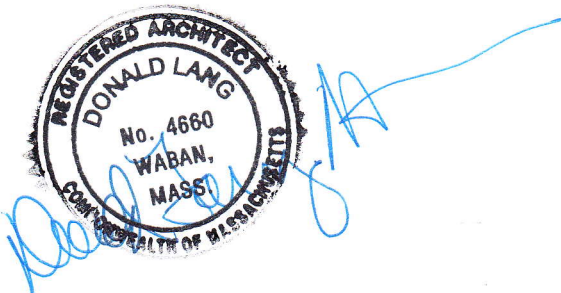
The existing building at the location had been used for many years for plumbing and heating equipment distribution and sales. The building includes a large open storage space, small office, sales counter and toilet rooms for employees.

The hazard rating of the storage component for the new stone products distributor is reduced because the plumbing and heating supplies were generally packaged in cardboard and included the sale of flammable adhesives, solvents and sealants, none of which apply to the stone products.

There is limited fabrication and cutting of the stone slabs to order included in the sales process. State of the art high speed water jet cutting equipment is used for precision cutting that does not release dust into the atmosphere. The water from the cutting operation is captured in floor gutters which flow back to a central reservoir where the water is pumped and filtered to remove the cutting residue sludge and then recycled back to the cutting apparatus. It is a closed loop system that prevents dust and does not flow into the city sewers.

There is no change of use, no increase in occupant load and no significant alterations to the layout of the building for the new tenant. There is a reduction in the storage hazard. Therefore, the existing fire rated construction, exits and other building safety elements are all compliant and do not require upgrade.

Prepared by:



Donald Lang AIA
President

ATTACHMENT D



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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 29, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Stephen J. Buchbinder, attorney
966 Watertown Street Realty Trust
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to extend an existing nonconforming use**

Applicant: 966 Watertown Street Realty Trust	
Site: 966 Watertown Street	SBL: 31005 0003
Zoning: BU1	Lot Area: 13,408 square feet
Current use: Wholesale business	Proposed use: Wholesale business and manufacturing

BACKGROUND:

The property at 966 Watertown Street consists of a 13,408 square foot lot in the BU1 zoning district. The property has been used for wholesale business purposes since 1946, and documentation in the Inspectional Services files indicates that the City has acknowledged that a wholesale business use is legally nonconforming. The applicant currently operates as a wholesaler of granite and marble countertops, and accessory to that purpose, some minor cutting and fabrication of material is required. The Commissioner of Inspectional Services has determined that the accessory cutting and fabrication is considered a manufacturing use, and requires a special permit to extend the existing nonconforming use.

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

- Zoning Review Application, prepared by Stephen J. Buchbinder, attorney, dated 2/1/2017
- Plan of Land, prepared by Barnes Engineering Company, dated 8/14/1986
- Letter from Howard Levine, attorney, to Juris Alskinitis, CZCO, dated 1/17/2007
- Letter from Howard Levine, attorney, to Juris Alskinitis, CZCO, dated 2/12/2007
- Email from Juris Alskinitis, CZCO, to Howard Levine, attorney, dated 2/14/2007

- Mortgage Inspection Plan, signed and stamped by John S. Lauretani, surveyor, dated 8/3/2009
- Existing Ground Floor Plan, signed and stamped by Donald Lang, architect, dated 1/6/2017

ADMINISTRATIVE DETERMINATIONS:

1. The wholesale business is a legal nonconforming use in the Business 2 zoning district per Section 4.4.1. The applicant proposes to use a portion of the existing space to cut and fabricate stone countertops accessory to the wholesale business. It has been determined by the Commissioner of Inspectional Services that the cutting of the stone to fabricate countertops is considered a manufacturing use, per Section 6.5.11, further extending the existing nonconforming use and requiring a special permit.
2. The proposed manufacturing use has the same parking requirement as the existing wholesale business use. As the applicant is converting existing space already occupied by the business from wholesale to manufacturing, the parking requirement does not change and no relief is necessary.

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1 §7.8.2.C.2	Request to extend the existing nonconforming use	S.P. per §7.3.3

ATTACHMENT E

#97-17

DRAFT- 966 Watertown Street (1239-1247 Washington Street)

CITY OF NEWTON

CITY COUNCIL

May , 2017

ORDERED:

That the Board, 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend the existing nonconforming wholesale business use of the property to allow the cutting, fabrication and manufacturing of stone materials, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

- 1. The specific site in a Business 1 (BU1) district is an appropriate location for the proposed stone cutting and fabrication use (§7.3.3.C.1);*
- 2. The stone cutting and fabrication use as developed and operated will not adversely affect the neighborhood (§7.3.3.C.2);*
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3).*
- 4. Access to the site over streets is appropriate for the types and number of vehicles involved (§7.3.3.C.4);*
- 5. The stone cutting and fabrication use will not be substantially more detrimental than the existing nonconforming use is to the neighborhood (§7.8.2.C.2).*

PETITION NUMBER: #97-17

PETITIONER: BR Stone Corporation

LOCATION: 966 Watertown Street, a portion of 1239-1247 Washington Street, also known as Section 31, Block 5, Lot 3, containing approx. 13,406 square feet of land

OWNER: 966 Watertown Realty Trust

ADDRESS OF OWNER: 1211 Washington Street
Newton, MA 02465

TO BE USED FOR: Wholesale business with cutting and manufacturing of stone materials

EXPLANATORY NOTES: §4.4.1 and §7.8.2.C.2 to extend the existing nonconforming use so as to allow manufacturing on a portion of the property

ZONING: Business 1 District

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, constructed and operated consistent with:
 - a. A plan showing the subject property entitled "Mortgage Inspection Plan," prepared by the American Surveying Company of Boston, Inc., stamped and signed by John S. Lauretani, Professional Land Surveyor, August 3, 2009
 - b. An architectural plan, entitled "Heritage Corp., 966 Watertown Street, Newton MA 02465; Existing Ground Floor Plan (Sheet Number Ex. 1.0)," dated January 6, 2017, prepared, signed, and stamped by Donald Lang, Registered Architect.
 - c. A statement entitled "Building Code Summary" dated May 3, 2017, prepared, signed, and stamped by Donald Lang, Registered Architect.
2. The manufacturing use allowed by this Order shall be limited to that portion of the subject property shown and depicted as "FABRICATION & STORAGE FOR WHOLESALE BUSINESS" in the architectural plan cited in Condition 1.b.
3. The petitioner shall comply with the City's Noise Control Ordinance at all times, which may require, among other measures, the installation and maintenance of acoustical treatments, and/or certain operational requirements, to comply with the provisions of said Ordinance.
4. The petitioner shall design, install and maintain a fire suppression system in accordance with the criteria of and to the satisfaction of the Newton Fire Department.
5. Prior to the issuance of any Building Permit, 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.
6. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the

Department of Planning and Development, a statement from the Engineering Division approving the final site plan.

- d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
7. No Final Inspection/Occupancy Permit for the use covered by and/or pursuant to 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 or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services and the Department of Planning and Development, a final as-built survey plan in paper and digital format by a licensed surveyor.
 - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Newton Fire Department approving the subject property's fire detection and suppression system(s), as well as any other relevant requirements.
 - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site details have been constructed to the standards of the City of Newton Engineering Division.