

 **SCHLESINGER AND  
BUCHBINDER, LLP**  
ATTORNEYS AT LAW

1200 WALNUT STREET  
NEWTON, MASSACHUSETTS 02461-1267

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
SHERMAN H. STARR, JR.  
HEATHER G. MERRILL  
PAUL N. BELL  
KRISTINE H.P. HUNG  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER

TELEPHONE (617) 965-3500  
FACSIMILE (617) 965-6824

OF COUNSEL  
ROBIN GORENBERG

August 6, 2014

**BY HAND**

Ms. Linda Finucane  
Chief Committee Clerk  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

RECEIVED  
Newton City Clerk  
2014 AUG - 6 PM 2:48  
David A. Olson, OMC  
Newton, MA 02459

Re: Garden Remedies, Inc./697 Washington Street/Petition #167-14

Dear Linda,

Enclosed please find a revised proposed parking layout plan prepared by VTP Associates dated July 24, 2014. Please note the following proposed changes and improvements:

- 1) Six foot high composite fence to run along a portion of the rear property line behind Garden Remedies' tenant space.
- 2) New location of dumpster.
- 3) Parking lot will be paved, and there will be two additional parking stalls, of which one will be a handicapped stall.
- 4) Landscaped area abutting parking stall number 5.

In addition to the foregoing, the landlord will remove any trash in the unimproved portion of the plan.

I have also enclosed the following plans:

- 1) Topographic Site Plan Showing Proposed Conditions at #697 Washington Street, prepared by VTP Associates, Inc. dated July 24, 2014, and
- 2) Detail - 1 Showing Proposed Conditions at #697 Washington Street, prepared by VTP Associates, Inc. dated July 24, 2014.

**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Linda Finucane  
August 6, 2014

Page 2

Please let me know if you have any questions pertaining to any of these plans.

Very truly yours,



Stephen J. Buchbinder

SJB/mer  
enclosures

cc: (By Hand, w/enclosures)

Ms. Alexandra Ananth, Chief Planner  
Mr. Stephen Pantalone, Senior Planner  
Ouida C. M. Young, Associate City Solicitor  
John Daghlian, Associate City Engineer  
(By First Class Mail w/enclosures)  
Dr. Karen Munkacy

**SCHLESINGER AND  
BUCHBINDER, LLP**  
ATTORNEYS AT LAW

1200 WALNUT STREET  
NEWTON, MASSACHUSETTS 02461-1267

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
SHERMAN H. STARR, JR.  
HEATHER G. MERRILL  
PAUL N. BELL  
KRISTINE H.P. HUNG  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER

TELEPHONE (617) 965-3500  
FACSIMILE (617) 965-6824

OF COUNSEL  
ROBIN GORENBERG

August 6, 2014

**BY HAND**

Ms. Alexandra Ananth  
Department of Planning and Development  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

RECEIVED  
Newton City Clerk  
2014 AUG - 6 PM 2:48  
DAVID A. OLSON, CMC  
Newton, MA 02459

Re: Garden Remedies, Inc./697 Washington Street/Petition #167-14

Dear Alexandra,

Garden Remedies, Inc. responds to the questions posed in your memorandum dated June 25, 2014 as follows:

Question: Exactly what mitigation is the petitioner proposing?

Answer: The petitioner is willing to contribute to the construction of a curb extension at the intersection of Washington and Harvard Streets in an amount not to exceed \$15,000. The petitioners are also willing to pave and stripe the parking area at the site. Finally, the petitioners propose to construct fencing along a portion of the rear property line, as shown on a plan prepared by VTP Associates, Inc. dated July 24, 2014, a copy of which is enclosed herewith. The petitioners are not willing to contribute to the construction of a Hawk Signal on Washington Street.

Q) Would the petitioner be willing to not operate on Sundays?

A) The petitioner is willing not to operate on Sundays.

Q) Please describe the commitment to police detail around the opening of the dispensary.

A) The petitioner is willing to commit to a full police detail during all operating hours for the first week that it is open. Thereafter, the petitioner is willing to hire a police detail on an interim basis, and suggests a period of 90 days, to be reviewed at that time by the Newton Police Department. The petitioner proposes that the detail would be in place from 4:00 p.m. until 8:00 p.m. from Monday through Saturday.

SCHLESINGER AND BUCHBINDER, LLP

Ms. Alexandra Ananth  
August 6, 2014

Page 2

Q) Can the petitioner provide security and crime statistics from other states?

A) Please see the following articles:

- 1) *The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006*  
<http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0092816>
- 2) *Exploring the Ecological Association Between Crime and Medical Marijuana Dispensaries*  
<http://www.ncbi.nlm.nih.gov/pubmed/22630790>

Q) Please address the issue of the dispensary's location close to Cabot's.

A) The Department of Public Health has promulgated a document offering guidance to municipalities as they interpret and integrate 105 CMR 725.00 into their own zoning by-laws and ordinances. This document can be found at the following address:

<http://www.mass.gov/eohhs/docs/dph/quality/drugcontrol/medical-marijuana/municipal-guidance.pdf>

The document makes specific reference as to whether an ice cream parlor would be considered a "facility where children commonly congregate." The document explains that such facilities include dance schools, gymnastic schools, etc. if children commonly congregate there in a structured scheduled manner. "It does not include other facilities, *such as ice cream shops*, where children may happen to congregate, but not in a structured, scheduled manner" (emphasis supplied).

Q) Petitioner's Response to Potential Conditions:

Potential Condition: Hours of Operation – Monday through Saturday, 10:00 a.m. until 8:00 p.m.  
Response: Petitioner is amenable to same.

Potential Condition: No walk in appointments.  
Response: Petitioner is amenable to same.

Potential Condition: Planning Department to review parking lot layout prior to building permit (paving and striping).  
Response: Petitioner is amenable to same.

Potential Condition: Perimeter lighting to be installed with baffles and motion sensor (not on all night).

Response: 105 CMR 725.110(A)(10) requires dispensaries to "[e]nsure that the outside perimeter of the RMD is sufficiently lit to facilitate surveillance." Our security consultants will be installing infrared cameras which do not require supplementary lighting to record video. Therefore the petitioner proposes to install the absolute minimum as far as perimeter lighting. The proposed perimeter lighting will need to be "on" from dusk until dawn, and will not be on a

SCHLESINGER AND BUCHBINDER, LLP

Ms. Alexandra Ananth  
August 6, 2014

Page 3

motion sensor but a timer. The proposed fixtures will be directed downward and will utilize 150 watt bulbs, so they will not shed light on abutters' properties.

Potential Condition: There will be an ATM on the premises.

Response: Garden Remedies is endeavoring to arrange for an ATM installed on the premises. However, the petitioner is unable to commit to this condition at this time.

Potential Condition: No more than six staff on site at any one time.

Response: Petitioner is amenable to same.

Potential Condition: Planning Department to review proposed relocation and screening of dumpster prior to building permit.

Response: Petitioner is amendable to same.

Potential Condition: Police/Security details around opening.

Response: Petitioner is amenable to same (see answer above).

Very truly yours,



Stephen J. Buchbinder

SJB/mer  
enclosure

cc: (By Hand, w/enclosure)

Linda Finucane, Chief Committee Clerk  
Ouida C. M. Young, Associate City Solicitor  
Mr. Stephen Pantalone, Senior Planner  
(By First Class Mail, w/enclosure)  
Dr. Karen Munkacy

**UTILITY NOTES:**

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; BACK FILLING SHALL ONLY TAKE PLACE WHEN THE CITY INSPECTOR HAS GIVEN THEIR APPROVAL.

PRIOR TO AN OCCUPANCY PERMIT BEING ISSUED, THE APPLICANT'S ENGINEER SHALL SUBMIT TO THE ENGINEERING DIVISION AN AS BUILT DRAWING IN DIGITAL AND HARD COPY FORMAT

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.

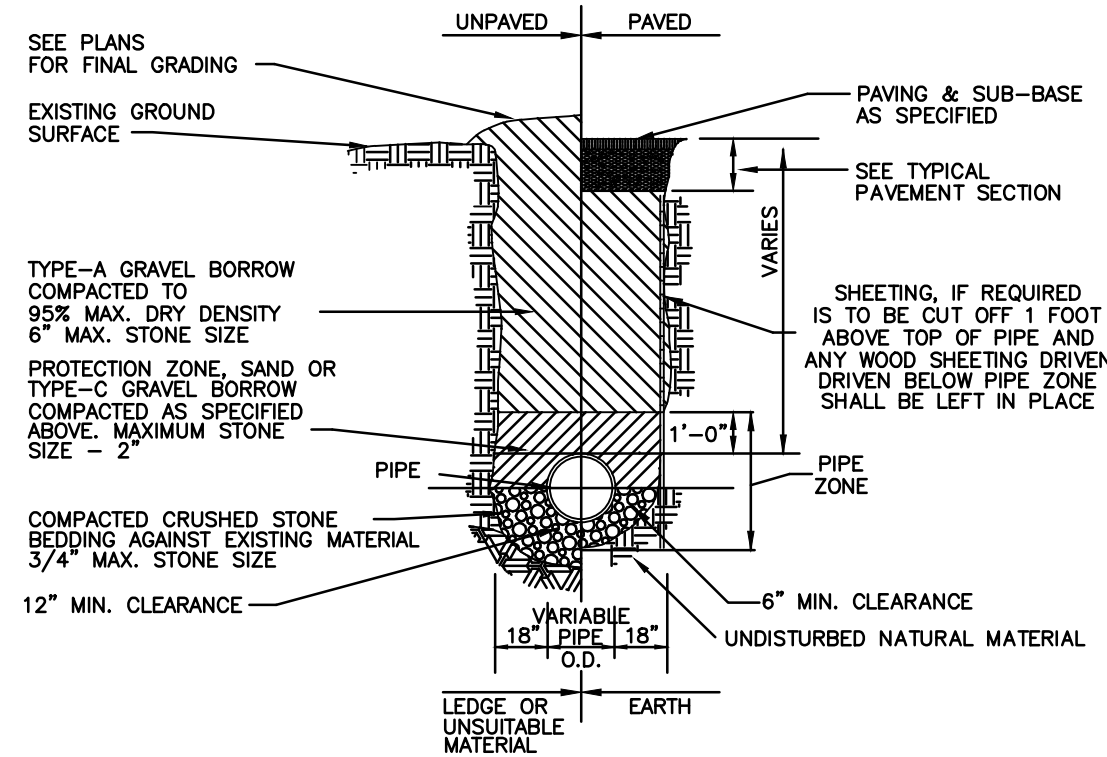
No excavation is allowed within any City right-of-way between November 15th and April 15th. If an emergency exists or there are extenuating circumstances, Applicant may seek permission for such work from the City DPW Commissioner via the City Engineer. If permission is granted, special construction standards will be applied. Applicant or Applicant's representative must contact the City of Newton Engineering Department prior to start of work for clarification.

As of March 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.

The Applicant will have to apply for Street Opening, Utility Connection and Trench Permits as well as an Install Curb & Sidewalk Permit with the DPW prior to start of work.

With the exception of gas services, all utility trenches within the City of Newton right-of-way will be backfilled with Type IE (excavatable) controlled density fill, as specified by the City of Newton Engineering Specifications.

Approval of this plan by the City of Newton Engineering Division implies that the plan meets the minimal design standards of the City of Newton. However, the Engineering Division makes no representations and assumes no responsibility for the design(s) in terms of suitability for the particular site conditions or of the functionality or performance of any items constructed in accordance with the design(s). The City of Newton assumes no liabilities for design assumption, errors or omissions by the Engineer of Record.

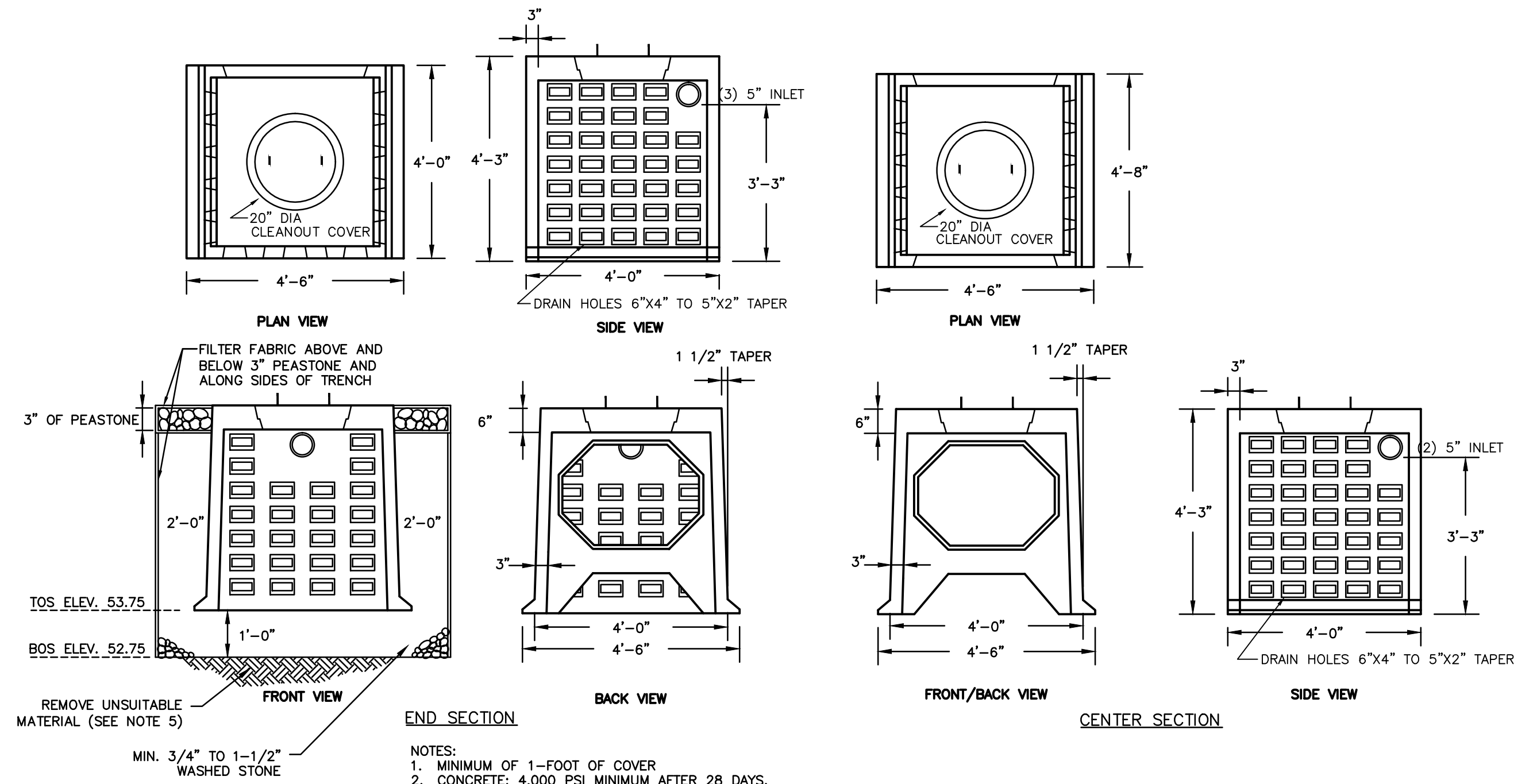


\* SUITABILITY OF MATERIALS IS TO BE DETERMINED BY THE CITY OF NEWTON

**TYPICAL P.V.C. DRAIN TRENCH DETAIL**  
NOT TO SCALE

- GRAVEL BORROW SHALL CONFORM TO MASS HIGHWAY SPECIFICATION M1.03.0
- CRUSHED STONE BEDDING SHALL CONFORM TO MASS HIGHWAY SPECIFICATION M2.01.1

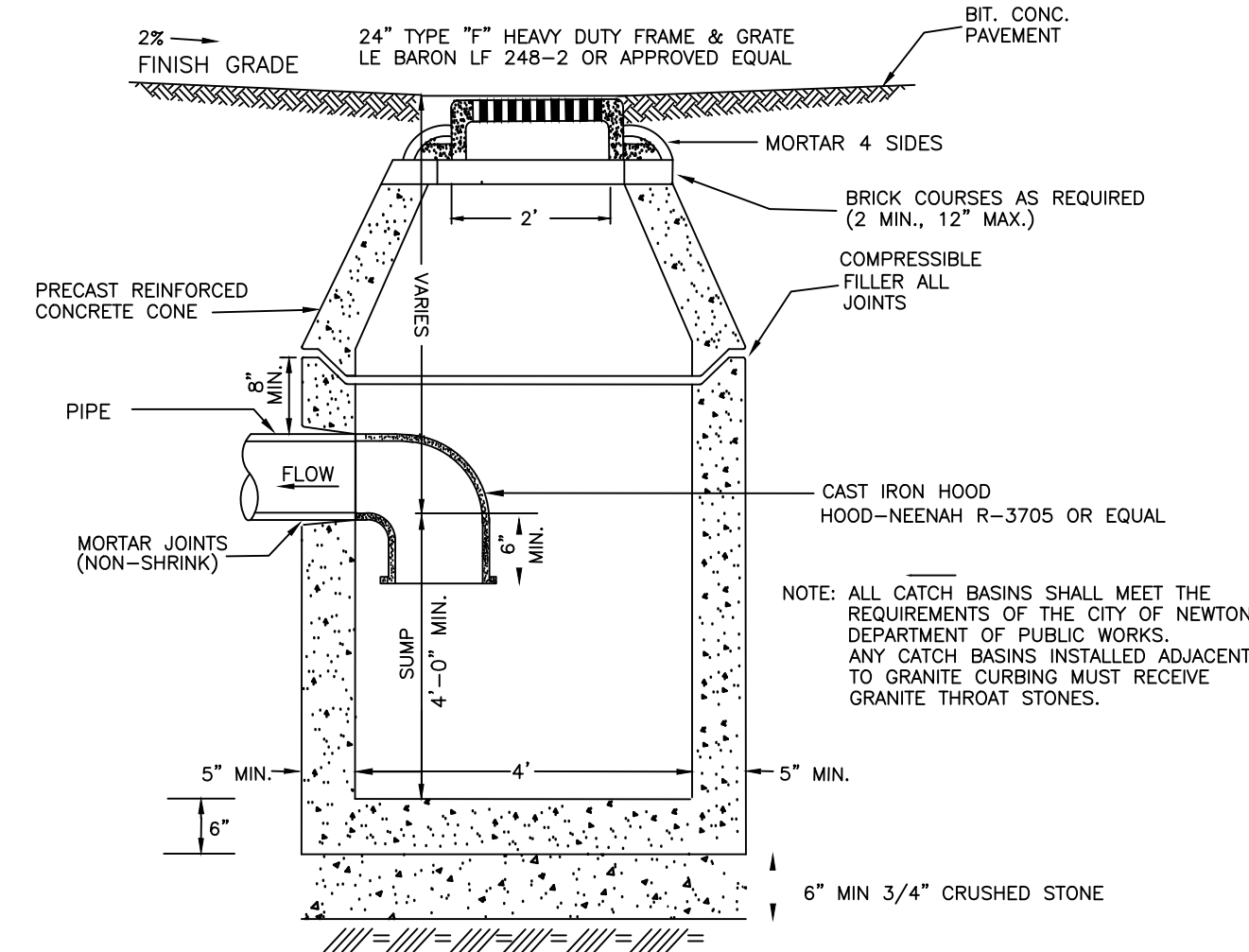
\* SUITABILITY OF MATERIAL IS TO BE DETERMINED BY THE CITY OF NEWTON.



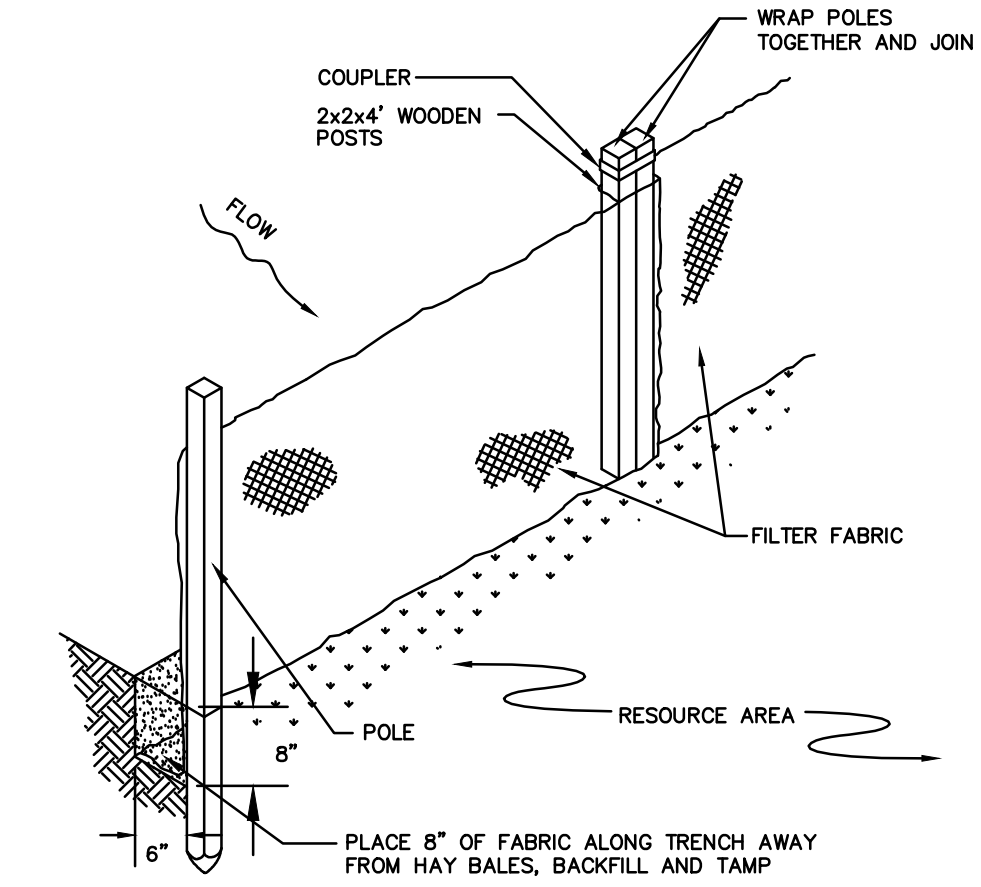
**NOTES:**

- MINIMUM OF 1-FOOT OF COVER
- CONCRETE: 4,000 PSI MINIMUM AFTER 28 DAYS.
- ALSO AVAILABLE IN H-20 LOADING.
- SECTIONS AVAILABLE WITHOUT 20\"/>

**GALLEY SECTIONS**  
NOT TO SCALE



**TYPICAL PRECAST CONCRETE CATCH BASIN WITH GAS TRAP**  
NOT TO SCALE



**SILT FENCE**  
NOT TO SCALE

**DIG SAFE**

EXCAVATORS  
BEFORE YOU DIG CONTACT THE DIG SAFE CENTER TO PREVENT DAMAGE TO TELEPHONE, GAS OR ELECTRIC UNDERGROUND FACILITIES OF MEMBER UTILITIES. CALL TOLL FREE 1-888-DIG-SAFE. MASSACHUSETTS STATE LAW REQUIRES NOTIFICATION AT LEAST THREE BUSINESS DAYS BEFORE YOU START DIGGING OPERATIONS. IN AN EMERGENCY, CALL IMMEDIATELY



DETAIL-1  
NEWTON, MASSACHUSETTS  
SHOWING PROPOSED CONDITIONS AT  
#697 WASHINGTON STREET

SCALE: AS-SHOWN DATE: JULY 24, 2014

PROJECT: 214113



LAND SURVEYORS - CIVIL ENGINEERS, 132  
ADAMS STREET 2ND FLOOR SUITE 3  
NEWTON, MA 02458  
(617) 332-8271

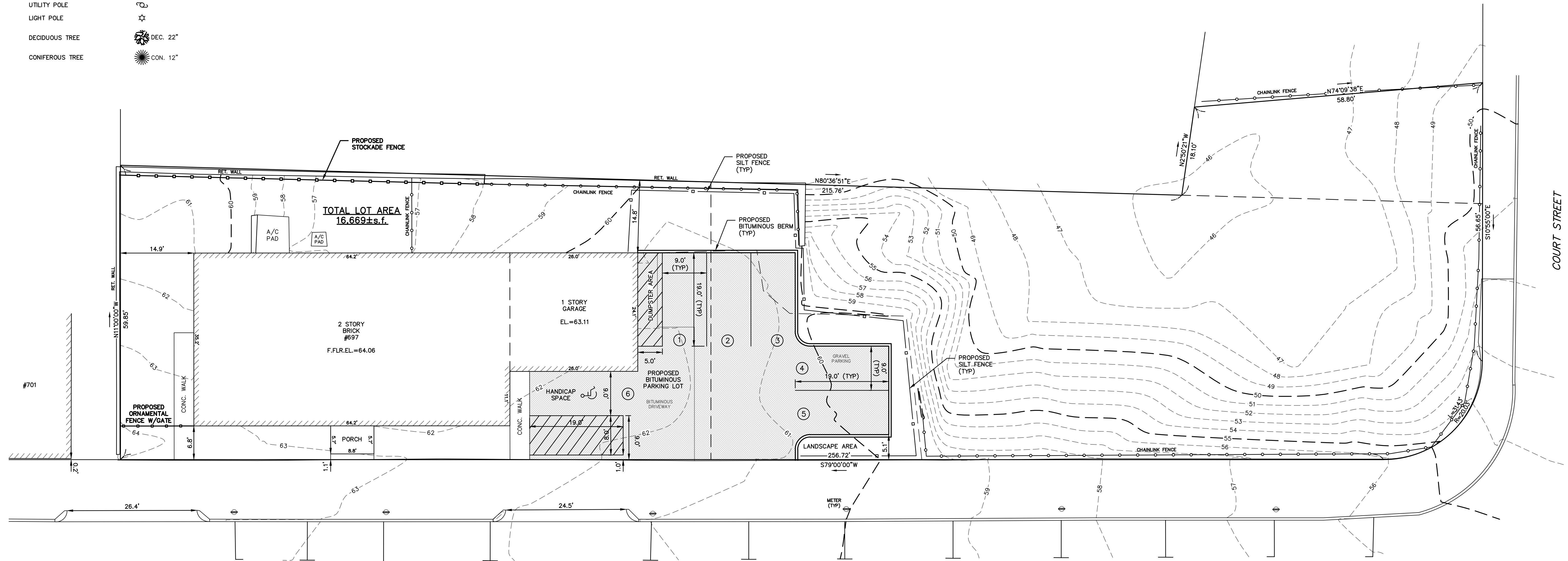
SHEET 3 OF 3

21413.dwg (2/2014)

**LEGEND**

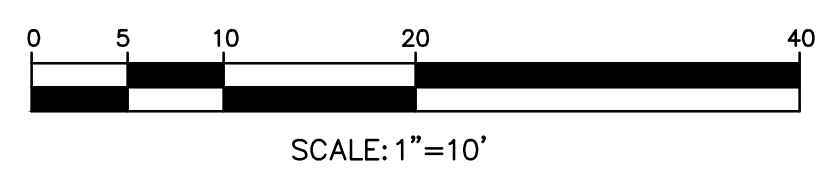
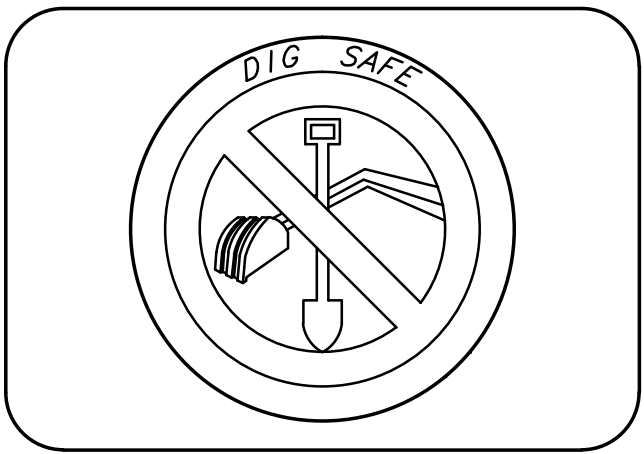
BUILDING	
PROPERTY LINE W/ BEARING DISTANCE	S81°56'34"E 116.23'
CONTOUR	- 70 -
STOCKADE FENCE	
CHAINLINK FENCE	
PICKET FENCE	
SEWER LINE	S
DRAIN LINE	D
WATER LINE	W
GAS LINE	G
GAS VALVE	
WATER VALVE	
DRAIN MANHOLE	
SEWER MANHOLE	
CATCH BASIN	
UTILITY POLE	
LIGHT POLE	
DECIDUOUS TREE	DEC. 22"
CONIFEROUS TREE	CON. 12"

ZONING CHART		
NEWTON, MASSACHUSETTS		
ZONE: BU-2	SUBMISSION: EXISTING	
REGULATION	REQUIRED	EXISTING
LOT AREA	10,000s.f.	16,669±s.f.
LOT FRONTAGE	80.0'	344.80'
FRONT SETBACK	Avg. 5.1'	1.1'
SIDE SETBACK	1/2 bldg.ht.	14.9'
REAR SETBACK	0	14.8'
BUILDING HEIGHT	2 story	24'
		28.51'



**DIG SAFE**

EXCAVATORS  
BEFORE YOU DIG CONTACT THE DIG SAFE  
CENTER TO PREVENT DAMAGE TO TELEPHONE,  
GAS OR ELECTRIC UNDERGROUND FACILITIES  
OF MEMBER UTILITIES. CALL TOLL FREE  
1-888-DIG-SAFE. MASSACHUSETTS STATE  
LAW REQUIRES NOTIFICATION AT LEAST THREE  
BUSINESS DAYS BEFORE YOU START DIGGING  
OPERATIONS. IN AN EMERGENCY, CALL IMMEDIATELY



SCALE: 1"=10'

WASHINGTON STREET

COURT STREET

PARKING LAYOUT PLAN  
NEWTON, MASSACHUSETTS  
SHOWING PROPOSED CONDITIONS AT  
#697 WASHINGTON STREET  
SCALE: 1in.=10ft. DATE: JULY 24, 2014

PROJECT: 214113



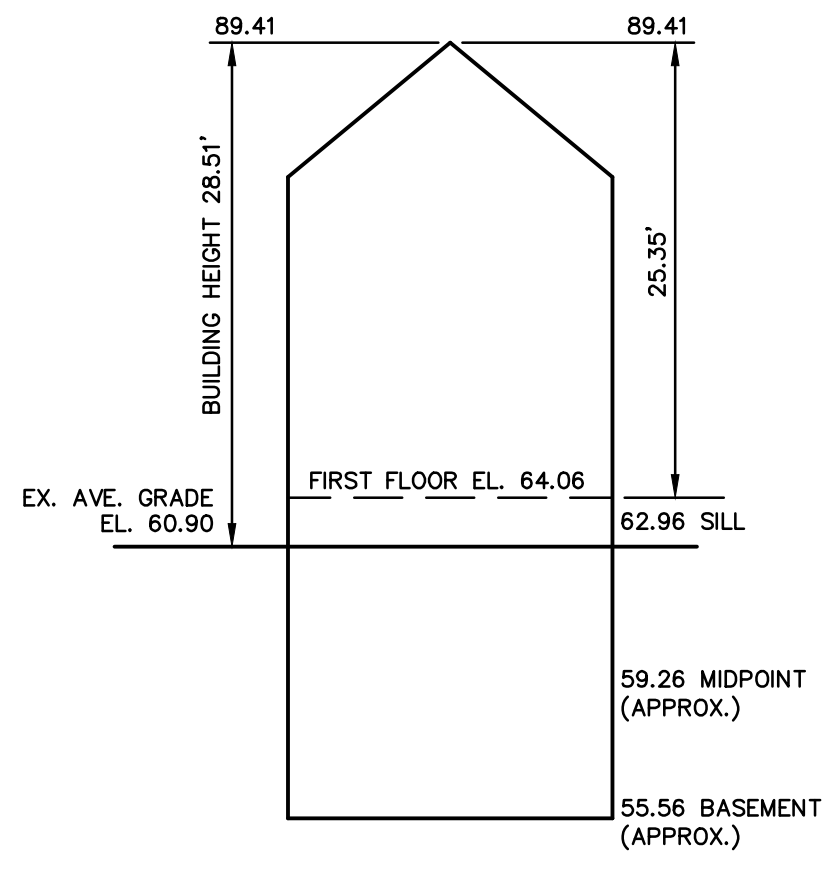
LAND SURVEYORS - CIVIL ENGINEERS. 132  
ADAMS STREET 2ND FLOOR SUITE 3  
NEWTON, MA 02458  
(617) 332-8271

SHEET 1 OF 3

21413sp2.dwg (2/2014)

**LEGEND**

- BUILDING
- PROPERTY LINE W/  
BEARING DISTANCE S81°56'34"E  
116.23'
- CONTOUR - 70 -
- STOCKADE FENCE
- CHAINLINK FENCE
- PICKET FENCE
- SEWER LINE S
- DRAIN LINE D
- WATER LINE W
- GAS LINE G
- GAS VALVE
- WATER VALVE
- DRAIN MANHOLE
- SEWER MANHOLE
- CATCH BASIN
- UTILITY POLE
- LIGHT POLE
- DECIDUOUS TREE DEC. 22"
- CONIFEROUS TREE CON. 12"

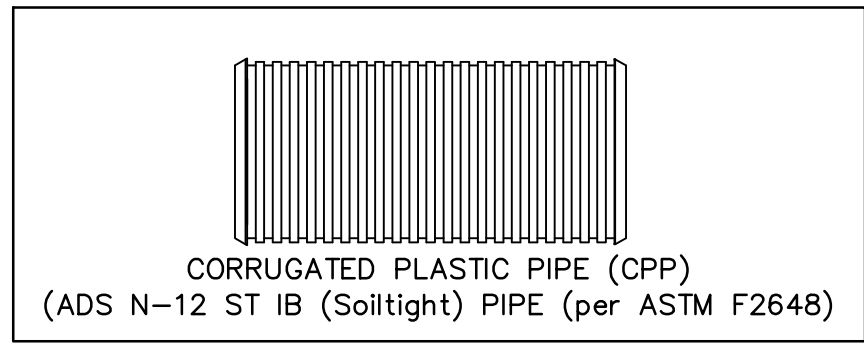


Address: #697 Washington Street

**Length Weighted Mean  
Existing Average Grade Calculation**

Segment	Length Of Segment in Feet	Height of High Point of Segment	Height of Low Point of Segment	E=(C+D)/2 Segment Height	F=BxE
1	9.57	63.70	63.00	63.35	606.26 Sq. Ft.
2	27.03	63.00	62.00	62.50	1689.38 Sq. Ft.
3	17.76	62.00	62.00	62.00	1101.12 Sq. Ft.
4	9.88	62.40	62.00	62.20	614.54 Sq. Ft.
5	3.98	62.40	62.00	62.20	247.56 Sq. Ft.
6	7.07	62.00	61.40	61.70	436.22 Sq. Ft.
7	11.90	62.00	61.40	61.70	734.23 Sq. Ft.
8	14.08	62.70	62.00	62.35	877.89 Sq. Ft.
9	8.76	62.30	62.00	62.15	544.43 Sq. Ft.
10	15.35	62.00	61.30	61.65	946.33 Sq. Ft.
11	44.96	60.50	57.00	58.75	2641.40 Sq. Ft.
12	20.83	57.00	57.00	57.00	1187.31 Sq. Ft.
13	24.43	61.00	57.00	59.00	1441.37 Sq. Ft.
14	35.16	63.80	61.50	62.65	2202.77 Sq. Ft.
<b>Total</b>	<b>250.76</b>				<b>15270.80 Sq. Ft.</b>

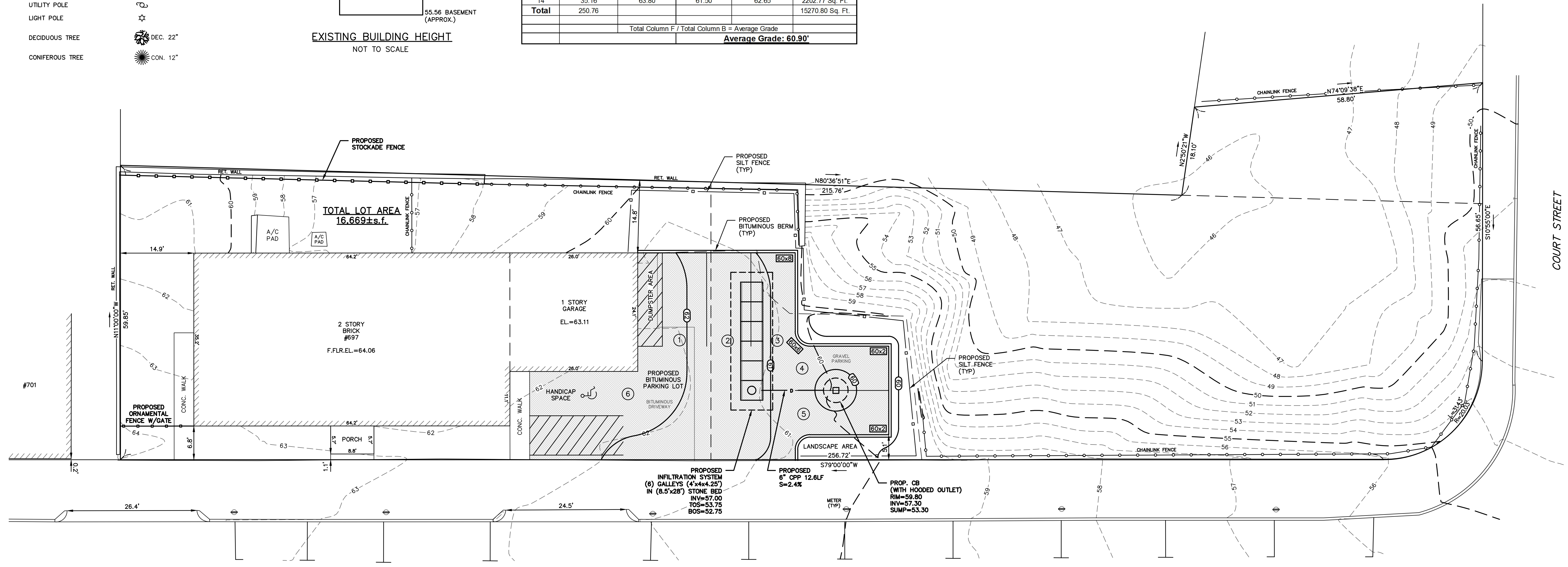
Total Column F / Total Column B = Average Grade  
**Average Grade: 60.90'**



**ZONING CHART**

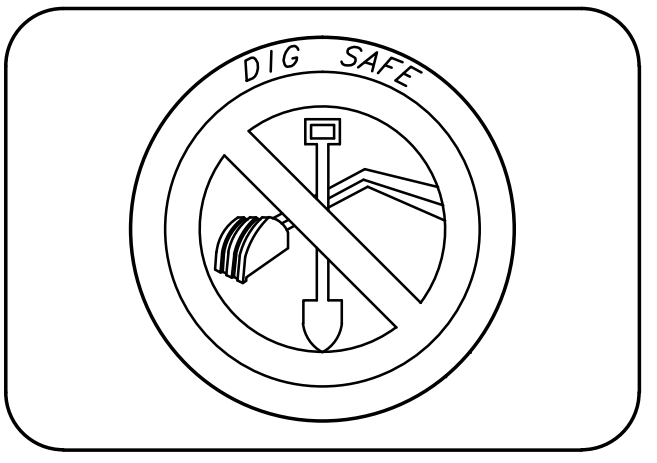
NEWTON, MASSACHUSETTS

ZONE: BU-2		SUBMISSION: EXISTING	
REGULATION	REQUIRED	EXISTING	
LOT AREA	10,000s.f.	16,669±s.f.	
LOT FRONTAGE	80.0'	344.80'	
FRONT SETBACK	Avg. 5.1'	1.1'	
SIDE SETBACK	1/2 bldg.ht.	14.9'	
REAR SETBACK	0	14.8'	
BUILDING HEIGHT	2 story	24'	28.51'

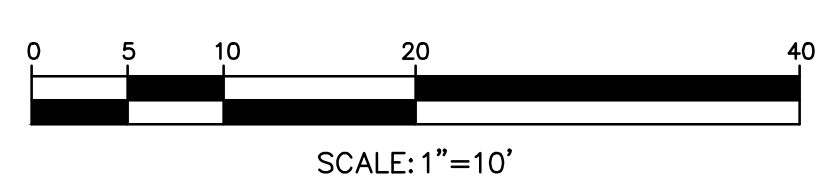


**DIG SAFE**

EXCAVATORS  
BEFORE YOU DIG CONTACT THE DIG SAFE CENTER TO PREVENT DAMAGE TO TELEPHONE, GAS OR ELECTRIC UNDERGROUND FACILITIES OF MEMBER UTILITIES. CALL TOLL FREE 1-888-DIG-SAFE. MASSACHUSETTS STATE LAW REQUIRES NOTIFICATION AT LEAST THREE BUSINESS DAYS BEFORE YOU START DIGGING OPERATIONS. IN AN EMERGENCY, CALL IMMEDIATELY



- NOTES:**
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING AND DETERMINING THE LOCATION, SIZE AND ELEVATION OF ALL EXISTING UTILITIES, SHOWN OR NOT SHOWN ON THIS PLAN. PRIOR TO ANY CONSTRUCTION, THE ENGINEER SHALL BE NOTIFIED IN WRITING OF ANY UTILITIES FOUND INTERFERING WITH THE PROPOSED CONSTRUCTION AND APPROPRIATE REMEDIAL ACTION BEFORE PROCEEDING WITH THE WORK.
  - THE LOCATION OF ALL UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASE ON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES SUCH AS CATCH BASINS, MANHOLES, WATERGATES, ETC. AND GOVERNMENT AGENCIES.



EXISTING IMPERVIOUS AREA: 4,104.2s.f.  
PROPOSED IMPERVIOUS AREA: 5,481.0s.f.  
TOTAL INCREASE IN IMPERVIOUS AREA: 1,376.8s.f.  
(16,669s.f. x 4%) / 100 = 666.76s.f.  
1,376.8s.f. > 666.76s.f. (DRAINAGE REQUIRED)

TOPOGRAPHIC SITE PLAN  
NEWTON, MASSACHUSETTS  
SHOWING PROPOSED CONDITIONS AT  
#697 WASHINGTON STREET  
SCALE: 1in.=10ft. DATE: JULY 24, 2014

PROJECT: 214113  
**VTP**  
ASSOCIATES  
INC.

LAND SURVEYORS - CIVIL ENGINEERS. 132  
ADAMS STREET 2ND FLOOR SUITE 3  
NEWTON, MA 02458  
(617) 332-8271