



Ruthanne Fuller
Mayor

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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 5, 2019
Land Use Action Date:	November 12, 2019
City Council Action Date:	November 18, 2019
90-Day Expiration Date:	December 4, 2019

DATE: August 30, 2019

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #257-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-family dwelling and construct seven single-family attached dwellings in ~~two~~ *three* buildings, to reduce the frontage requirement, to reduce the side setback requirement, to allow three-stories, to exceed maximum lot coverage, to allow a retaining wall greater than 4' in the setback and to allow a driveway in the side setback at **956 Walnut Street**, Ward 6, Newton Highlands, on land known as Section 62 Block 04 Lot 05, containing approximately 32,274 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.1, 3.2.4, 5.4.2.B, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



956 Walnut Street

EXECUTIVE SUMMARY

The property at 956 Walnut Street consists of 32,274 square foot parcel in a Multi-Residence 1 (MR1) zoning district improved with a two and a half story single-family dwelling built in 1924. The substantially wooded lot is abutted by the MWRA Sudbury Aqueduct to the west.

The petitioners propose to raze the existing single-family dwelling and construct seven single-family three-bedroom attached dwellings in three separate buildings (one three-unit and two two-unit dwellings). Each of the seven units would have two parking spaces located in individual underground garages served by a shared underground driveway that would be accessed via Walnut Street and a single entry portal at the southern portion of the site.

As proposed, the project requires significant zoning relief in the form of a special permit to:

- construct single-family attached dwellings in the MR1 zoning district,
- allow 15 foot and 17.5 foot side setbacks where 25 feet is required,
- allow the dwellings to have 3 stories where only 2 ½ stories are allowed by-right,
- exceed the maximum lot coverage allowed by-right allowed,
- allow a driveway in a side setback, and
- allow a retaining wall higher than four feet in a setback.

The Planning Department, while recognizing the scale of the proposed development, generally finds the location appropriate for the type of housing proposed given its location in a walkable area with a mix of uses near a village center and adjacent to the aqueduct corridor and the abutting “landlocked” vacant parcel to the north, and given that the building mass is distributed in three structures that would be extensively screened by a combination of privacy fencing and existing and additional trees and other vegetation.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site in a Multi-Residence 1 (MR1) district with 35.5 of frontage is an appropriate location for the proposed seven attached single-family dwellings as designed in three, three-story structures with a retaining wall higher than four feet in a setback (§7.3.3.C.1)
- The proposed seven attached single-family dwellings as designed in three, three-story structures with a retaining wall higher than four feet in a setback will adversely affect the neighborhood (§7.3.3.C.2);
- The proposed seven attached single-family dwellings as designed in three, three-story structures with a retaining wall higher than four feet in a setback will create a 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 numbers of vehicles

- involved (§7.3.3.C.4)
- Literal compliance with the provisions of §6.2.3.B.2 of the NZO that do not allow the location of a driveway within 10 feet of a side lot line setback is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that an exception to said provisions would be in the public interest, or in the interest of safety or protection of environmental features)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The neighborhood is predominantly comprised of single-family dwellings with several two-family dwellings interspersed throughout. Exceptions include various commercial uses, such as the supermarket, service station, stores, restaurants, offices, etc., and multi-family dwellings located just to the north in and around the Four Corners village center (**Attachment A**). The property, which is bordered along its western boundary by the Public Use-zoned MWRA Sudbury Aqueduct, and many other parcels in the immediate vicinity along Walnut Street are zoned Multi-Residence 1 (MR1), with several along the east side of Walnut Street to the north of the property being zoned Multi Residence 3 (MR3); also to north several parcels associated with the Four Corners village center referenced above are zoned Business 1 (BU1) or Business 2 (BU2) (**Attachment B**).

B. Site

Improved with a single-family dwelling built in 1924, the 32,274 square feet property abuts the MWRA Sudbury Aqueduct corridor to the west and several residences to the east. The parcel is accessed via a curb cut located on its rather narrow (35.5 feet) frontage on Walnut Street which serves a circular asphalt driveway adjacent to the existing dwelling. It is generally level for most of its expanse, especially in the vicinity of the dwelling, with the remaining portions of the site being generally wooded, with a somewhat downward sloping (with an approximately six-foot grade change) area at its northernmost point.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The proposed use of the site is seven attached single-family dwellings in three separate buildings (two dwellings each in two structures, three units in a third structure). Underground two-car garages for the each of the dwellings would be accessed via an underground driveway.

B. Building and Site Design

The petitioners propose to raze the existing single-family dwelling and construct seven single-family attached dwellings in three separate buildings. The “front” structure (i.e., the one closest to Walnut Street) which is referred to as “Building 3” in the architectural plans, would contain two dwellings (Units 6-7), as would the “middle” structure, referred to as “Building #2” (Units 3 and 4). The “rear” structure, “Building #1, would contain three units (Units 1-3).

The parcel has frontage of 35.5 feet. As the petitioner is proposing a change of use, the current 80-foot frontage requirement (per Sec. 3.2.4) would usually apply. However, as discussed in the attached Zoning Review Memorandum, since the frontage of the lot shares a boundary with aqueduct, and, as Sec. 1.5.2.A provides that “the line between land of the Commonwealth used as an aqueduct...and adjoining land shall not be deemed a lot line,” the Commissioner of Inspectional Services has determined that the lot has adequate frontage and does not require relief. As such, the Planning Department recommends that the requested relief to waive the frontage requirements be withdrawn.

Regarding setbacks, single-family attached dwellings are required to have 25-foot setback on all sides. While the proposed front setback of 64.5 feet exceeds this considerably, and the rear setback of 25 feet along the easterly boundary satisfies the requirement, the proposed 15-foot side setback along the northerly property line and the 17.5-foot side setback on the southern boundary, require a special permit. As designed, the project would also require the placement of walls related to Building #1 approximately 9 feet in height above grade in a setback at the northern end of the site.

The proposal’s lot area per unit is 4,611 square feet, considerably less than the existing 32,274 square feet but above the minimum 4,000 square feet required.

All three structures would have three stories, more than the maximum two and a half allowed by right and more than the existing dwelling. The three new ridge lines would be consistent, but their measured heights, all of which are below the maximum allowed 36 feet (but higher than the existing house’s height of 28.2 feet), would vary slightly, from 33.1 feet (Building #2) to 35.6 feet (Building #3), due to slight differences in the structures’ average grade planes.

The property’s lot coverage would be 26.6%, significantly higher than the 7.9% that currently exists and above the maximum 25% allowed by right, requiring a special permit. Open space on the lot would decrease from the existing 79% to 53%, remaining just above the required 50%.

Although the NZO does not establish floor area ratio (FAR) requirements for single family

attached dwellings, the project's 19,130 square feet of floor area (non-inclusive of space below the first floor) represents a FAR of 0.59. The Planning Department notes, for comparison, that the allowable FAR for single- and two- family structures on a similarly sized lot in an MR1 district would be of 0.38 with a possible bonus of 0.02 for new construction that complies with the "new lot" front, side and rear setback requirements of 30, 10 and 15 feet.

C. Parking and Circulation

The petitioners are proposing to provide nineteen total parking spaces: fourteen underground parking spaces for residents (two for each dwelling unit) and five surface guest parking spaces. To access these spaces, the petitioners propose a driveway off Walnut Street that would split into two branches near the property's frontage.

One branch would lead to a ramp to the below-ground circulation area and the associated two-car garages that would be located on the basement levels of each of the seven residential units. As noted in the attached Engineering Division memorandum, the retaining wall along the ramp to the underground garage would need a safety fence as there is an 9-foot drop in elevation.

The other branch, which would be located along the property's western boundary shared with the MWRA Sudbury Aqueduct corridor, would serve as an above-ground driveway serving the five guest parking stalls, two of which would be located between Buildings #2 and #3, and three others would be parallel spaces within the side setback along the property line shared with the aqueduct (as it is within 10 feet of a side lot line, this proposed driveway requires a special permit per Sec. 6.2.3.B.2).

The Planning Department questions whether all the proposed guest parking spaces are necessary and recommends the petitioner consider removing some or all of these stalls from the plan, especially those along the westerly property boundary along the aqueduct corridor. Such a change would reduce the amount of impervious area on the site and allow for additional screening of the proposed residential structures from that corridor as well as from Walnut Street.

D. Inclusionary Zoning

Per the draft inclusionary housing plan submitted by the petitioner the development would include one affordable three-bedroom unit, identified as Unit #2 (the middle unit in Building #1). Also, according to the submitted draft inclusionary housing plan the pricing of the unit would be based on 70% of AMI, below the 80% requirement. The City's Fair Housing Commission has provided the attached recommendation on the proposal (**Attachment C**).

E. Landscaping

According to the submitted landscape plan, several existing mature trees, along the

rear and side property lines would be retained. Approximately 130 new trees would be installed on the property, although 80 of these would appear to largely define and screen the unit's rear yard areas from each other. The remaining 50 additional new trees would be distributed along the property's rear and side property lines. The landscape plan also indicates that a 6-foot privacy fence would be installed along the rear/eastern boundary line shared with several residential parcels.

The Planning Department generally believes that the proposed additional trees and fencing, in concert with the existing vegetation will adequately screen the site from adjacent properties. That said, the Planning Department suggests that, given the location of existing and proposed trees, the location of the fencing along the rear/eastern property line be denoted more explicitly on the final landscape plan.

IV. TECHNICAL REVIEW

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

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

- Special Permit per §7.3.3 to:
 - allow attached single-family dwellings in an MR1 zoning district (§3.4.1)
 - reduce the side setback requirement (§3.2.4)
 - allow three stories (§3.2.4)
 - exceed maximum lot coverage (§3.2.4)
 - allow a driveway in the side setback (§3.2.4, §6.2.3.B.2)
 - allow a retaining wall higher than four feet within a setback (§5.4.2.B)

B. Engineering Review

The Engineering Division Memorandum (**Attachment E**) provides an analysis of the proposal with regard to engineering issues. (It should be noted that this memorandum was written as a review of an initial two-structure design for the project; an update of this memo has been requested and will be provided in the event it is received by the Planning staff in advance of the public hearing.)

Among the issues raised in the memorandum, the Engineering Division recommends that in the event this petition is approved, a new granite curb and cement concrete sidewalk and apron be constructed upon completion of the development. Further, as this is a residential development, said apron should be constructed to the City Standard

maximum width of 22 -feet, not the 24-feet shown in the plans.

The memo also notes that a construction management plan (CMP) would be required for this project. At a minimum the CMP would need to 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, any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.

The Engineering Division would also review the project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed work.

C. Historic Preservation Review

On August 28, 2014, the Newton Historical Commission (NHC) resolved to find the existing building "preferably preserved for its historic context and neighborhood support of its preservation." The resulting demolition delay was in effect until August 28, 2015. A demolition permit issued August 24, 2017 has been granted several subsequent extensions, the most recent of which apparently expired August 24, 2019.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Fair Housing Commission letter, dated June 34, 2019
- Attachment D:** Zoning Review Memorandum, dated July 15, 2019
- Attachment E:** Engineering Review Memorandum, dated May 23, 2019
- Attachment F:** DRAFT Order







ATTACHMENT A

Land Use

956 Walnut Street

*City of Newton,
Massachusetts*

Land Use

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

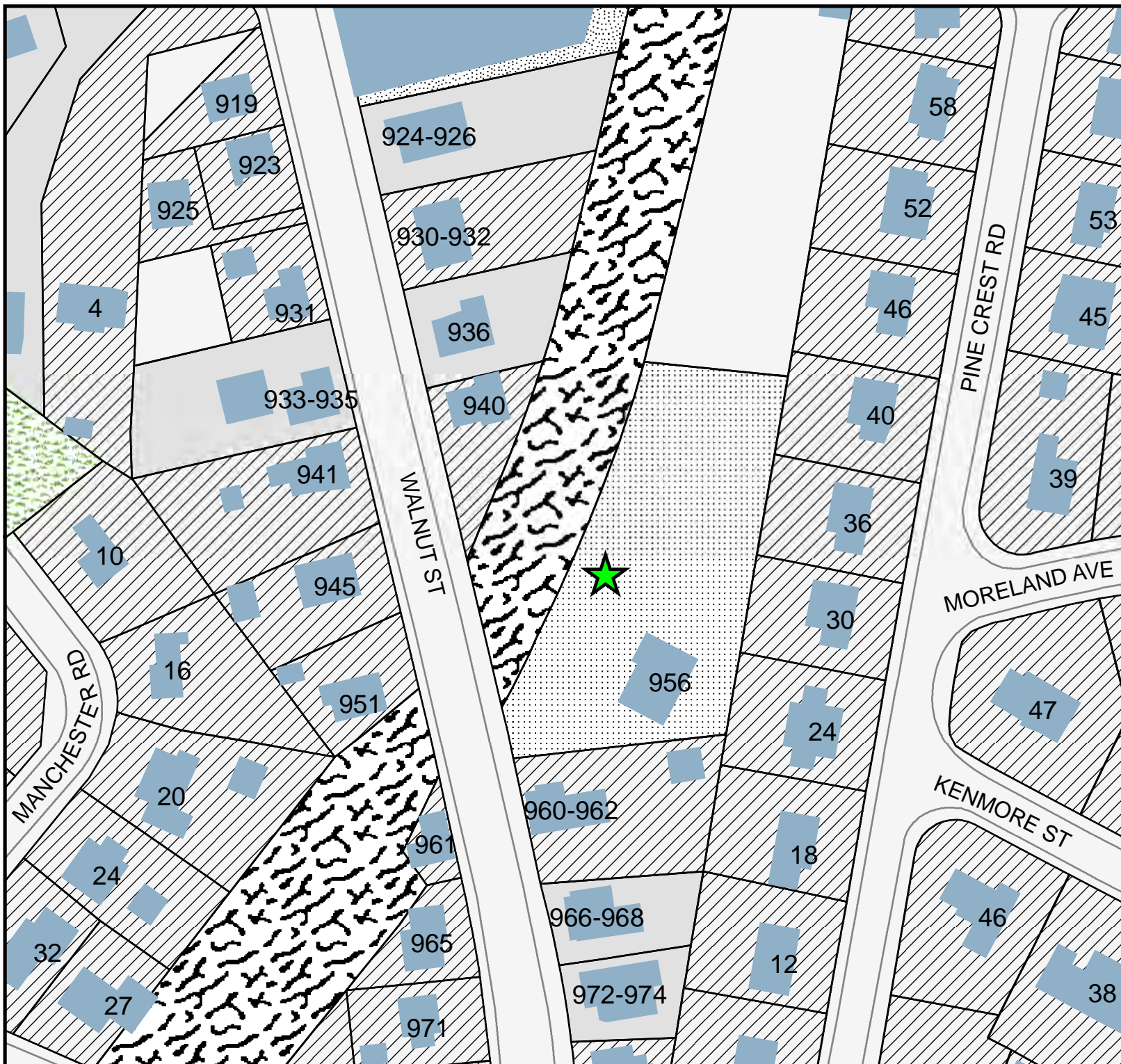


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: June 20, 2019








ATTACHMENT B

Zoning

956 Walnut Street

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1
-  Multi-Residence 2
-  Business 1
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: August 29, 2019



ATTACHMENT C



CITY OF NEWTON, MASSACHUSETTS

Fair Housing Committee

Date: 6/24/2019

Ruthanne Fuller
Mayor

Greg Schwartz, Chairman
Land Use Committee
Newton City Council
1000 Commonwealth Avenue
Newton, MA 02459

Barney Heath
Director of
Planning & Development

Re: #181-19: Residences at Four Corners, 956 Walnut Street, Newton Highland

Malcolm Lucas
Housing Planner

Dear Chairman Schwartz:

At the request of the developer of Residences at Four Corners, located at 956 Walnut Street in Newton Highlands (the "Project"), The Newton Fair Housing Committee (the "NFHC") recently reviewed the above-referenced proposal.

Members
Kathy Laufer, Chair
Ted Hess-Mahan, Vice-Chair
Esther Schlorholtz
Josephine McNeil
Donna Rigg
Tatjana Meschede
Rosemary Larking
Judy Korenowski

In 2015, the City of Newton agreed with the U.S. Department of Housing and Urban Development ("HUD") to "review all applicable projects for their inclusion of fair housing goals, and note in writing in all applicable project reviews a statement that 'the objectives of the City's *Consolidated Plan*, including fair housing, have been considered in this review'" as a part of the Conciliation Agreement between the City, HUD and the Supporters of Engine 6 to resolve a fair housing complaint. That charge complements the usual review by City staff in that it is asking for review that focuses on goals and policies that are documented in the Consolidated Plan, which calls for consideration thereof, and not necessarily consistency with such goals and policies.

In September 2016, the NFHC drafted a set of criteria for reviewing project developers' consideration of the City's fair housing goals, a copy of which is attached hereto. These criteria were revised in January 2019. The revised criteria reflect the following ways in which developers might go beyond regulatory requirements in order to serve the City's currently documented fair housing goals:

- Going beyond the required minimum share of project housing units that are committed to being affordable;
- Going beyond the regulated minimum share of project housing units that meet housing accessibility standards;
- Providing "visitability" for housing units not required to be fully accessible;
- Developing at a site that is well located in relation to commercial services and job accessibility;

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Preserving the Past



Planning for the Future

- Developing at a location close to good public transportation; and
- Going beyond legal obligation to avoid any possible discriminatory impacts on “protected classes.”

While none of these actions are specifically required by current law or regulation, each of them would support the fair housing goals set forth in the *Consolidated Plan*, and other documents cited in it.

The developer’s attorney, Laurance Lee, gave a presentation providing an overview of the Project, and answered questions and received comments from the members of the NFHC and City staff.

The site of the Project includes approximately 31,000 s.f. of land located in the heart of Four Corners, within easy walking distance from Whole Foods, Walgreen’s, and area restaurants and shopping. The site is adjacent to a residential area and the Sudbury Aqueduct, which provides an opportunity for active and passive recreation. The site is located on the No. 59 Bus Route and is approximately one-half mile from the Newton Highlands Green Line T station to the south, a half mile from the Library and City Hall to the north, a half mile from Cold Springs Park to the west, under a mile from the Newton Centre T station and various amenities to the east, and is directly on the No. 59 Bus route. The property is zoned Multi-Residence 1, and the Project will require a special permit.

The existing single-family house on the site will be demolished and replaced with seven (7) three-bedroom condominium units, each 2.5 stories tall, townhouse style, with an underground driveway that leads to individual private garages with 2 parking spaces per unit (as required by the Newton Zoning Ordinances). Because each unit has an underground garage, the units have no basements.

Living space is all above-ground, ranges between 2400 and 2800 s.f., and includes a bedroom and a full bathroom on the first floor of each unit. There is also an opportunity to add an elevator to each unit (at additional cost to the Buyer) to make each floor of the units fully accessible. Placing parking below grade maximizes the amount of green space, reduces building coverage (“Lot coverage”), removes garage doors from the street-view, and provides for guest parking spaces. One affordable unit will be provided with the project at 80% of the area median income (“AMI”). The developer states that, given the cost of the underground driveway, the number of units is the minimum required to make the Project economically feasible and include one affordable unit.

The developer has met with neighbors and has expended considerable time and effort to address their concerns about the design and construction of the Project.

Based on its review of the Project, the NFHC offers the following comments and observations concerning the extent to which the Project supports the City’s fair housing goals, for consideration by the Land Use Committee and the City Council in connection with granting a special permit for the Project.

Affordability. The Project would meet, but not exceed, regulatory requirements for affordability. The Project includes 1 affordable unit, as required by the City’s current Inclusionary Zoning Ordinance (IZO). The amenities in the affordable unit will be identical to the market rate units. Units will have separate water meters and utilities. The NFHC suggested adjusting the condo fees lower for the affordable unit, and to consider energy efficiency to make the units as affordable as possible.

Accessibility. The project offers an affordable unit that will meet regulatory requirements for accessibility on the first floor. Each unit will have a bedroom and a full bathroom on the first floor to enhance accessibility. Each unit is a 2.5 / 3 story townhouse and the future owners will have the option to install elevators at their cost to make the units more accessible. The units will not be accessible by wheelchair from the underground garages, unless an elevator is installed by a future owner.

Visitability. The Project would promote visitability. The first floor of each unit will have a bedroom and a full bathroom, which promotes visitability for both owners and guests. The NFHC also suggested making one of the guest parking spaces an HP parking space to promote visitability.

Housing/Employment/Transportation Proximities. The Project is in a highly desirable location. It is adjacent to a residential neighborhood consisting primarily of one and two-family houses, as well as an area with commercial activity and major employers, which include a grocery store, pharmacy, restaurants, and other businesses. It is also under a mile from substantial commercial activity and employment opportunities in Newton Centre. In addition, the Project is close to public transportation, including the Newton Highlands T Station, and is directly on a bus line.

Discriminatory Impacts. The Project does not appear to have a disparate impact on any protected class (i.e., race, national origin, color, religion, sex, disability, familial status, sexual orientation or gender identity). Indeed, the Project meets or exceeds minimum fair housing regulatory requirements in several respects. Significantly, the Project includes only 3-bedroom units, which offer housing opportunities for families with children under 18. As noted above, it is also conveniently located near housing, areas with substantial commercial activity and employment opportunities, as well as public transportation. In addition, each of the units includes identical amenities, including, among other things, a dishwasher and garbage disposal, and a bedroom and full bathroom on the first floor. Finally, in order to avoid any disparate impact, the NFHC notes that the marketing plan for sale/rental of the units should support the City's fair housing goals.

Thank you for your consideration. If you have any questions for the NFHC, please contact the City's Housing Planner, Malcolm Lucas, who staffs the committee, by tele phone at 617-796-1149 or by email at mlucas@newtonma.gov.

Sincerely,



Kathy Lauffer, Chair



Ted Hess-Mahan, Vice Chair

Attachment

cc: Laurance Lee, Esq.
Barney Heath, Director of Planning & Development
Jennifer Caira, Chief Planner
Amanda Berman, Director of Housing & Community Development
Malcolm Lucas, Housing Planner
Rachel Powers, Community Development and HOME Program Manager
Jini Fairley, ADA Coordinator
Nadia Khan, Land Use Committee Clerk



Ruthanne Fuller
Mayor

ATTACHMENT D

City of Newton, Massachusetts
Department of Planning and Development
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 15, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Laurance Lee, Attorney
956 Walnut Street LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow seven single-family attached dwellings in three buildings

Applicant: 956 Walnut Street LLC	
Site: 956 Walnut Street	SBL: 62004 0005
Zoning: MR1	Lot Area: 32,274 square feet
Current use: Single-family dwelling	Proposed use: Seven single-family attached dwellings

BACKGROUND:

The property at 956 Walnut Street consists of 32,274 square feet and is improved with a single-family dwelling built in 1924 in the MR1 zoning district. The property abuts the MWRA Sudbury Aqueduct to the west. The petitioners propose to raze the existing single-family dwelling and construct seven single-family attached dwellings in three separate buildings. Parking for the dwellings will be accessed via an underground driveway.

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

- Zoning Review Application, prepared by Laurance Lee, Attorney, dated 1/29/2019, revised 7/1/2019
- Site Plan of Land, prepared by Everett M. Brooks, surveyor, dated 1/24/2019, revised 6/27/2019
- Site Plan, signed and stamped by Derek Rubinoff, architect, dated 1/23/2019, revised 6/18/2019
- Architectural Plans and Elevations, signed and stamped by Derek Rubinoff, architect, dated 1/23/2019, revised 6/18/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct seven attached single-family dwellings within three separate structures in the Multi Residence 1 zoning district. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR1 district.
2. Section 3.2.4 requires 80 feet of frontage for single-family attached dwellings. The existing lot has 35.5 feet of frontage along Walnut Street. The Commissioner of Inspectional Services has determined that the lot frontage requirement applies where there is a change of use, as is the case in the proposed project. However, section 1.5.2.A states that “the line between land of the Commonwealth used as an aqueduct...and adjoining land shall not be deemed a lot line.” Where the frontage of the lot shares a boundary with aqueduct, and the boundary is not considered a lot line, the Commissioner has determined that the lot has adequate frontage and does not require relief. To the extent that the frontage is deemed insufficient, a special permit is required per section 3.2.4 to waive the frontage requirements.
3. Per section 3.2.4, single-family attached dwellings require a 25-foot setback on all sides. Per section 3.2.4, a special permit may be granted to allow a reduction in the required setback. The petitioner proposes a side setback of 15 feet on the northern side, and 17.5 feet on the southern boundary, requiring a special permit.
4. Section 3.2.4 requires a special permit for an attached single-family dwelling with three stories, where 2.5 stories are allowed by right. Per section 1.5.4.C defines a half story as “a story directly under a sloping roof...”. It has been interpreted by Inspectional Services to be a half story, the level must be completely under a sloping roof which goes to the top plate of the wall next below. The proposed design does not meet with the configuration required by this interpretation, and is therefore determined to be a full story, creating three-story structures. Per section 3.2.4, a special permit is required.
5. Section 3.2.4 requires a maximum lot coverage of 25%. The petitioners propose 26.6% lot coverage, exceeding the maximum allowed, requiring a special permit.
6. The petitioners propose a driveway from Walnut Street that services all buildings. The driveway splits at the frontage and travels along the aqueduct and then also along the property line with 962 Walnut Street where it leads to the ramp for the underground parking. Per section 6.2.3.B.2, no driveway may be located within 10 feet of a side or rear lot line. The proposed driveway is within 10 feet of a side lot line, requiring a special permit.
7. Section 5.4.2.B requires a special permit for the placement of a retaining wall within a setback. The petitioner proposes to construct a retaining wall higher than four feet within the side setback at the front corner of Unit 1. As proposed, a special permit is required.

MR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	32,274 square feet	No change
Frontage	80 feet	35.5 feet	No change
Setbacks			
• Front	25 feet	85.6 feet	64.5 feet
• Side	25 feet	17.1 feet	15 feet
• Rear	25 feet	19.4 feet	25 feet
Building Height	36 feet	28.2 feet	35.6 feet
Max Number of Stories	2.5 (3 by special permit)	2.5	3
Lot Coverage	25%	7.9%	26.6%
Open Space	50%	79%	53%
Lot Area Per Unit	4,000 square feet	32,274 square feet	4,611 square feet

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.4.1	To allow attached single-family dwellings	S.P. per §7.3.3
§3.2.4	To reduce the frontage requirement	S.P. per §7.3.3
§3.2.4	To reduce the side setback requirement	S.P. per §7.3.3
§3.2.4	To allow three stories	S.P. per §7.3.3
§3.2.4	To exceed maximum lot coverage	S.P. per §7.3.3
§3.2.4 §6.2.3.B.2	To allow a driveway in the side setback	S. P. per §7.3.3
§5.4.2.B	To allow a retaining wall higher than four feet within a setback	S.P. per §7.3.3

ATTACHMENT E

CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 956 Walnut Street

Date: May 23, 2019

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Ted Jerdee, Utilities Director
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner

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

*Site Plan of Land in Newton, MA
956 Walnut Street
Residence at 4-Corners
Prepared by: Everett M. Brooks Company
Dated: May 1, 2019*

Executive Summary:

This application entails the demolition of a single-family home, and garage to facilitate the construction of 6- condominium units on a 32, 274 square foot (0.74 acre) site that has a high point elevation of 148-feet around the existing dwelling and gentle slopes down to elevation 140-feet towards the north. The property is bound on the north & east by residential homes, on the west by a City Sanitary Sewer Easement and the Sudbury Aqueduct, and to the south by a single-family home.



Viewing west towards Walnut Street

Access for the development will be via a driveway apron from Walnut Street, however; the proposal is for a 24-foot wide apron, the City Standard maximum is 22 -feet, there is no need to have a wider driveway apron than the standard, this is a residential development, with no large trucks or deliveries.

The plan shows six residential units that will include an underground parking for the units and surface parking for 3 guests. No parking stripping and signage is needed in the driveway beyond these parallel stalls. The retaining wall along the ramp to the underground garage needs a safety fence as there is an 9-foot drop in elevation. Floor drains within the underground garage must be connected to the sanitary sewer connection via an MDC gas trap per State Plumbing code, this is not shown on the plans.

A retaining wall is proposed between the City Sewer Easement & MWRA's Sudbury Aqueduct, License Agreement(s) will be needed for this wall, details of the wall construction is needed. Additionally, the design has on grade parking and driveway access directly over the 8" clay sewer pipe. The engineer of record needs to provide detailed cross sections and calculations on the additional loads imposed on the sewer pipe, the bearing capacity of the 8" clay pipe to ensure that the new loads will not crush the pipe. These calculations must be submitted before the Special Permit is approved as the results may change the design. In addition to these calculations a Close Circuit Television (CCTV) inspection will be required for *Pre & Post* construction if the calculations indicate that there will be no impact to the sewer main.

A 2" copper water service is propose for domestic use for the six units with individual services for each unit, this is unacceptable, one 2" copper service shall be brought into a heated utility room with a master meter for the condominium, the association may then run submeter services to the 6-units. There is also a 4" fire suppression service for the entire development, fire flow test [witnessed by the Fire Department and utilities Division] is required at the two closest fire hydrants and hydraulic calculations for the fire sprinkler system.

A stormwater management system has been designed to accommodate the City's 100-year storm event of 8.78-inches over a 24-hour period, however; additional information is needed before the design is approved. Pre & Post construction watershed maps are needed that delineate drainage patterns & control points as are test pits and percolation test within 25-feet of each recharge system. The infiltration system needs impervious barriers on the downstream side or sides near abutting property of each system. Calculations are needed to demonstrate that the infiltration system will drain within 72 hours as required by the DEP. An Operations & Maintenance (O&M) Plan is needed for the proposed drainage systems, it needs to indicate the time intervals for inspections, cleaning & removal of sediment, the sweeping of the driveway & parking areas.

A detailed cross-section with elevations & pipe material is needed for the proposed sanitary sewer and water services near the proposed driveway apron since underground electric and telecommunication conduit transverse the entire frontage, the area is congested with various utilities and unforeseen conflicts of utility crossings & issues must be avoided.

As a public benefit it is recommended that new granite curb and cement concrete sidewalk & apron be constructed upon completion of the development.

Finally, a stone bound which delineates the limits of the MWRA's Sudbury Aqueduct and the limits of the public right of way has been damaged during the demolition of structures on site that has already taken place, the applicant will be required to set a new stone bound and submit a detailed survey plan stamped by a Registered Professional Licensed Surveyor that verifies that the new stone bound monument is properly placed.



Existing Sidewalk with underground utilities delineated

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 which 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 property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted 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 existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then 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.
2. 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.
3. All new sewer service and/or structures shall be pressure tested or videotaped 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.***
4. 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. 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, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*
8. Trash & recycling systems need to be identified.
9. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

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.

ATTACHMENT F

DRAFT- #257-19
956 Walnut Street

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow four single-family attached dwellings, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- The site in a Multi-Residence 1 (MR1) district with 35.5 of frontage is an appropriate location for the proposed seven attached single-family dwellings as designed in three, three-story structures with a retaining wall higher than four feet in a setback as it is located in a walkable area with a mix of uses near a village center with a variety of residential and commercial building types and uses (§7.3.3.C.1)
- The proposed seven attached single-family dwellings as designed in three, three-story structures with a retaining wall higher than four feet in a setback will not adversely affect the neighborhood as the development would be located in a walkable area with a mix of uses near a village center with a variety of residential and commercial building types and uses and the attached dwellings are well screened from abutting residences (§7.3.3.C.2);
- The proposed seven attached single-family dwellings as designed in three, three-story structures with a retaining wall higher than four feet in a setback will not create a 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 numbers of vehicles involved (§7.3.3.C.4)
- *Literal compliance with the provisions of §6.2.3.B.2 of the NZO that do not allow the location of a driveway within 10 feet of a side lot line setback is impractical due to the frontage and shape of the lot*

PETITION NUMBER: #257-19

PETITIONER: 956 Walnut Street LLC

LOCATION: 956 Walnut Street, Ward 6, on land known as Section 62, Block 4, Lot 5, containing approximately 32,274 sq. ft. of land

OWNER: 956 Walnut Street LLC

ADDRESS OF OWNER: c/o Laurance Lee, Esq.
Rosenberg, Freedman & Lee LLP
246 Walnut Street
Newton, MA 02460

TO BE USED FOR: Seven single-family attached dwellings in three structures

EXPLANATORY NOTES: Special permit as per §7.3.3 to :

- allow attached single-family dwellings in an MR1 zoning district (§3.4.1)
- reduce the side setback requirement (§3.2.4)
- allow three stories (§3.2.4)
- exceed maximum lot coverage (§3.2.4)
- allow a driveway in the side setback (§3.2.4, §6.2.3.B.2)
- allow a retaining wall higher than four feet within a setback (§5.4.2.B)

ZONING: Multi-Residence 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 and constructed consistent with:
 - a. Site plans, prepared by Everett M. Brooks Co., signed and stamped by Michael S. Kosmo, Registered Professional Engineer and Bruce Bradford, Professional Land Surveyor, consisting of the following sheets:
 - i. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Existing Conditions (Sheet 1 of 5), dated June 27, 2019;
 - ii. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Layout (Sheet 2 of 5), dated June 27, 2019;
 - iii. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Utilities and Grading (Sheet 3 of 5), dated June 27, 2019;
 - iv. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners"- Proposed Construction Plan (Sheet 4 of 5), dated June 27, 2019;

- v. "Site Plan of Land in Newton, MA, 956 Walnut Street, Residences at Four Corners" (details) (Sheet 5 of 5), dated June 27, 2019.
 - b. Architectural plans entitled "Residences at Four Corners, 956 Walnut St, Newton- MA 02459," prepared MGD+LLC Design and Consultants, signed and stamped by Derek E. Rubinoff, Registered Architect, consisting of the following sheets:
 - i. Cover Page (SP-A0.0), dated June 18, 2019;
 - ii. Zoning Analysis & Unit Types (SP-A0.2), dated June 18, 2019;
 - iii. Site Plan (SP-A0.1), dated June 18, 2019;
 - iv. Basement FI Plan and Section (SP-A1.2), dated June 18, 2019;
 - v. Landscape Plan (SP-A1.02), dated June 18, 2019;
 - vi. Elevations (SP-A2.1), dated June 18, 2019.
 2. The petitioner shall comply with the Tree Preservation Ordinance.
 3. All lighting fixtures shall be residential in scale.
 4. One (1) of the residential units shall be an ownership unit made available to households earning at or below 70% 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 ("Inclusionary Unit"). As proposed in the preliminary Inclusionary Housing Plan, last revised 3/12/19, the unit shall be made available to households earning at or below 80% AMI and shall be priced to be affordable to a household having an income of not more than 70% of AMI. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery the Inclusionary Units shall be designated as a Local Preference Units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).

The Inclusionary Unit shall comply with the provisions of the City's Inclusionary Zoning Ordinance (§5.11).
 5. The type of Inclusionary Unit shall be a three bedroom, three-and-a-half-bathroom unit.
 6. To the extent permitted by applicable regulations of DHCD, the Inclusionary Unit shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
 7. 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 unit will be affirmatively marketed and sold through a lottery.

No dwelling unit shall be constructed to contain, and/or marketed and/or sold as containing, more bedrooms than the number of bedrooms indicated for said unit in the plans referenced in Condition #1(b).

8. 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 Middlesex South Registry of Deeds.
 - 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. Provided a final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
 - d. 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.
 - e. Provided a Final Landscape Plan showing compliance with the Tree Preservation Ordinance and all new plantings, for review and approval by the Director of Planning and Development.
 - f. Provided 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 adopted by applicant, incorporated into the deeds; and recorded at the Middlesex South Registry of Deeds . A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
 - g. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1 including all dimensional requirements.
 - h. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11 of the Zoning Ordinance.
9. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall submit a Construction Management Plan 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. staging site for construction equipment,
 - b. construction materials,

- c. parking of construction workers' vehicles,
 - d. phasing of the project with anticipated completion dates and milestones,
 - e. safety precautions,
 - f. emergency contact personnel of contractor
 - g. anticipated dewatering during construction,
 - h. site safety & stability,
 - i. impacts to abutting properties, and
 - j. a construction noise plan.
10. No Final Inspection/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 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.
 - c. 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 construction details have been constructed to the standards of the City of Newton Engineering Division.
 - d. Filed with the City Clerk and the Commissioner of Inspectional Services, a statement from the Planning Department approving final location, number and type of plant materials and final landscape features.
 - e. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Unit has been completed to the Director of Planning and Development for review and approval.
 - f. Entered into, and recorded at the Middlesex South Registry of Deeds, a Regulatory Agreement and Declaration of Restrictive Covenants for the Inclusionary Unit 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 Unit in perpetuity.
 - g. The Inclusionary Unit shall be constructed and available for occupancy coincident with market rate units such that no more than three (3) market rate units may receive occupancy permits until the Inclusionary Unit has received its occupancy permit.
11. Notwithstanding the provisions of Condition #10 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provided that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of

Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.

12. All landscaping shall be maintained in good condition and shall be replaced with similar material as necessary.