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James Freas  
Acting Director


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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: May 12, 2015  
Land Use Action Date: June 9, 2015  
Board of Aldermen Action Date: June 15, 2015  
90-Day Expiration Date: August 10, 2015

DATE: May 8, 2015

TO: Board of Aldermen

FROM: James Freas, Acting Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Daniel Sexton, Senior Planner 

SUBJECT: **Petition #93-15, CAPASSO REALTY/PACKARD COVE ASSOCIATES, LLP, for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 5 parking stalls, to allow parking in the front and side setbacks, to waive the maneuvering aisle width, to allow a driveway entrance in excess of 25 feet, to allow tandem parking, and to waive parking lot screening and lighting requirements in order to locate a food establishment at 339 RIVER STREET, Ward 4, West Newton, on land known as SBL 44, 15, 13, containing approximately 10,150 sq. ft. of land in a district zoned BUSINESS 2. Ref: 30-24, 30-23, 30-19(d), 30-19(h)(1), 30-19(h)(3)b) and (4)b) and (5)a), 30-19(i)(1), 30-19(j), and 30-19(m) of the City of Newton Rev Zoning Ord., 2012.**

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



**339 River Street**

## EXECUTIVE SUMMARY

The property at 339 River Street consists of a 10,150 square foot corner lot at the intersection of River Street and Lexington Street, and is improved with an existing commercial building constructed in 1950. The petitioner intends to convert the existing site, which was previously used as a rental truck depot and a vehicle repair shop, into a restaurant with sit-down and take-out food service, which is an allowed use by right in a Business 2 district. The restaurant will have a total seating capacity for 37 patrons (21 indoor and 16 outdoor seats), although the outdoor seating will only be used seasonally. To accommodate the proposed number of patrons and employees (six) on the site, the petitioner is required to provide 16 parking stalls under the Newton Zoning Ordinance (NZO). The petitioner is only able, however, to provide 11 parking stalls meeting the dimensional standards of the NZO. In order to develop the restaurant as proposed, the petitioner is seeking a special permit to waive five parking stalls, and to allow additional waivers to the design and dimensional controls for parking facilities with more than five vehicles.

The Planning Department is not concerned with the establishment of a restaurant in this location, as the site was previously occupied by an intensive commercial use. The Planning Department further believes that the restaurant use will benefit the surrounding neighborhood and complements the current mix of commercial and residential uses in the area. The Planning Department is, however, concerned about the additional parking pressure this use may create in the surrounding neighborhood to handle the parking demand of the restaurant at full capacity. The Planning Department recommends that the petitioner conduct a parking utilization study of the surrounding public parking options, especially the on-street parking stalls during peak weekday/weekend hours.

***The proposed seating capacity indicated in the attached Zoning Review Memorandum differs from what is indicated in this memorandum, as the petitioner determined that 42 seats was not functionally feasible for the structure and site in terms of parking stalls needed.***

### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed project, as developed and operated, will not adversely affect the neighborhood. (§30-24(d)(2))
- There will be no nuisance or serious hazard to vehicles or pedestrians. (§30-24(d)(3))
- Access to the site over streets is appropriate for the types and number of vehicles involved. (§30-24(d)(4))

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject site is located at the corner of River Street and Lexington Street, and is proximate to the municipal boundary between Newton and the Town of Waltham. The property was developed with a commercial use, which consisted of a rental truck depot and a vehicle repair shop, and is adjacent to other commercially developed parcels as well as parcels containing single- and multi-family residences (**ATTACHMENT A**). The zoning districts in the surrounding neighborhood consist of Single Residence 3, Multi-Residence 2, Business 2, and Public Use districts (**ATTACHMENT B**). The site itself is zoned as Business 2.

### B. Site

The site consists of 10,150 square feet of land, and is improved with an existing commercial building that was constructed in 1950. The building comprises a small portion of the site and is otherwise a paved parking lot. There is a small vegetated strip along the southeastern property, but it is sparsely planted.

## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The petitioner is proposing to repurpose an existing commercial site, which was used for a rental truck depot and a vehicle repair shop, into a restaurant use. The restaurant use is allowed by right in the Business 2 district.

The Planning Department does not have any concerns with the creation of a restaurant in this location, as long as the intensity of the use does not impact parking in the surrounding neighborhood. The Planning Department recommends that the petitioner explain how the additional parking demand will be accommodated.

### B. Building and Site Design

The petitioner has obtained a building permit (#15020501) from the City's Inspectional Services Department to renovate the existing commercial building so it can be used for the proposed restaurant use. According to the project plans, the petitioner is proposing to create a restaurant with a total seating capacity for 37 patrons (21 indoor and 16 outdoor seats). The site's paved areas were not previously striped for parking and the site is a unique pie-shaped parcel, so the petitioner has proposed a new site plan to maximum the number of parking stalls while still allowing for the efficient circulation of vehicles. As a result of the petitioner's proposed site layout, waivers to the design and dimensional controls for parking facilities with more than five vehicles are required.

The Planning Department does not have any concerns with the repurposing of the site. As proposed, the Planning Department believes the new building design and reconfiguration of the site will minimize off-site impacts and benefit the surrounding neighborhood. Further, the Planning Department believes the proposed parking and circulation layout will improve the site's accessibility and internal circulation.

C. Traffic and Parking

The petitioner is proposing to create a restaurant with seasonal seating capacity for 37 patrons and is anticipating having six employees. Under §30-19(d)(13) of the NZO, the petitioner is therefore required to provide 16 parking stalls on the site. The petitioner, however, is only able to provide 11 parking stalls that comply with the dimensional controls due to the unique pie-shaped of the lot and the siting of the commercial building. As such, the petitioner is seeking a waiver of five parking stalls. The petitioner is also seeking waivers to the design and dimensional controls for the proposed parking facilities, which include: allowing parking stalls to be located in the front and side setbacks; allowing a tandem parking configuration; the reduction of the minimum maneuvering aisle width from 25 feet to 14½ feet for two-way vehicle travel; to not provide parking lot screening; and to not comply with the lighting requirements.

The Planning Department is not particularly concerned with the requested waiver of parking stalls, as the additional parking demand generated by the use will be seasonal. The Planning Department does, however, recommend that the petitioner complete a parking utilization study of the surrounding public parking options, especially the on-street parking stalls during peak weekday/weekend hours. The petitioner should also be prepared to explain how the additional parking demand will be accommodated.

In terms of the petitioner's requested waivers to the design and dimensional controls for parking facilities, the Planning Department is comfortable with most, but not all, the requested waivers as long as the petitioner utilizes pavement markings and signage to inform patrons how to navigate the site. Since the site directly abuts residential properties, the Planning Department is not supportive of granting a waiver of the screening requirements. The Planning Department recommends that the petitioner consider installing a sight-obscuring fence around the proposed dumpster area and along the property lines abutting residential properties to reduce the visual impact of the site on these parcels. The Planning Department also suggests that the petitioner develop a parking demand management plan. Further, the petitioner is encouraged to consider ways to mitigate the off-site effects of the requested waivers by voluntarily contributing funds to make improvements to the surrounding pedestrian facilities.

D. Landscape Screening

The petitioner is not proposing to install landscape screening due to the existing development patterns on the site. Since a number of the abutting properties contain residential uses, the Planning Department recommends the installation of a sight-obscuring fence around the proposed dumpster area and along the property lines abutting residential properties to reduce the visual impact of the site on these parcels. The petitioner should also consider ways that the front of the site could be visually improved, possible through the installation of above ground planters and/or attractive street or outdoor dining furniture.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT C**) provides an analysis of the proposal with regard to zoning. The petitioner is seeking the following reliefs:

- §30-19(d)(13) and §30-19(m), to waive five required parking stalls;
- §30-19(h)(1) and §30-19(m), to allow parking in the front and side setbacks;
- §30-19(h)(3)(b) and §30-19(m), to allow a 14½-foot wide maneuvering aisle;
- §30-19(h)(4)(b) and §30-19(m), to allow a driveway entrance in excess of 25 feet in width;
- §30-19(h)(5)(a) and §30-19(m), to allow tandem parking;
- §30-19(i)(1) and §30-19(m), to waive the parking lot screening requirements; and
- §30-19(j) and §30-19(m), to waive the parking lot lighting requirements.

B. Engineering Review

The Associate City Engineer submitted an Engineering Review Memorandum (**ATTACHMENT D**), providing an analysis of the proposal with regard to engineering issues. According to this analysis, the Engineering Division has serious concerns regarding work that is being completed without permits. The petitioner should be prepared to respond to the issues and concerns raised in the memorandum. As noted in the memorandum, the Planning Department supports the Engineering Division's recommendation to have a construction management plan created for the project.

V. PETITIONER'S RESPONSIBILITIES

The Planning Department recommends that the petitioner consider the comments and suggestions raised by the Planning Department and Engineering Division. Prior to the close of the public hearing or scheduling of a working session, the petitioner should address and/or provide information regarding the following:

- A parking utilization study of the surrounding public parking options, especially the on-street parking stalls during peak weekday/weekend hours; and
- A construction management plan.

**ATTACHMENTS:**





- Attachment A:** Land Use Map  
**Attachment B:** Zoning Map  
**Attachment C:** Zoning Review Memorandum, dated April 13, 2015  
**Attachment D:** Engineering Division Memorandum, dated April 29, 2015

# Land Use Map 339 River Street

*City of Newton,  
Massachusetts*

## ATTACHMENT A

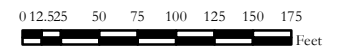
### Legend

-  Building Outlines
-  Property Boundaries
- Land Use**
-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Vacant Land

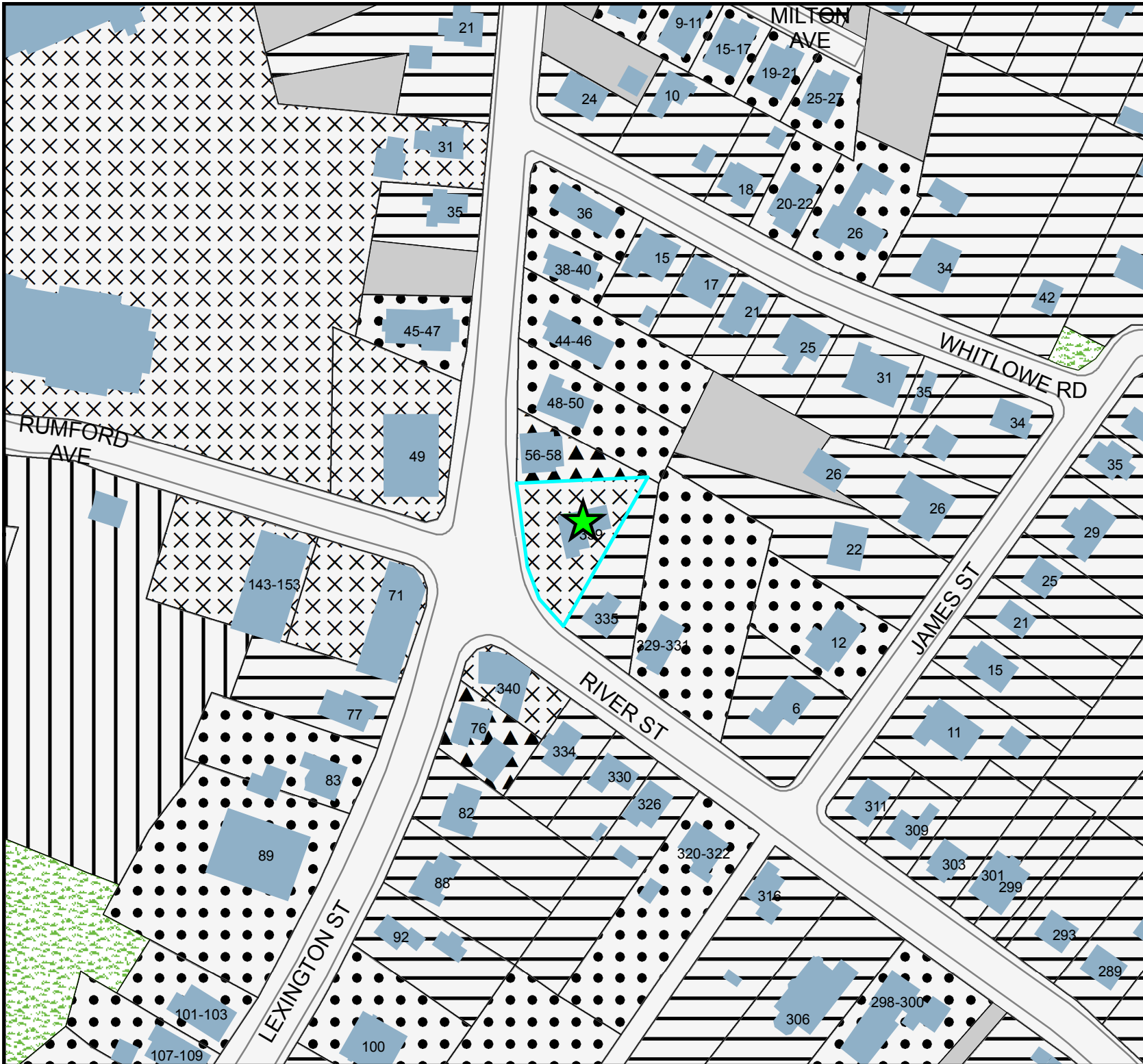


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: May 05, 2015











Setti D. Warren  
Mayor

ATTACHMNET C

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James Freas  
Acting Director

**ZONING REVIEW MEMORANDUM**

Date: April 13, 2015

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Anthony DePasquale, Applicant  
Packard Cove Associates, LLP  
James Freas, Acting Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to waive 5 parking stalls and associated parking lot requirements**

Applicant: Anthony DePasquale	
<b>Site:</b> 339 River Street	<b>SBL:</b> 44015 0013
<b>Zoning:</b> BU2	<b>Lot Area:</b> 10,150 square feet
<b>Current use:</b> Garage/rental truck facility	<b>Proposed use:</b> Restaurant with up to 42 seats (30 permanent, 12 seasonal)

**BACKGROUND:**

The property at 339 River Street consists of a 10,150 square foot pie-shaped lot improved with a commercial building built in 1950. The site was used as a rental truck depot and a vehicle repair shop. The applicant intends to repurpose the building to be used as a deli with sit-down and take-out service. To start, the applicant intends to have 21 seats, with 12 seasonal outdoor seats, and would like to be able to expand to up to 42 seats total (30 indoors, 12 outdoors).

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

- Zoning Review Application, prepared by Tony DePasquale, applicant, dated 3/9/2014
- Existing Conditions and Proposed Parking Plan, signed and stamped by Verne T. Porter, dated 12/24/2014, revised 3/24/2015
- Proposed Equipment Plan, prepared by Ron Jarek, architect, undated

## **ADMINISTRATIVE DETERMINATIONS:**

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1. The applicant proposes to create 11 parking stalls on the site, where none formally existed with the previous uses.
2. The applicant is proposing 30 permanent indoor seats, and 12 seasonal outdoor seats for a total of 42 seats. Pursuant to Section 30-19(d)(13), a restaurant requires one stall for every 3 seats, and one stall for every three employees at the largest shift. With 42 seats, and no more than six employees, the applicant requires 16 parking stalls. The applicant is proposing 11 stalls on the site, and requires a waiver of five parking stalls per Section 30-19(m).
3. The applicant is proposing to locate four of the 11 parking stalls within the front setback, and six of the 11 are proposed within the side setback. Per Section 30-19(h)(1), a special permit is required to locate parking within a required setback.
4. Section 30-19(h)(3)b) requires a minimum maneuvering aisle width of 20 feet for two-way traffic in a parking lot. The applicant is proposing a 14.5 foot wide aisle in front of the building. A special permit is required to waive the minimum aisle width of 20 feet per Section 30-19(m).
5. There are two entrances on the property, one approximately 32 feet wide, and the other approximately 28 feet wide. Section 30-19(h)(4)b) allows for a maximum width of 25 feet. A special permit to allow the wider entrances is required per Section 30-19(m).
6. There are two parking stalls, intended for employee parking, which will be boxed in by tandem parking. Section 30-19(h)(5)a) requires a special permit for tandem parking.
7. Section 30-19(i)(1) requires perimeter screening via landscaping and fencing. No landscaping is proposed at this time. To the extent that the proposed parking does not meet the requirements of Section 30-19(i)(1), a special permit is required.
8. Parking facilities are required to provide adequate security lighting per Section 30-19(j). To the extent that the proposed parking does not meet the requirements of this section, a special permit is required.
  
9. See "Zoning Relief Summary" below:

**Zoning Relief Required**

<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-19(d)(13), §30-19(m)	Parking waiver of 5 parking stalls	S.P. per §30-24
§30-11(h)(1), §30-19(m)	To allow parking in the front and side setbacks	S.P. per §30-24
§30-19(h)(3)b), §30-19(m)	To allow a 14.5 foot wide maneuvering aisle	S.P. per §30-24
§30-19(h)(4)b), §30-19(m)	To allow a driveway entrance in excess of 25 feet	S.P. per §30-24
§30-19(h)(5)a), §30-19(m)	To allow tandem parking	S.P. per §30-24
§30-19(i)(1), §30-19(m)	To waive the parking lot screening requirements	S.P. per §30-24
§30-19(j), §30-19(m)	To waive parking lot lighting requirements	S.P. per §30-24

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Mark Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 339 River Street

Date: April 29, 2015

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

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

*339 River Street  
Newton, MA  
Existing Conditions Plan & Proposed Parking  
Prepared by: Verne T. Porter  
Dated: December 24, 2014  
Revised: 3-24-'15  
4-14-'15*

*Executive Summary:*

A site visit was conducted yesterday and a contractor was installing a perimeter drain along the southern property line, the contractor had no design and indicated that a design would be forthcoming. I indicated that he should stop and contact the engineer of record. My concern with this site is that it is a former gas station which may have contaminated soils and limited area to infiltration stormwater runoff from the site.



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.

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. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6.6-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the project. The design of the proposed on site drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.
2. An on-site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. This information must be submitted with the drainage study. The locations of these tests need to be shown on the site plan and must be performed within 25-feet of a proposed system.
3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to 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.
4. 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).

Sewer:

1. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the dwelling then 4" pipe per Massachusetts State Plumbing Code. In order to verify the slopes and inverts of the proposed service connection, two manholes of the existing sanitary sewer system need to be identified on the plan with rim & invert elevations. The crown of the service connection & the sewer man need to match.
2. 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.
3. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the city of Newton Construction Standards Detail Book.
4. All new sewer service and/or structures shall be pressure tested or 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.***
5. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***



Water:

1. 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.
2. 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. Finalized utility connection plan reflecting the above changes that meets the minimal design standards of the City of Newton must be submitted for approval by the contractor of record with appropriate Bonds & Insurance. 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, error or omissions by the Engineer of Record.
2. 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*
3. All tree removal shall comply with the City's Tree Ordinance.
4. 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 is 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*
5. 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.*
6. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.

7. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
8. If a Certificate of Occupancy is requested prior to all site work being completed. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.