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PUBLIC HEARING MEMORANDUM

Public Hearing Date: September 23, 2014
Land Use Action Date: October 14, 2014
Board of Aldermen Action Date: December 1, 2014
90-Day Expiration Date: December 15, 2014

DATE: September 19, 2014

TO: Board of Aldermen

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

SUBJECT: **Petition #273-14**, NICORE CONSTRUCTION CORP petition to change the zone of **114 River Street**, known also as Section 33, Block 23, Lot 15, containing approximately 6,837 square feet of land, from Business 1 to Multi Residence 2.

Petition #273-14(2), NICORE CONSTRUCTION CORP petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct four attached single-family dwellings in two buildings and to locate a driveway within ten feet of a side lot line at **5-7 Elm Street and 114 River Street**, West Newton, Ward 3, on land known as SBL 33, 23, 9, containing approx. 19,483 sq. ft. of land in a district zoned MULTI-RESIDENCE 2 and SBL 33,23,15, containing approximately 6,837 square feet of land in a proposed MULTI RESIDENCE 2 district, for a proposed total of 26,290 square feet of land. Ref: Sec 30-24, 30-23, 30-15(b)(5)(a) and b) 30-9(b)(5)(a) of the City of Newton Rev Zoning Ord, 2012, and Amend Special Permit #40-07, dated May 21, 2007.

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.



114 River Street & 5-7 Elm Street

EXECUTIVE SUMMARY

The site is comprised of two adjacent lots, 5-7 Elm Street and 114 River Street. The property at 5-7 Elm Street consists of a 19,483 square foot lot in a Multi-Residence 2 (MR-2) zoning district, improved with a two-story residential building, and the property at 114 River Street consists of a vacant 6,837 square foot lot in a Business 1 (BU-1) zoning district. The petitioner is proposing to merge the lots and construct four attached dwelling units, which requires rezoning 114 River Street to MR-2. The petitioner is seeking a special permit to allow attached dwellings and a waiver to locate a driveway within ten feet of a side lot line. The petitioner also recently completed an attached dwelling project at the adjacent property at 11-19 Elm Street and now is proposing to provide access to the subject property through that site, thereby requiring an amendment to the previously approved site plan under Board Order #40-07.

The Planning Department does not have any particular concerns with the rezoning of the property at 114 River Street, or the use of the site as attached dwellings. The site is located in a dense and mostly residential neighborhood that includes several multi-family/attached dwellings, and is adjacent to other Multi-Residence 1 (MR-1) and MR-2 zoned properties located on Elm Street and River Street. There does not appear to be any overwhelming reason to maintain this site for commercial use, as most of properties in the immediate area that are zoned BU-1 have converted to residential uses, and the area is proximate to West Newton's village center.

The Planning Department believes that four units are appropriate for this site considering the combined size and frontage of the two lots and the density of the surrounding neighborhood. The units are an average of 3,170 square feet (including garages of approximately 517 square feet) for a total Floor Area Ratio (FAR) of .48. Based on the location of the property at the intersection with River Street, the combined allowed FAR if the properties were not rezoned, the allowed FAR as a merged property in an MR-2 zoning district, and the FARs of the properties proximate to the site, the Planning Department believes that the size of the proposed project is not out of character with the surrounding neighborhood. The Planning Department continues to encourage the petitioner to reduce the size of some of the units, so that the project contributes to a more diverse housing stock, which is one of the goals of the 2007 *Newton Comprehensive Plan*.

The petitioner is proposing to alter the grading on the site due to the significant changes in elevation at the rear of the site. As a result, the proposed grade will be approximately eight feet higher than the existing grade towards the rear of the site, and a retaining wall will be constructed along the rear property line and a portion of the western property line. The Planning Department is concerned with the extent of these changes and the impact on adjacent properties, and encourages the petitioner to explore alternatives that will utilize some of the existing slope in the rear of the site. The Planning Department recommends a site visit by the Land Use Committee to better visualize the existing and proposed topography.

Overall it appears that the project is well designed from a site planning and an architectural perspective and that utilizing a shared access will allow for a significant amount of landscaping. The Planning Department recommends that the petitioner reduce the amount of proposed landscaping along the front property line in order to improve the connection between the site, its structures and the streetscape, and that the petitioner repair the side walk along the front property line and close the existing curb cuts.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- The proposed zoning change to 114 River Street from BU-1 to MR-2 is appropriate.
- The specific site is an appropriate location for a four-unit attached dwelling use. (§30-24(d)(1))
- The use 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 and an access easement is appropriate for the types and number of vehicles involved, and will allow for a greater amount of open space on the site. (§30-24(d)(4))
- The waiver of the required setback from the side property line for the driveway is appropriate, as it will allow for the use of a shared driveway. (§30-19(m))

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located at the corner of Elm Street and River Street, approximately a ¼-mile from West Newton's village center. The site is also directly across from a bus stop and a ¼-mile from the West Newton Commuter Rail station. The land uses surrounding the site are mostly residential, including single-family, two-family, and attached/multifamily dwellings (**ATTACHMENT A**), with a few commercial properties located on River Street. The density of the residential housing in the area generally increases towards Washington Street and the Massachusetts Turnpike (the "Pike"), as the zoning changes from Single-Residence 3 to MR-1 and MR-2 (**ATTACHMENT B**). The site abuts another attached dwelling project to the

south also developed by the petitioner, and a single-family home at 118 River Street.

The site is comprised of 5-7 Elm Street, which is zoned as MR-2, and 114 River Street, which is zoned as BU-2. The remainder of the properties on Elm Street are zoned MR-2. There are six properties located in a BU-2 zoning district at the intersections of River Street at Elm Street and River Street at Auburndale Avenue. Of those six, two are currently used for commercial purposes, while the others consist of single-family, two-family and multi-family dwellings.

B. Site

The site is located at the corner of Elm Street and River Street, with frontage on both streets. The existing use at 5-7 Elm Street is as a two-family dwelling, and the property at 114 River Street is vacant land formally occupied by a small grocery store that was destroyed by a fire in a 1999. There is currently one curb cut on Elm Street and one curb cut on River Street. The property at 5-7 Elm Street extends nearly 230 feet from the front property line to the rear property line. The rear of the site contains open space and vegetation.

In its existing condition, the site generally slopes down from the southeast corner of the site to the northwest corner, for a total grade change of approximately ten feet between the front and rear property lines (**ATTACHMENT C**). The grade change is particularly steep from the middle of the site to the rear, and there is a small knoll in the southwest corner of the site. The adjacent properties to the rear and the north have retaining walls along the property line of approximately three feet to account for the grade changes from the front of their properties to the rear of their sites.



The northern property line consists of tall trees and other vegetation, the rear property line is heavily vegetated with shrubs. The southern property line, which is adjacent to the attached dwelling project at 11-19 Elm Street, is sparsely

vegetated, though the site plan for the attached dwelling project indicates new plantings along that property line.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The petitioner is proposing to rezone 114 River Street to MR-2 to combine the lots at 114 River Street and 5-7 Elm Street, and to develop four attached dwellings in two separate structures with attached two-car garages. The following table provides the square footages and number of bathrooms and bedrooms for each of the units.

	House (sq. ft)	Garage (sq. ft)	Number of Bedrooms	Number of Bathrooms
Unit #1	2,749	517	3	3
Unit #2	2,528	517	3	3
Unit #3	2,672	519	3	3
Unit #4	2,659	518	3	3

The Planning Department does not have any particular concerns with the proposed rezoning of 114 River Street from BU-2 to MR-2, as many of the nearby lots zoned as BU-2 are now residential uses. In addition, the site itself is only 6,870 square feet, which makes it a difficult site for commercial development. The Planning Department does not believe the retention of this lot for commercial purposes provides any significant benefit to the City.

5-7 Elm Street is currently used as a two-family dwelling, and 114 River Street was used as a commercial property until a fire destroyed the property several years ago. The existing uses in the surrounding neighborhood include a number of multi-family/attached dwelling structures, some of which are even denser than the proposed project. Considering the surrounding land uses, the Planning Department believes that an attached dwelling use with the proposed number of units is appropriate for this site.

B. Building and Site Design

The petitioner is proposing to demolish the existing two-family structure on the site and build four attached dwellings in two buildings with attached two-car garages. Units #1 and #2 will be positioned side-by-side to face Elm Street, with Unit #2 setback slightly, and Units #3 and #4 will be located behind Unit #1. Units #3 and #4 and each of the attached garages will have limited to no visibility from the public way. The two buildings are separated by a driveway that accesses the garage for Unit #2. The proposed buildings will be approximately 29 feet tall and 2 ½ stories

and will include a number of architectural features, including but not limited to gable roofs, eaves, columns, and porches. The proposed materials will consist of clapboard siding, asphalt shingles, and aluminum gutters.

The petitioner is proposing vehicle access to the site through an easement over the adjacent driveway at 9-11 Elm Street, which is another attached dwelling project recently completed by the petitioner. The driveway opening from the adjacent property to the subject property is located approximately 60 feet in from the front property line. The use of a shared driveway is a unique opportunity that allows the petitioner to eliminate all curb cuts onto the site, and to replace the driveway space with open space.

In order to create a building pad for the proposed structures, the petitioner is proposing to raise the grade of the parcels substantially. The bulk of the regrading will occur towards the rear of the site, and will be sloped down to a proposed 3'11"-foot retaining wall. In the location where Unit #4 is proposed, the change in the grade shown on the site plan is approximately eight feet. The Planning Department is concerned that such a significant increase will cause Unit #4 to loom over what is now an open and vegetated area in the rear of the subject property and surrounding properties. The Planning Department encourages the petitioner to reduce the proposed grade change in the rear of the site by exploring ways to utilize the existing slope of the land with the development of Units #3 and #4. The Planning Department recommends a site visit by the Land Use Committee, in order to better visualize the topography of the site and surrounding properties.

While the Planning Department has concerns about the grade change in the rear of the site, overall it appears that the proposed buildings have been oriented and located to minimize their view from the street, to introduce different ridgelines, to take advantage of the shared driveway and site plan of the adjacent attached dwelling project, to and to create a significant amount of open space on the site. In addition, the front facades of Units #1 and #2 have small porches and other architectural features, which create a connection to the streetscape. The Planning Department suggests that the petitioner make the following changes along the front property line; reduce the amount of proposed shrubs, remove the proposing fencing or use a picket style of fencing, and provide additional walkways from the street to Units #1 and #2, in order to create a greater connection between the site and the streetscape. The Planning Department also suggests that the petitioner close the curb cuts on Elms Street and River Street and repair any damaged sidewalks.

The project will result in an FAR of .48, including the attached garages. There are several ways to approach the analysis of FAR, which generally reflects the mass of the structures on the site, including looking at the by-right FAR if the two lots were

not combined and the by-right FAR of the combined lots in an MR-2 zoning district.

	Allowed FAR	Square Footage
By-right as combined MR-2 lot	.38	10,000
By-right as separate lots	.54	14,213
Proposed	.48	12,633

As the table illustrates, the proposed FAR is between what would be allowed by right as separate or combined lots. In addition to conducting a site visit, the Planning Department also analyzed data from the Assessors Database for properties in the surrounding neighborhood and at the intersection of River Street and Elm Street, as shown in **ATTACHMENT D**. The Assessors data suggests that the mass/density of the proposed structure will be similar to other properties at the intersection of Elm Street and River Street, and will be greater than the density/mass of structures in the greater surrounding neighborhood, which includes Oak Ave and Auburndale Ave. For these reasons and based on its site visit, the Planning Department believes that the proposed density/mass of the building is appropriate for the location of the site, which is a transition point between Elm Street and River Street.

The Planning Department continues to encourage the petitioner to provide smaller sized units in the project in order to contribute to the diversity of the City’s housing stock, which is one of the goals of Newton’s *2007 Comprehensive Plan*. Reducing the size of one or two of the units to less than 2,000 square feet, which may mean the increase in one of the other units, would improve the project in terms of achieving these goals.

C. Parking and Circulation

The petitioner is proposing to accommodate all required parking stalls on-site in two-car garages. The petitioner will execute an access easement allowing residents to pass through the driveway at 11-19 Elm Street onto the site. The use of the shared driveway requires zoning relief for locating a driveway within the side setback. The petitioner did not identify the location of snow storage on the site plan, however, there appears to sufficient space in the lawn areas. The Planning Department has no particular concerns regarding parking or circulation on the site, and notes that the use of the shared driveway allows for a reduction in impervious surface and a reduction in curb cuts.

D. Landscape Screening

The petitioner submitted a landscape plan, which shows the removal of most trees on the site and the planting of new shrubs and trees on the site. The plan

also shows a retaining wall along a portion of the northern and western property lines. The landscape plan does not identify the types of shrubs and types and caliper of trees being planted on the site.

In general, while there are a significant amount of trees being removed, it appears that the lost vegetation will be replaced, if not increased, in the proposed site plan. Since the types of proposed trees/shrubs are not articulated in the landscape plan, it is difficult to compare the proposed vegetation to the existing vegetation. The Planning Department recommends that the petitioner use a combination of deciduous and evergreen trees for both aesthetics and privacy, particularly along the side and rear property lines where the grade of the land is changing significantly. The Planning Department also recommends that the petitioner provide fencing along the western and northern property lines, if existing fencing is being removed.

Prior to being scheduled for a working session, the Planning Department recommends that the petitioner submit a complete landscaping plan identifying the types and caliper of the proposed trees and the material of the proposed retaining wall. The revised landscape plan should also take into consideration the Planning Department's comments regarding the creation of a deeper connection to the streetscape.

E. Lighting

The petitioner did not provide a lighting plan with their application. The lighting plan should be submitted prior to a working session, as necessary, and should restrict light trespass onto adjacent properties. Lighting fixtures should be residential in nature and downshielded.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT E**) provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit for the following relief:

- Section 30-9(b)(5)(a), allow single-family attached dwellings
- Section 30-15(b)(5(a),and (b), locate a driveway within 10 feet of a side lot line
- Amend Board Order #40-07 Site Plan/Landscape Plan
- Rezone 114 River Street from BU-1 to MR-2

B. Engineering Review

The Engineering Department reviewed the site plan and provided comments in the Engineering Memorandum (**ATTACHMENT F**). The Associate City Engineer indicated that the drainage system was designed properly, and that the petitioner should repair damaged sidewalks in front of the property.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should provide a complete landscaping plan and lighting plan, as applicable prior to being scheduled for a working session.

ATTACHMENTS:

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Contour Map
- Attachment D:** FAR Analysis
- Attachment E:** Zoning Review Memorandum
- Attachment F:** Engineering Review Memorandum

Land Use Map 5-7 Elm Street & 114 River Street

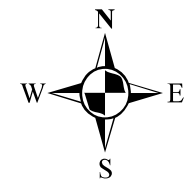
City of Newton,
Massachusetts

Legend

Land Use

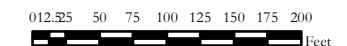
- Single Family Residential
- Multi-Family Residential
- Commercial
- Mixed Use
- Open Space
- Vacant Land
- Property Boundaries
- Building Outlines

ATTACHMENT A

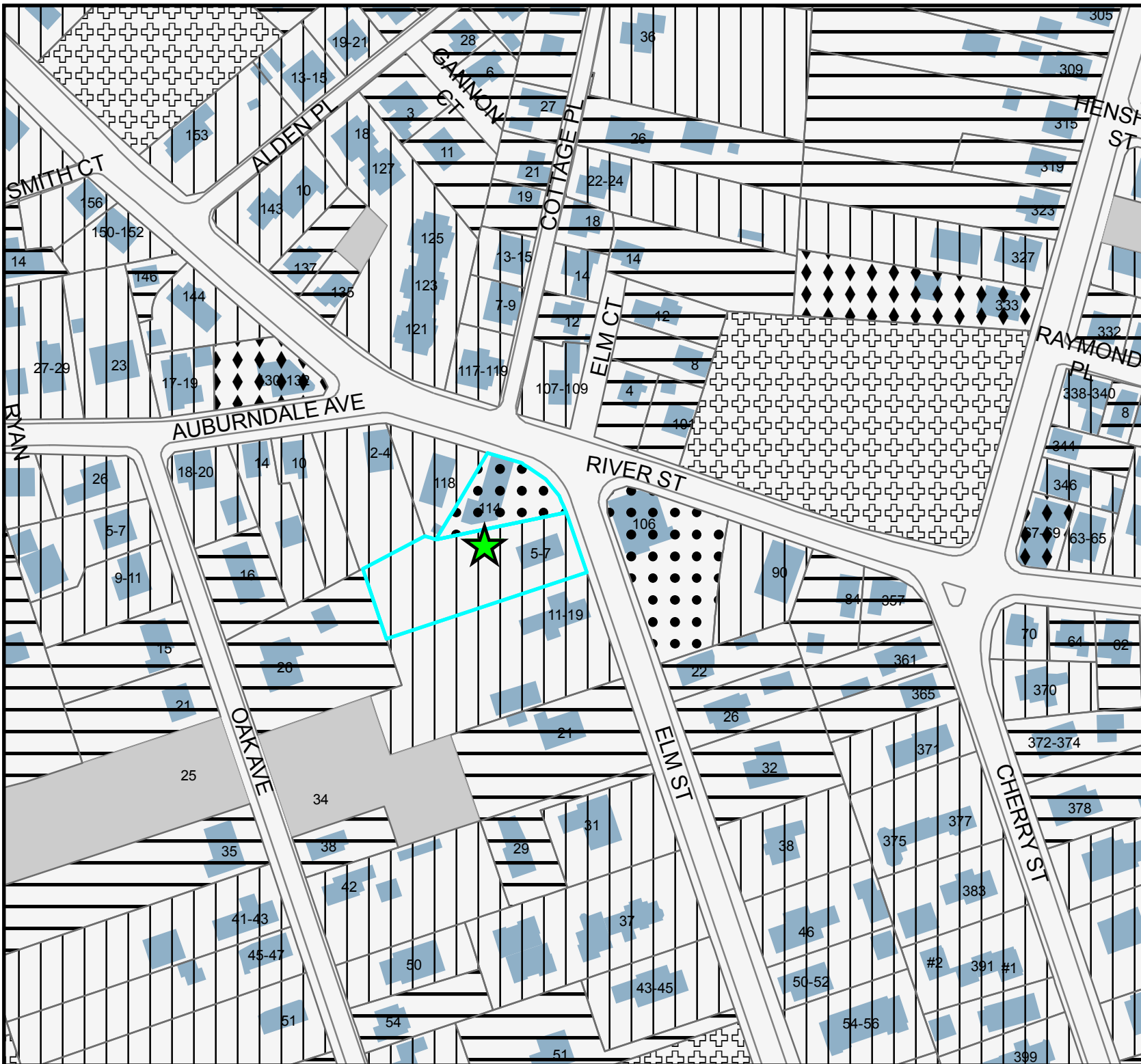


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: September 18, 2014

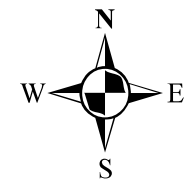


Zoning Map 5-7 Elm Street & 114 River Street

*City of Newton,
Massachusetts*

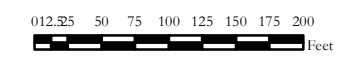
ATTACHMENT B

Legend	
	Single Residence 3
	Multi-Residence 1
	Multi-Residence 2
	Business 1
	Public Use
	Building Outlines

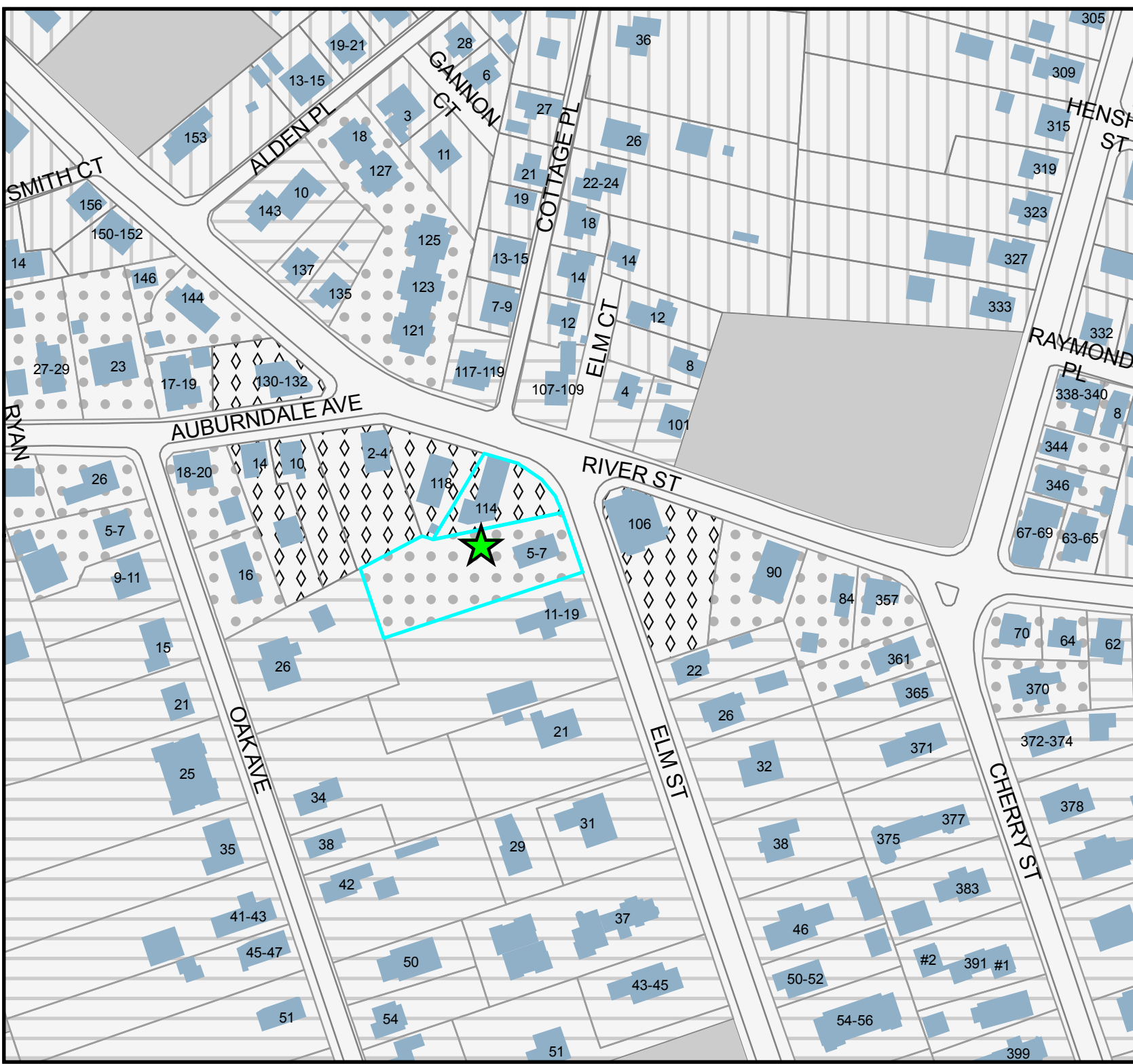


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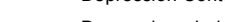
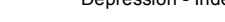
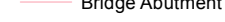
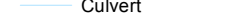


Contour Map 5-7 Elm Street & 114 River Street

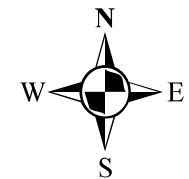
*City of Newton,
Massachusetts*

Legend

Contour Lines

-  Two Foot Contour
-  Index (10 Foot) Contour
-  Depression Contour
-  Depression - Index Contour
-  Bridge Abutment
-  Culvert
-  Wall

ATTACHMENT C

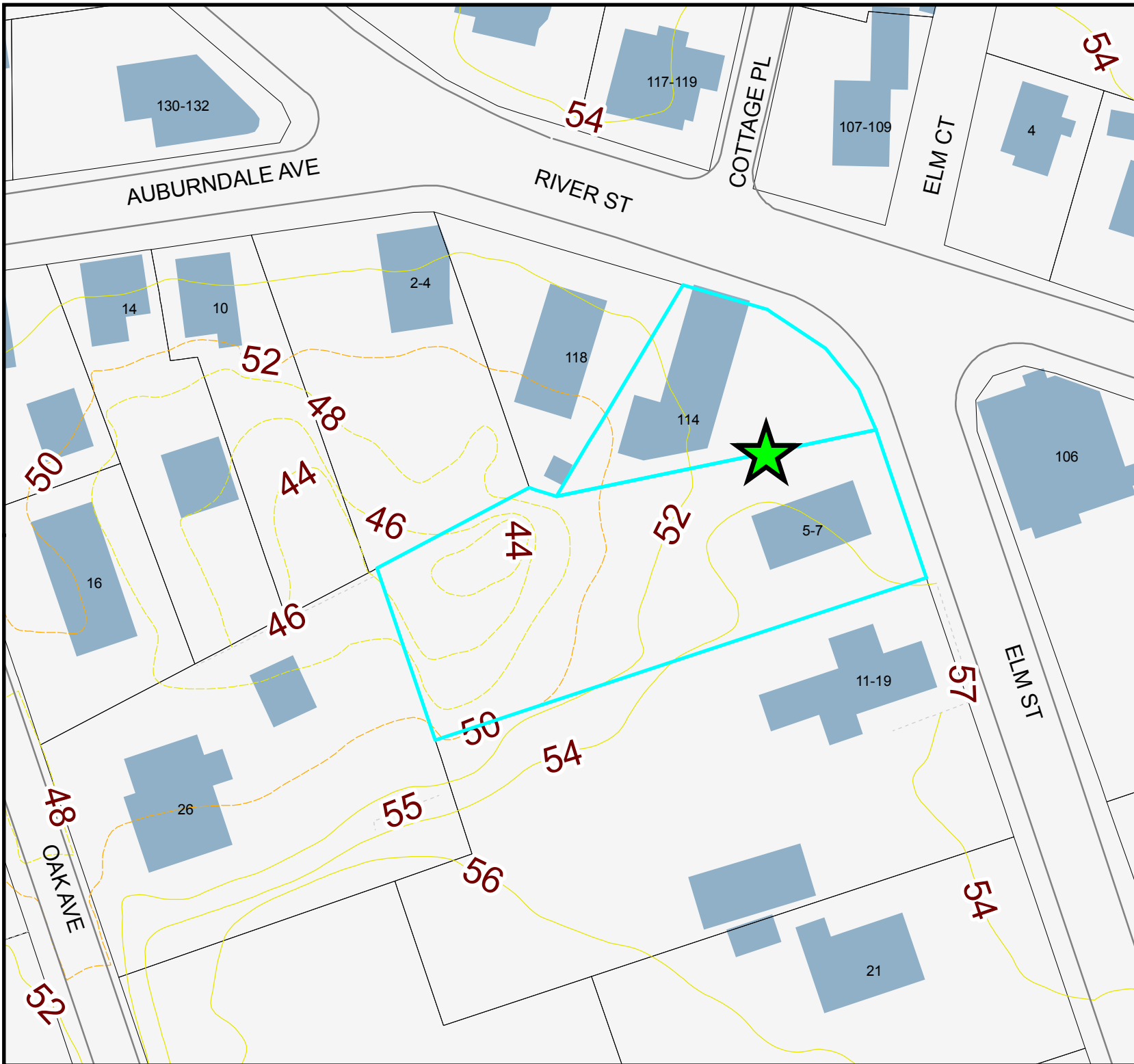


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SQUARE FOOTAGE OF STRUCTURES IN SURROUNDING NEIGHBORHOOD

Property	House			Detached			Lot Area per Unit	FAR (w/ basement)	FAR (wo/ basement)	
	Lot Size	Units	Size	Basement	Attic	Garage				Total
156 River Street	5,193	2	1,984	992	331		3,307	2,597	0.64	0.38
150-152 River Street	5,630	2	2,372	1,185	283		3,840	2,815	0.68	0.42
146 River Street	2,445	1	1,117	548			1,665	2,445	0.68	0.46
144 River Street	7,840	2	2,477	794		306	3,577	3,920	0.46	0.35
118 River Street	7,023	2	1,248	485			1,733	3,512	0.25	0.18
153 River Street	11,520	2	2,705	1,155		240	4,100	5,760	0.36	0.26
145 River Street	10,948	2	2,340	1,170			3,510	5,474	0.32	0.21
137 River Street	4,585	1	1,296	682			1,978	4,585	0.43	0.28
135 River Street	2,718	1	1,346	654			2,000	2,718	0.74	0.50
121-127 River Street	21,472	10	18,600				18,600	2,147	0.87	0.87
117-119 River Street	4,677	2	2,318	1,194			3,512	2,339	0.75	0.50
101 River Street	4,574	1	1,504	773	338		2,615	4,574	0.57	0.33
90 River Street	10,774	8	8,731				8,731	1,347	0.81	0.81
107-109 River Street	5,165	2	2,153	976	462		3,591	2,583	0.70	0.42
4 Elm Court	4,674	1	1,270	620	310		2,200	4,674	0.47	0.27
22 Elm Street	6,750	1	1,272	752			2,024	6,750	0.30	0.19
26 Elm Street	8,250	1	1,186	1,186		1,200	3,572	8,250	0.43	0.29
32 Elm Street	12,750	1	2,400	1,200	568		4,168	12,750	0.33	0.19
38 Elm Street	13,500	2	2,459	1,249		624	4,332	6,750	0.32	0.23
46 Elm Street	11,250	2	332	1,904	560	1,004	3,800	5,625	0.34	0.12
50-52 Elm Street	7,500	2	2,332	1,180			3,512	3,750	0.47	0.31
54-56 Elm Street	14,400	2	2,812	1,406			4,218	7,200	0.29	0.20
62-66 Elm Street	15,600	3	6,136	2,644			8,780	5,200	0.56	0.39
68-70 Elm Street	10,000	2	2,576	1,258			3,834	5,000	0.38	0.26
76 Elm Street	5,700	1	1,848	912			2,760	5,700	0.48	0.32
80 Elm Street	6,936	1	2,527	1,212			3,739	6,936	0.54	0.36
43-45 Elm Street	12,000	2	3,477	1,576			5,053	6,000	0.42	0.29
51 Elm Street	17,600	1	2,396	1,316			3,712	17,600	0.21	0.14
37 Elm Street	25,000	4	9,520	1,030			10,550	6,250	0.42	0.38
31 Elm Street	11,722	2	3,473	1,736	640		5,849	5,861	0.50	0.30
29 Elm Street	7,992	1	1,470	810			2,280	7,992	0.29	0.18
21 Elm Street	19,750	1	2,473	1,462		240	4,175	19,750	0.21	0.14
11-19 Elm Street	30,000	2	15,357	5,802		1,176	22,335	15,000	0.74	0.55

River St. Median
0.66 0.40

Elm St. Median
0.40 0.27

SQUARE FOOTAGE OF STRUCTURES IN SURROUNDING NEIGHBORHOOD

Property	Lot		House		Detached			Lot Area per Unit	FAR (w/ basement)	FAR (wo/ basement)
	Size	Units	Size	Basement	Attic	Garage	Total			
26 Auburndale Ave	6,340	2	2,172	1,106			3,278	3,170	0.52	0.34
18-20 Auburndale Ave	7,257	2	953	478		317	1,748	3,629	0.24	0.18
14 Auburndale Ave	8,535	2	1,998	999		692	3,689	4,268	0.43	0.32
10 Auburndale Ave	7,007	3	2,898	966			3,864	2,336	0.55	0.41
2-4 Auburndale Ave	11,552	2	2,200	1,100			3,300	5,776	0.29	0.19
23 Auburndale Ave	12,280	2	1,300	1,300			2,600	6,140	0.21	0.11
17-19 Auburndale Ave	4,216	3	2,712	1,356		342	4,410	1,405	1.05	0.72
16 Oak Ave	7,257	1	2,120	1,040			3,160	7,257	0.44	0.29
26 Oak Ave	20,000	1	1,560	1,680		528	3,768	20,000	0.19	0.10
7-9 Cottage Place	3,255	2	2,184	1,092	546		3,822	1,628	1.17	0.67
13-15 Cottage Place	3,250	2	2,092	986	493		3,571	1,625	1.10	0.64
19 Cottage Place	3,250	1	853	560			1,413	3,250	0.43	0.26
21 Cottage Place	3,250	1	1,171	693			1,864	3,250	0.57	0.36
27 Cottage Place	3,250	1	1,319	719		200	2,238	3,250	0.69	0.47
26 Cottage Place	14,960	1	2,200	756		576	3,532	14,960	0.24	0.19
22-24 Cottage Place	15,726	2	2,370	1,373			3,743	7,863	0.24	0.15
18 Cottage Place	3,020	1	1,572	616	260		2,448	3,020	0.81	0.52
14 Cottage Place	3,224	2	1,748				1,748	1,612	0.54	0.54
12 Cottage Place	3,088	1	1,318	659			1,977	3,088	0.64	0.43

Auburndale Ave.

Median

0.43 0.32

Cottage Pl.

Median

0.61 0.45

Average	9,359	2,889	1,170	436	573	4,227	5,796	0.51	0.35
Median	7,379	2,178			528	3,572	4,630	0.46	0.31

SQUARE FOOTAGE OF STRUCTURES PROXIMATE TO INTERSECTION OF ELM STREET AND RIVER STREET

Property	Lot Size	Units	House Size	Basement	Attic	Detached	Total	Lot Area per Unit	FAR (w/ basement)	FAR (wo/ basement)
118 River Street (abutting)	7,023	2	1,248	485			1,733	3,512	0.25	0.18
121-127 River Street	21,472	10	18,600				18,600	2,147	0.87	0.87
117-119 River Street	4,677	2	2,318	1,194			3,512	2,339	0.75	0.50
101 River Street	4,574	1	1,504	773	338		2,615	4,574	0.57	0.33
90 River Street	10,774	8	8,731				8,731	1,347	0.81	0.81
107-109 River Street	5,165	2	2,153	976	462		3,591	2,583	0.70	0.42
4 Elm Court	4,674	1	1,270	620	310		2,200	4,674	0.47	0.27
22 Elm Street	6,750	1	1,272	752			2,024	6,750	0.30	0.19
21 Elm Street	19,750	1	2,473	1,462		240	4,175	19,750	0.21	0.14
11-19 Elm Street (abutting)	30,000	2	15,357	5,802		1,176	22,335	15,000	0.74	0.55
26 Auburndale Ave	6,340	2	2,172	1,106			3,278	3,170	0.52	0.34
10 Auburndale Ave	7,007	3	2,898	966			3,864	2,336	0.55	0.41
2-4 Auburndale Ave (abutting)	11,552	2	2,200	1,100			3,300	5,776	0.29	0.19
26 Oak Ave (abutting)	20,000	1	1,560	1,680		528	3,768	20,000	0.19	0.10

Average	11,411		4,554	1,410	370	648	5,980	6,711	0.52	0.38
Median	7,015		2,186		528	528	3,552	4,043	0.53	0.34



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

ATTACHMENT E

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: June 9, 2014

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Terrence P. Morris, Attorney
Michael Lundberg, Nicore Construction Corp., Applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to construct four (4) single-family attached dwellings and to amend Board Order #40-07

Applicant: Nicore Construction Group	
Site: 5-7 Elm Street/114 River Street	SBL: 33023 0009 and 33023 0015
Zoning: MR-2/BU-1	Lot Area: 19,483 sf and 6,837 sf (26,290 sf total)
Current use: Two-family residence/vacant lot	Proposed use: Four attached dwellings

BACKGROUND:

The proposed project merges two adjacent lots; a 19,483 square foot lot at 5-7 Elm Street in the MR2 district, and 114 River Street, a 6,837 square foot lot in the BU1 zoning district. The property at 5-7 Elm Street contains an existing two-family dwelling, which is proposed to be razed. The lot at 114 River Street was used as a small grocery store from the 1920's through most of the 20th century until a fire destroyed the building. The parcel is currently vacant. The applicant proposes to rezone the parcel at 114 River Street to MR2 and merge it with the adjacent parcel at 5-7 Elm Street. Once rezoned, the applicant proposes two new two-unit attached dwellings each with their own two-car attached garage on the combined lot.

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

- Zoning Review Application, prepared by Terrence Morris, Attorney, submitted 4/23/2014
- Schematic Plot Plan, prepared by Space Craft Architecture, Inc., dated 4/16/2014

ADMINISTRATIVE DETERMINATIONS:

1. The parcel at 5-7 Elm Street is located in the Multi-Residence 2 zoning district, and the adjacent parcel at 114 River Street is zoned Business Use 1. The applicant proposes to have the BU1 parcel rezoned to MR2 for the purposes of merging the two lots for the single use of attached single-family dwellings. For the purposes of this memo, the following determinations will be based on the merger and rezoning of the BU1 parcel to MR2.

2. The property will be located in the MR2 zoning district in its entirety. The applicant is proposing four single-family attached dwelling units on a 26,320 square foot lot. Section 30-9(b)(5) of the Newton Zoning Ordinance allows single-family attached dwellings in one or more groups provided that the applicant obtains a special permit from the Board of Aldermen.

3. The petitioner proposes to have residents gain access to the property via an existing driveway on the abutting property at 9-13 Elm Street, the site of a previously approved and constructed attached dwelling project owned by the petitioner. As a result, the approved Site Plan/Landscape Plan for the 9-13 Elm Street special permit Board Order #40-07 and any appropriate conditions will need to be amended to accommodate the shared driveway access.

4. Because the dwellings will be served by a driveway on the adjacent parcel, the driveways into the attached garages will be within ten feet of the property line. Per section 30-9(b)(5)(a), a driveway may not be within ten feet of a property line without a special permit per section 30-9(b)(5)(b).

Zone MR2	Required	Existing	Proposed
Lot Size	15,000 square feet	26,290 square feet	No change
Lot area per unit	4,000 square feet		6,572 square feet
Frontage	80 feet	185 feet	No change
Setbacks			
• Front	25 feet	17.5 feet	26 feet
• Side	25 feet	25.1 feet	26 feet
• Rear	25 feet	186 feet	26 feet
Building Height	36 feet	25.1 feet	<36 feet
Max number of stories	2.5	2.5	2.5
Max building lot coverage	25%	5.8%	25%
Min amount of open space	50%	86.1%	62%
Parking stalls/dwelling units	8 spaces (2 per unit)		8

5. See “Zoning Relief Summary” below:

Zoning Relief Required

Ordinance		Action Required
	Rezone 114 River Street from BU1 to MR2	
	Amend Board Order #40-07 Site Plan/Landscape Plan	
§30-9(b)(5)(a)	Allow single-family attached dwellings	S.P. per §30-24
§30-15(b)(5)(a) §30-15(b)(5)(b)	Locate driveway within 10 feet of a side lot line	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 – #5 – 7 Elm Street & 114 River Street

Date: August 19, 2014

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

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

*Topographic Site Plan Showing Proposed Conditions
Newton, MA
Prepared by: VTP Associates Inc.
Dated: June 6, 2014*

Executive Summary:

If the special permit is approved an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots be combined into one lot. Furthermore since this project will be accessing off #11 & 13 Elm Street under the same ownership [I assume], then these additional lots must be combined.

The drainage analysis is properly designed for City of Newton's 100-year storm event of 6-inches over a 24-hour period. All runoff from impervious areas are collected and directed to on-site infiltrated on site infiltration systems.

As a public benefit all the damaged concrete sidewalks and damaged curbing shall be replaced with new cement concrete sidewalk, ADA compliant pedestrian ramps and old driveway opens shall be remodeled as sidewalk.





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. The two infiltration systems #5 & 6 need impervious barriers to be installed on the downstream side of the system. The barrier shall wrap around the two ends and be continuous along the downstream side from the top of the system to the bottom of the trench elevation.
2. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted to 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 there has 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 have this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. Use City of Newton Details in lieu of the details submitted they are in PDF format on the City's website.
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. As Elm Street has been reconstructed within the last 5-years, the utility trenches and roadway will have to be milled 25' on both sides of the utility trenches from curb line to curb line; then paved with 1-1/2" of Type I-1 Bituminous Concrete.
5. All new sewer service and/or structures shall be pressure tested or video taped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
6. 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 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*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. All site work being completed prior to applying for a Certificate of Occupancy. *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.