



#259-19

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City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 5, 2019
Land Use Action Date:	October 15, 2019
City Council Action Date:	October 21, 2019
90-Day Expiration Date:	November 4, 2019

DATE: August 30, 2019

TO: City Council

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

SUBJECT: **Petition #259-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow Single-Family Attached Dwellings with waivers to the dimensional standards at **264 Pearl Street**, Ward 1, Nonantum, on land known as Section 11, Block 14, Lot 10, containing approximately 14,608 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. §3.2.4, §3.4.1, §5.4.2.B, §6.2.3.B.2, §7.3.3, and §7.4 of the City of Newton Rev Zoning Ord, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis 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.



264 Pearl Street

EXECUTIVE SUMMARY

The property located at 264 Pearl Street consists of a 14,608 square foot lot in the Multi-Residence 2 (the “MR-2”) zone in Nonantum. The lot is improved with a two-family dwelling constructed circa 1905. The petitioner is seeking to raze the existing structure to construct three Single-Family Attached Dwellings. Additionally, the petitioner is seeking special permits to waive the dimensional standards for Single-Family Attached Dwellings such as lot area, frontage, side setbacks, and to allow a driveway within 10 feet of a side lot line. Lastly, the petitioner is also seeking a special permit to allow a retaining wall of four feet in height within front and the side setbacks.

The Planning Department is unconcerned with the increase in dwelling units from two to three, but staff is concerned that the structure will present as out of context to the neighborhood. As such, the Planning Department suggests that the petitioner work to break down the massing of the structure, by providing articulations, diversifying the roof forms, or offering a range of unit sizes.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed Single-Family Attached Dwellings. (§7.3.3.C.1)
- The Single-Family Attached Dwellings as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- The Single-Family Attached Dwellings 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 dimensional standards of Single-Family Attached Dwellings, specifically lot area, frontage, side setbacks, and a driveway within ten feet of a side lot line is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§3.2.4 and §6.2.3.B.2)
- The specific site is an appropriate location for retaining walls of four feet in height within the front and the side setbacks. (§5.4.2.B)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

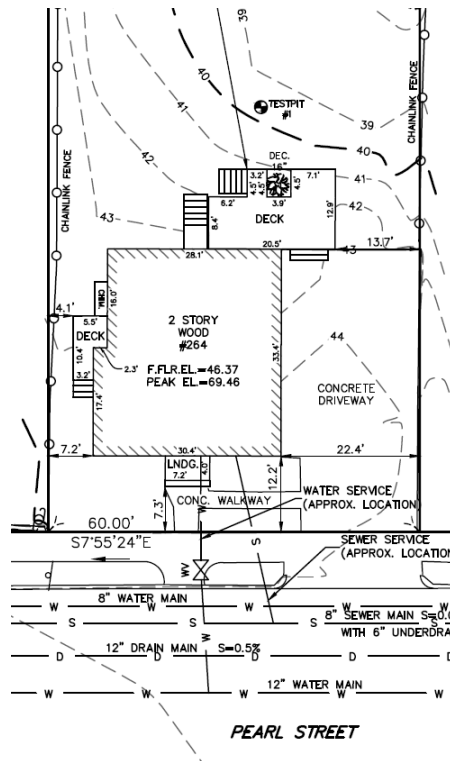
The subject property is located on Pearl Street within the MR-2 zone in Nonantum.

The neighborhood is located entirely within the MR-2 zone except for parcels to the northeast along Watertown Street, which are located within the Business Use 1 zone. **(Attachment A)**. As such, the neighborhood is comprised predominantly of single- and multi-family uses **(Attachment B)**.

B. Site

The site consists of 14,608 square feet of land and is improved with a two-story, two-family dwelling constructed circa 1905; the architecture of the dwelling is classified as a Worker Cottage. The structure is 23-feet tall and has a nonconforming front setback of 7.3 feet, where 25 feet is required. The structure also has a nonconforming side (south) setback of 4.1 feet where 7.5 feet is required. The front quarter of the lot has a noticeable change in grade, but towards the middle and rear of the lot the grade flattens; the rear of the lot is five feet lower than the front. There is an approximately 22-foot-wide curb cut at the northern portion of the site providing access to a four-stall surface parking facility. The site is sprinkled with mature landscaping and the northern and southern boundaries are enclosed with fencing.

Existing Site Plan



*The above graphic was cropped; the lot is deeper than shown.

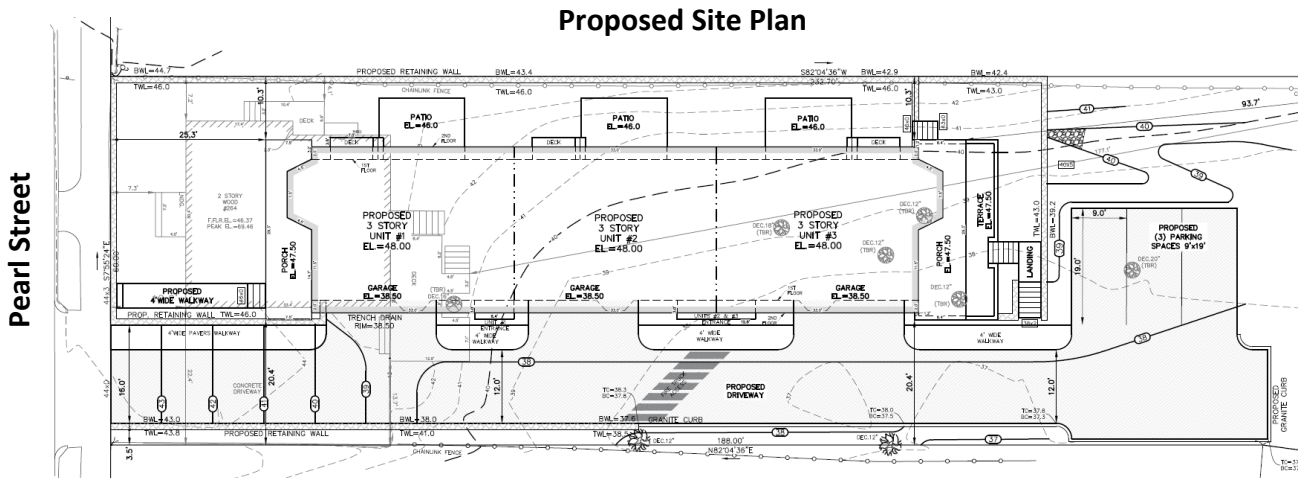
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will change from a two-family use to a multi-family use consisting of three Single-Family Attached Dwellings.

B. Site Design

The petitioner is proposing to raze the existing two-family dwelling to construct three Single-Family Attached Dwellings (the "Attached Dwellings"). The Attached Dwellings will be set back farther from the street than the existing structure, such that the front setback will be increased from 7.3 feet to 25.3 feet. From there, proposed structure will extend approximately 99 feet towards the rear (west) of the lot. This extension will decrease the rear setback from 177.1 feet to 93.7 feet. The southern side setback increases from 4.1 feet to 10.3 feet, while the northern setback will be increased from 13.7 feet to 20.4 feet, where 25 feet is the minimum required.



The petitioner is proposing to maintain the existing driveway and the curb cut at the northern corner of the site. The driveway will be approximately 16 feet wide, but four feet along its southern edge will be constructed of pavers, flush with the remaining twelve feet of driveway. This change in material will allow for vehicular maneuverability but will also be used as a walkway and will visually break up the driveway's width. The driveway will be approximately 188-feet long, before terminating at the hammerhead adjacent to three surface parking stalls at the northwest corner of the structure.

The petitioner is proposing to construct four retaining walls on site. Three of the four walls run from the front of the site to the rear to account for the change in grade. The retaining walls along the northern and southern boundaries are within the setback

but do not reach a height of four feet and therefore do not require relief. The retaining wall along the southern boundary of the driveway reaches a maximum height of seven feet to account for the difference in grade between the driveway and the front yard of the Attached Dwellings. The Planning Department is unconcerned with this wall because it allows for a front yard level with the sidewalk. The fourth retaining wall is adjacent to the rear unit. This wall helps to provide some terracing to create a back door to the rear unit. This wall is also not four-feet tall and does not require relief.

C. Building Design

The Attached Dwellings will be constructed one behind the other from the front of the lot to the rear. The front unit will feature a porch and a prominent front door to Pearl Street, while the middle and the rear unit will be oriented to the driveway and to the side lot line. At the northern and southern facades, the Attached Dwellings will feature three gable peaks demarcating the different units with a continual ridge line. The Attached Dwellings are approximately 30-feet tall, but they present differently to different facades, due to the grading. The Attached Dwellings appear to contain 3.5 stories from the northern boundary, while appearing to contain 2.5 stories from the southern and Pearl Street facades. Similarly, the Attached Dwellings measure 35.5-feet tall at the northern facade, 33-feet tall from Pearl Street, but only 27.5 at the southern façade.

Proposed Right Elevation



D. Parking and Circulation

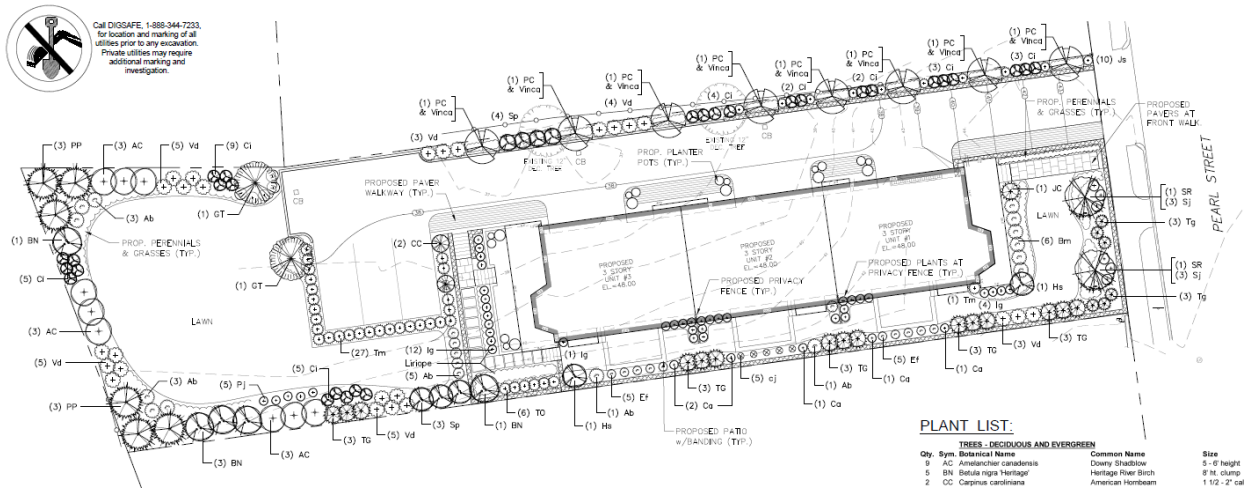
The petitioner is proposing to incorporate a two-car garage in the basement of each unit. The petitioner is also proposing to construct three surface “guest” stalls to the northwest corner of the structure, for a total of nine stalls on site. Staff does not believe these surface stalls are necessary because on-street parking along Pearl Street is largely unregulated. There are currently two units on site without the benefit of guest parking and staff does not believe that a third unit necessitates the guest stalls. Staff suggests that the petitioner remove these stalls in favor of reducing paving and creating more

open space.

E. Landscaping

The petitioner is proposing an extensive landscape plan that incorporates several different tree species with different functions such as providing ornamentation and screening. In addition to the trees, the petitioner is proposing a number of bushes and grasses. Staff is unconcerned with the landscape plan but suggests that the petitioner provide a net caliper inch analysis for the tree plan and confirm that all species are non-invasive.

Proposed Landscape Plan



IV. SINGLE-FAMILY ATTACHED DWELLINGS

A. Single-Family Attached Dwellings

Single-Family Attached Dwellings are allowed only by special permit in the Single- and Multi-Residence zones. This building type has unique dimensional standards that are also waivable by special permit. The criteria for granting such waivers is that "Literal compliance with the dimensional standards of Single-Family Attached Dwellings is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features."

The Planning Department is unconcerned with the request to increase the number of dwelling units on site from two to three due to the size of the lot and the proximity to the Nonantum Village Center. However, the petitioner requires several waivers from the dimensional standards. The lack of frontage directly relates to the building program which connects the units from front to back rather than from side to side along Pearl

Street. This lack of frontage also requires relief from the side setbacks as a wide lot would be more likely to accommodate the required distance. To minimize the relief for setbacks, the petitioner has constructed the Attached Dwellings in a line which may present as out of context with the neighborhood. As such, the Planning Department suggest that the petitioner work to break down the massing along the northern and southern facades by incorporating articulations, diversifying roof forms, or offering a mix of unit sizes.

V. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the Memorandum, the petitioner is seeking the following relief:

- §3.4.1 and §7.3.3 of Section 30, to allow attached the Single-Family Attached Dwellings.
- §3.2.4 and §7.3.3 of Section 30, to reduce the side setback requirement.
- §3.2.4 and §7.3.3 of Section 30, to reduce the frontage requirement.
- §3.2.4 and §7.3.3 of Section 30, to reduce the lot area requirement.
- §3.2.4, and §6.2.3.B.2 of Section 30, to allow a driveway within ten feet of a side lot line.
- §5.4.2.B of Section 30, to allow a retaining wall of four feet within the side setbacks.

B. Engineering Review

Associate City Engineer, John Daghlian, reviewed this petition for conformance with the City of Newton Engineering Design Standards (**Attachment D**). Planning staff will confer with Mr. Daghlian regarding whether the petition requires more engineering work for the proposed connection to the City’s drain line; staff will provide the Land Use Committee with an update at the public hearing.

C. Historic Preservation Review

At the October 3, 2018 meeting of the Newton Historical Commission (the “NHC”), the NHC found the structure “Not Preferably Preserved”. As a result, the petitioner can raze the structure.

VI. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.







ATTACHMENTS:

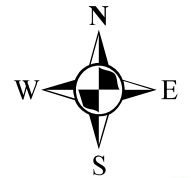
- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum, dated May 1, 2019
- Attachment D:** Engineering Review Memorandum, dated August 16, 2019

Attachment A Zoning Map Pearl St., 264

*City of Newton,
Massachusetts*

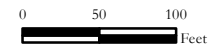
Legend

-  Multi-Residence 2
-  Business 1
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

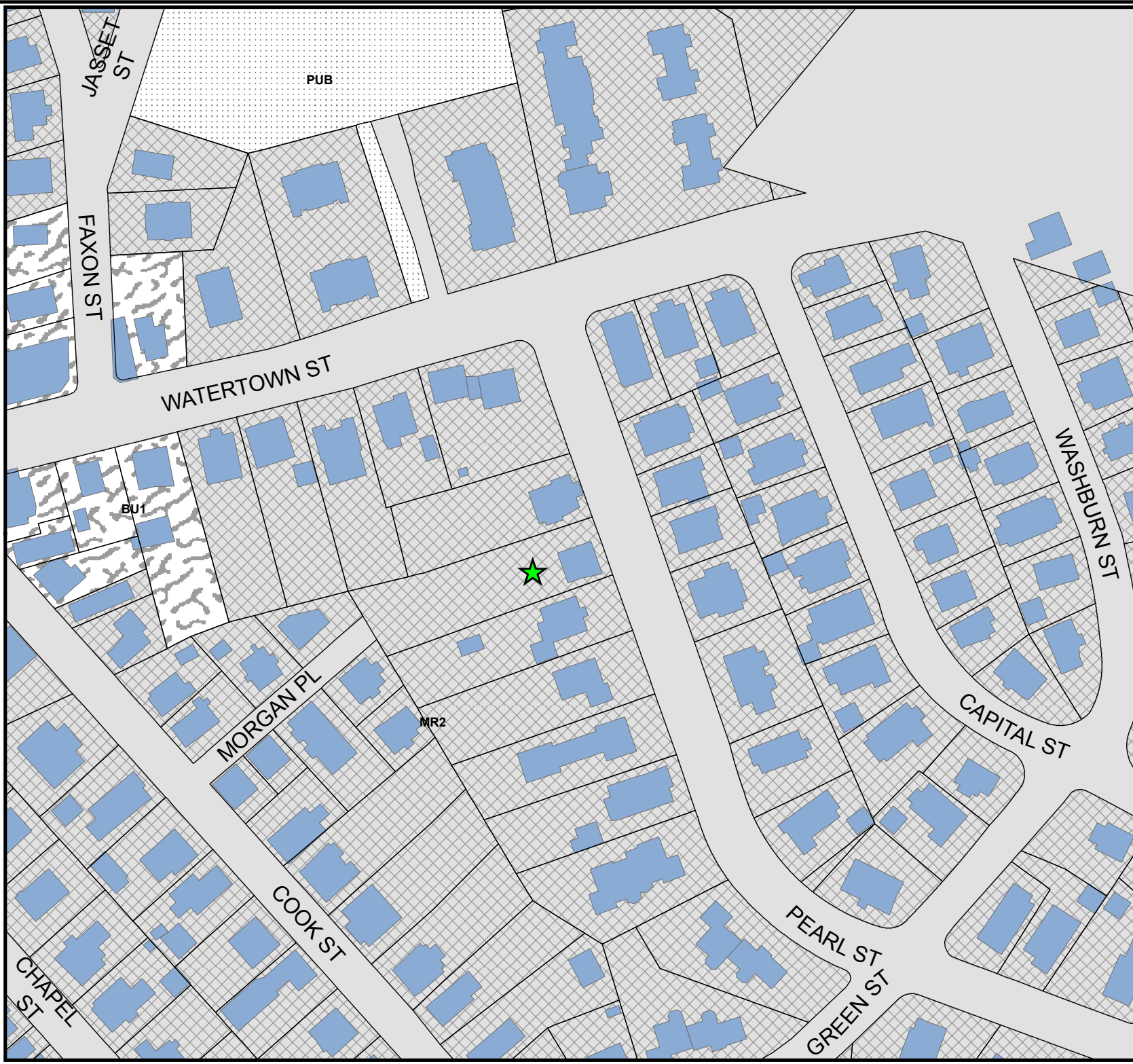


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Map Date: August 20, 2019






Attachment B Land Use Map Pearl St., 264

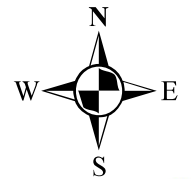
*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land
-  Tax Exempt
-  Building Outlines
-  Surface Water
-  Property Boundaries

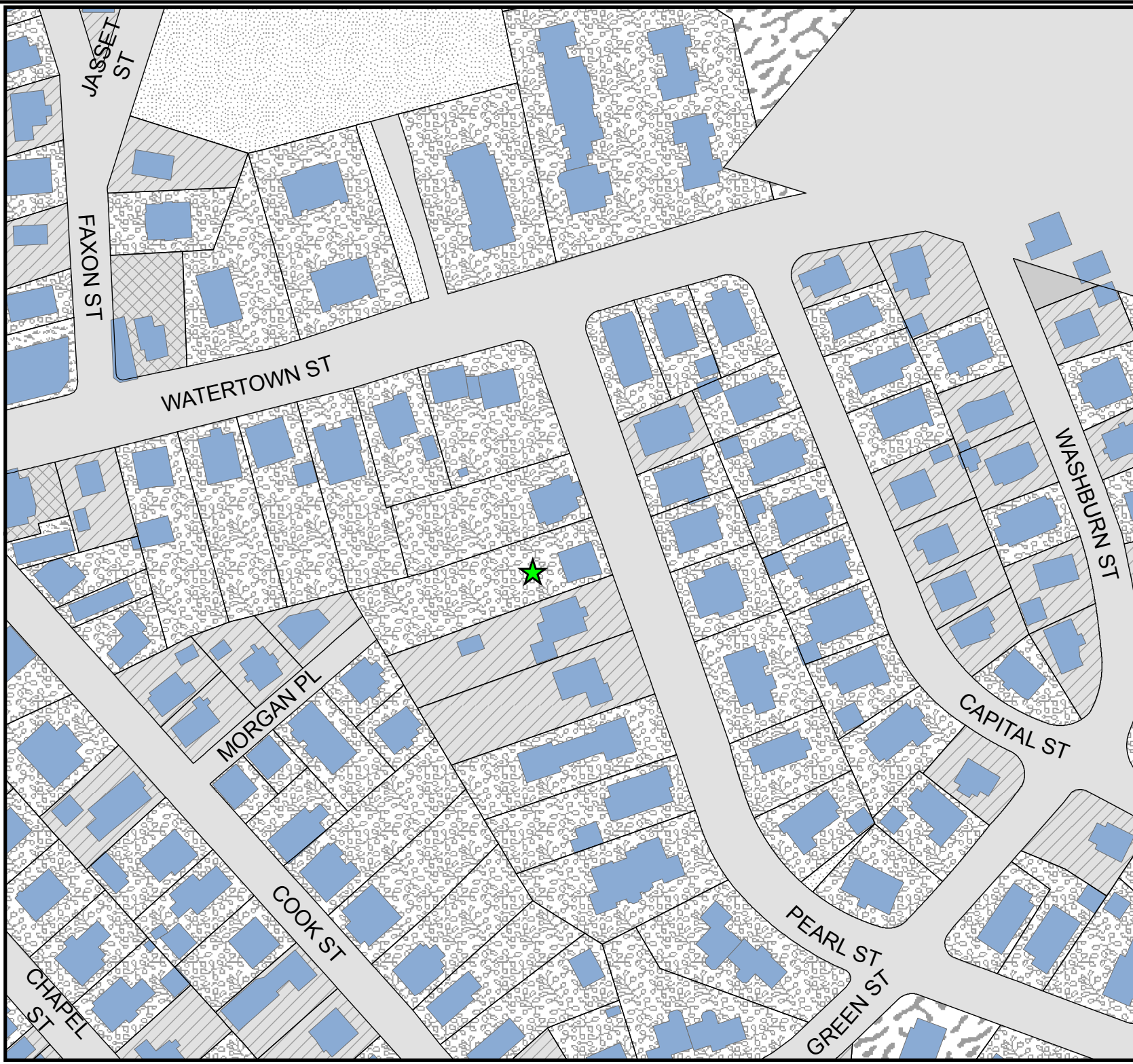


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

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Feet

Map Date: August 20, 2019





Ruthanne Fuller
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: May 1, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Laurance Lee, Attorney
Benedetto C. Caira, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow three single-family attached dwellings

Applicant: Benedetto C. Caira	
Site: 264 Pearl Street	SBL: 11014 0010
Zoning: MR2	Lot Area: 14,608 square feet (calculated)
Current use: Two-family dwelling	Proposed use: Three single-family attached dwellings

BACKGROUND:

The property at 264 Pearl Street consists of 14,608 square feet (calculated, 15,040 by deed) and is improved with a two-family dwelling built in 1905 in the MR2 zoning district. The petitioner proposes to raze the existing two-family dwelling and construct three attached single-family dwellings in one building with private garages for each unit.

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

- Zoning Review Application, prepared by Laurance Lee, Attorney, dated 3/20/2019
- FAR worksheet, signed and stamped by Charles D. Calhoun architect, dated 3/19/2019
- Elevations and sections, prepared by C.D. Calhoun, architect, dated 1/2/2019, revised 1/28/2019
- Zoning Site Plan, prepared by VTP Associates, surveyors, dated 2/20/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct three attached single-family dwellings within a single structure in the Multi Residence 2 zoning district. Per section 3.4.1, a special permit is required to construct attached dwellings in the MR2 district.
2. Section 3.2.4 requires 80 feet of frontage for single-family attached dwellings. The lot has 60 feet of frontage, requiring a special permit to waive the required frontage per section 3.2.4.
3. The existing single-family dwelling is nonconforming with regard to the front and side setback requirements, with setbacks of 7.3 feet and 4.1 feet respectively, where 25 feet and 7.5 feet are required per section 3.2.3. Section 3.2.4 requires a 25-foot setback for attached dwellings. The proposed structure increases the setback for the front to 25.3 feet, and 10.3 and 20.4 feet at the sides, but still does not meet the 25-foot requirement. A waiver from the side setbacks of 25 feet are required per section 3.2.4.
4. Section 3.2.4 requires a minimum lot size of 15,000 square feet for an attached single-family dwelling project. The subject lot is said to have 15,040 square feet per the deed description, but has been calculated by the surveyor to have 14,608 square feet. Given the difference in the amount of square footage attributed to the lot, the petitioners request relief from section 3.2.4 from the 15,000 square foot lot area requirement.
5. The petitioners propose to utilize and extend the existing driveway along the northern property line to serve all three units. Per section 6.2.3.B.2, no driveway may be located within 10 feet of a side or rear lot line. The driveway runs along the side lot line, requiring a waiver.
6. Retaining walls are proposed on the northern and southern property boundaries. The walls are located within the required 25-foot setback, and both are four feet in height. Per section 5.4.2.B, a retaining wall four feet or more in height in the setback requires a special permit.

MR2 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	14,608* square feet	No change
Frontage	80 feet	60 feet	No change
Setbacks			
• Front	25 feet	7.3 feet	25.3 feet
• Side	25 feet	4.1 feet	10.3 feet
• Rear	25 feet	177.1 feet	101.5 feet
Building Height	36 feet	25.88	30.74 feet
Max Number of Stories	2.5 (3 by special permit)	2	2.5
Lot Coverage	25%	6.7%	21.5%
Open Space	50%	84.5%	56.4%
Lot Area Per Unit	4,000 square feet	14,608 square feet	4,869 square feet

*As calculated by the surveyor. The deed states a lot size of 15,040 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 required side setbacks	S.P. per §7.3.3
§3.2.4	To reduce required frontage	S.P. per §7.3.3
§3.2.4	To reduce required lot area	S.P. per §7.3.3
§6.2.3.B.2	To allow a driveway within 10 feet of the side lot line	S.P. per §7.3.3
§5.4.2.B	To allow retaining walls of four feet or more in height within a setback	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 264 Pearl Street

Date: August 16, 2019

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

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

*Topographic Site Plan
Showing Proposed Conditions at
#264 Pearl Street
Prepared by; VTP Associates, Inc.
Dated: June 24, 2019*

Executive Summary:

This application entails the demolition of an existing two -story dwelling and the construction of a 3-unit multifamily dwelling on a 14,608 square foot (0.33 acre) lot. The site has 60 feet of frontage on Pearl Street, and residential homes on the north, west and south sides. The site has a high point elevation of 44-feet near the existing dwelling and driveway and slopes towards the north property line at elevation 37-feet.

The plan includes the construction of an access driveway for the three units along the northern property line with a retaining wall that varies in height between 10-inches near the driveway apron off Pearl Street, to about 1 foot at midway of this property line; from which point granite curbing is to be installed that will act as a “back stop” for driveway surface runoff and directs the runoff to a catch basin at the rear corner of the driveway.

Based on the soil logs provided, the site has a high ground water elevation and the soils encountered [ash-fill and peat] are not suitable for infiltration, as such the engineer of record has designed a stormwater collection system to capture roof and driveway runoff and store it in storage tanks, after the peak of the storm has passed it is pumped to the City drainage system; before final approval of this drainage design the engineer needs to provide hydraulic capacity calculation of the City's drain network in which the overflow will be connected. In addition, a drain manhole on site will be required to allow gravity flow from the discharge point to the City's drainpipe. Pre & Post Construction Closed Circuit Television (CCTV) inspection is required.

There were some errors in the stormwater report that need correction: in the post development condition the narrative has a contradiction: one sentence states that approximately 5,733 square feet is being added; the next paragraph has a total of 6,629 square feet, this needs correction. Additionally, the calculation for buoyancy forces on the storage tanks need correction. The applicant should consider a power backup generator to provide electricity for the pump system.

A retaining wall is to be constructed along the southern property line, in which the wall height varies between 1.3 feet near Pearl Street and 4 feet beyond the midpoint of this property line, walls over 3-feet requires a safety fence.

The sidewalk and curbing along the entire frontage shall be updated to current standards following the removal of the old municipal service connection and installation for the new services.

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. 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. 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. **The contractor of record shall contact the Newton Police Department 48 hours in advanced and arrange for Police detail to help residents & commuters navigate around the construction activity.**
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.