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Candace Havens
Director

Public Hearing Date: March 19, 2013
Land Use Action Date: May 21, 2013
Board of Aldermen Action Date: June 3, 2013
90-Day Expiration Date: June 17, 2013

DATE: March 15, 2013

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ET
Alexandra Ananth, Senior Planner

SUBJECT: **Petition #58-13**, Robert Franchi/March V. Franchi Trust, Mary V. Franchi, Trustee, for a SPECIAL PERMIT/SITE PLAN APPROVAL to convert an existing two-family structure into two single-family attached dwellings, and to construct two additional single-family attached dwellings; to waive front and side setback requirements; and to locate a driveway within 10 feet of the side lot line at **281 Nevada Street**, Ward 1, on land known as SBL 23, 6, 9, containing approx. 17,999 sq. ft. of land in a district zoned Multi Residence 1. Ref: Sec 30-24, 30-23, 30-9(b)(5)a) and b), 30-15 Table 1 of the City of Newton Rev Zoning Ord, 2012.

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.



281 Nevada Street

EXECUTIVE SUMMARY

The subject property consists of a 17,999 square foot lot improved with a two-family dwelling built in c. 1915, with a garage and greenhouse also located on the property. The petitioners are proposing to convert the existing two-family structure into two single-family attached dwellings, and to build two new single-family attached dwellings in the rear of the property for a total of four attached dwellings in two buildings.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Board should consider whether:

- The site is an appropriate location for the proposed four unit single-family attached dwelling use and structures.
- The use as developed will not adversely affect the neighborhood.
- The proposed waivers to the front and side setback requirements are appropriate and literal compliance with this requirement is impractical due to the location, size, frontage, depth, shape, or grade of the lot.
- The location of a driveway five feet from the side lot line where ten feet is required is appropriate, and literal compliance with this requirement is impractical due to the location, size, frontage, depth, shape, or grade of the lot.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located in Nonantum, in a neighborhood that was developed around the turn of the 20th century. The neighborhood primarily consists of historic worker cottages and two-family houses. The site is within an area zoned Multiple Residence 1.

B. Site

The site consists of 17,999 square feet of land and is significantly larger than many of the surrounding properties. The lot is quite level and includes a number of trees planted by the current homeowner. The existing residence is 2.5-stories and meets the definition of a two-family dwelling. There is also a garage and greenhouse located on the property. In addition to the curb cut leading to the garage on the east side of the property there is an additional curb cut on the west side of the house with parking for two cars.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property is currently used as a two-family residence. Because the Newton Zoning Ordinance does not allow for more than one use on a single property (attached dwellings are a different use than a two-family structure), per the Commissioner of Inspectional Services the petitioners must alter the existing structure so as to meet the definition of single-family attached dwellings (i.e. no common roof) in order to construct two additional single-family attached dwelling units in a separate structure behind the existing residence, for a total of four single-family attached dwellings on-site.

B. Building and Site Design

The existing two-family structure must be converted into two single-family attached dwellings in order to proceed with the additionally proposed attached dwellings in the rear. Although the determination will be up to the Commissioner of Inspectional Services, it is not clear that submitted plans clearly show how the two-family structure will be altered to effectively meet the definition of single-family attached dwellings. The petitioners should meet with the Inspectional Services Department to ensure that the project can be built as proposed prior to being scheduled for a working session.

The petitioners are proposing two new attached dwellings in a separate building located behind the existing structure. The petitioners will remove the existing garage but use the existing driveway to lead to the new rear attached dwelling structure. The petitioners are proposing four exterior parking stalls between the two buildings and one of the new units will also contain a two car garage. Finally the petitioners are proposing to maintain the two parking stalls located on the west side of the existing structure. The existing greenhouse will remain. Although the Planning Department is concerned with the number of curb cuts and exterior parking stalls on site, the proposed new stalls are located out of the required setbacks and there does not appear to be room on site for additional garage space.

The proposed new units are arranged in an L-shaped configuration with a slight offset. This configuration helps to mitigate the mass of the structure on immediate abutters. The buildings are proposed at 2.5 stories and approximately 34 ft. in height.

Although the existing structure does not meet the front or side setback requirement for attached dwellings, the petitioners are not proposing to extend the nonconformity in any way. The proposed new building extends into the west side setback but meets all other requirements including open space, lot coverage, and lot area per unit.

The existing house will contain a 1,100 square foot two-bedroom unit and a 1,400 square foot three-bedroom unit. The new rear building will contain a 2,900 square foot unit as well as a 1,400 square foot unit. This equates to an FAR of .38. There is no FAR limit for attached dwellings in the Multi-Residence 1 zone, however for comparison purposes, and FAR of .45 would be allowed by right of the use were allowed by right in this zone.

The petitioners are proposing the new rear structure will be vinyl-sided with an asphalt tab

roof.

C. Parking and Circulation

The petitioners are retaining access to the property by keeping both existing driveways on the west and east side of the lot. The petitioners are providing the required eight parking stalls with six exterior stalls and two stalls located inside one of the new rear units.

D. Landscaping

The petitioners submitted a landscape plan which appears adequate.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance): The Zoning Review Memorandum, (**ATTACHMENT "A"**), provides an analysis of the proposal with regard to zoning. The petitioners are requesting a special permit to allow for single-family attached dwellings, to locate existing and proposed structures closer than 25 feet from front and side lot lines, and to locate a driveway five feet from the side lot line.

B. Engineering Review: The Engineering Division Memorandum, (**ATTACHMENT "B"**), provides an analysis of the proposal with regard to engineering issues. The petitioners should be able to address all issues raised prior to the issuance of a building permit.

C. Newton Historical Commission: The Newton Historical Commission should be consulted on proposed changes (if any) to the roof of the existing two-family structure. The petitioner should also file for the removal of the existing garage.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioners are seeking the following approvals or relief:

- Section 30-9(b)(5)a), to allow single-family attached dwellings.
- Section 30-9(b)(5)b) and 30-15, Table 1, to locate existing and proposed structures closer than 25 feet from the front and side lot lines.
- Section 30-9(b)(5)a) and 30-9(b)(5)b) to locate a driveway five feet from the side lot line.

VI. PETITIONERS' RESPONSIBILITIES

The petitioners should work with the Inspectional Services Department to ensure that the project can be built as proposed (particularly the conversion of the existing two-family structure into two single-family attached dwellings) prior to being scheduled for a working session.

ATTACHMENTS

- Attachment A:** Zoning Review Memorandum
- Attachment B:** Engineering Division Review Memorandum
- Attachment C:** Zoning Map
- Attachment D:** Land Use Map



Setti D. Warren
Mayor

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

58-13
Attachment "A"

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: February 8, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Terrence Morris, attorney representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to create four single-family attached dwellings on a lot**

Applicant: Robert Franchi	
Site: 281 Nevada Street	SBL: 23006 0009
Zoning: MR-1	Lot Area: 17,999 square feet
Current use: Two-family dwelling	Proposed use: Four single-family attached dwellings

BACKGROUND:

The property at 281 Nevada Street consists of a 17,999 square foot lot improved with a two-family dwelling constructed in 1915 and a greenhouse. The applicant proposes to convert the existing two-family structure into two single-family attached dwellings, and to build two new single-family attached dwellings in the rear of the property. The applicant also proposes to construct a new driveway to access the buildings at the rear.

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

- Zoning Review Application, prepared by Robert Franchi, Applicant, submitted 11/21/12
- Architectural plans, prepared by Robert Franchi, Applicant, submitted 11/21/2012
 - Proposed first floor plan for rear units
 - Proposed second floor plan for rear units
 - Proposed elevations for rear units
 - Proposed first floor plan for existing house
 - Proposed second floor plan for existing house
- Architectural plans, prepared by Robert Franchi, Applicant, submitted 1/23/13
 - Proposed first floor plan for existing house
 - Proposed second floor plan for existing house
 - Proposed attic plan for existing house
- Existing and proposed FAR calculations, prepared by Robert Franchi, Applicant, dated 11/21/12

- Area plan of land, signed and stamped by VTP Associates, Land Surveyor, dated 11/20/12
- Proposed site plan, signed and stamped by VTP Associates, Land Surveyor, dated 11/19/12
- Deed for 281 Nevada Street

ADMINISTRATIVE DETERMINATIONS:

1. The subject property is located in the MR-1 zoning district. The applicant is proposing four single-family attached dwelling units on a 17,999 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.
2. Section 30-1 of the Zoning Ordinance lays out definitions for two distinct uses: a two-family dwelling and single-family attached dwellings. The Inspectional Services Commissioner, John Lojek, has determined that the existing structure on the site meets the definition of a two-family dwelling. To apply for a special permit for a total of four single-family attached dwellings, the existing structure must be altered so as to meet the definition of a single-family attached dwelling (i.e. there may be no common roof).
3. Section 30-15, Table 1 requires 25-foot setbacks for single-family attached dwellings in the MR-1 District. The existing dwelling is located 19.4 feet from the front lot line and 23 feet from the side lot line. One of the two attached units in the rear is proposed to be located 19.6 feet from the side lot line. To build the structures as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-9(b)(5)b).

MR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	15,000 square feet	17,999 square feet	No change
Frontage	80 feet	90 feet	No change
Setbacks for existing structure			
• Front	25 feet	19.4 feet	No change
• Side	25 feet	23 feet on right	No change
		29.5 feet on left	No change
• Rear	25 feet	124.6 feet	
Setbacks for proposed structure			
• Front	25 feet		+/- 125 feet
• Side	25 feet		19.6 feet on right
			25 feet on left
• Rear	25 feet		25.3 feet
Building Height	36 feet	30.76 feet (no change - existing structure)	33.49 feet (proposed structure)

4. The driveway for the proposed rear structure is five (5) feet from the lot line. Section 30-9(b)(5)a) requires that no driveway be located within ten (10) feet of the side lot line. The applicant must obtain a special permit from the Board of Aldermen per Section 30-9(b)(5)b) to waive this requirement.

5. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-9(b)(5)a)	Allow the creation of single-family attached dwellings	S.P. per §30-24
§30-9(b)(5)b), §30-15, Table 1	Locate existing and proposed structures closer than 25 feet from the front and side lot lines	S.P. per §30-24
§30-9(b)(5)a), §30-9(b)(5)b)	Locate proposed driveway five feet from the side lot line	S.P. per §30-24

CITY OF NEWTON
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 281 Nevada Street

Date: March 5, 2013

CC: Lou Taverna, PE City Engineer (via email)
Linda Finucane, Associate City Clerk (via email)
Eve Tapper, Chief Planner (via email)
Alexandria Ananth, Sr. Planner (via email)

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

*Topographic Site Plan
Showing Proposed Conditions at
#281 Nevada Street
Newton, MA
Prepared by: VTP Associates Inc.
Dated: December 28, 2013*

Executive Summary:

The proposal is to construct four single family attached dwellings on approximately 18,000 square foot lot. The site is relatively flat having a two-foot grade change from Nevada Street at elevation 58' towards the rear of the lot elevation 56'. The proposed drainage calculation although acceptable does not address the fact that the two proposed driveways have uncontrolled flow towards Nevada Street; 30-feet from the (northern two stall driveway) & 70-feet of on the southern driveway for the two rear units; this needs to be corrected.

As a public benefit, the sidewalk along the frontage should be updated to current City of Newton Standards, as well as the curbing.

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.
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 drainage analysis needs to be stamped by a Massachusetts Professional Engineer. 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 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 Homeowners Association. "Seed money" (\$4,000.00) should be placed in an interest-bearing account by the developer and held by the homeowners association that will be utilized for inspection and maintenance of the on-site drainage improvements.

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 site and 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 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.***
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. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *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. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *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.

58-13

Zoning Map 281 Nevada St.

*City of Newton,
Massachusetts*

Legend

-  Multi-Residence 1
-  Building Outlines
-  Surface Water



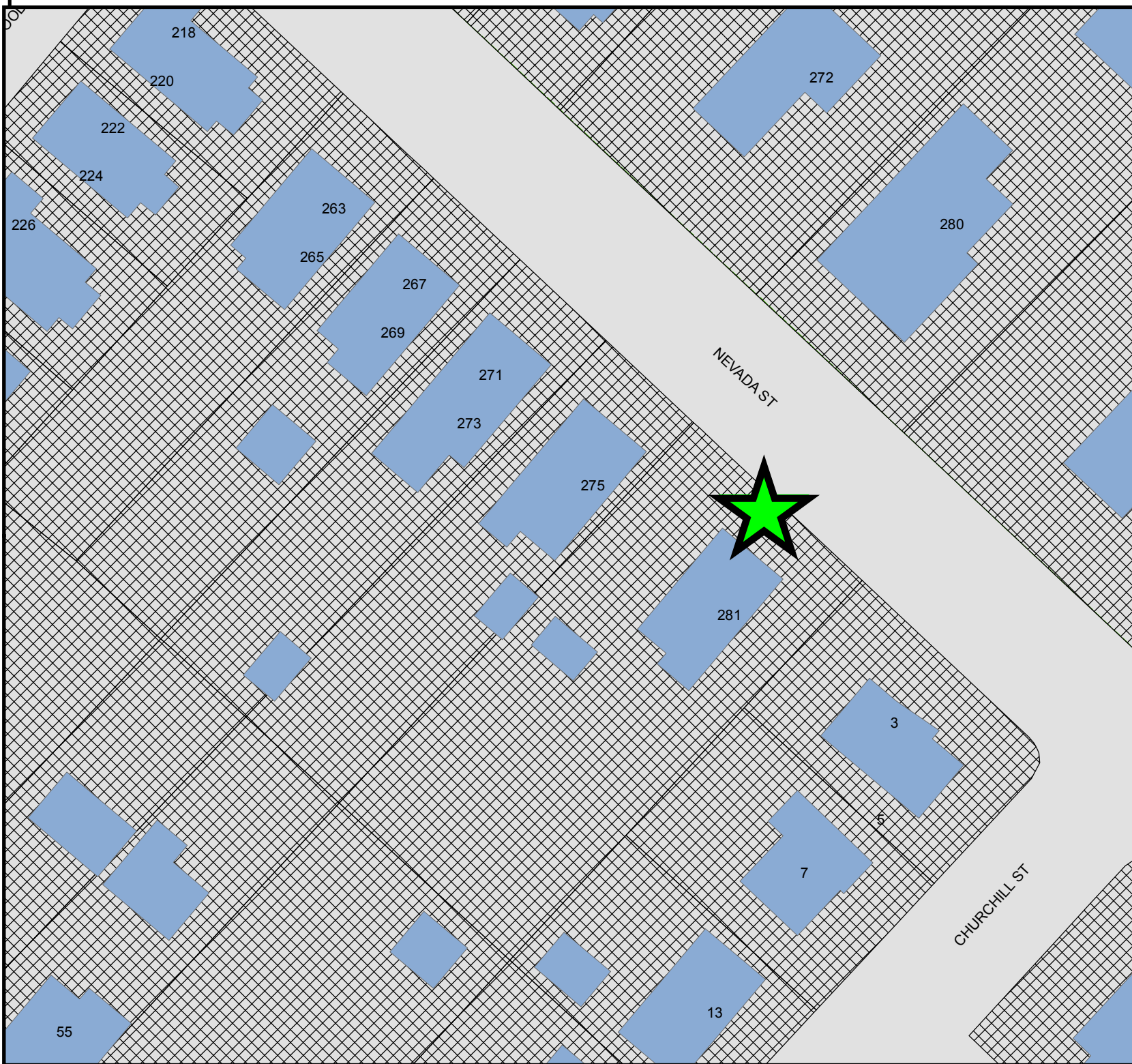
ATTACHMENT "C"

The information on this map is derived from a Geographic Information System. The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not be held responsible for approving applications based solely on this map.

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

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Map Date: March 2013



58-13

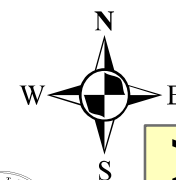
Land Use Map 281 Nevada St.

*City of Newton,
Massachusetts*

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Building Outlines
- Surface Water



ATTACHMENT "D"

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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
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Map Date: March 2013

