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Barney Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: November 9, 2017
MEETING DATE: November 14, 2017
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner
CC: Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #285-17

392-396, 400, and 402-404 Langley Road

Request for a change of zone and Special Permit/Site Plan Approval to allow a twenty-unit, 21,899 square foot multi-family structure of three stories and 34 feet in height, to legalize a nonconforming side setback per MGL 40A §7, to reduce the parking requirement from 2 stalls to 1.25 stalls per unit, to allow parking within a side setback, and allow waivers to the requirements of parking facilities containing more than five stalls.

The Land Use Committee (The "Committee") opened a public hearing on this petition on Tuesday, October 24, 2017, which was held open so that the petitioner could respond to questions and concerns raised in the Planning Department's Memorandum and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns, as well as revised plans submitted by the petitioners as of November 2, 2017.

Plan Modifications

The petitioner has removed two parking stalls from the surface parking facility at the rear of the site to facilitate a turnaround for a garbage truck when exiting the site. The loss of these two stalls does not affect the request to reduce the parking requirement from 2 stalls per unit to 1.25 stalls per unit as there will be 86 stalls on the property for the proposed sixty-six units, which results in excess of three stalls. The Planning Department has requested that some of this surface area dedicated to the turnaround be constructed out of alternative materials to reduce the amount of paving on site to

which the petitioner has agreed. Staff has asked the petitioner to provide a turning template for the two stalls closest to the dumpster, opposite each other to ensure vehicles can exit those stalls without obstruction. In addition, staff suggests the petitioner reduce the depth of stalls in this area of the parking facility to eighteen (18) feet which will allow the drive aisle to increase from 17.7 feet to 19.7 feet. This will allow greater maneuverability for two-way travel in the drive aisle. Lastly, the petitioner will seek to legalize and replace the deck at the southern side of the structure at 402-404 Langley Road. The deck is noncompliant as it was constructed years ago without the benefit of a building permit. The side setback of this structure is nonconforming at 8.2 feet, but the deck reduces the setback further to .02 feet. Due to the recent change to MGL Chapter 40A, the deck can be legalized under a Section 6 finding of the City Council as it has been in existence for more than ten years, without violation.

Shadow Study

The petitioner submitted a shadow study for the proposed building which indicates the shadow will largely remain within the site and will not trespass onto abutting properties. Yet, the shadow will trespass onto the abutting properties to the north in the afternoon during the winter months, which is expected given the orientation of the site and structure. Given this information, the petitioner should confirm whether the plantings in the proposed courtyard will endure with the amount of light expected.

Engineering Review

Associate City Engineer, John Daghlian's review of the project was not attached to the initial public hearing memorandum, but was subsequently forwarded to the petitioner (**Attachment A**). Staff notes the petitioner has since responded to the questions raised by in the memo; staff will reach out to Mr. Daghlian in advance of the Working Session to learn if there are any outstanding items.

Inclusionary Zoning

As the project is creating new dwelling units, the petitioner is required to provide inclusionary zoning units per the Newton Zoning Ordinance (The "Ordinance"). The petitioner has submitted an additional Inclusionary Housing Plan (IHP) which increases the number of inclusionary units to four, all of which would be located in the proposed structure; whereas, the initial IHP provided three units in the proposed structure with two middle income units in the existing structure at 392-396 Langley Road. The Planning Department believes the second option, with four units in the proposed structure, is the best option because the proposed structure is of new construction with modern amenities and all units will be visitable and accessible to those with disabilities.

Traffic and Parking

The petitioner submitted a Traffic Impact and Analysis Study (TIAS) in advance of the public hearing on October 24, 2017, which has been reviewed by the City's Transportation Division (**Attachment B**). In short, the Transportation Division agreed with the methodology and findings of the TIAS, but asked

the petitioner to provide a summary of how the stalls would be distributed amongst the different unit types, given the ratio of parking stalls is going to decrease overall with the proposed structure. Subsequently, the petitioner conducted parking counts of the surface parking facility which, combined with the number of permits issued, suggest that there is sufficient parking to accommodate the existing and proposed use of the site. Lastly, in response to public comment, the petitioner submitted an analysis of the intersection of Jackson Street and Langley Road which found that there would be no decrease in service with the proposed development; the Transportation Division reviewed this memorandum as well and agreed with the analysis.

Transportation

As stated in the initial Public Hearing Memorandum, the Planning Department stated that the project is not well served by transit and is not located in an area with infrastructure to encourage alternative methods of transportation. The subject property is located approximately 9/10 of a mile away from Newton Centre T stop, where if it were located closer, to within a half-mile, the project would have been considered “transit oriented” by common standards. There is also an MBTA bus with a stop nearby on Route 9, but service into Kenmore Station does not begin until the afternoon. In order to learn more about this corridor between Newton Centre and Route 9, staff reached out to Long Range Planning staff, and Engineering and Transportation Divisions to learn if the City is developing measures to facilitate alternative modes of transportation throughout the corridor.

As a result of those preliminary discussions, the petitioner is willing to provide the following measures to help achieve that goal: commit funds as well as a stop at their property towards a potential shuttle running between Newton Centre and the shopping centers along Route 9; widen the sidewalks along the site’s frontage to enhance the pedestrian experience; provide a second electric vehicle charging station; and participate in the Safe Routes to School Program. Staff is meeting with representatives from these departments on November 9th and will provide an update to the Committee at the Working Session on November 14th.

Conservation of Energy & Natural Resources

The proposed multi-family structure is approximately 21,899 square feet. Therefore, the fifth special permit criterion is prompted, whereby the petitioner must demonstrate that the “site planning, building design, construction, maintenance or long term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy”. The Planning Department has met with the petitioner and the City’s Co-Director of Sustainability to explore ways to achieve this criterion. The petitioner is not yet to the point of detailing the final design of the building and therefore cannot commit to implementing certain measures. However, the petitioner has agreed to explore how this criterion can be achieved with this petition and articulate that analysis to staff. As a result, the staff suggests a condition requiring the petitioner to submit final design and construction plans, along with a narrative to the Director of Planning and Development and Co-Director of Sustainability for review and approval prior to the issuance of a building permit.

Request for a Change of Zone

In its initial Public Hearing Memorandum, the Planning Department stated the petition addressed key components of the City's *Housing Strategy* by diversifying the City's housing stock with smaller unit sizes and providing additional inclusionary zoning units in a modern building. However, staff stated that the petition did not align well with the City's *Transportation Strategy* or *Comprehensive Plan* because the site is not located within a village center, is not well served by transit, and is not connected to pedestrian and bicycle infrastructure.

As such, the Planning Department recommended further analysis which led to two directions: first, consider the petition as a project that largely furthered the goals of the Housing Strategy in a location that does not lend itself to transit or bicycling, and lacks a consistent pedestrian experience; and (2) coordinate with other City Departments to explore how the project may be improved to touch upon goals found in the *Comprehensive Plan* and *Transportation Strategy*. Additionally, staff notes that the rezoning received a positive vote from the Planning and Development Board at their November 6, 2017 meeting.

As noted above, the Planning Department believes the petition strongly aligns with the Housing Strategy, but does not necessarily believe that justifies the change of rezone request. However, when taking into account the initiatives proposed for this area as a potential connection between Newton Centre and Route 9, and those measures agreed to by the petitioner, staff believes this petition can serve the purpose of furthering those initiatives and remove some of the insufficiencies regarding the *Transportation Strategy* and *Comprehensive Plan*. The Planning Department will be meeting with other City Departments to review this corridor and expects to provide the Committee with an update at the Working Session on November 14, 2017.

ATTACHMENTS:

- Attachment A:** Engineering Review, dated October 19, 2017
- Attachment B:** Transportation Division Memorandum, dated October 26, 2017
- Attachment C:** Draft Council Order

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Marc Laredo, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 392-396, 400, 402-404 Langley Road

Date: October 19, 2017

CC: Lou Taverna, PE City Engineer
Barney Health, Director of Planning
Jennifer Caira, Chief Planner
Nadia Khan, Committee Clerk
Neil Cronin, Sr. Planner

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

*Parking Plan &
Grading, Drainage & Utility Plan
Dated: September 21, 2017
Designed By: VTP Associates, Inc.*

Executive Summary:

This project entails the demolition of an existing two-family home at #400 Langley Road and the construction of a new multi-family dwelling containing 20 apartments and underground parking garage. The site includes three lots which should be combined if the Special Permit is approved in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots be combined into one lot.

The engineer of record has design a drainage collection system for all the new impervious surfaces so that it is captured and infiltrated on site in accordance to DEP Standards and DPW Policy. The proposed Operations and Maintenance plan is acceptable for the design intent, and the homeowners association or property owner will need to adhere to

the specific requirements of inspections and cleaning of the proposed infrastructure. 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).

A construction management plan is needed for the site, the property is very congested and has limited open space to stage, store and provide parking for its tenants and construction employees; additionally, as Langley Road is very congested and the proximity of the site to Route 9 and the Bowen School, Police details will be needed during delivery of materials and during construction hours.

The new facility will be designed with fire suppression system and fire flow test and hydraulic calculations will be needed for verification by the Fire Department. Additionally a turning template plan will be needed to demonstrate the access and egress for Fire and emergency vehicles. The Fire Department may want a fire hydrant on site towards the rear of the property as the site is over 500 feet deep.

The applicant needs to indicate where and how trash & recycling will be provided for the proposed development.

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.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Sewer:

1. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.
2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer. ***This note must be added to the final approved plans.***
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed and a written report is received by the City Engineer.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. For water quality issues a fire hydrant will be required at the end of the proposed water main. This hydrant will be utilized for flushing out the main as required.

3. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes.
4. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. ***This note must be incorporated onto the final contract plans.***
7. All site work including trench restoration must be completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

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.

City of Newton



DEPARTMENT OF PUBLIC WORKS

TRANSPORTATION DIVISION

110 Crafts Street
Newton, MA 02460Setti D. Warren
Mayor**DATE: October 26, 2017****TO: Neil Cronin, Senior Planner****FROM: Nicole Freedman, Transportation Director
David Koses, Transportation Coordinator****RE: 392-404 Langley Road- Transportation Division comments on TIAS**

MEMORANDUM

Transportation Division staff completed our review of the October 10, 2017 traffic impact and access study memorandum, which assessed the potential traffic impacts associated with the proposed redevelopment of 392-404 Langley Road, to include a new 20-unit residential building, supported by sub-surface parking.

Staff does not disagree with any of the methodology, assumptions or calculations used in the VHB analysis and agree with the determination that the project as proposed will have minimal impact upon intersection operations at the existing study area intersections.

The Transportation Division wishes to highlight the number of on-site parking spaces proposed and the ratio of parking spaces per unit. The following chart summarizes and compares the existing number of units and parking spaces with the numbers proposed.

	Current	Proposed
Number of Units	48	66
<i>Studios</i>	2	8
<i>One bedroom units</i>	14	23
<i>Two bedroom units</i>	30	35
Number of parking spaces, including visitor and accessible parking	74	88
Parking Spaces per Unit	1.54	1.33

As shown in the chart above, the ratio of parking spaces to units is proposed to decrease significantly. The Transportation Division notes that this area of Langley Avenue has comparatively limited alternative modes of transportation available. The petitioner should

identify how the parking spaces will be divided up between studios, one bedroom, and two bedroom units, along with the number and location of visitor parking and accessible parking spaces. The petitioner should provide documentation that the number of parking spaces is appropriate for this site, and will not create an increased burden on the neighboring streets.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 21,899 square foot, 20-unit multi-family structure of three stories and 34.41 feet in height, reduce the parking requirement from two to 1.25 stalls per unit, allow parking within the side setback, allow waivers to the requirements of parking facilities containing more than five stalls, and the extension of a nonconforming side setback, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

- 1) The site is an appropriate location for the building as designed, given the neighborhood's mix of residential and commercial land uses and structures of varying scales and heights, as a transitional use along Langley Road from Route 9 as well as the commercial uses to the south and the residential uses to the north (§4.3.2.B.1; §4.3.3 and §7.3.3.C.1).
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood as the petitioner submitted studies indicating the project will not affect vehicular traffic in the area and the petitioner has agreed to implement measures to encourage alternative modes of transportation not only for residents of the site but throughout the corridor too (§7.3.3.C.2).
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians as the main entrance to the development will not increase the number of access points to the site and the sidewalks along the frontage of the property will be widening thereby improving the pedestrian experience (§7.3.3.C.3).
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's proximity to Route 9 and Newton Centre. (§7.3.3.C.4)
- 5) The site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy. (§7.3.3.C.5)

- 6) Exceptions to the parking requirements, including reducing the number of stalls from two per unit to 1.25 per unit, to locate parking within a setback, to waive the screening, interior landscaping, and lighting as well as surfacing requirements, and the dimensional and design controls for parking facilities containing more than five stalls are in the public interest or in the interest of safety, or protection of environmental features for the following reasons:
- a. The unit mix of studio, one-bedroom, and two-bedroom apartments along with the approximately 1095 square foot average size of the units will likely attract tenants who have only one automobile per unit and or use alternative methods of transportation, making a parking waiver appropriate at this site. Covered bicycle parking will also be provided to encourage bike use.
 - b. The location of parking within property boundary setbacks and makes for the most efficient layout of the parking lot and helps to maximize the number of stalls that will be available.
 - c. Existing fencing will be replaced and complemented with landscaping to screen the surface parking facility from abutting properties. Additionally, lighting will be minimized to not trespass onto neighboring properties while still lighting the facility to ensure safety.
 - d. Literal compliance with the dimensional parking requirements is impracticable due to the existing conditions and the development patterns on the subject property.
- 7) Extending the nonconforming side setback by allowing a side setback of .02 feet where 10 feet is required would not be substantially more detrimental than the existing nonconforming setback is to the neighborhood as the current structure, although it has a shorter façade along Hovey Street than the proposed structure, has no setback and is built to the property line along that street (§ 7.8.2.C.2)

PETITION NUMBER: #285-17

PETITIONER: Langley Montrose, LLC and Langley Farlow, LLC

ADDRESS OF PETITIONER: 159 Cambridge Street
Allston, MA 02134

LOCATION: 392-396, 400, and 402-404 Langley Road

OWNER: Langley Montrose, LLC and Langley Farlow, LLC

ADDRESS OF OWNER: 159 Cambridge Street
Allston, MA 02134

TO BE USED FOR: Multi-Family Development

EXPLANATORY NOTES: Special permits per §7.3.3: To allow a 20-unit multi-family structure (§3.4.1); To allow a development in excess of 20,000 square feet of gross floor area (§4.1.2.B.1); To legalize a nonconforming side setback per MGL 40A § 7 (§3.4.1 and §7.8.2.C.2); To reduce the parking requirement to 1.25 stalls per unit (§5.4.1 and §5.1.13); To allow parking in the side setback (§5.1.8.A and §5.1.13); To waive the parking stall dimensional requirements (§5.1.8.B.1, §5.1.8.B.2 and §5.1.13); To waive the requirement for end parking stalls (§5.8.1.B.6 and §5.1.13); To waive the minimum aisle width (§5.1.8.C.2 and §5.1.13); To waive the perimeter screening requirements of parking facilities containing more than five stalls (§5.1.9.A and §5.1.13); To waive the interior landscaping requirements of parking facilities containing more than five stalls (§5.1.9.B and §5.1.13); To waive the lighting and surfacing requirements of parking facilities containing more than five stalls (§5.1.10 and §5.1.13);

ZONING: Multi Residence 3

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by VTP Associates, , signed and stamped by Joseph R. Porter, Professional Land Surveyor, consisting of the following six (6) sheets:
 - Topographic Site Plan, dated October 19, 2017 revised November 1, 2017
 - Parking Plan, dated September 22, 2017, revised October 5, 2017, October 19, 2017 and November 1, 2017
 - Vehicle Path Plan, dated November 1, 2017
 - Grading, Drainage, and Utility Plan, dated September 21, 2017 revised October 5, 2017, October 19, 2017 and November 1, 2017
 - Detail-1, dated September 22, 2017 revised November 1, 2017
 - Detail-2, dated September 22, 2017
 - b. Architectural Plans entitled, "Langley Terrace 392-404 Langley Road Newton Massachusetts, prepared by Perkins Eastman, consisting of the following ___ sheets:

- I. A-15 402-404 Garage Plan
 - II. A-101 Garage and First Level Floor Plan. This plan shall be revised to show two Electric Vehicle (EV) charging stations.
 - III. A-102 Second and Third Level Plan
 - IV. A-103 Roof Plan
- c. Landscape Plans entitles, "Langley Terrace 392-404 Langley Road Newton, Massachusetts, signed and stamped by Elizabeth Giersbach, Registered Landscape Architect, consisting of three (3) sheets:
- i. L-000 Tree Removal Plan, dated October 30, 2017
 - ii. L-100 Landscape Plan, dated September 8, 2017 revised October 30, 2017
 - iii. L-101 Planting Plan, dated September 8, 2017 revised October 30, 2017
2. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), four (4) of the residential units in the Project shall be made available to households earning up to 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size. As proposed in the Preliminary Inclusionary Housing Plan, two (2) of these units shall be made available to households earning up to 80% AMI, and two (2) of these units shall be made available to households earning up to 50% AMI. Monthly housing costs (inclusive of heat, hot water, electricity, water and sewer, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. The Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).
 3. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any building permits for the construction of the Project, the Petitioner, City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
 4. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan for review by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.9. of the Newton Zoning Ordinance. The Inclusionary Housing Plan and Affirmative Marketing and Resident selection plan should treat the units the same with respect to Affirmative Marketing and advancing Fair Housing in Newton. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.

5. The petitioner shall make a good faith effort to participate in the "Safe Routes to School Program". Evidence of such good faith shall be witnessed by the Director of Planning and Development and Law Department as necessary.
6. Prior to the issuance of a Building Permit, the petitioner shall provide a final plan signed and stamped by an professional land surveyor or professional engineer detailing the width of the sidewalks along the Project's frontage after consultation with the Director of Planning and Development and Commissioner of Public Works. If necessary, the petitioner shall enter into an agreement with the City, under the purview of the Law Department, regarding the future maintenance of said sidewalks.
7. Prior to the issuance of a building permit, the petitioner shall commit to providing \$5,000 a year for a period of not more than ten years for the initiation and ongoing operations of a shuttle serving the project site. In the event a shuttle is infeasible, the petitioner shall consult with the Director of Planning and Development, Director of Transportation, and City Solicitor to determine the appropriate level of funds for any transportation measures in the area which are deemed affecting the Project.
8. Prior to the issuance of any Building Permit, the petitioner shall provide a final plan showing the combination of the three lots to the Engineering Division of Public Works for review and approval. Once approved, the Plan must be recorded at the Middlesex Registry of Deeds. A certified copy of the Plan shall be submitted to the Engineering Division of Public Works.
9. Prior to the issuance of a building permit, the petitioner shall submit final design and construction documents and a memo outlining how the Project will contribute significantly to the efficient use and conservation of energy and natural resources for review and approval to the Director of Planning and Development and Co-Director of Sustainability.
10. All residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use.
11. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking.
12. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
13. All construction activity shall be limited to 7AM-6PM Monday through Friday and 8AM-5PM on Saturdays excluding holidays, unless extended or restricted by the Commissioner of Inspectional Services or the Commissioner of Public Works. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed, and only if the work complies with the provisions of the Noise Control Ordinance of the City of Newton.

14. At the Petitioner's sole expense, the Petitioner shall locate all utility service lines on site underground, including any utility service lines along the Project's frontage on Langley Road if such lines are present, subject to necessary approvals from utility companies. In the event undergrounding utilities is infeasible, the petitioner shall consult with the Director of Planning and Development, Director of Transportation, and City Solicitor to determine the level of funding for any streetscape improvements in the area from which the Project may benefit from.
15. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by applicant and recorded at the Middlesex South District Registry of Deeds herewith. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
16. Prior to the issuance of any Building Permit, the petitioner shall provide a final plan showing the combination of the three lots to the Engineering Division of Public Works for review and approval. Once approved, the Plan must be recorded at the Middlesex Registry of Deeds. A certified copy of the Plan shall be submitted to the Engineering Division of Public Works.
17. Prior to the issuance of any Building Permit, the petitioner shall provide final design and construction plans regarding the petitioner's efforts to contribute to the efficient use of natural resources and energy to the Director of Planning and Development and Co-Director of Sustainability for review and approval.
18. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
19. Prior to the issuance of any building permit pursuant to this Special Permit/Site Plan Approval the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:
 - a. 24-hour contact information for the general contractor of the project.
 - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services. The petitioner shall consider local traffic and pedestrian activity relating to the nearby public school in determining hours and routes for construction vehicles.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones,.

- d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction and delivery vehicles, and location of any security fencing.
 - e. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - g. Tree preservation plan to define the proposed method for protection of any existing trees to remain on the site.
 - h. A plan for rodent control during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
20. The Petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
21. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development that is certified as compliant by the Director of Planning and Development with the information required to be included in such Plan pursuant to §5.11.9. of the Zoning Ordinance.
 - e. Submitted final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the

City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.

- f. Submitted a final plan of land, recorded at the Middlesex Registry of Deeds, to the Engineering Division of Public Works in accordance with Condition #6.
 - g. Submitted a lighting plan of the parking facility to the Commissioner of Inspectional Services and the Director of Planning and Development in accordance with Condition #7.
 - h. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, the City Engineer, and the Director of Transportation.
 - i. Submitted to the Law Department copies of fully executed Regulatory Agreements and Affordable Housing Restriction for all Deed Restricted Units, as described in Conditions 2 through 4.
22. The Petitioner shall be responsible for repairing any and all damage to public ways and property caused by any construction vehicles. All repair work shall be done prior to the issuance of a final Certificate of Occupancy, unless the Commissioner of Public Works determines that the damage to the public way is so extensive that it limits the use of the public way. In such case the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
23. No final occupancy permit for the use covered by this Special Permit/Site Plan approval shall be issued until the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and civil engineer certifying compliance with Condition 1.
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
 - c. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
 - d. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number, and type of plant materials, final landscape features, fencing, and parking areas.
 - e. Provided evidence satisfactory to the Law Department that the Regulatory

Agreements for all Deed Restricted Units have been recorded at the Southern Middlesex District Registry of Deeds and/or Southern Middlesex Land Court, as appropriate.

- j. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units; such that no more than three market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
 - k. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, including both the residential and commercial space, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans , Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.
24. Notwithstanding the provisions of Condition #17 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.