



# CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

Telephone: (617) 796-1065 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086  
www.ci.newton.ma.us

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

**To:** Zoning Board of Appeals Members  
**From:** Adrianna Henriquez, Clerk  
**Date:** January 14, 2021  
**Subject:** Materials for **January 27, 2021** Public Hearing

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Hello,

Please see the following supplemental materials for the upcoming hearing on January 27, 2021 Public Hearing. The following board members are scheduled to sit: *Brooke Lipsitt (Chair), Barbara Huggins Carboni, Stuart Snyder, Michael Rossi and Lei Reilley (Alternate)*

1. January 27, 2021 Agenda
2. 70 Studio Road Appeal
3. 601-621 Winchester Street Request for Determination and Accompanying Documents

Thank you,

Adrianna Henriquez

**ahenriquez@newtonma.gov | (617) 796 1133**



# CITY OF NEWTON, MASSACHUSETTS

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[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

**The Zoning Board of Appeals will hold this meeting as a virtual meeting on Wednesday, January 27, 2021 at 7:00 pm. No in-person meeting will take place at City Hall.**

**To view and participate in this virtual meeting on your phone, download the "Zoom Cloud Meetings" app in any app store or at [www.zoom.us](http://www.zoom.us). At the above date and time, click on "Join a Meeting" and enter the following meeting ID: 842 0705 1653.**

**To view and participate in this virtual meeting on your computer, at the above date and time, go to [www.zoom.us](http://www.zoom.us), click "Join a Meeting" and enter the following Meeting ID: 842 0705 1653. Alternatively, the direct Zoom link to the meeting is <https://us02web.zoom.us/j/84207051653>**

**To dial into the meeting via telephone, call in by dialing 1-646-558-8656 and use the Meeting ID: 842 0705 1653#**

## AGENDA

REVISED 01/18/2021

**A public meeting of the Newton Zoning Board of Appeals will be held virtually via Zoom on Wednesday, January 27, 2021 at 6:00 p.m. on the following petitions:**

1. Elections; discuss and/or adopt changes to the City of Newton Rules of the Zoning Board of Appeals, effective January 1, 2019; training by the Law Department on the role of the Board, the Open Meeting, Public Records and Conflict of Interest laws; any necessary briefing from the Law Department about items in litigation

**A public hearing of the Newton Zoning Board of Appeals will be held virtually via Zoom on Wednesday, January 27, 2021 at 7:00 p.m. on the following petitions:**

1. **#07-20** Bruce Leslie of 141 Aspen Avenue, Kathryn and Norman Thibeault of 66 Forest Avenue, Mandeep Sawhney and Suruchi Kaul of 52 Forest Avenue, and Thomas Fulchino of 150 Aspen Avenue, Newton, Massachusetts, pursuant to M.G.L. c. 40A, § 8, and 15, appealing the November 16, 2020 issuance of a building permit by the Commissioner of Inspectional Services for the installation of four 70 foot tall sports lighting poles at 70 Studio Road, Newton, Massachusetts. The subject property is located at 70 Studio Road, Newton, Massachusetts and is located in a Single-Residence 1 (SR-1) District.
2. **#03-83** and **#17-96** 2Life Coleman Limited Partnership f/k/a Jewish Community Housing for the Elderly Coleman Limited Partnership, 2Life Communities Inc. f/k/a Jewish Community Housing for the Elderly III, Inc., requesting to change the details of Comprehensive Permits previously granted to the applicant on March 8, 1983, and on July 23, 1996, for a project

located at 601-621 Winchester Street. The applicant proposes to construct an approximately 1000 square foot addition to Coleman I and II to be built on the existing outdoor patio and which is to include a new, accessible entrance. The applicant also proposes to improve existing outdoor space at the main entrance to serve as a replacement patio. This item will be heard for the purpose of determining whether the proposed changes to the Comprehensive Permits are substantial or insubstantial.

3. Review and approval of minutes for September 23, 2020 and October 29, 2020 meetings.

The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

**RECEIVED**

By Clerk of the Zoning Board of Appeals at 1:27 pm, Dec 10, 2020

City Clerk Date/Time Stamp

**RECEIVED**

By Clerk of the Zoning Board of Appeals at 4:15 pm, Dec 09, 2020

**CITY OF NEWTON  
ZONING BOARD OF APPEALS**

**CHECKLIST COVER PAGE  
FOR ADMINISTRATIVE APPEAL**

To be completed by Staff: \_\_\_\_\_ Project No.: \_\_\_\_\_ Petition No.: \_\_\_\_\_

PROPERTY LOCATION: Grellier Field, 70 Studio Road DATE: 12/9/20

PETITIONER: Bruce Leslie, et al. \*see list of Petitioners attached hereto

ADDRESS: c/o Brian M. Hurley, Esq., Rackemann, Sawyer & Brewster, P.C., 160 Federal St, Boston, MA 02110

PHONE: (617) 951-1129 EMAIL: bhurley@rackemann.com

POINT OF CONTACT: Brian M. Hurley, Esq.

RECEIVED  
 CITY CLERK  
 2020 DEC-9 PM 12:32  
 David A. Olson, Clerk  
 Newton, MA 02459

PLEASE CONFIRM THAT YOU HAVE INCLUDED THE FOLLOWING WITH YOUR APPEAL APPLICATION. THIS CHECKLIST MUST BE INCLUDED WITH YOUR APPLICATION AS THE FIRST PAGE.

APPLICATIONS WILL NOT BE ACCEPTED FOR PROCESSING & SCHEDULING UNLESS ALL REQUIRED DOCUMENTS ARE PROVIDED

DOCUMENTS

ENCLOSED  
(checked by Petitioner)

CONFIRMED  
(checked by Clerk)

Application for Administrative Review Form (15 copies)	X	_____
Application Fee	X *to be filed by mail as per clerk	_____
Decision/Order being appealed	X	_____
Statement of Reasons	X	_____
Reference to Zoning Ordinance	X	_____
Electronic Copy	X	_____

## **Petitioners' Information**

1. Bruce and Nancy Leslie  
141 Aspen Avenue, Newton, MA  
Email: [bmleslie@gmail.com](mailto:bmleslie@gmail.com)
2. Kathryn and Norman Thibeault  
66 Forest Avenue, Newton, MA  
Email: [katethibeault@hotmail.com](mailto:katethibeault@hotmail.com)
3. Mandeep Sawhney and Suruchi Kaul  
52 Forest Avenue, Newton, MA  
Email: [msawhney@bidmc.harvard.edu](mailto:msawhney@bidmc.harvard.edu)
4. Thomas Fulchino  
150 Aspen Avenue, Newton, MA  
Email: [tf@tonneson.com](mailto:tf@tonneson.com)

CITY OF NEWTON  
ZONING BOARD OF APPEALS

**APPLICATION FOR ADMINISTRATIVE APPEAL**

**IMPORTANT: APPLICANTS MUST COMPLETE ALL ITEMS ON THIS FORM**

**PETITIONER INFORMATION**

NAME: Bruce Leslie, et al. \*see list of Petitioners attached hereto

ADDRESS: c/o Brian M. Hurley, Esq., Rackemann, Sawyer & Brewster, P.C., 160 Federal St., Boston, MA 02110

PHONE: (617) 951-1129 EMAIL: bhurley@rackemann.com

**SUBJECT PROPERTY INFORMATION**

LOCATION OF PROPERTY: Grellier Field, 70 Studio Road

ZONING DISTRICT: SR-1 PROPERTY SBL NO.: 43-38-1 & 2

OWNER OF RECORD: Lasell University (f/k/a Lasall College)

RELATIONSHIP TO SUBJECT PROPERTY (i.e. owner, abutter, etc.):  
Abutters

**APPEAL INFORMATION**

1. What decision are you appealing - is it an inability to obtain a building permit, the issuance of a building permit, an order or decision of the Commissioner of Inspectional Services or a zoning violation?

The issuance of a building permit to install (4) concrete foundations, erect (4) 70' tall sports lighting poles and electrical conduit, gear, and wiring for a complete sports lighting system.

Date of decision: 11/16/2020

*(A copy of the decision, order, permit or notice being appealed must be included)*

2. State the basis or grounds for contesting the decision, providing any information that you feel will aid the Board in its review of your appeal:

Please see the 12/9/20 letter to the ZBA from Attorney Brian M. Hurley attached hereto.

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3. Identify and describe all supporting documents being submitted with this appeal:  
**Please see the 12/9/20 letter to the ZBA from Attorney Brian M. Hurley, including Exhibits A-E, attached hereto.**

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4. State all sections of the Newton Zoning Ordinance implicated in the appeal:  
**Newton Zoning Ordinances Sections 3.17, 5.1.4A, 6.1.14, and 8.3**  
**Also, Newton Ordinances Sections 20-13 and 20-23**

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5. Explain why you are aggrieved by the decision being appealed:  
**Please see the 12/9/20 letter to the ZBA from Attorney Brian M. Hurley attached hereto.**

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6. What outcome do you request if your appeal is granted?  
**Please see the conclusion section (pages 10 & 11) of the 12/9/20 letter to the ZBA from Attorney Brian Hurley attached hereto.**

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**PETITIONER CONSENT, CERTIFICATION & SIGNATURE**

*(Signatures of Petitioner(s) are required)*

I (we) consent and certify as follows:

1. I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this application;
2. I (we) certify that I (we) have read the Board's Rules and Procedures before submittal to insure the completeness of my (our) application;
3. I (we) certify that all the statements within this application and attachments are true and accurate to the best of my (our) knowledge and belief.

X	<u>/s/ Bruce Leslie</u>	<u>12/9/20</u>
	(Petitioner Signature)	(Date)
X	<u>/s/ Nancy Leslie</u>	<u>12/9/20</u>
	(Petitioner Signature)	(Date)

***If Applicable:***

Name of Attorney/Agent for Applicant: Brian M. Hurley, Esq. and Stacie A. Kosinski, Esq.

Address of Attorney/Agent: Rackemann, Sawyer & Brewster, P.C., 160 Federal St., Boston, MA 02110

Phone Number of Attorney/Agent: (617) 951-1129

Email Address of Attorney/Agent: bhurley@rackemann.com & skosinski@rackemann.com



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3. I (we) certify that all the statements within this application and attachments are true and accurate to the best of my (our) knowledge and belief.

X	<u>/s/ Kathryn Thibeault</u>	<u>12/9/20</u>
	(Petitioner Signature)	(Date)
X	<u>/s/ Norman Thibeault</u>	<u>12/9/20</u>
	(Petitioner Signature)	(Date)

***If Applicable:***

Name of Attorney/Agent for Applicant: Brian M. Hurley, Esq. and Stacie A. Kosinski, Esq.

Address of Attorney/Agent: Rackemann, Sawyer & Brewster, P.C., 160 Federal St., Boston, MA 02110

Phone Number of Attorney/Agent: (617) 951-1129

Email Address of Attorney/Agent: bhurley@rackemann.com & skosinski@rackemann.com

**PETITIONER CONSENT, CERTIFICATION & SIGNATURE**

*(Signatures of Petitioner(s) are required)*

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3. I (we) certify that all the statements within this application and attachments are true and accurate to the best of my (our) knowledge and belief.

X	<u>/s/ Mandeep Sawhney</u>	<u>12/9/20</u>
	(Petitioner Signature)	(Date)
X	<u>/s/ Suruchi Kaul</u>	<u>12/9/20</u>
	(Petitioner Signature)	(Date)

***If Applicable:***

Name of Attorney/Agent for Applicant: Brian M. Hurley, Esq. and Stacie A. Kosinski, Esq.

Address of Attorney/Agent: Rackemann, Sawyer & Brewster, P.C., 160 Federal St., Boston, MA 02110

Phone Number of Attorney/Agent: (617) 951-1129

Email Address of Attorney/Agent: bhurley@rackemann.com & skosinski@rackemann.com



## **Petitioners' Information**

1. Bruce and Nancy Leslie  
141 Aspen Avenue, Newton, MA  
Email: [bmleslie@gmail.com](mailto:bmleslie@gmail.com)
2. Kathryn and Norman Thibeault  
66 Forest Avenue, Newton, MA  
Email: [katethibeault@hotmail.com](mailto:katethibeault@hotmail.com)
3. Mandeep Sawhney and Suruchi Kaul  
52 Forest Avenue, Newton, MA  
Email: [msawhney@bidmc.harvard.edu](mailto:msawhney@bidmc.harvard.edu)
4. Thomas Fulchino  
150 Aspen Avenue, Newton, MA  
Email: [tf@tonneson.com](mailto:tf@tonneson.com)

December 9, 2020

Zoning Board of Appeals  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02450

**Re: Appeal of Building Permit Issued to Lasell University, f/k/a Lasell College (“Lasell”), for Proposed Lighting at Grellier Field Pursuant G.L. c.40A, §15**

Members of the Zoning Board of Appeals:

We represent several individual homeowners, including Bruce Leslie (141 Aspen Avenue), Kathryn Thibeault and Norman Thibeault (66 Forest Avenue), Mandeep Sawhney and Suruchi Kaul (52 Forest Avenue), and Thomas Fulchino (150 Aspen Avenue), as well as the neighborhood association, in connection with their opposition to Lasell’s proposal to install four 70 foot high field light structures on Grellier Field. Lasell applied for and recently obtained a building permit for these structures without obtaining relief from applicable provisions of the Zoning Ordinance. A copy of the building permit and stamped application is attached as **Exhibit A**. Our clients appeal that decision under G.L. c.40A, §15. The location of each of the homes owned by our clients is shown on the City of Newton map attached as **Exhibit B**. A copy of the

plan showing the location of the proposed light poles in relation to the homes on Forest Avenue and Aspen Avenue is attached as **Exhibit C**.

Lasell, apparently, takes the position that the Dover Amendment, G.L. c.40A, §3, requires approval of their lighting plans and the waiver/variance of the dimensional and setback requirements of the Ordinance without limitations or conditions. We write in opposition to the application and in response to any argument that Lasell, as an educational institution, is entitled to a building permit without consideration of alternatives and measures to mitigate the impacts of any proposed lighting to be situated in the middle of the residential neighborhood and in particularly close proximity to several homes in the neighborhood. We believe that that Lasell should have been required by the Building Commissioner to seek the appropriate zoning relief. In that context, the neighbors would have had an opportunity to raise and discuss the many issues related to the proposed light plan at the required public hearing.

**I. The History of the Lighting Proposal**

On March 2, 2017, Lasell applied to the Planning Department for administrative site plan review of its lighting proposal under §6.1.14 of the Zoning Ordinance. On July 14, 2017, the Department of Planning and Development issued an inter-office correspondence setting forth the substance of its review. A copy of the inter-office correspondence is attached as **Exhibit D**. The Planning Department raised a number of issues relating to the proposed plan including the height of the proposed pole structures and the proposed setback. The Planning Department did “not

support a Dover Waiver to locate the proposed poles within the front setback.” The Planning Department went on to recommend that several issues be addressed before the issuance of a building permit including a Certificate from the Auburndale Historic District Commission. These issues have never been addressed by Lasell.

As required, Lasell applied to the Auburndale Historic District Commission (“AHDC”) for the purpose of obtaining a Certificate of Hardship for its lighting proposal. In the course of the AHDC review a dispute arose as to whether the public hearing held on August 8, 2017 had been continued by agreement of the parties to allow for a site visit by the AHDC. Lasell later took the position, because no written extension had been signed, that the hearing before AHDC had been closed and that it was entitled to the issuance of a Certificate of Hardship as its lighting proposal had been constructively approved due to the lapse of forty-five days without a determination under Section 22-40 of the Newton Ordinances. Lasell’s efforts to avoid an AHDC decision on the merits ultimately proved successful. AHDC did issue a unanimous decision on September 20, 2017 denying Lasell’s request for a Certificate of Hardship; however, the Middlesex Superior Court ultimately ruled against AHDC and in favor of Lasell on the issue of constructive approval. A copy of the AHDC decision is attached as **Exhibit E**.

During the pendency of the AHDC litigation, Lasell and several neighbors had preliminary discussions about a resolution. Lasell, through its counsel, made specific proposals concerning limitations on the use of lighting equipment and other conditions. However,

settlement discussions were later terminated by Lasell without explanation and the proposal withdrawn. Lasell went forward with its original plan and chose not to address issues raised by the Planning Department and AHDC.

On October 15, 2020, Lasell filed its application for a building permit. It sought approval for the construction of four 70 foot lighting poles in the locations shown on the plan attached as **Exhibit C**. Lasell did not seek a variance or any other forms of zoning relief. Lasell did not propose or agree to any restrictions or limitations relating to setbacks, height, use, hours of operation or other restrictions relating to on street parking. On November 18, 2020 the requested building permit was apparently approved by the Building Commissioner and issued without sign off from any other City Department and without any conditions, limitations or restrictions.

## II. Applicable Legal Framework

There are a number of significant zoning and planning issues raised by the Lasell proposal. The following is a brief discussion of several of those significant issues:

### A. Height/Setbacks

Under the Newton Zoning Ordinance, the proposed light poles should be treated as “structures.” Section 8.3 of the Newton Zoning Ordinance defines “structure” as:

“Any construction, erection, assemblage or other combination of materials at a fixed location upon the land, such as but not limited to, a building bridge, trestle, tower, framework, tank, tunnel, tent, stadium, platform, retaining wall or systems of walls whose above-grade height exceeds 4 feet, tennis court or swimming pool.”



There can be little doubt that a light pole constitutes a combination of materials at a fixed location.

As you know, Grellier Field is located in a SR-1 zoning district, and Lasell would be considered a “multi-use institution.” Under Section 3.17 of the Zoning Ordinance, structures in a SR-1 zone are initially limited to a height of 36 feet and three stories by right, with setbacks of 60 feet (front) and 40 feet (rear). An additional story of height is allowed for every 150 feet of distance between streets and abutting properties to a maximum height of six stories and 60 feet. Thus, under the Zoning Ordinance, it would appear that a light pole 60 feet in height would need to be set back a minimum of 450 feet from streets and abutting properties. Obviously, that is not the case here.

Lasell has proposed light poles that would be 70 feet in height, which exceeds the maximum allowed under the Zoning Ordinance. Indeed, according to the plans attached to the permit application, one structure will extend 75 feet into the air because of elevation at that particular location. Even if the light poles were reduced to 60 feet, two of the proposed light poles are located only 2 feet off of the Forrest Avenue lot line, 448 feet short of where they are required to be located under the Zoning Ordinance.

Lasell’s present proposal is obviously different from other cases where the Courts have examined proposed lighting of athletic fields under the Dover Amendment. In several of those cases, the proposed light towers have either met the height restrictions of the Zoning Ordinance

or have been located a sufficient distance from surrounding residential neighborhoods to avoid significant impacts. For example, in the Bible Speaks v. Board of Appeals of Lenox, 8 Mass. App. Ct. 19 (1979) the plaintiff applied for a building permit, in part, to erect lights that were 35 feet high at a softball field which was part of its campus. Id. at 24. The proposed light towers in that case actually met the height and setback requirements under the Town's Zoning Ordinance. The Building Inspector's denial of the permit was ultimately overturned by the Appeals Court which found that it impermissibly impeded the reasonable use of land for its educational purpose. Id. At 33-34. In contrast, the towers proposed by Lasell fail to meet requirements designed to reduce impacts to abutting and neighboring properties.

It is clear that the proposed light towers will negatively impact individual homeowners and the general character of the surrounding residential neighborhood. They exceed the maximum height allowed for a structure in a SR-1 zoning district, significantly fail to comply with the setback provisions of the Zoning Ordinance, cause light to spill on residential properties on Forest Avenue and fundamentally alter what has previously been a quiet residential community. If the towers and light fixtures are permitted, they should be conditioned in a fashion which addresses detrimental neighborhood impacts.

B. Grellier Field Parking

Grellier Field is a "place of assembly" under the Zoning Ordinance. Under Section 5.1.4A of the Zoning Ordinance, the parking requirement for a "place of assembly" is 1 parking

stall for every 3 seats, permanent or otherwise, plus 1 stall for every three employees and 1 stall for every 45 square feet of meeting area.

Consistent with the Dover Amendment, the City should require, as a condition to any permit, a detailed parking plan. The City can and should impose reasonable parking requirements. The neighbors recognize that the term “reasonable” does not require strict adherence to the requirements of the zoning bylaw. In Trustees of Boston College v. Board of Alderman of Newton, 58 Mass. App. Ct. 794, 808 (2003), the court held that a literal interpretation of the zoning bylaw which would have required 357 parking spaces for a proposed campus expansion was unreasonable under the Dover Amendment. The court remanded the issue of parking to the Board of Aldermen to determine a reasonable accommodation, finding that an unspecified number of additional parking spaces might be required given the scope of the new construction project. This holding was consistent with the Court’s opinion in Tufts which also held that a municipal parking requirement was reasonable where it “would not require a greater number of spaces than could in reason be deemed necessary to take care of the cars brought to the area by the use made of it by the college.” 415 Mass. At 762.

My clients are understandably concerned about increased queuing on their streets, pedestrian safety, and the effect of increased traffic on the immediate residential neighborhood. Lasell should provide an in-depth traffic study to address what impact any night games will have on the residential streets and how Lasell’s proposed measures will mitigate those impacts. The

Board should, as a condition to any building permit, impose reasonable and necessary parking restrictions designed to minimize impacts on the neighborhood.

C. Use of the Fields

It is not clear whether Lasell intends to leave the fields lit at night when there is no scheduled Lasell athletic event taking place. My clients submit that leaving Grellier Field lit to support any other activity places an unreasonable burden on the surrounding residential neighborhood, while providing no meaningful educational benefit to Lasell or its student population. In the event that the City authorizes the proposed lights at Grellier Field with necessary and appropriate restrictions, my clients would request a specific condition that restricted the lighting of the field to scheduled Lasell athletic activities. If other activities (e.g. use of the field by students for recreational activities) are contemplated restrictions and alternative lighting should be considered. In no event should any lights be used for non-Lasell sporting or student recreational activities.

D. Noise

In addition to light glare, traffic issues and scope of use, the neighborhood suggests that noise issues should also be considered.

Section 20-13 of the Newton Ordinances (the “Noise Ordinance”) regulates noise control within the City. Noise pollution is defined as “a condition caused by a noise source that increases noise levels 10dB(A) or more above background noise level, except that if the noise

source produces a tonal sound, an increase at 5dB(A) or more above background noise level is sufficient to cause noise pollution.” Pursuant to Section 20-13 (e)(1), noise pollution is prohibited, whether it is caused willfully, negligently, or through failure to provide necessary equipment to prevent it.

Based on Lasell’s submission, it is not clear whether proposed activities will comply with the Noise Ordinance, Lasell should conduct a sound study to determine how the proposed activities at Grellier Field will impact the surrounding neighborhood. With that information, the Board will be able to address whether there are conditions that would ameliorate any noise impact.

E. Light Pollution

Obviously light impacts on the neighborhood are an issue of crucial concern. Section 20-23 of the Newton Ordinances (the “Light Trespass Ordinance”) prohibits light pollution within the City. Lasell should be required to produce a light pollution study showing compliance with the Light Trespass Ordinance. With that information, the Board will be in a position to assess light impacts and to fashion conditions to address and ameliorate any impacts on these homeowners and the rest of the neighborhood.

### **III. Conclusion**

The applicants and the neighbors submit that reasonable conditions and requirements may be applied to a Dover amendment protected use so long as the conditions and requirements do not have the practical effect of nullifying the protected use status. When an educational institution considers a dimensional requirement or other condition to be unreasonable as applied to its proposed project it bears the burden of establishing that compliance “would substantially diminish or detract from the usefulness of the proposed structure(s) . . . without appreciably advancing the municipality’s legitimate concerns.” Trustees of Tufts College v. City of Medford, 415 Mass. 753, 759 (1992). Lasell has not done that in this case.

To the extent the Dover amendment requires relief with respect to height and setback requirements, there are permissible limitations and requirements which would tend to ameliorate the impacts including changes to the proposed lights. These critical issues should be addressed by this Board.

Adoption of a condition regulating the dates and the time of use of the field would constitute a reasonable regulation consistent with a balancing of the rights of an educational use and the legitimate municipal concerns of preserving the character of the adjacent residential neighborhood.

To the extent Lasell proposes use of the field by non-Lasell groups, there is a serious issue as to whether such use(s) are protected under the Dover Amendment. Even if the use(s)

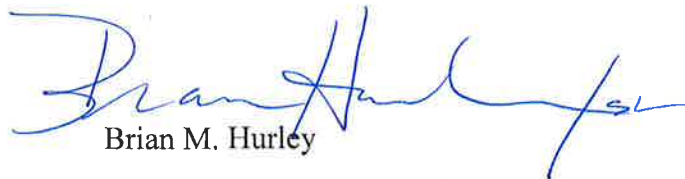
were protected, the Board has the authority to place limitations on the uses including a limitation to daytime hours and a prohibition of significant sound or field lights.

With respect to parking, the Board has authority to impose reasonable conditions or limitations including on-site or on-campus parking and to require the development of a traffic and parking plan designed to ensure no parking and no traffic issues in the neighborhood.

Finally, in view of the enormity of the setback deviation, the Board should impose a condition requiring the installation of fencing and appropriate plantings designed to create a buffer between effected single-family homes and the proposed field lights.

Lasell is proposing a fundamental change to the neighborhood. It should be required to analyze and assess neighborhood impacts and to agree to all reasonable measures which protect the neighborhood and individual homeowners without negatively impacting the educational functions of the University. The building permit should not have issued; Lasell should have been required to seek appropriate relief from the Board.

Very truly yours,



Brian M. Hurley

BMH:eab

# EXHIBIT A





INSPECTIONAL SERVICES DEPARTMENT  
CITY OF NEWTON  
1000 COMMONWEALTH AVENUE  
NEWTON, MA 02459-1449  
617-796-1060

# BUILDING PERMIT

## JOB WEATHER CARD

<b>PERMIT #</b> 20100457	<b>APPLICANT</b>
Date Issued: 11/16/2020	ISLAND LIGHTING AND POWER
Permit Fee: \$6,380.00	14 SHIRE DRIVE
District Inspector: Buddy Lamplough (617) 796-1069	NORFOLK, MA 02056 (508) 954-0260
<b>PROPERTY</b>	<b>OWNER</b>
Location: 70 STUDIO RD AUBURNDALE, MA 02466	LASELL COLLEGE
Zoning District: SR1	1844 COMMONWEALTH AVE
SBL: 43038 0001	NEWTON, MA 02459 (617) 243-2467

### PURPOSE

Installation of (4) concrete foundations, (4) 70' tall sports lighting poles and electrical wiring for complete sports lighting system

**Estimated Cost: \$319000**

**Approved By:** \_\_\_\_\_  
Inspectional Services Department

*This permit conveys no right to occupy any street, alley or sidewalk or any part thereof, either temporarily or permanently. Encroachments on public property, not specifically permitted under the Building Code, must be approved by the jurisdiction. Street or alley grades as well as depth and location of public sewers must be obtained from the Department of Public Works. The issuance of this permit does not release the applicant from the conditions of any applicable sub-division restrictions.*

### PERSONS CONTRACTING WITH UNREGISTERED CONTRACTORS DO NOT HAVE ACCESS TO THE GUARANTY FUND

- Work shall not proceed until the inspector has approved the various stages of construction.
- Permit will become null and void if construction work is not started within six months of the permit Issue Date as noted above.
- Approved plans must be retained on job and this card kept posted until final inspection has been made. Where a certificate of occupancy is required, such building shall not be occupied until final inspection has been made.
- Where applicable separate permits are required for Electrical, Plumbing & Mechanical installations.

BUILDING INSPECTION APPROVALS	PLUMBING INSPECTION APPROVALS	ELECTRICAL INSPECTION APPROVALS
1.	1.	1.
2.	2.	2.
3.	3.	3.
<b>OTHER</b>	<b>HEALTH DEPARTMENT APPROVAL</b> 617-796-1420	<b>FIRE DEPARTMENT APPROVAL</b> 617-796-2230

- Inspections indicated on this card can be arranged by telephone or written notification.
- It is the responsibility of the individual that obtains the permit to make arrangements for all inspections.

# POST THIS CARD SO IT IS VISIBLE FROM THE STREET

## REQUIRED INSPECTIONS FOR CONSTRUCTION

All plans approved and stamped by the City of Newton MUST be on site and accessible during all inspections. If these plans are not on site, inspections will not take place and a re-inspection fee will be assessed.

### 1) EXCAVATION (New House/Addition Only)

- BOTTOM OF HOLE
- NO FOOTINGS OR CRUSHED STONE

### 2) PRIOR TO BACKFILL (New House/Addition Only)

- FOUNDATION POURED AND COATED IF REQUIRED (AS-BUILT MAY BE REQUESTED)
- REMOVAL OF ALL ORGANIC MATERIAL (SLAB ON GRADE OR CRAWL SPACE)
- ELECTRICAL BONDING INSPECTION (IF REQUIRED)

### 3) ROUGH **\*\*IN ORDER TO SCHEDULE A ROUGH INSPECTION, THE FOLLOWING ITEMS MUST BE COMPLETE\*\***

- JOB MUST BE WEATHER TIGHT
- PLUMBING AND ELECTRICAL ROUGH INSPECTIONS (CARD SIGNED)
- ORIGINAL AFFIDAVIT FOR ANY ENGINEERED LUMBER OR STEEL (BASED ON A SITE VISIT FROM THE DESIGN ENGINEER)
- ORIGINAL AS-BUILT FROM LAND SURVEYOR (BASED ON A SITE VISIT)
- ALL FIRESTOPPING MUST BE COMPLETE
- F.A.R. CALCULATION AND/OR 1/2 STORY CALCULATION FROM ARCHITECT OR ENGINEER

### 4) INSULATION

- ALL INSULATION COMPLETE AND VAPOR BARRIER INSTALLED
- ALL VENTING MUST BE COMPLETE

### 5) FINAL **\*\*IN ORDER TO SCHEDULE A FINAL INSPECTION, THE FOLLOWING ITEMS MUST BE COMPLETE\*\***

- PLUMBING AND ELECTRICAL FINAL INSPECTIONS (CARD SIGNED)
- FIRE DEPARTMENT FINAL INSPECTION, WHEN REQUIRED (CARD SIGNED)
- FINAL SIGN-OFF FROM ENGINEERING, PLANNING, CONSERVATION, HISTORIC AND HEALTH DEPARTMENT (WHEN REQUIRED)

**\*\* A FINAL INSPECTION IS REQUIRED FOR ALL BUILDING PERMITS \*\***

**SCHEDULING - WHEN READY, CALL THE DISTRICT INSPECTOR DIRECTLY THE DAY THE INSPECTION IS NEEDED BEFORE 8:00 A.M. TO SCHEDULE AN INSPECTION TIME.**

ALAN GIFFORD	(617) 796-1066
BUDDY LAMPLOUGH	(617) 796-1069
PAUL NELSON	(617) 796-1068
PAUL GILBERT	(617) 796-1088

**Note:** All mechanical equipment, (i.e.) A/C compressors, pool equipment or back-up generators are **NOT** allowed to be in the required setback for your property.

**Noise Ordinance:** Construction activity must comply with the City's Noise Ordinance. In general, construction noise may be generated only during the hours listed below. Refer to Newton Revised Ordinances, 2012, Sec. 20-13 ([www.newtonma.gov/gov/legal/ordinances.asp](http://www.newtonma.gov/gov/legal/ordinances.asp)) for additional details and restrictions.

Monday - Friday	7 AM - 7 PM
Saturday	8 AM - 7 PM
Sunday & Holidays	Not permitted except by permit approved by the Mayor

Inspector Intake Initials & Date Stamp  
 RECEIVED  
 INSPECTIONAL SERVICES  
 NEWTON, MA  
 20 OCT 15 AM 10:30

**City of Newton, Massachusetts**  
 Inspectional Services Department  
 1000 Commonwealth Avenue  
 Newton, Massachusetts 02459



Permit No.: 20100457  
 Date Issued: 11-16-20  
 Date Received: 10-15-20

**APPLICATION FOR PLAN EXAMINATION AND BUILDING PERMIT**

**IMPORTANT: APPLICANTS MUST COMPLETE ALL ITEMS ON THIS PAGE**

**LOCATION INFORMATION** Inspector: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Location: 70 Studio Rd Newton MA Year Built: \_\_\_\_\_  
 Section: 43 Block: 38 Lot: 1&2 Condominium:  Yes  No  
 Historic Preservation:  Yes Lot 1  No Conservation:  Yes  No

**TYPE AND USE OF BUILDING**

Type of Improvement	Proposed Use: Residential	Proposed Use: Non-Residential
<input type="checkbox"/> New Building	<input type="checkbox"/> Single Family	<input type="checkbox"/> Commercial
<input type="checkbox"/> Addition	<input type="checkbox"/> Two Family	<input type="checkbox"/> Industrial
<input type="checkbox"/> Alteration	<input type="checkbox"/> 3 or more Family	<input type="checkbox"/> Hospital, Institutional
<input type="checkbox"/> Demolition	No. of Units: _____	<input type="checkbox"/> Church, other Religious
<input type="checkbox"/> Repair, Replacement	<input type="checkbox"/> Garage	<input type="checkbox"/> Public
<input type="checkbox"/> Signage	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Wireless Communication
<input type="checkbox"/> Temporary Tent		<input type="checkbox"/> Other: <u>Educational</u>
<input type="checkbox"/> Other: <u>Lighting Foundation</u>		

Description of work to be performed: Installation of four (4) concrete foundations, erection of four (4) 70' tall sports lighting poles in the locations shown on the plans attached, and electrical conduit, gear, and wiring for a complete sports lighting system

City Council; Special Permit #: \_\_\_\_\_ Zoning Board of Appeals; Variance; Petition #: \_\_\_\_\_

**IDENTIFICATION (PLEASE TYPE OR PRINT CLEARLY)**

**Property Owner:** Name: Lasell College Phone: 617-243-2000  
 Address: 1844 Commonwealth Ave Newton MA 02466

**Contractor:** Name: Jarrod O'Neil/Island Lighting & Power Phone: 508-954-0260  
 Address: 14 Shire Dr Norfolk MA 02056

Supervisor's Construction License: CS-108187 Exp. Date: 7/6/2022

Home Improvement Registration: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Contractor ID #: 09372

**Architect/Engineer:** Name: Richard Testa Phone: 508-561-1260  
 Address: 70 Main St Wayland MA 01778 Reg. No.: 37868

**SIGNATURES:** \*Note: Persons contracting with unregistered contractors do not have access to the guaranty fund.

[Signature]  
 SIGNATURE OF AGENT/OWNER

[Signature]  
 SIGNATURE OF CONTRACTOR

**DEBRIS REMOVAL: CONSTRUCTION DEBRIS IS NOT TO BE DISPOSED OF IN THE CITY OF NEWTON TRASH COLLECTION SYSTEM**

Section 105.3.1.2 780 CMR, Mass. State Building Code states: "..... A condition of issuing a permit for the demolition, renovation, rehabilitation, or other alteration of a building or structure, M.G.L. Ch. 40 § 54, requires that the debris resulting therefrom shall be disposed of in a properly licensed said waste disposal facility\* as defined by M.G.L.Ch.111, § 150 A."

14 SHIRE DRIVE - NORFOLK, MA. 02056

\*Location of Facility or Dumpster Company's Name and Address

**DEMOLITION ONLY; DUST CONTROL - Choose one of the following options below**

Water Truck

Hydrant Meter  (Requested through Engineering Dept; Not available Nov. 15<sup>th</sup> to April 15<sup>th</sup>)

**WATER & SEWER SERVICE: Dwelling or structure built prior to 1970; Gutting more than 50% or increase of more than 1,000 sq ft new water and sewer must be installed (Refer to Engineering Department for policy)**

Gutting more than 50%:  Yes  No

Increase of more than 1,000 sq ft:  Yes  No

**FEE SCHEDULE: Computed at a rate of \$20.00 per \$1,000.00 of estimated construction cost including any fraction thereof, ROUNDED UP TO THE NEAREST THOUSAND provided however, that in no event shall the fee be less than the minimum fee of \$50.00 for residential and \$100.00 for commercial**

Total cost of the job: \$ 319,000.00 <sup>\$319,000.00</sup> X .02 = FEE \$ 6,380.00 <sup>\$6,380.00</sup>

Check No.: #1048077 Receipt No.: 02000018703

**THE FOLLOWING SECTIONS FOR OFFICE USE ONLY**

DEPARTMENT APPROVALS	APPROVED	DISAPPROVED	NOT APPLICABLE
Planning and Development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conservation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Historic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Health Department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire Department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Engineering Department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**COMMENTS/NOTES:**

✓ Application Needs owners signature, A Contractor  
✓ Survey Need Stamp  
Ins. and Aff on File AD

**BUILDING PERMIT APPROVED AND ISSUED BY:**

AC For JL

Updated July 2020

# **EXHIBIT B**

### Newton City Map - ZBA Appeal



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

City of Newton, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/09/2018  
Data updated 11/14/2018

# EXHIBIT C





# EXHIBIT D



Setti D. Warren  
Mayor

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

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Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

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### INTER-OFFICE CORRESPONDENCE

DATE: July 14, 2017

TO: John Lojek, Commissioner of Inspectional Services  
Anthony Ciccariello, Deputy Commissioner of Inspectional Services

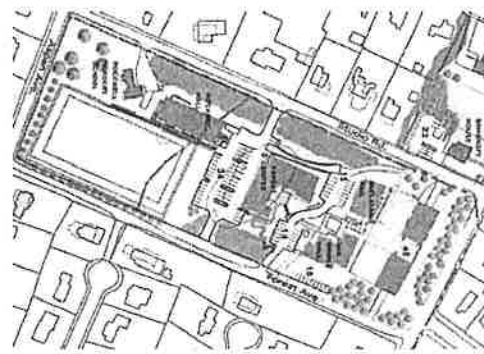
FROM: Barney S. Heath, Director of the Department of Planning and Development  
Neil Cronin, Senior Planner

SUBJECT: **Administrative Site Plan Review – §6.3.14 and §7.5.**  
**Lasell College**  
**70 Studio Road**

CC: Mayor Setti D. Warren  
Ward 1 Councilor Leonard Gentile  
Ward 1 Councilor Amy Sangiolo  
Ward 1 Councilor Jay Harney  
Law Department

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In accordance with §6.3.14 of the Newton Zoning Ordinance (the Ordinance), which requires an administrative site plan review for non-profit educational organizations, the Planning Department, in consultation with other City departments, has reviewed the plans for the proposed light poles at Grellier Field (Lasell College) 70 Studio Road (the site), submitted on March 2, 2017. Lasell is a non-profit private educational organization.



## Background

Lasell College is a nonprofit educational institution, located in Auburndale. The school was founded in 1851 as the Auburndale Female Seminary, but became a four year institution in 1989. The entire campus consists of 50 acres of land and is improved with multiple buildings, parking facilities, and athletic fields.

The subject property consists of two lots totaling approximately 378,173 square feet of land (6.6 acres) located in the Single-Residence 1 (SR-1) zone in Auburndale. The site is Lasell College's Grellier Field constructed in 1998. Additionally, the site consists of three dormitories, four administration buildings and associated parking facilities. The subject property contains a private educational land use surrounded entirely by residential properties (**Attachments A & B**). The site is bounded by Aspen Avenue, Forest Avenue, Woodland Road, and Studio Road (Forest Avenue and Studio Road are private ways). As such, the site has vehicular access via Forest Avenue and Studio Road.

## Project Overview

Lasell College is proposing to install four 70 foot tall light poles at Grellier Field to allow the College to participate in NCAA sanctioned events. In addition, the College plans to light the field for intramural activities.

## Technical Considerations

In accordance with §7.5 of the Ordinance, the project proposal and plans are to be reviewed for compliance with the dimensional standards laid out in §3.1.7 for a Multi-Use Institution: With Dormitory, for religious and non-profit educational uses in an SR-1 district, and for compliance with the parking requirements in §5.1. Based on this review, Lasell College is seeking an administrative site plan review for a private non-profit educational use under M.G.L. Ch. 40A §3/Dover Amendment. Per the Zoning Review Memorandum, the petitioner is seeking a Dover waiver to locate an accessory structure within the front setback (**Attachment C**).

### I. COMPLIANCE WITH §3.1 (DIMENSIONAL REQUIREMENTS)

Light poles are not specifically defined in the Ordinance; therefore, the light poles fall under §8.3 of the Ordinance which defines "Structure" as "Any construction, erection, assemblage or other combination of materials at a fixed location upon the land, such as, but not limited to, a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, platform, retaining wall or system of walls whose above grade height exceeds four feet, tennis court or swimming pool." Furthermore, light poles are not listed as accessory buildings under §3.4.3, thus light poles are interpreted as accessory structures under §3.4.3.B of the Ordinance which states that, "Accessory structures other than accessory buildings referenced above must conform to the applicable setback requirements for the principal building." As the site is a Multi-Use Institution: With Dormitory in the SR-1 zone, and the property lines are all "fronts", the poles must be set back 60 feet from the lot lines. The submitted plans show that two of the poles (LP4 and LP3) are located within the Forest

Avenue setback distance; specifically, the light poles are located two feet from the lot line, where 60 feet is the minimum allowed by-right (**Attachment D**). As a result, the petitioner requires a Dover Waiver to locate the aforementioned light poles within the front setback (See Zoning Review Memorandum).

## II. COMPLIANCE WITH §5.1 (PARKING)

The petitioner has stated that the proposed light poles will not increase the student enrollment or number of faculty for the school. As such, there is no technical change in the parking requirement under §5.1 for the College.

## III. AUBURNDALE LOCAL HISTORIC DISTRICT COMMISSION REVIEW

One of the lots comprising the site is located in the Auburndale Local Historic District. As such, two of the light poles (LP2 and LP4) are located in the Auburndale Local Historic District. The Auburndale Local Historic District Commission reviews any changes to sites and structures in the district that are visible from the public way. Therefore, the petitioner will require a Certificate of Appropriateness, Hardship, or Non-Applicability from the Auburndale Local Historic District Commission for the proposed structures prior to the issuance of a building permit.

## IV. SITE PLAN REVIEW CRITERIA

Per §7.5.2.C of the Ordinance, the Director of Planning and Development may consider this project in light of the following criteria:

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged wherever feasible.

The petitioner is not proposing any changes to the site, except the proposed installation of the light poles. The site is bounded by Forest Avenue, Aspen Avenue, Studio Road, and Woodland Road. Forest Avenue and Studio Road are private ways where ownership of the road is shared between the property owner(s) on either side. In this form of ownership, the petitioner and the residents own up to the midpoint of such roads. In an effort to prevent parking on these private roads, the petitioner has implemented a parking management plan to keep the petitioner's side of the private roads clear when Grellier Field is in use (**Attachment E**). As this is a new initiative, the plan was only utilized towards the end of the spring season and its true effectiveness cannot be measured at this time. In addition, current campus improvements at different parts of the campus have altered the traditional parking habits of students and employees. Staff suggests the petitioner revise the plan after these improvements are complete and solicit feedback from the abutters gauging its effectiveness.

The Planning Department notes the parking management plan does not address usage of the field for non-varsity events. The petitioner has stated that the field will be lit for intramural activities in addition to varsity sports. For a draft schedule of the petitioner's proposed use of the field, the Planning Department converted the schedule proposed by Dean Hickey of Lasell College dated February 23, 2017, into an Excel Spreadsheet (**Attachment F**). Staff notes that although students may walk to the field for intramural events and these events may not attract spectators, the petitioner should update the parking management plan for all scheduled events. Said plan should also include how the petitioner intends to ensure the site is in effect closed after all events. Staff suggests the petitioner consider designating campus employees or officers of the Campus Police to close the site. The goal of this comprehensive parking management plan should be to encourage a change in behavior and ultimately prohibit parking in this area of campus not only to mitigate parking on the abutting streets, but also ensure these roads are clear for emergency vehicles.

The Planning Department recognizes that the petitioner seeks to use the field for non-varsity events, but staff does not support "free times" where use of the field is ad hoc. Therefore, all events held at the field should be structured with official schedules, including the nature of the event, start and end times, and contact information for the relevant department at the College in charge of operating the event.

2. Adequacy of the methods for disposal of sewage, refuse and other wastes and of the methods of regulating surface water drainage.

The petitioner is not proposing changes to the disposal of wastes or drainage.

3. Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site.

The petitioner is not proposing any changes to the existing loading areas for service vehicles or deliveries to the site.

4. Screening of parking areas and structures on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between any existing or proposed structures and the street shall be discouraged.

The petitioner is not proposing to create additional parking nor alter the existing parking facilities. The petitioner has submitted a landscape plan to improve the existing vegetation along Aspen Avenue and Studio Road as well as to help screen the light poles from the abutters (**Attachment G**). At the public meeting on May 24, 2017, the petitioner's landscape professional stated that the small planting areas at the edges of the site constrict the size of the plantings at installation. As a result, the plantings will take time to mature and better screen the field and light poles. Staff suggests the petitioner retain a landscape professional to maintain the plantings to ensure the plantings reach maturity. The landscape professional should inspect the plantings

annually and replace any plant material that becomes diseased or dies with comparable plantings in a timely manner.

5. Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas.

The petitioner is not proposing any changes to the topography of the site.

6. Location of utility service lines underground wherever possible. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines.

Associate City Engineer, John Daghljan, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment H**). The petitioner has stated the proposed light poles will be tied into the existing below grade utility lines on site. The Planning Department agrees with the Engineering Division's memo that the light poles should not be used for the installation of antennae. Staff believes the petitioner shall file an affidavit stating such prior to the issuance of a building permit.

The petitioner has stated that the proposed location of the poles is the only feasible location in order to light the field at the required level and that the proposed height of the poles is required to limit the amount of light trespass onto abutting properties. However, the Planning Department does not support a Dover Waiver to locate the proposed poles within the front setback. As currently proposed, the two foot setback distance is inadequate to provide a buffer from adjacent streets and properties. In addition, at 70 feet tall, the light poles are at a scale that is out of character with the surrounding residential neighborhood. In fact, the light poles are at a scale that is out of character with the campus buildings and the light poles associated with the parking facilities located on site. In summary, staff suggests the petitioner consider alternatives to the current proposal.

7. Avoidance of the removal or disruption of historic resources on or off-site. Historical resources including designated historical structures or sites, historical architectural elements or archaeological sites.

As noted above, two of the proposed light poles are located within the Auburndale Local Historic District and the petitioner will have to receive a Certificate of Appropriateness, Hardship, or Non-Applicability from the Auburndale Local Historic District Commission for the proposed light poles prior to the issuance of a building permit.

### III. CONCLUSIONS AND RECOMMENDATIONS

The Planning Department attended neighborhood meetings on April 12, 2017 and May 24, 2017. During those meetings, neighbors voiced concerns over increased use of the field and

the potential adverse effects associated with the field, including, but not limited to parking, noise, traffic, and parking. In addition, staff received written correspondence from abutters reinforcing these concerns. As a result of this feedback, the Planning Department believes there is an existing parking and congestion problem at this part of the Lasell Campus. Therefore, staff believes the petitioner should take a proactive approach to managing parking at all times. The petitioner should also take an interest in keeping the adjacent streets clean and clear of debris, including litter. Staff notes the petitioner and the abutters have an agreement in place regarding amplification when the field is in use.

The Planning Department does not support a Dover waiver to locate the proposed light poles within the front setback. Staff believes decreasing the required setback distance from 60 feet to two feet will result in an inadequate buffer from the adjacent streets and properties and the light poles are at a scale that is out of character with the immediate area.

Although not regulated by the Ordinance, the petitioner has not provided a lighting plan that shows compliance with the Revised Ordinances Article IV Section 20-23 through 20-28 regulating light trespass. These sections prohibit "the illuminance of light of light measured at any point which is located five or more feet outside the boundary of the parcel of land upon which the light source is located does not exceed .35 horizontal or .35 vertical foot-candles after astronomical twilight." The petitioner should provide a plan exhibiting compliance prior to the issuance of a building permit, or seek a waiver from the Planning and Development Board. If the petitioner seeks a waiver from the Planning and Development Board, the petitioner should provide evidence of such waiver to the Director of Planning and Development and the Commissioner of Inspectional Services prior to the issuance of a building permit. Additionally, the Planning Department would recommend that all of the following actions and submittals be completed prior to the issuance of a building permit:

- Prepare a schedule of all varsity events, including the nature of the event, start and end times, and contact information of the department responsible for operating the event. This schedule shall be provided to the abutters within 300 feet at least 30 days in advance of their start date. The petitioner shall perform the same procedure for all non-varsity events.
- Update the Parking Management Plan to include measures regarding non-varsity events, how parking throughout the campus will change when the ongoing campus improvements are completed, and details stating how the site will in effect be closed at the conclusion of all events.
- Obtain a Certificate of Appropriateness, Hardship, or Non-Applicability from the Auburndale Local Historic District Commission for the proposed light poles prior to the issuance of a building permit.
- Prepare stewardship plan for the petitioner's interest in Forest Avenue and Studio Road and submit to the Director of Planning and Development and Commissioner of Inspectional Services for review and approval prior to the issuance of a building permit.

- Retain a landscape professional to maintain the plantings referenced in Attachment G. The plantings shall be inspected annually and any plant material that becomes diseased or dies shall be replaced in a timely manner.
- The petitioner shall provide an affidavit stating that that the light poles are not be used for the installation of antennae of any kind prior to the issuance of a building permit.
- Submit a Construction Management Plan to the Director of Planning and Development, Commissioner of Inspectional Services, and the Engineering Division of Public Works for review and approval prior to the issuance of a building permit.

**ATTACHMENTS:**

<b>ATTACHMENT A:</b>	<b>Zoning Map</b>
<b>ATTACHMENT B:</b>	<b>Land Use Map</b>
<b>ATTACHMENT C:</b>	<b>Zoning Review Memorandum</b>
<b>ATTACHMENT D:</b>	<b>Proposed Site Plan</b>
<b>ATTACHMENT E:</b>	<b>Parking Management Plan</b>
<b>ATTACHMENT F:</b>	<b>Proposed Lighting Schedule</b>
<b>ATTACHMENT G:</b>	<b>Proposed Landscape Plan</b>
<b>ATTACHMENT H:</b>	<b>Engineering Division Memorandum</b>

**MATERIALS REVIEWED:**

- Administrative Site Plan Review Filing, dated March 31, 2017, submitted April 3, 2017  
Consisting of the Following Materials:
  - Administrative Site Plan Review Application.
  - General Permit Application, dated April 3, 2017.
  - Evidence of Non-Profit Educational Status.
  - Property Site Plan
  - MUSCO Photometric Lighting Plans, consisting of twelve sheets, dated November 22, 2016.
  - Photo Simulations of Light Poles, Prepared by Eck MacNeely Architects, Inc., dated February 9, 2017.
  - Home Game Schedule, Spring 2017.
  - College Commitments to Neighbors (Letter From Dean Hickey, dated February 23, 2017).
  - Neighbor Mailing List.
  - Chronology of Communications, Meetings, Discussions, and Commitments between the College and Neighbors
- Supplemental Administrative Plan Review Filing, submitted May 17, 2017 consisting of the following materials:
  - Proposed Site Plan, Prepared by VTP Associates, unsigned and unstamped, dated April 14, 2017 revised May 15, 2017.
  - MUSCO Photometric Lighting Plans, consisting of twelve sheets, dated May 11, 2017
  - Landscape Plan, prepared by Vanasse Hangen Brustlin (vhb) Inc., dated May 15, 2017.









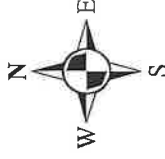
- Parking Management Plan.
- Letter from Attorney Stearns, dated May 16, 2017
- Engineering Division Memorandum, dated April 24, 2017

# Attachment A Zoning Map Studio Rd., 70

City of Newton,  
Massachusetts

**Legend**

-  Single Residence 1
-  Single Residence 2
-  Single Residence 3
-  Building Outlines
-  Surface Water
-  Property Boundaries

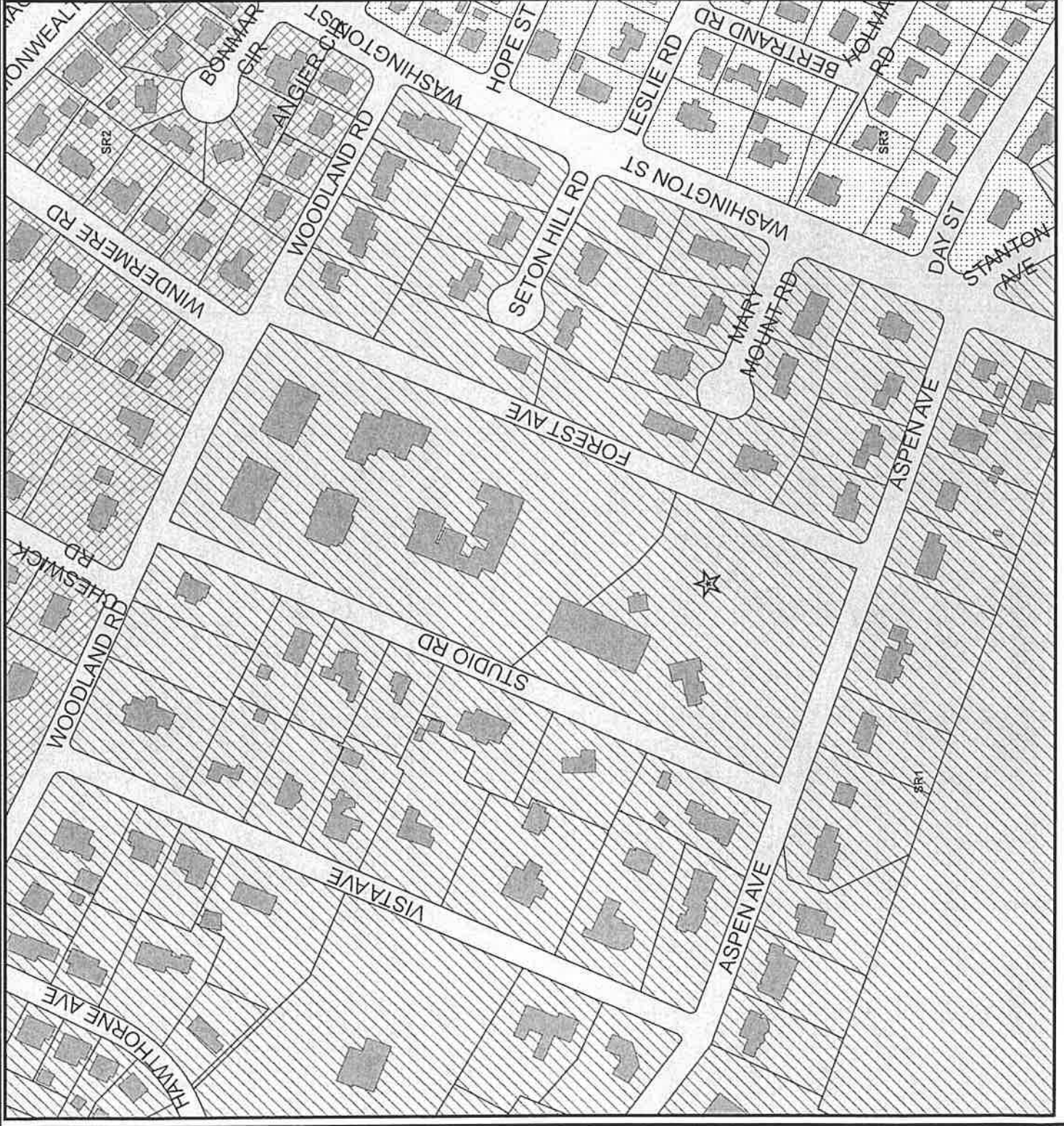


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



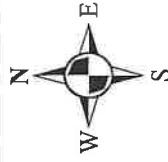
Map Date: June 27, 2017



# Attachment B Land Use Map Studio Rd., 70

City of Newton,  
Massachusetts

Legend	
	Land Use
	Land Use
	Single Family Residential
	Multi-Family Residential
	Mixed Use
	Golf Course
	Open Space
	Private Educational
	Nonprofit Organizations
	Vacant Land
	Building Outlines
	Surface Water
	Property Boundaries

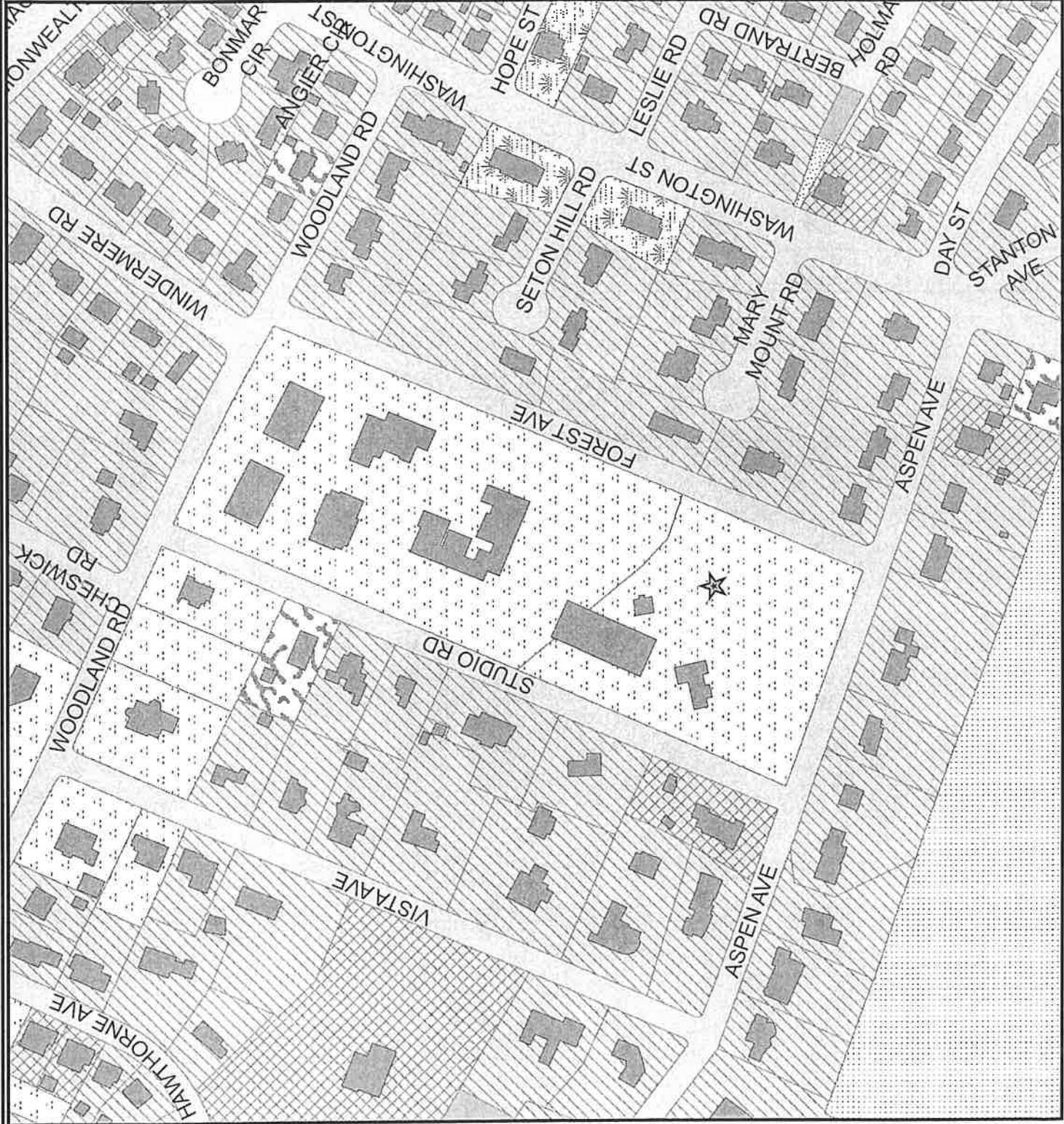


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Scott D. Warren  
GIS Administrator - Douglas Greenfield



Map Date: June 27, 2017





Setti D. Warren  
Mayor

Attachment C

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

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(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

**ZONING REVIEW MEMORANDUM**  
**Administrative Site Plan Review**

Date: July 13, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Frank Stearns, Attorney  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Site Plan Review to erect four light poles at the existing playing field**

Applicant: Lasell College	
Site: 10-12 Studio Road, 70 Studio Road	SBL: 43038 0002, 43038 0001
Zoning: SR1	Lot Area: 378,091 square feet (6.68 acres)
Current use: Non-profit school	Proposed use: No change

**BACKGROUND:**

Lasell College is a private co-ed college offering undergraduate and graduate programs in Auburndale in the Single Residence 2 district. The school was founded in 1851 as the Auburndale Female Seminary, but became a full four-year institution in 1989. The campus consists of 50 acres of land improved with multiple buildings, parking facilities, and athletics fields.

Lasell intends to update Grellier Field by adding four light poles enabling the college to participate in NCAA-sanctioned sports. The field is located on a 6.7 acre portion of the campus located between Studio Road, Woodland Road, Forest Avenue and Aspen Avenue. This section of the campus also contains three dorms and four campus buildings. No new building construction is proposed. The college does not intend an increase to the student or faculty count with the proposed construction project.

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

- Administrative Site Plan Review Application, prepared by Frank Stearns, attorney, dated 3/17/2017
- Evidence of Non-Profit Education Status
- Property Site Plan, submitted 3/17/2017
- Photometric Plans, prepared by Musco Lighting, dated 11/22/2016

- Photo Simulations of Proposed Light Poles

**ADMINISTRATIVE DETERMINATIONS:**

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1. Lasell College is subject to the administrative site plan review procedure per Section 7.5.2 of the Newton Zoning Ordinance as an educational use. This procedure governs the review of uses protected under MGL Chapter 40A, Section 3, also known as the “Dover Amendment”.
2. Lasell proposes to erect four light poles of 70 feet in height around the perimeter of Grellier Field. Section 8.3 states that a structure is “any construction, erection, assemblage or other combination of materials at a fixed location upon the land,...”. Examples of structures that fall within this definition identified in the ordinance include towers, trestles, and platforms, among others. Though historically, the City has not considered light poles to be structures, upon review of this definition, Planning staff concluded that light poles and similar structures of substantial size are within the intent of the ordinance definition of a structure. Therefore, it has been determined that light poles of substantial size and height are considered structures per Section 8.3, and are subject to meeting the requirements of Section 3.4.3.B, which states that any structure other than an accessory building (buildings are structures with roofs) must meet the setback requirements for the principal building. Lasell is classified as a “Multi-Use Institution”, and the light poles proposed by the college must meet those setbacks required for Multi-Use Institutions in the Single Residence 1 zoning district. As this property is abutted on all four sides by streets, all four sides must meet the front setback requirement of 60 feet, or seek a Dover waiver.

As building height limitations are set by roof angle, and light poles have no roofs, should the light poles be considered structures they would not be subject to any height restrictions.

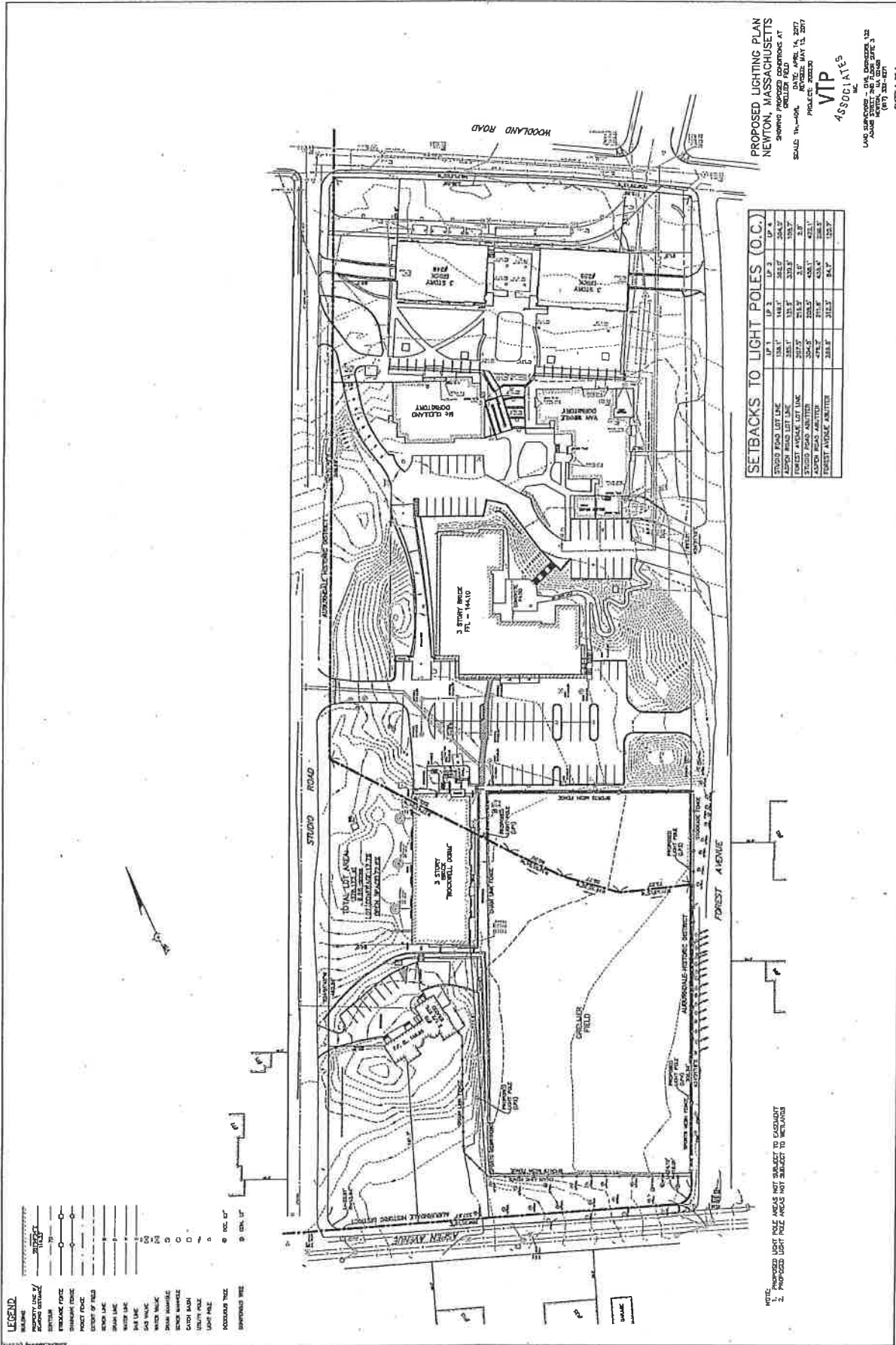
Setbacks for the proposed light poles are as follows:

	<b>Requirement</b>	<b>Light Pole 1</b>	<b>Light Pole 2</b>	<b>Light Pole 3</b>	<b>Light Pole 4</b>
<b>Studio Road</b>	60 feet	156.1 feet	149.1 feet	362.0 feet	364.0 feet
<b>Aspen Road</b>	60 feet	385.1 feet	121.5 feet	339.5 feet	108.7 feet
<b>Forest Avenue</b>	60 feet	207.5 feet	216.9 feet	<b>2.0 feet</b>	<b>2.0 feet</b>

2. The proposed light poles do not increase the number of faculty or students, and will not increase the parking requirement per Section 5.1.4.
3. The Zoning Ordinance does not regulate light emissions from light poles outside of those found in parking lots.

**Administrative Site Plan Review**

Ordinance		Action Required
Ch 30, §7.5.2	Administrative Site Plan Review for a private non-profit educational use	§7.5.2
§3.1.7, §3.4.3.B	To waive the front setback requirement	Dover waiver



## LASELL COLLEGE

### **Parking Management Plan for NCAA Varsity Games Played on Grellier Field**

Lasell College's Grellier Field is located on the corner of Aspen and Forest Avenues. While Aspen Avenue is a City street currently without City of Newton parking restrictions, Forest Avenue is a private way and is controlled by the College and its neighbors on Forest Avenue. Some "No Parking" signs are located along portions of Forest Avenue. Studio Road, which is located very close to Grellier Field, is also a private way.

There are several parking lots located throughout the campus, which are shown on the attached campus parking map. The objectives of this Parking Management Plan are (i) to ensure that more than 180 off-street parking spaces are available for varsity game-days; and (ii) to minimize the temptation to park on our neighboring private ways and on Aspen Avenue.

To accomplish this, the College will take the following steps leading up to game time, as outlined below.

#### Weekend Varsity Games

- The night before a game, Bancroft parking lot (P14) will be coned off by the College's Campus Police Department. This will reserve this lot for visitors to the game the following day.
- The morning of a game, the College's Plant Operations staff members will place temporary signage throughout campus that will direct game-day visitors to various campus parking lots.
- Plant Operations staff members will open the East/West (P7) and the Campus Center (P2) parking garages for the purpose of allowing game-day parking.
- Visiting team buses will be directed to park in front of the East/West residence halls and the drivers will be instructed to stay with the buses.
- Campus Police will lift the gate and allow parking in the Rockwell Residence Hall parking lot (P13) for the purpose of allowing game-day parking.
- An extra Campus Police Officer will be assigned to the game to:
  - Prohibit parking on the College side of Forest Avenue and Studio Road
  - As a courtesy will ask anyone who attempts to park on the neighbor-controlled side of Forest Avenue and Studio Road to move (NOTE: the College has no jurisdiction on the neighbor side of these streets)
  - Help direct game-day cars to an appropriate parking lot
- The Athletics Department will send parking instructions to their social media outlets, as well as to visiting teams.

#### Weekday Varsity Games

The College has designated some of its parking lots as being for various groups: resident students, commuter students, and employees. Recognizing that employees will be occupying parking lots that



would otherwise be vacant on the weekends, the College will institute the following plan for weekday varsity games:

- The morning of a game, the College's Plant Operations staff members will place temporary signage throughout campus that will direct game-day visitors to various parking lots.
- Plant Operations staff members will open the East/West (P7) and the Campus Center (P2) parking garages for the purpose of allowing game-day parking. Please note that these parking lots are designated as employee lots, but will be made available since the weekday games begin in late afternoon as and after employees leave campus.
- The Bancroft parking lot (P14) will be made available to game-day parking. Please note that this parking lot is designated as a commuter lot, but will be made available since the weekday games begin in late afternoon as and after commuters leave campus.
- The Central Street parking lot (P3) will be made available to game-day parking. Please note that this parking lot is designated as an employee lot, but will be made available to spectators since the weekday games begin in late afternoon as and after employees leave campus.
- Visiting team buses will be directed to park in front of the East/West dorms and the drivers will be instructed to stay with the buses.
- Campus Police will lift the gate and allow parking in the Rockwell Residence Hall parking lot (P13) for the purpose of allowing game-day parking. Please note that this parking lot is designated as an employee lot, but will be made available to spectators since the weekday games begin in late afternoon as and after employees leave campus.
- An extra Campus Police Officer will be assigned to the game to:
  - Prohibit parking on the College side of Forest Avenue and Studio Road
  - As a courtesy will ask anyone who attempts to park on the neighbor-controlled side of Forest Avenue and Studio Road to move (NOTE: the College has no jurisdiction on the neighbor side of these streets)
  - Help direct game-day cars to an appropriate parking lot
- The Athletics Department will send parking instructions to their social media outlets, as well as to visiting teams.

All temporary signage will be removed after the game is over.

The College currently has limited use of three of its parking lots due to construction of our Science and Technology Center located just off Commonwealth Avenue. The construction is scheduled to be complete by the end of the fall semester, 2017. As a result, these parking lots will be available to the College community, as well as for game-day parking, for the spring 2018 sports season.



**Lasell Field Hockey Schedule 2017**

**September**

<b>Saturday</b>	<b>2</b>	<b>Becker College</b>	
Wednesday	6	@Johnson and Wales	
<b>Saturday</b>	<b>9</b>	<b>Wheelock</b>	
Tuesday	12	@ Elms	7:00 p.m.
Thursday	14	@MIT	
<b>Saturday</b>	<b>16</b>	<b>Anna Maria</b>	12:00 p.m.
Tuesday	19	Clark	
Thursday	21	Salve	
Saturday	23	@ Rivier	
Tuesday	26	WPI	

**October**

Sunday	1	@Mount Ida	
Tuesday	3	@NEC	
<b>Saturday</b>	<b>7</b>	<b>vs Saint Joseph's ME</b>	<b>12:00 p.m.</b>
Wednesday	11	@Smith	
<b>Saturday</b>	<b>14</b>	<b>vs Regis (Family &amp; Friends)</b>	<b>12:00 p.m.</b>
Tuesday	17	@Western Connecticut	
<b>Saturday</b>	<b>21</b>	<b>vs Simmons</b>	<b>12:00 p.m.</b>
Wednesday	25	Framingham	



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Lasell College Proposed Lighting Schedule

Light Schedule	January	February	March	April	May (Graduation)	June	July	August 15th	August 16th	September (Labor Day)	October	Thanksgiving	December
No Lights At All	X	X	X	X	X	X	X	X	X	X	X	X	X
No Lights Past 9 P.M. on Weeknights, 10 P.M.; excluding games	X	X	X	X	X	X	X	X	X	X	X	X	X
No Use of Lights After 7 P.M. on Weekdays and Weekends	X	X	X	X	X	X	X	X	X	X	X	X	X

\*Due to hot weather, the field may be lit before Labor Day  
 \*\* The lights may be lit on Sundays in accordance with the schedule above



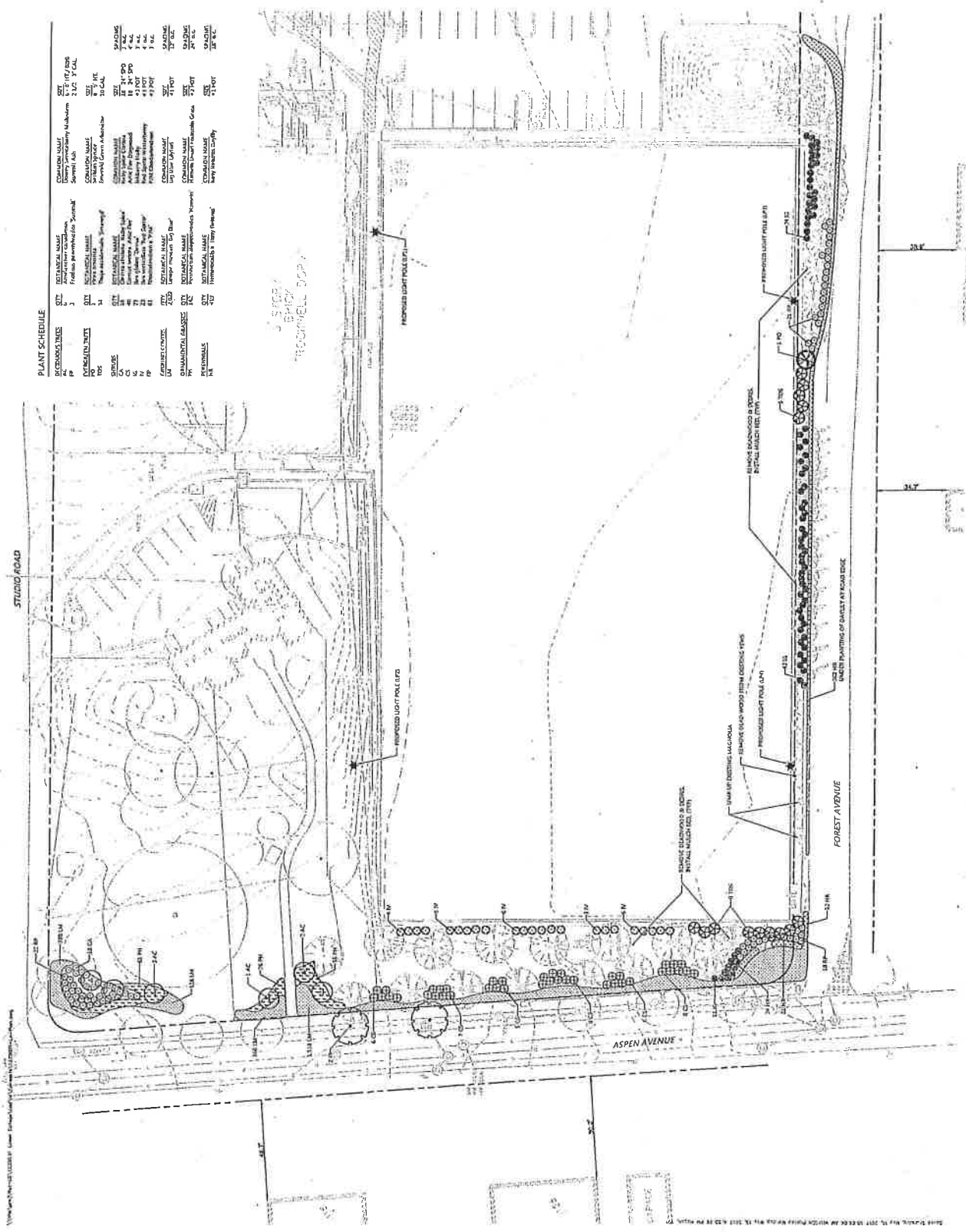
Grellier Field  
 Lowell College  
 Newton, Massachusetts

DATE	DESCRIPTION
May 15, 2017	Administrative Site Plan Review
May 15, 2017	Final Approval for Construction
<b>Landscape Plan</b>	

L-1  
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 1335021

**PLANT SCHEDULE**

SYMBOL	PLANT NAME	PLANT SPECIES	PLANT SIZE	PLANT QUANTITY
1	DOGWOOD	DOGWOOD	12" DBH	1
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DATE: 05/15/17, 10:17 AM. DRAWN BY: J. M. W. CHECKED BY: J. M. W. SCALE: 1/8" = 1'-0".

CITY OF NEWTON  
Department of Public Works  
ENGINEERING DIVISION

MEMORANDUM

To: Barney S. Heath, Director of Planning

From: John Daghlian, Associate City Engineer

Re: Administrative Site Plan Review – Lasell College Grellier Field Lighting

Date: April 24, 2017

CC: Lou Taverna, P.E., City Engineer  
Shawna Sullivan, Associate City Clerk  
Alexandra Ananth, Chief Planner  
Neil Cronin, Senior Planner

---

In reference to the above site, I have the following comments for an application entitled:

*Lasell College  
Grellier Field Lights  
Administrative Site Plan Review Filing  
March 31, 3017*

*Executive Summary:*

Lasell College is proposing to illuminate the athletic field located between Aspen Avenue, Forest Avenue and Studio Road. The site is an existing synthetic field located in a residential neighborhood, that is utilized for inter-colligate games. It is intended to have 14-night games between March and April. As with any lighting that is proposed, the system must meet the City's Lighting Ordinances that has zero spillover from the new lights at the property lines and limitations on the duration that they operational. Details of the proposed light poles were not provided, however; based on the lighting summary the poles are 70 feet high, and the luminaires are also mounted at this height.

The application did not identify where the power source would be provided from to the proposed lights. Additionally if a power outage occurs during a game, would the College propose back feeding the lights with a generator? It is also unclear as to where the

control panel for the proposed system would be located. Would the lights also emit any noise during operations?

Should this permit be approved, consideration should be given to the restriction of the potential installation of small cell antenna for wireless communications that are being installed throughout the City.

The lighting system must comply with all Massachusetts State Electric Codes for safety, wind resistance, foundation design, electrical wiring and grounding. The applicant will have to apply for various permits with the Inspectional Services Department.

Lasell College will need to work with the Planning & Police Departments regarding game night parking, bus drop-off of teams, spectators, traffic and circulation and any restriction related to on street parking.

General Comments:

1. No excavation is allowed within any City right-of-way between November 15<sup>th</sup> and April 15<sup>th</sup>. If an emergency exists or there are extenuating circumstances, Applicant may seek permission for such work from the City DPW Commissioner via the City Engineer. If permission is granted, special construction standards will be applied. Applicant or Applicant's representative must contact the City of Newton Engineering Department prior to start of work for clarification.
2. 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.*
3. The applicant will have to apply for Street Opening, Sidewalk Crossing permits for any construction within publicly owned streets with the Department of Public Works prior to any construction.
4. Prior to an Occupancy Permit being issued, the Applicant's Engineer shall submit to the Engineering Division an As Built drawing in digital and hard copy formats.

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





# EXHIBIT E



CITY OF NEWTON, MASSACHUSETTS

CITY HALL

1000 COMMONWEALTH AVENUE

NEWTON CENTRE, MA 02459

TELEPHONE (617) 796-1240

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MARIE M. LAWLER  
ROBERT J. WADSWICK  
MAURA E. O'KEEFE  
ALAN D. MANDL  
JULIE B. ROSS  
JILL M. MURRAY  
JONAH M. TEMPLE

September 20, 2017

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Re: Lasell College – Request for Two Athletic Field Lights

Dear Attorneys Levine and Stearns:

This letter is in response to a letter dated September 11, 2017, sent by Ms. Diane Parker to members of the Auburndale Historic District Commission (“Commission”) regarding the above referenced matter. I am sending this response to you rather than to Ms. Parker since you have told me that you both represent Lasell College (“College”) in connection with this matter.

Ms. Parker’s letter makes four points and states how the College intends to proceed with regard to the continuation of this matter at the Commission’s September 26<sup>th</sup> meeting. The first two points are not substantive and need no response, but I believe Ms. Kurze will refer to this matter as concerning field lights or athletic field lights rather than stadium lights in the future.

Ms. Parker’s third point continues to dispute the Commission’s belief that the College’s agents agreed to postpone opening the hearing until a meeting in September. I appreciate that there is a factual disagreement of this point, but I note that the Commission Chair said on several occasions during discussions that any postponement would need the consent of the applicant. While Mr. Lever did state that he wanted to present the College’s request that evening, he did not

object to the Commission's vote to postpone the matter until the Commission's September meeting. Had he done so, I do not believe that the Commission would have voted to continue its review of the College's request.

The Commission clearly believed that the College representatives were agreeing to the requested continuation for the reasons we discussed at our meeting on Tuesday of this week. When one member of the Commission opined that holding a meeting at Lasell following a site visit would be helpful, representatives of the College were heard to say that that request would be considered. One Commission member even thanked the College at the conclusion of the discussion on this matter.

For reasons I do not understand, Mr. Lever waited until after the meeting was over to say that the College had not agreed to the postponement. Given that Mr. Lever was at one time staff to the Commission, has appeared before the Commission on several occasions since leaving the employ of the City, and is familiar with how the Commission Chair conducts a meeting, why he remained silent when the Commission voted to continue the matter is not clear to me. How a judge might view what happened at the Commission's meeting I cannot predict, but I do believe there is a legitimate dispute regarding whether or not the College consented to the postponement particularly in view of the Commission's reliance on that consent.

Regarding the fourth point made in Ms. Parker's letter stating that the College is entitled to a Certificate of Hardship because the Commission failed to act on its application within 45 days, I reviewed the College's application and found that the College applied for a Certificate of Hardship, not a Certificate of Appropriateness. The statement contained in Lasell College's letter to the neighbors is incorrect when it states that the College had applied for a "...Certificate of Appropriateness, Non-Applicability, or Hardship." Lasell College applied only for a Certificate of Hardship.

Section 22-40(f)(4) of the City's Historic District Ordinance, cited in Ms. Parker's letter, has a 45-day time frame for applications for Certificates of Appropriateness. I fail to find a 45-day time frame for a decision on an application for a Certificate of Hardship in the Newton Revised Ordinances. Please let me know if there is another section of the City Ordinances that should be referenced for the 45-day time frame.

Finally, given the Commission's vote at its August meeting to continue the review of the College's application to a meeting in September, I would hope that the College not only attends this meeting but presents its request for a Certificate of Hardship on substantive grounds. As you know, and have advised the College, doing so under a reservation of rights does not prevent the College from pursuing its claim at a later time that it is entitled to a Certificate of Hardship on procedural rather than substantive grounds.

I can see no harm in the College presenting substantive reasons to the Commission for a Certificate of Hardship. It is only fair to the Commission that it have the opportunity to hear the College's presentation, which I believe would have happened at the Commission's August meeting if the Commission had understood that the College was not agreeing to the continuation.

I am pleased that the Lasell College will allow Commission members to take a site visit of the location of the proposed field lights. I look forward to seeing one or both of you at the Commission's meeting on September 26<sup>th</sup>.

Thank you.

Very truly yours,

A handwritten signature in black ink, consisting of several overlapping loops and a long, sweeping tail that extends to the right.

Ouida C.M. Young  
Deputy City Solicitor

Cc: Barbara Kurze, Senior Preservation Planner  
All Members, Auburndale Local Historic District Commission

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
A. MIRIAM JAFFE  
SHERMAN H. STARR, JR.  
JUDITH L. MELIDEO-PREBLE  
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NEWTON, MASSACHUSETTS 02461-1267  
TELEPHONE (617) 965-3500  
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January 7, 2021

Brooke Lipsitt, Chairman  
Newton Zoning Board of Appeals  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

RE: 2Life Coleman Limited Partnership (formerly JCHE Coleman Limited Partnership),  
2Life Development Inc. (formerly Jewish Community Housing for the Elderly, Inc.),  
ZBA Cases #3-83 and 17-96

**NOTICE OF PROJECT CHANGE:  
REQUEST FOR DETERMINATION OF INSUBSTANTIALITY**

Dear Chairman Lipsitt,

On March 8, 1983, the Board of Appeals issued a Comprehensive Permit (#3-83; “the initial Comprehensive Permit”) to Jewish Community Housing for the Elderly V, Inc. allowing for the construction of one hundred (100) low-income elderly housing units (Coleman 1) on land located at 601-621 Winchester Street, Newton, Massachusetts (the “Project Site”). On July 23, 1996, the Board of Appeals issued a second Comprehensive Permit (#17-96; “the second Comprehensive Permit”) to the Jewish Community Housing for the Elderly V, Inc.<sup>1</sup> The second Comprehensive Permit added an eight-story addition containing forty-six (46) units to the existing five-story building (“Coleman II”). Pursuant to 760 CMR 56.05(11)(a) 2Life gives notice that it desires to make a change to the details of the Project and requests a determination that the change is “insubstantial” with reference to the factors set forth in 760 CMR 56.07(4).

2Life now seeks to provide additional program space to better meet the needs of its residents. Specifically, 2Life seeks to construct an approximately 1,000 square foot addition connected to Coleman I and II to be built on the existing outdoor patio. The addition would house much-needed resident service program space. The existing outdoor space at the main

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<sup>1</sup> Jewish Community Housing for the Elderly V, Inc. is currently known as 2Life Development, Inc. and references herein to “the Petitioner” are to 2Life Development, Inc., or “2Life.”

entrance would be improved to serve as a replacement patio for residents. In addition, the scope also includes site work to create a new accessible entrance to this addition. Stantec's plans of the proposed addition, dated January 6, 2021, along with a one page summary sheet, are attached hereto.

The proposed approximately 1,000 square foot addition would result in a modest (0.70%) reduction in open space, and an associated increase in lot coverage (0.70%) and FAR (0.01%). As is shown on the plans, neither of these proposed changes would substantially impact the project in any manner relevant to zoning. We note that grading for the improvements would technically increase the building height by 3 inches. No change to the parking or unit count is proposed.

760 CMR 56.07(4)(b) provides guidance to a Zoning Board of Appeals as to what constitutes a substantial or insubstantial change to a comprehensive permit. The following are examples of the circumstances which ordinarily will and will not constitute a substantial change, as described in 760 CMR 56.07(4)(d):

“(c) The following matters generally will be substantial changes:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in the building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing to another.

(d) The following matters generally will not be substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspects of the proposal.”

The matters that are generally considered substantial are changes that would typically require more relief than was originally granted by a comprehensive permit, whereas the matters generally considered as insubstantial typically require less relief than was granted or have no effect on the relief. As the change to the Project has either no effect on the relief or would result in less relief being required than was granted, the change to the Project is similar to those matters generally considered not to be substantial.

Life respectfully submits that the changes are insubstantial under the applicable regulations. This notice is being provided under 760 CMR 56.05(11)(a). Pursuant to these regulations, the Board shall determine within twenty (20) days whether this request is a substantial or insubstantial change in accordance with 760 CMR 56.05(11)(c) and (d). If it is

**SCHLESINGER AND BUCHBINDER, LLP**

determined that the changes are insubstantial, or if notice is not provided to the applicant to the contrary within such twenty (20) day period, the Comprehensive Permit shall be deemed changed, as requested. The above process does not require a public hearing. A public hearing would be required if you determine that the requested changes are substantial changes, and if so, and pursuant to the aforesaid regulations, a public hearing is to be held with thirty (30) days.

We wish to call to the Board's attention two other matters which do not require any action, but which are relevant for the future:

- (i) 2Life Communities will be proposing a new project to be known as "Opus" at the JCC campus adjacent to Coleman House. Opus will consist of about 175 units of housing for which 2Life Communities will seek a special permit from the City Council in the spring of 2021. We expect to be before the Zoning Board of Appeals in 2021 for amendments to the prior Comprehensive Permits to allow the lot re-configurations. The addition proposed in this letter will serve as service space currently and as a connection to the Opus building in the future.
- (ii) In connection with renovation of Coleman House 2Life Communities is considering changes to the color or style of exterior materials. In accordance with 760 CMR 56:00 these changes are not "substantial" changes subject to review of the Board.

Pursuant to our dialogue with the Board's Clerk, we understand that this matter will be scheduled for discussion on January 27, 2021. Please feel free to contact me if you have any questions regarding the foregoing.

Very truly yours,



Alan J. Schlesinger

enclosures

cc (w/enclosures): Neil Cronin, Chief Planner  
Lizbeth Heyer, 2Life Communities

# 2Life Communities

## COLEMAN HOUSE RENOVATION

#677 Winchester Street

Land Use Permit - Zoning Review

January 6, 2021

Owner

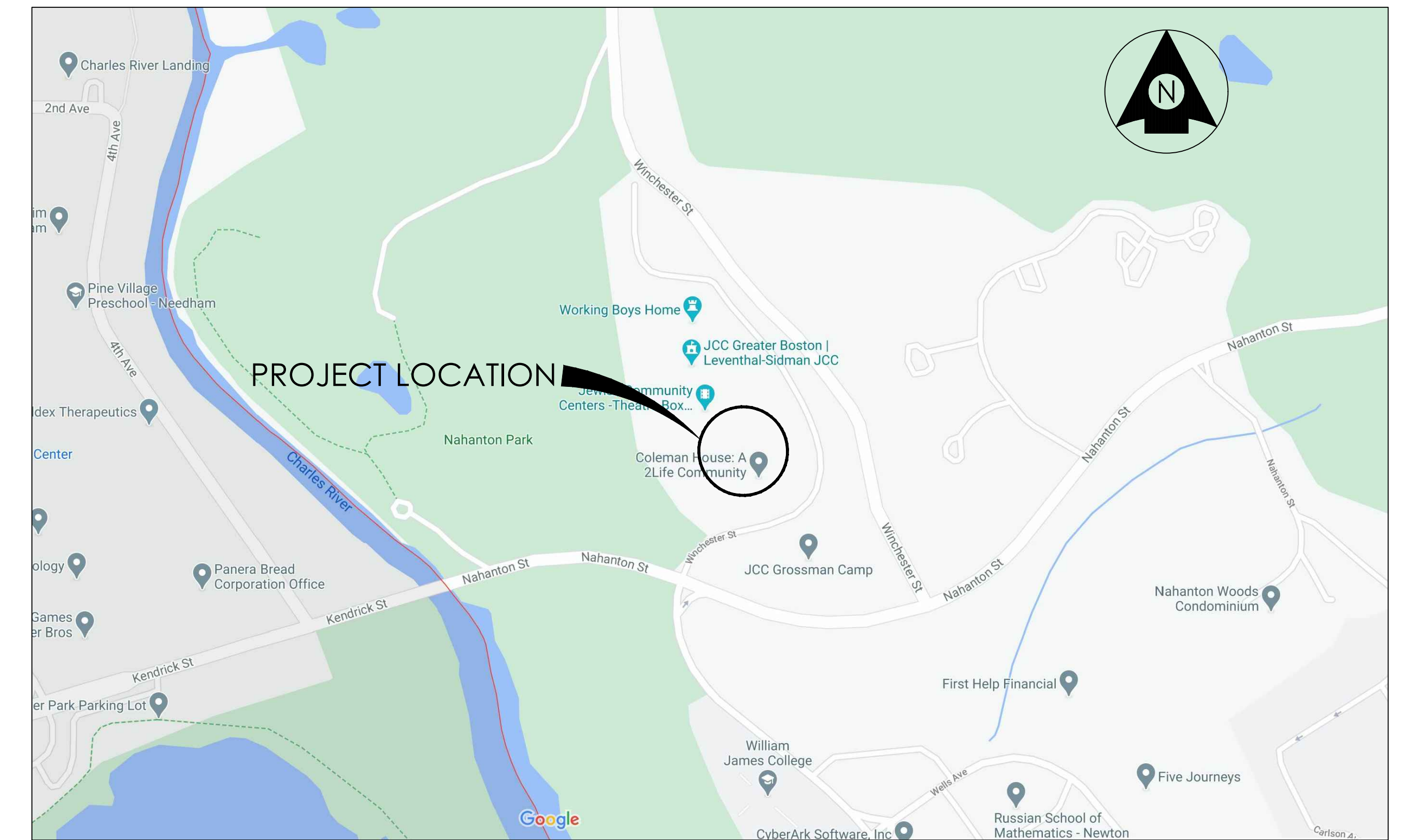
2Life Communities  
30 Wallingford Road  
Brighton MA 02135

Architect

Perkins Eastman  
1100 Liberty Avenue  
Pittsburgh PA 15222

Landscape Architect / Civil Engineer

Stantec Consulting  
226 Causeway Street, 6th Floor  
Boston MA 02114



VICINITY MAP  
NOT TO SCALE

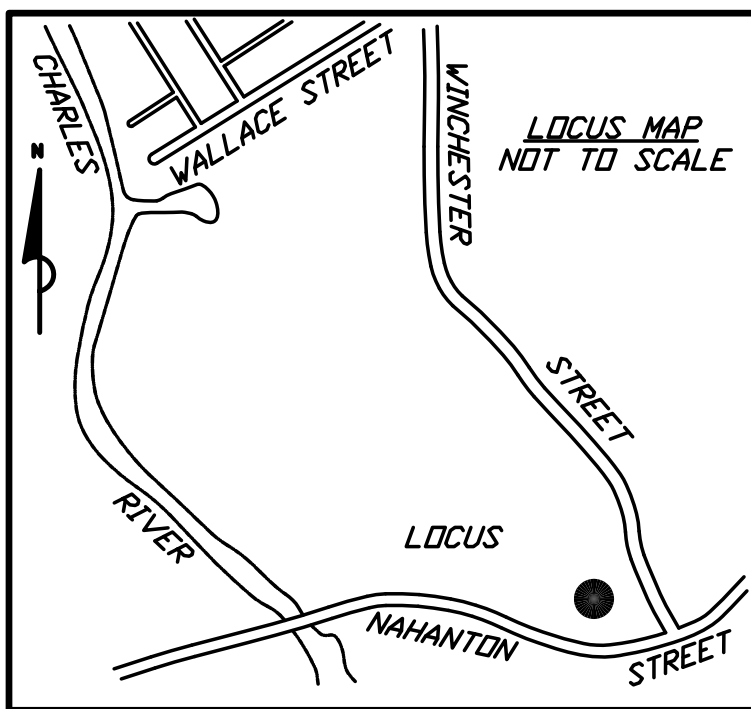
INDEX OF SHEETS

SHEET NO.	TITLE
1.	COVER SHEET
2.	EXISTING CONDITIONS SURVEY
3.	SITE PLAN
4.	PROGRAM EXPANSION PLAN AND ELEVATION



KEY PLAN  
NOT TO SCALE





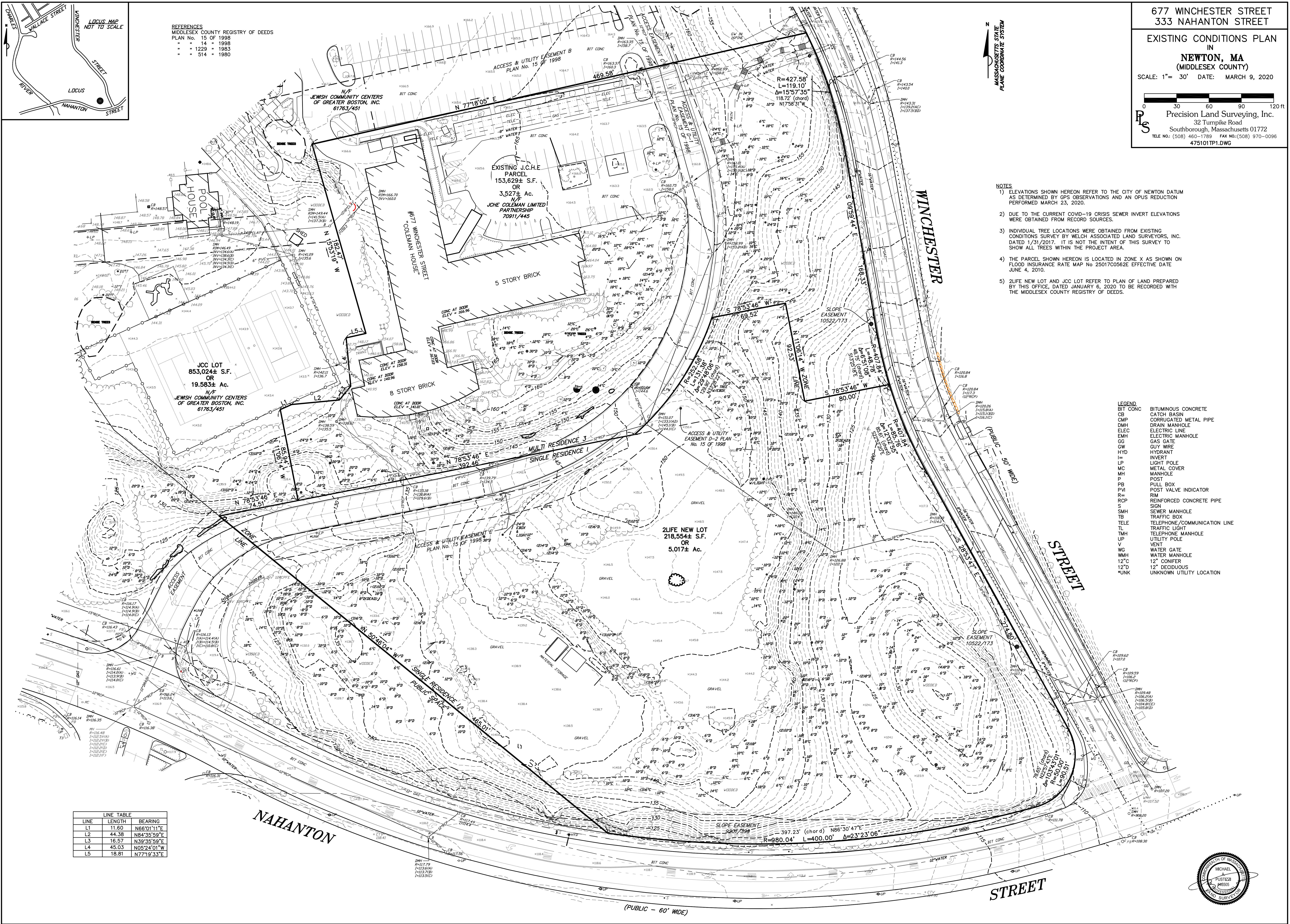
REFERENCES  
 MIDDLESEX COUNTY REGISTRY OF DEEDS  
 PLAN No. 15 OF 1998  
 • 14 • 1998  
 • 1229 • 1983  
 • 514 • 1980

677 WINCHESTER STREET  
 333 NAHANTON STREET

EXISTING CONDITIONS PLAN  
 IN  
**NEWTON, MA**  
 (MIDDLESEX COUNTY)

SCALE: 1" = 30' DATE: MARCH 9, 2020

Precision Land Surveying, Inc.  
 32 Turnpike Road  
 Southborough, Massachusetts 01772  
 TELE NO.: (508) 460-1789 FAX NO.: (508) 970-0096  
 475101TP1.DWG



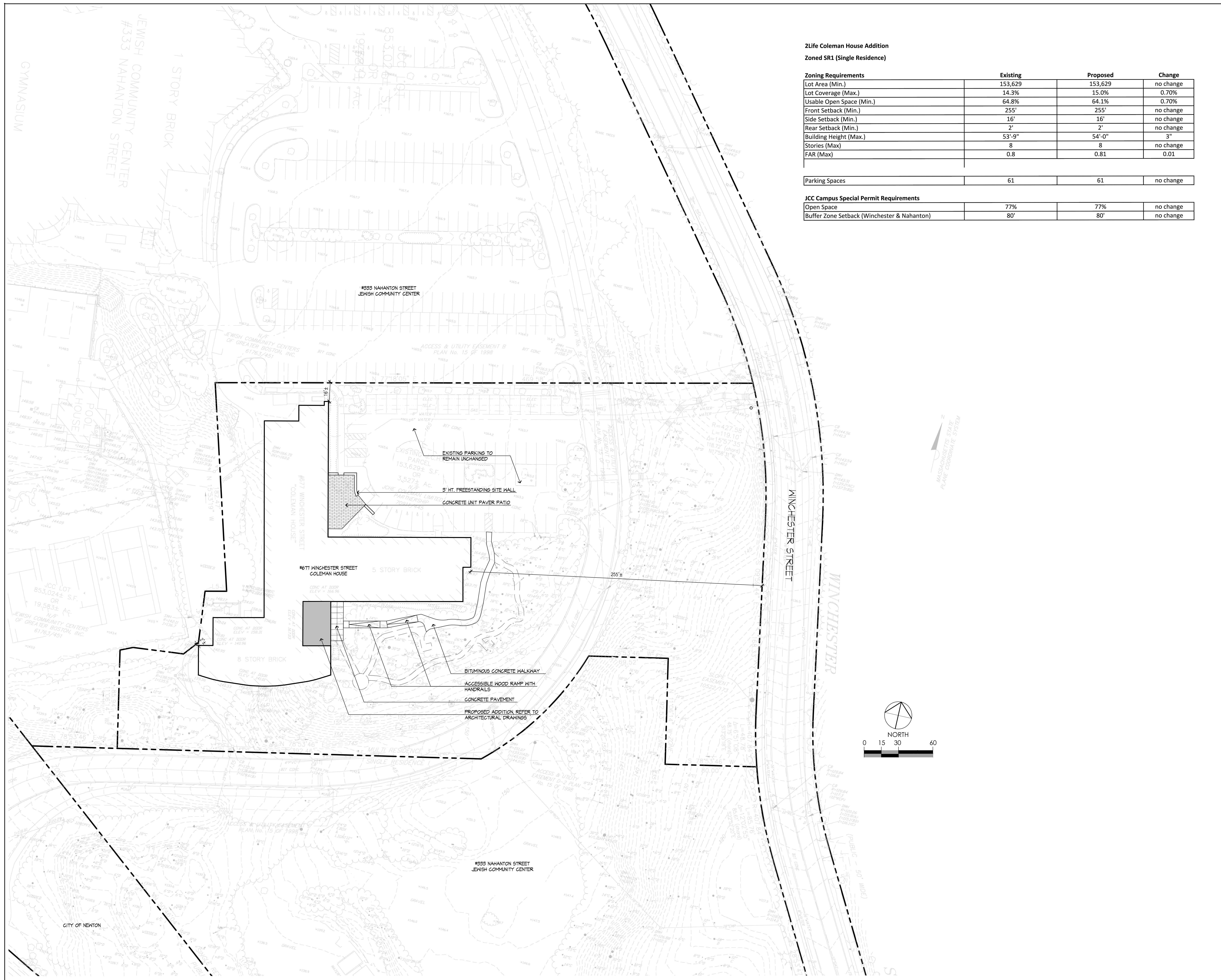
- NOTES
- 1) ELEVATIONS SHOWN HEREON REFER TO THE CITY OF NEWTON DATUM AS DETERMINED BY GPS OBSERVATIONS AND AN OPUS REDUCTION PERFORMED MARCH 23, 2020.
  - 2) DUE TO THE CURRENT COVID-19 CRISIS SEWER INVERT ELEVATIONS WERE OBTAINED FROM RECORD SOURCES.
  - 3) INDIVIDUAL TREE LOCATIONS WERE OBTAINED FROM EXISTING CONDITIONS SURVEY BY WELCH ASSOCIATED LAND SURVEYORS, INC. DATED 1/31/2017. IT IS NOT THE INTENT OF THIS SURVEY TO SHOW ALL TREES WITHIN THE PROJECT AREA.
  - 4) THE PARCEL SHOWN HEREON IS LOCATED IN ZONE X AS SHOWN ON FLOOD INSURANCE RATE MAP NO 25017C0562E EFFECTIVE DATE JUNE 4, 2010.
  - 5) 2LIFE NEW LOT AND JCC LOT REFER TO PLAN OF LAND PREPARED BY THIS OFFICE DATED JANUARY 6, 2020 TO BE RECORDED WITH THE MIDDLESEX COUNTY REGISTRY OF DEEDS.

- LEGEND
- BIT CONC BITUMINOUS CONCRETE
  - CB CATCH BASIN
  - CMP CORRUGATED METAL PIPE
  - DMH DRAIN MANHOLE
  - ELEC ELECTRIC LINE
  - EMH ELECTRIC MANHOLE
  - GC GAS GATE
  - GW GUY WIRE
  - HYD HYDRANT
  - INVERT
  - LP LIGHT POLE
  - MC METAL COVER
  - MH MANHOLE
  - P POST
  - PB POST BOX
  - PVI POST VALVE INDICATOR
  - R REINFORCED CONCRETE PIPE
  - RCP SIGN
  - S SEWER MANHOLE
  - SMH TRAFFIC BOX
  - TB TELEPHONE/COMMUNICATION LINE
  - TELE TRAFFIC LIGHT
  - TMH TELEPHONE MANHOLE
  - UP UTILITY POLE
  - V VENT
  - WG WATER GATE
  - WMH WATER MANHOLE
  - 12" C 12" CONIFER
  - 12" D 12" DECIDUOUS
  - UNK UNKNOWN UTILITY LOCATION

LINE	LENGTH	BEARING
L1	11.60	N66°01'11"E
L2	44.38	N84°35'59"E
L3	16.57	N39°35'59"E
L4	45.03	N05°24'01"W
L5	18.81	N77°19'33"E



(PUBLIC - 60' WIDE)



**2Life Coleman House Addition**  
**Zoned SR1 (Single Residence)**

Zoning Requirements	Existing	Proposed	Change
Lot Area (Min.)	153,629	153,629	no change
Lot Coverage (Max.)	14.3%	15.0%	0.70%
Usable Open Space (Min.)	64.8%	64.1%	0.70%
Front Setback (Min.)	255'	255'	no change
Side Setback (Min.)	16'	16'	no change
Rear Setback (Min.)	2'	2'	no change
Building Height (Max.)	53'-9"	54'-0"	3"
Stories (Max)	8	8	no change
FAR (Max)	0.8	0.81	0.01

Parking Spaces	61	61	no change
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**JCC Campus Special Permit Requirements**

Open Space	77%	77%	no change
Buffer Zone Setback (Winchester & Nahanton)	80'	80'	no change

NO.	DATE	REVISION

SEAL



Stantec Planning and Landscape Architecture P.C.  
 226 Causeway Street 6th Floor  
 Boston MA  
 02114-2155  
 Tel. (617) 523-8103  
 Fax. (617) 523-4333  
 www.stantec.com



1100 Liberty Avenue  
 Pittsburgh, PA 15222  
 T +1 412 466 6900  
 F +1 412 466 9900

Owner:  
**2 LIFE COMMUNITIES**  
 30 Wallingford Road  
 Brighton, MA 02135  
 Construction Manager:  
**DELLBROOK**  
 One Adams Place  
 859 Willard Street  
 Quincy, MA 02169  
 Civil / Site:  
**STANTEC**  
 226 Causeway Street, 6th Floor  
 Boston, MA 02114

Structural:  
**VEITAS & VEITAS ENGINEERS, INC**  
 839 Granite Street  
 Braintree, MA 02184  
 MEP consultant:  
**PETERSEN ENGINEERING, INC**  
 127 Parratt Avenue  
 Portsmouth, NH 03801

PROJECT TITLE:  
**2LIFE - COLEMAN HOUSE RENOVATIONS**

677 WINCHESTER STREET  
 NEWTON, MA 02459

PROJECT No: 66574.00  
 DRAWING TITLE:  
**SITE PLAN**

SCALE:  
**LU-L100**  
 LAND USE PERMIT

01/06/2021

U:\Projects\100176\2Life\Drawing\document\2001762.dwg, Job: 2Life, User: JF, Date: 2021/01/06 11:33 AM, Plot: 2Life\_SitePlan.dwg

### FLOOR PLAN LEGEND

NO WORK	CIRCULATION
AMENITY	SUPPORT - SERVICES

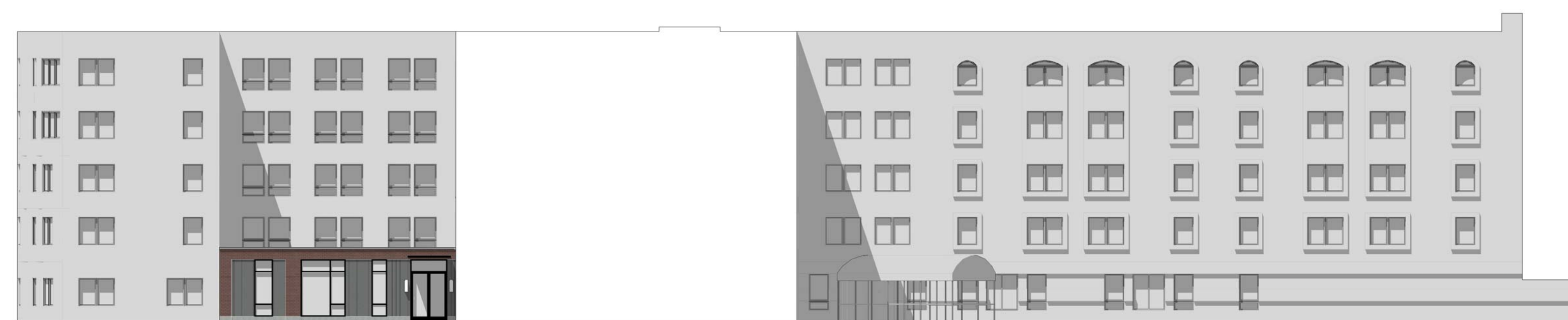
NO.	DATE	ISSUE



5 PROGRAM EXPANSION WEST ELEVATION  
1/16" = 1'-0"



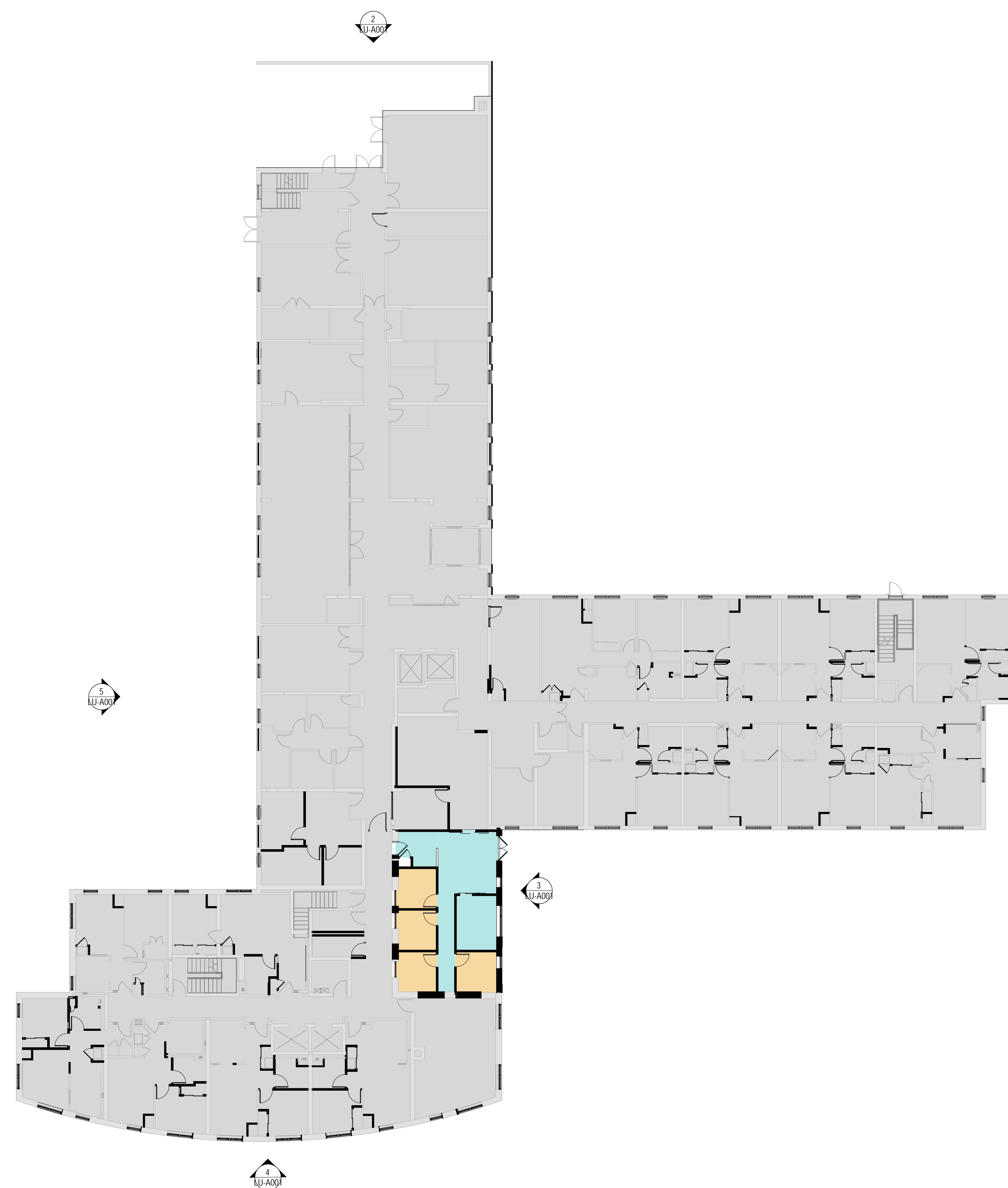
4 PROGRAM EXPANSION SOUTH ELEVATION  
1/16" = 1'-0"



3 PROGRAM EXPANSION EAST ELEVATION  
1/16" = 1'-0"

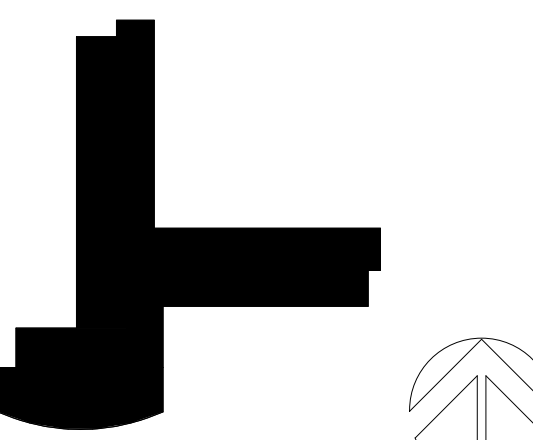


2 PROGRAM EXPANSION NORTH ELEVATION  
1/16" = 1'-0"



1 FLOOR PLAN - LEVEL 1, PROGRAM EXPANSION  
1/16" = 1'-0"

SEAL



**PERKINS EASTMAN**  
1100 Liberty Avenue  
Pittsburgh, PA 15222  
T: +1 412 458 0900  
F: +1 412 458 0906

Owner:  
2LIFE COMMUNITIES  
30 WALLINGFORD ROAD  
BRIGHTON, MA 02135

Construction Manager:  
DELLBROOK  
ONE ADAMS PLACE, 859 WILLARD STREET  
QUINCY, MA 02169

Structural Engineer:  
VEITAS & VEITAS ENGINEERS, INC.  
639 GRANITE STREET BRAintree, MA 02184

MEFPF Engineer:  
PETERSEN ENGINEERING, INC.  
P.O. BOX 4516  
PORTSMOUTH, NH 03802

Envelope Consultant:  
TRIPI ENGINEERING SERVICES, LLC  
433 MAIN STREET, SUITE 4  
HUDSON, MA 01749

PROJECT TITLE:  
**2LIFE - COLEMAN HOUSE RENOVATIONS**

677 WINCHESTER STREET  
NEWTON, MA 02459

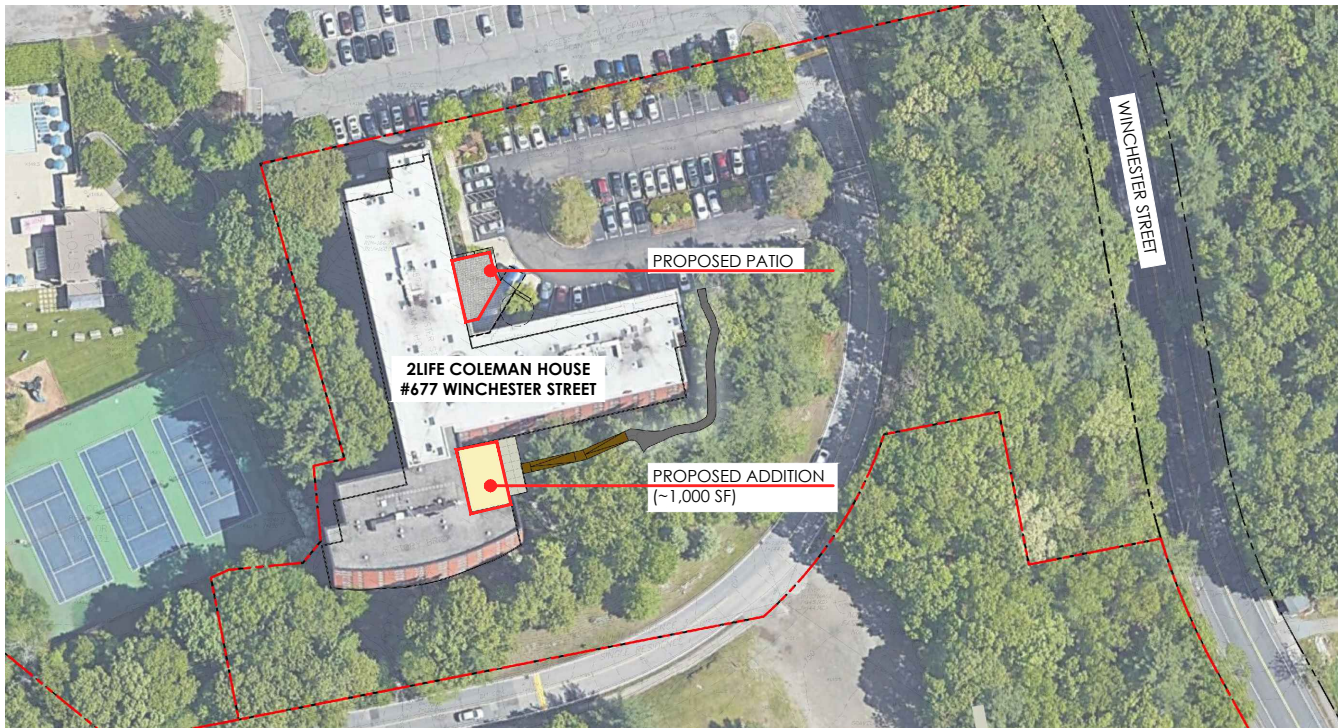
PROJECT No: 66574.00

DRAWING TITLE:  
**PROGRAM EXPANSION - PLAN AND ELEVATION**

SCALE: As Indicated

**LU-A001**

PROGRAM EXPANSION &  
RENOVATION SCHEMATIC DESIGN SET  
07/06/2021



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 226 Causeway St.  
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 www.stantec.com

Client/Project 01/06/2021

2LIFE COMMUNITIES  
 COLEMAN HOUSE RENOVATION  
 #677 Winchester Street

Figure No.

Title

Project Summary Sheet