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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: November 5, 2021
MEETING DATE: November 9, 2021
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner
CC: Petitioner

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

PETITION #71-20

1114 Beacon Street

Special Permit/Site Plan Approval to allow a 34-unit, four-story structure with 41.17 feet in height, multi-family dwelling greater than 20,000 sq. ft., to allow ground floor residential use, to allow an FAR of up to 2.0, a waiver of the minimum stall depth requirements, relief to allow 1.25 parking stalls per unit, and a waiver of the sustainable design standards at 1114 Beacon Street, Ward 6, Newton Highlands, on land known as Section 54 Block 22 Lot 04, containing approximately 51,745 sq. ft. of land in a district zoned BUSINESS USE 2.

The Land Use Committee (The "Committee") last held a public hearing on this petition on Tuesday, June, 29, 2021, which was held open, for the petitioner to respond to questions and concerns raised in the Planning Department's Memorandum and at the public hearing by the Committee as well as by members of the public. This memo reflects those issues and concerns, as well as revised materials submitted by the petitioner as of November 5, 2021.

Members of the Committee express concerns with the following aspects of the project or requested further clarification: the overall design of the project, engineering, shadow studies, the inclusionary zoning requirement, and traffic. Subsequently, the Petitioner submitted the attached Response to Comments (**Attachment A**)

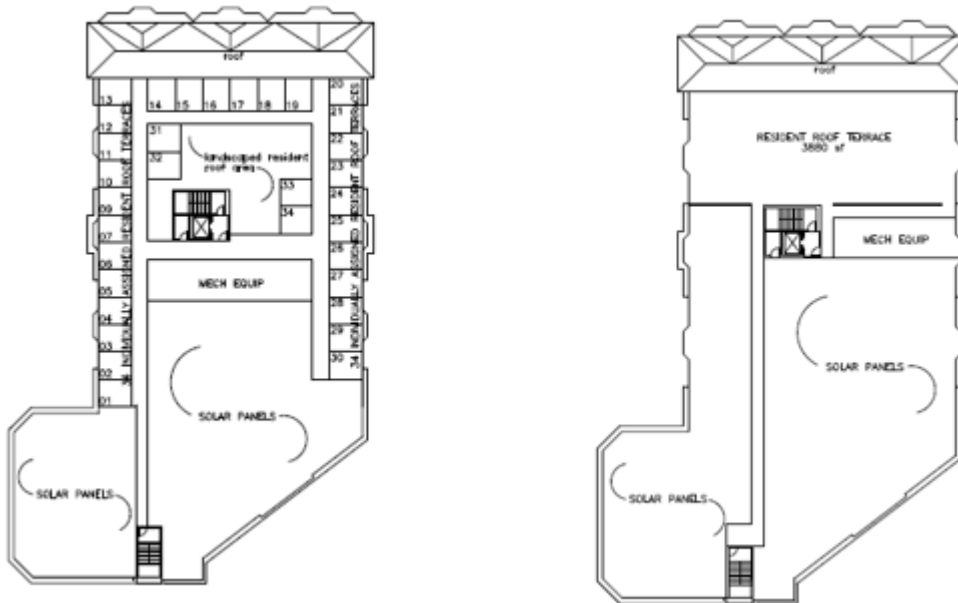
Building Design

Members of the Committee requested clarification regarding the roof and the number of stories the structure contains. The petitioner stated that the roof will be an open-air deck with common space for unit

owners with a portion of the roof dedicated to a solar array. There is approximately 3,880 square feet dedicated to the common roof amenity space which is limited to the northern portion of the roof. The prior iteration of the project consisted of a greater area dedicated to amenity space as well as dedicated areas allocated to the specific unit owners.

Prior Roof Plan

Proposed Roof Plan



Regarding the number of stories, the structure features enclosed space above the third story along the front façade. This space is considered a story because business zones do not account for half stories. Below are the west and front elevations with the features which extend above the third story and are considered the fourth story outlined in yellow.



WEST ELEVATION

Members of the Committee also questioned the placement of the building in relation to the street. Earlier iterations of the petition included two curb cuts and a drive aisle between the structure and Beacon Street which the Planning Department viewed as undesirable. Additionally, there is a conservation area to the rear of the site, and the structure is subject to setbacks from the residential districts to the south (rear). As a result, the Planning Department and the design peer review consultant requested the drive aisle and the western curb cut be removed which allowed the structure to be closer to the street. The proposed front setback complies with the setback required by the BU-2 zone, while the existing structure has a nonconforming front setback of less than one foot.

Members of the Committee also questioned how much the project decreased from the prior iterations to the current proposal. The floor area ratio, ("the FAR") of the project decreased from 1.14 to 1.08. This represents a proposed total gross floor area of 55,786 square feet, where the original submission contained 59,087 square feet of total gross floor area. This represents a decrease of approximately 3,105 square feet when considering the decrease in FAR. Earlier iterations of the project showed two penthouse units containing 2,624 square feet and 3,464 square feet within the fourth story. The petitioner has since removed those units.

There are no changes to the building design or to site design since the prior hearing.

Shadow Study

The petitioner submitted a shadow study to show potential shadow impacts from the proposed project. The City's design peer review consultant, NBBJ, reviewed the shadow study and confirmed the shadow study is an accurate representation. NBBJ's analysis shows the anticipated impact from shadows to be minimal, with the most intense shadow cast during the winter solstice on December 21st, where much of the area will experience shadows from buildings in the area.

During the summer solstice, the building is expected to cast a shadow to the east, placing adjacent buildings within its shadow from 1 hour to 2.5 hours during the day. The Equinox on March 20th and September 22nd cast shadows east and west of the building, placing buildings to the east in shadow from 1-3 hours. The proposed landscaped area to the west of the proposed building provides a buffer from casting adjacent buildings to the west in its shadow. While an analysis was not done of shadows cast from the existing one-story building, it is acknowledged that it would not have a significant impact as it is only one story. NBBJ created an animation that better illustrates impacts of shadows on abutting buildings. It can be found at the link below:

<https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-1062>

The link is titled "11-05-21 1114 Beacon Shadow Analysis" and is located approximately 2/3 down the page and consists of a PowerPoint presentation. The animation is on slide 4 of the presentation.

Transportation and Mitigation

As a result of discussions between Planning Staff, the Transportation Division of Public Works, and the City's transportation peer review consultant, BSC, several transportation mitigation items were explored. City

Staff recommends 75% of the I&I fee be allocated to transportation mitigation. The City recommends a condition requiring the petitioner to purchase and install a bus shelter for the northbound 59 bus stop of Walnut Street at Beacon Street. The remaining funds would be deposited into an account for other transportation related mitigation including but not limited to bike share, the City’s shuttle service Newmo, or other measures as directed by the Director of Planning and Development in consultation with the Commissioner of Public Works.

The city also recommended one bicycle parking space per unit and that 50% of the spaces be EV charger ready. The petitioner revised the garage plan to clarify that the bike room will have room for 20 bicycles and seven of the 46 garage spaces will be for electric vehicle charging. The petitioner stated that beyond the dedicated parking for 20 bicycles, they will install a hanging bike rack for any resident who wishes to have one at their parking stall. There is an additional bike rack at the front of the building which will accommodate four bicycles. To accomplish the 1:1 bicycle parking per unit, the petitioner should consider converting the space dedicated to fitness to additional bicycle parking.

Parking

The Committee discussed which parking stalls would be allocated for guest parking. The project includes 46 parking stalls in the lower-level garage, and four surface parking stalls for a total of 50 parking stalls. The four surface parking stalls on the eastern facade will be designated short term parking during the day and allow for visitor parking overnight. Also, five stalls in the garage will be allocated for visitor parking. The Planning Department notes that with the request relief to allow 1.25 stalls per unit, this brings the required number of parking stalls to 43 stalls. The Commissioner of Inspectional Services has interpreted the Zoning Ordinance to only allow the assignment of excess parking stalls beyond the required number of stalls by zoning. Under the zoning, the petitioner may only assign seven visitor stalls.

Inclusionary Zoning

Of the 34 dwelling units in the multi-family dwelling, the petitioner is required to provide at least 10% of Tier 1 units at 80% area median income, and an additional 7.5% Tier 2 units at 110% area median income, resulting in six inclusionary units, three at 80% AMI, and three at 110% AMI.

The petitioner stated they will provide the originally submitted mix of inclusionary units as well as the required fractional cash payment of \$231,295.50. The Petitioner should confirm the below table reflects their proposal for the inclusionary zoning requirement.

Table 1. Inclusionary Unit Mix and Income Levels

AMI	Unit	Bedrooms	Size
80%	303	1	1,069 sf
80%	105	1	1,412 sf
	108	1	1,530 sf
80%	205	2	1,523 sf

110%	202	1	1,106 sf
110%	308	2	1,533 sf
110%	110	3	1,432 sf

Upon review of the initial inclusionary housing plan, staff stated that a larger two-bedroom unit would need to be an inclusionary unit. While the petitioner reassigned a larger two-bedroom unit as directed, staff have concerns with Unit 108 as an inclusionary due to its location next to the surface parking, driveway, and service entrance. Housing Staff suggested assigning Unit 101 as the Inclusionary Unit and would like to see the IZ unit parking spaces denoted on the plans. They also requested that the petitioner confirm the bathroom count/configuration in each unit as it is not shown on the floor plans. Housing Staff will review the final locations of the units prior to the issuance of a building permit.

Engineering

City Staff requested information regarding the proposed drainage system. The petitioner stated the reduction in impervious area translates to approximately 12,542 square feet. The proposed stormwater management system is described on page 13 of the Response to Comments. The Planning Department reviewed the proposed drainage system with Associate City Engineer John Daghlian. Mr. Daghlian stated the proposed features of the stormwater management system are accurate in reflecting the ongoing meetings the Engineering Division has attended with the petitioner’s team and a neighbor concerned with stormwater runoff.

Members of the Committee also expressed an interest in seeing that the utilities be undergrounded. The petitioner agreed to do so granted that the utility company agree to do so. The petitioner should update the Committee on any discussions thus far with the utility. A condition will be incorporated that the petitioner use best efforts to gain approval from the utility company to underground utilities.

Sustainability

The petitioner submitted a sustainability plan which was reviewed by the City’s Energy Coach, Liora Silkes (**Attachment B**). The Project will be designed to meet or exceed the requirement of LEED certifiability at the Gold Level. In her review, Ms. Silkes requested more information regarding electric vehicle charging, which the petitioner clarified on the plans. Ms. Silkes encouraged that the petitioner fully electrifies the building which would include appliances, and water heaters if heat pumps are not feasible.

A condition will be incorporated into the Council Order requiring the project to be LEED Gold certifiable and the Building’s Sustainability Plan will be reviewed again at the building permit stage.

ATTACHMENTS:

- Attachment A:** Response to Comments, dated September 15, 2021
- Attachment B:** Sustainability Review
- Attachment C:** Draft Council Order

The Beacon

Response to Comments

September 15, 2021

Response to Comments

Number	Commenter
1	Councilor Laredo
2	Councilor Markiewicz
3	Councilor Kelley
4	Councilor Lucas
5	Councilor Bowman
6	Councilor Greenberg
7	Councilor Lipof
8	Councilor Downs
9	Planning Department / Engineering Department

Councilor Laredo

Comment 1.1

Please provide a shadow study as shadowing is a legitimate concern.

Response

A shadow study of the proposed project was previously submitted to the City, and was reissued on August 31, 2021.

Comment 1.2

Can you please describe the type and number of the proposed trees along Beacon Street?

Response

There will be (4) 'Adirondack' Crab Apple trees planted along the front of the building. These are small dwarf trees with a mature height of 10' and 6' spread.

Comment 1.3

Can you underground the utilities to get rid of the utility pole on Beacon Street?

Response

The petitioner is willing to underground the utilities if the utility company agrees to do so.

Comment 1.4

I do not think there is enough guest parking. Can you describe how guests would park at the property?

Response

The four (4) surface parking stalls will be designated as short-term (1 hour) parking during regular business hours (8AM -5PM). During all other hours those parking stalls will be available to visitors of the facility. Additionally, the petitioner plans to allocate five (5) parking stalls in the garage as dedicated visitor parking.

Comment 1.5

I would like to see the proposed layout of the units.

Response

The proposed floor plans were further revised on August 31, 2021 to redesignate some of the proposed inclusionary units. Those plans are submitted herewith.

Comment 1.6

I would like a better understanding of the use of the roof and a better understanding of if it is a fourth story.

Response

The roof plan is included with the revised floor plans dated August 31, 2021. The proposed roof will be an open-air deck with common space for unit owners. A portion of the roof will also be used for a solar panel array. The roof is accessed by an enclosed stairwell which meets the definition of a story under the definition of "story" in the Zoning Ordinance. It is that enclosed stairway and the uninhabitable portion of the front façade above the third story that technically make the proposed project a "four-story" structure.

Comment 1.7

Can you add an additional affordable unit?

Response

The petitioner investigated the possibility of providing additional inclusionary units in excess of what is required under the Zoning Ordinance. It has committed to providing six inclusionary units (including a three-bedroom unit at Tier 1), as well as a fractional payment of \$231,295.50.

Councilor Markiewicz

Comment 2.1

Can you provide an additional inclusionary unit at 80% AMI?

Response

The petitioner investigated the possibility of providing additional inclusionary units in excess of what is required under the Zoning Ordinance. It has committed to providing six inclusionary units (including a three-bedroom unit at Tier 1), as well as a fractional payment of \$231,295.50.

Comment 2.2

Can you underground the utilities?

Response

The petitioner is willing to underground the utilities if the utility company agrees to do so.

Councilor Kelley

Comment 3.1

Can you provide an additional inclusionary unit at 80% AMI?

Response

The petitioner investigated the possibility of providing additional inclusionary units in excess of what is required under the Zoning Ordinance. It has committed to providing six inclusionary units (including a three-bedroom unit at Tier 1), as well as a fractional payment of \$231,295.50.

Comment 3.2

Can you underground the utilities?

Response

The petitioner is willing to underground the utilities if the utility company agrees to do so.

Comment 3.3

Please show the EV parking stalls and charging stations on the plans, and explain what fire safety measures will be included in the garage.

Response:

The EV parking stalls are highlighted floor plans that were reissued on August 31, 2021. In terms of fire safety, the garage will be sprinklered and will also include any necessary fire safety systems the Fire Department requires to address the issue of an electrical fire.

Comment 3.4

Can you scale down the side façade of the building to give it a more residential context?

Response:

The project has gone through multiple iterations since it was initially proposed in 2018. At this point, the petitioner has reduced the massing substantially from what was originally proposed and incorporated a more residential design to the front façade to mimic the design elements seen in the condominium development across the street. The project has eliminated 6,987 square feet (approximately 12%) from what was originally proposed. The petitioner cannot further reduce the scale of the project.

Councilor Lucas

Comment 4.1

Will you provide some pedestrian safety measures for the driveway such as mirrors at the entrance?

Response:

Based on the current length of the driveway and the distance from the street to the garage entrance, the petitioner does not believe additional pedestrian safety measures are needed. However, the petitioner is willing to add pedestrian safety signage if required.

Comment 4.2

Will you provide a phone or some other security measure in the garage?

Response:

The petitioner will agree to install a security phone in the garage.

Comment 4.3

Can you move the building back further from Beacon Street?

Response:

This project has gone through several iterations since it was originally proposed in 2018. Initially, the Planning Department had recommended that the proposed building be placed close to the front lot line. In response to Land Use Committee comments at the March 2020 hearing on this matter, the project was redesigned to meet the front setback requirement of 10 feet.

Setting the building back farther on the site is not feasible as the building would extend into the Wetland Resource Area (Isolated Land Subject to Flooding). The current configuration meets the Mass. Wetlands Protection Act Regulations, and the project has been approved by both the Newton Conservation Commission and the Mass. Department of Environmental Protection.

Councilor Bowman

Comment 5.1

Will the affordable units incorporate a local preference?

Response:

The petitioner will provide local preference for the affordable units to the extent that it can in accordance with applicable law.

Comment 5.2

How does guest parking work?

Response:

The four (4) surface parking stalls will be designated as short-term (1 hour) parking during regular business hours (8AM -5PM). During all other hours those parking stalls will be available to visitors of the facility. Additionally, the petitioner plans to allocate five (5) parking stalls in the garage as dedicated visitor parking.

Comment 5.3

Explain how the bicycle parking will work, and if it is going to be a hanging system, will you use a lift system?

Response:

The proposed bike room at the building is large enough to accommodate 20 bike stalls. Additionally, for every owner that wishes to have one, the petitioner will install a hanging bike rack at their parking stall. There is also a proposed bike rack in the front of the building which will accommodate four bicycles.

Comment 5.4

Can you provide a rendering of what the front of the building will look like with the proposed landscaping in place?

Response:

The August 31, 2021 architectural plans include a rendering that incorporates the proposed landscaping.

Councilor Greenberg

Comment 6.1

Can you add an additional inclusionary unit?

Response:

The petitioner investigated the possibility of providing additional inclusionary units in excess of what is required under the Zoning Ordinance. It has committed to providing six inclusionary units (including a three-bedroom unit at Tier 1), as well as a fractional payment of \$231,295.50.

Comment 6.2

Would you provide any community space that would be open to the public?

Response:

As the project will be a condominium (i.e. ownership) development, and not rental apartments, it will not incorporate dedicated community use space into the project.

Councilor Lipof

Comment 7.1

How many square feet did the proposed project decrease by from what was originally presented to us in March 2020?

Response

As originally proposed to the Land Use Committee in March 2020, the size of the proposed development was 58,732 square feet. The current iteration of the project contains 51,745 square feet. This represents a 6,987 square foot reduction in square footage (approximately 12%).

Councilor Downs

Comment 8.1

Will you provide a generator or auxiliary power source at the property?

Response:

The petitioner agrees to provide a solar operated battery backup system for the existing drain line pump, and any required emergency lighting to operate in the event of a power outage.

Comment 8.2

Please provide details regarding the landscaping strip on Beacon Street.

Response:

The 10' landscape strip along the front façade includes a 5' deep foundation plant bed that includes, Oakleaf Hydrangea, Inkberry, and Rhododendron. This planting provides year-round interest of flower, fall color, and winter evergreen. In front of that bed will be a 5' lawn panel planted with (4) Adirondack Crab Apples. These are dwarf Crab Apple which will reach 10' high with a 6' spread. They flower white in spring and have orange to red fruit color.

Planning Department / Engineering Department

Comment 9.1

The UDC noted that the arch on the left side façade of the proposed building that enclosed the at-grade parking and lobby entrance was “too grand.” Do you have a plan to redesign this element?

Response:

The arch on the left side of the façade incorporates the structural support beams for the roof. There is no plan to redesign this element.

Comment 9.2

Explain the proposed drainage system that you intend to install at the Property.

Response:

The proposed project reduces the impervious surfaces at the site by 12,542 square feet (a reduction of 35%). The result is that there will be a reduction in stormwater runoff from the existing conditions to both the wetlands in the rear of the site, and to the City drain system in Beacon Street. This stormwater management design has been reviewed and approved by the Newton Engineering Department, Newton Conservation Commission and MassDEP.

The stormwater management system includes for following features:

- Runoff from the east driveway is collected in Deep Sump Catch Basins and Deep Sump Manholes with oil and gas trap hoods for pre-treatment.
- The entry to the garage will have a trench drain that discharges to a Deep Sump Manhole for pre-treatment.
- The runoff from the parking lot and properties to the east will drain to a Deep Sump Catch Basin for pre-treatment.
- The above three systems will drain to a Proprietary Treatment System (CDS Tech Unit).
- The discharge from the Treatment unit will drain to a stone infiltration trench system for added groundwater recharge and the overflow will drain to a plunge pool to slow the velocity.
- A major portion of the roof drains will also drain to the plunge pool. This runoff is classified as clean, so no further treatment is necessary.
- The discharge from the plunge pool will overflow to a grass reinforced turf swale for still further filtration and will flow to the existing ponding area to the rear of the site.

- The landscaped areas at the front of the site and over the garage will drain to an 8-inch pipe along the west side of the garage. A portion of the roof drainage connects into this system at a 10-inch drain that discharges to the reinforced turf swale and then to the existing ponding area.

The overall result is that there will be less stormwater runoff from the site and the runoff that is generated will be substantially cleaner than under existing conditions to improve the water quality of the existing ponding area. Having the proposed parking lot underground eliminates a large source of polluted runoff from the site. In addition, the system will treat not only the on-site runoff, but also the adjacent parking lot and watershed on the abutting properties to the east.

Note that the existing ponding area has no surface outlet to the downstream area, so all runoff goes to groundwater recharge and evapotranspiration.

1114 Beacon St Climate and Sustainability Team Review

By planning to build 1114 Beacon Street to LEED Gold certifiable standards, this project is on track to meet the requirements of 5.13.4.A. However, we do not see mention of electric vehicle charging, which is a requirement of 5.13.4.B – if this has not been addressed in a separate parking section of the permit application, it should be mentioned in the energy narrative.

The City Climate and Sustainability Team is pleased to see this project is committing to electric space heating and cooling and exploring electric hot water as well. We encourage the project team to fully electrify the building, including appliances such as induction stoves and electric/heat pump dryers and using conventional electric water heaters if heat pump hot water is not feasible. We would be interested to hear what may be holding the project back from conducting a Passive House feasibility study and targeting Passive House certification. We suggest the project targets Passive House building envelope and air infiltration standards as much as possible.

Additionally, it is great to see mention of solar PV in the energy narrative and look forward to hearing more details of the installation as the building design progresses. At the very minimum, the roof should be solar ready, meaning that it can structurally support solar and that there is a conduit run from the roof to the electrical room. If the project team ends up backing away from their current decision to install solar PV during construction, it would be valuable to see a solar assessment, including orientation, shading, roof square feet available for solar, structural capacity of roof to support solar, and the number of panels, kW and kWh of a system that could be placed on the roof.

Finally, we do not see mention of embodied carbon in the current energy narrative and encourage the project to analyze their material selection and make choices that minimize their embodied carbon.

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 34-unit four story multi-family dwelling with over 20,000 square feet of gross floor area, to allow residential units on the ground floor and in the upper stories, with a floor area ratio (FAR) of 1.08, to reduce the minimum stall width dimensions, and to allow 1.25 parking stalls per dwelling unit, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed multi-family dwelling exceeding 20,000 square feet due to its location in a Business zone surrounded by a mix of uses, including multifamily residential uses. (§7.3.3.C.1.)
2. The proposed multi-family dwelling exceeding 20,000 square feet as developed and operated will not adversely affect the neighborhood because the petitioner is improving upon the existing site design by locating parking underground, providing landscaping, and proposed transportation mitigation measures. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because the project is utilizing an existing driveway location and removing one curb cut. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved because the Petitioner's Traffic Engineer anticipates the traffic generated by the change in use is not expected to have a significant impact on traffic during the weekday peak hours which was confirmed by the City's peer review consultant. (§7.3.3.C.4)
5. The proposed floor area ratio of 1.08 in a four-story structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because . (§4.1.2.B.3, §4.1.3 and §7.3.3)
6. The site and buildings as designed, constructed, and operated will contribute significantly to the efficient use and conservation of natural resources and energy, including through some or all of the following: (a) minimizing operating energy; (b) minimizing the use of fossil fuels; (c) implementing a transportation plan that will minimize carbon footprint

because the Petitioner is designing the project to be LEED Gold certifiable, and the project's location approximately one mile from light rail public transit. (§7.3.3.C.5)

7. Literal compliance with the parking stall dimensions is in the public interest to accommodate all resident parking in the underground garage. (§5.1.13)
8. Literal compliance with the required number of parking stalls is in the public interest due to the site's location near transit and neighborhood amenities. (§5.1.13)
9. In accordance with Chapter 29, §167-174 of the Revised Ordinances, the Council finds there is good cause based in part on other mitigation and community benefits offered by the Petitioner, to waive 75% of the infiltration/inflow calculation for the Project. Therefore, the infiltration/inflow fee shall be \$59,505.55

PETITION NUMBER: #71-20

PETITIONER: 1114 Beacon Street LLC

ADDRESS OF PETITIONER: 220 North Main Street
Suite 105
Natick, MA 01760

LOCATION: 1114 Beacon Street

OWNER: 1114 Beacon Street LLC

ADDRESS OF OWNER: 220 North Main Street
Suite 105
Natick, MA 01760

TO BE USED FOR: A multi-family development consisting of 34 dwelling units, including ground-floor units, and a below grade garage hereinafter the "Project."

EXPLANATORY NOTES: Special permit per §7.3.3: To allow a 34-unit multi-family structure with 20,000 square feet or more of new gross floor area with four stories (§4.1.2.B.1, §4.1.2.B.3), and ground-floor units (§4.4.1); to allow an FAR of 1.08 in a four story structure (4.1.2.B.3, §4.1.3); to waive the minimum parking stall width requirements (§5.1.8.B.1, and §5.1.13); To allow 1.25 parking stall per unit (§5.1.4.A, and §5.1.13);

ZONING: Business Use 2

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with
 - a. Site/Civil plans, prepared by SGT Associates, signed and stamped by Frederic W. King, Professional Engineer, consisting of the following two (2) sheets:
 1. Proposed Site Layout Plan, C-1, dated August 31, 2021
 2. Proposed Site Grading Plan, C-2, dated August 31, 2021
 - b. Architectural Plans entitled, "The Beacon" prepared by EFNA Architects., dated August 31, 2021, consisting of three (3) sheets:
 1. Preliminary Garage/Basement, First Floor Plan, Page 1
 2. Preliminary Floor Plans, showing second, third, and roof floor plans, Page 2
 3. Building Elevations, Page 3
 - c. 1114 Beacon Street Planting Plan, dated May 22, 2021
2. The Petitioner, the Project, and the Inclusionary Units shall comply with all applicable provisions of the City's Inclusionary Zoning Ordinance, §5.11, in effect as of the date of this Special Permit/Site Plan Approval, regardless of whether such requirements are set forth herein.
3. The bedroom mix of the Inclusionary Units shall be equal to the bedroom mix of the market-rate units in the Project. The proposed mix of the Inclusionary Units is:

	1BR	2 BR	3 BR
Inclusionary Units	3	2	1

The final bedroom mix shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for the Project.

4. The Petitioner shall provide a fractional cash payment of \$231,295.50 in accordance with the City's Inclusionary Zoning Ordinance, §5.11, prior to the issuance of any building permit.
5. Monthly housing costs (inclusive of mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, hazard insurance, and 1 parking space) must not exceed 30% of the applicable household income limit for that Inclusionary Unit and shall be consistent with Zoning Ordinance § 5.11.4.D.2.
6. Prior to commencing any pre-sale or pre-marketing activities, the Petitioner must submit an Affirmative Fair Housing Marketing & Resident Selection Plan (AFHMP) for review and approval by the Director of Planning and Development. The Affirmative Fair Housing

Marketing and Resident Selection Plan must meet the requirements of DHCD's guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.8. of the Inclusionary Zoning Ordinance. The units will be affirmatively marketed and leased through a lottery. The nature and extent of the local preference scheme included in any final AFHMP submitted to DHCD for its review and approval shall be in accordance with the applicable provisions of the City's Revised Ordinances and/or Zoning Ordinance governing the percentage of local preferences for Inclusionary Units in a project in effect at the time of such submission to DHCD.

7. Prior to the issuance of any building permits for the vertical construction of the Project, the Petitioner shall provide an updated Inclusionary Housing Plan for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the Inclusionary Zoning Ordinance.
8. Prior to the issuance of any temporary or final occupancy certificates for the Project, the Petitioner, the City, and if applicable DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
9. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program.
10. The Inclusionary Units shall be designed and constructed subject to the provisions of the Inclusionary Zoning Ordinance, §5.11.7.
11. Inclusionary Units, and their associated parking spaces, shall be proportionally distributed throughout the Project and be sited in no less desirable locations than the market-rate units, and the locations of such units and parking spaces shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for vertical construction of the Project.
12. No residential unit or building shall be constructed to contain or be marketed and/or sold as containing more bedrooms than the number of bedrooms indicated for said unit in the Project Master Plans referenced in Condition #1.
13. Any room that meets the minimum dimensional and egress requirements to be considered a bedroom under the state building code and Title 5 regulations shall be counted as a bedroom for purposes of determining the required bedroom mix of the Inclusionary Units in accordance with the Inclusionary Zoning Ordinance.
14. The petitioner shall comply with the City's Tree Preservation Ordinance §21-80 et seq.
15. Parking stall(s) shall be sold separately from the cost of a unit, provided, however that the cost of one parking stall shall be included in the price of an Inclusionary Unit. Prior to the issuance of any certificate of occupancy for a market-rate unit (temporary or final), the Petitioner shall provide evidence of such separation to the Director of Planning and

Development.

16. All residential units shall conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
17. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
18. The Petitioner shall comply with all applicable sustainable design provisions of the Revised Ordinances.
19. In accordance with Section 29-169 of the Revised Ordinances, the Petitioner shall contribute the following monies, for an aggregate amount of \$238,022.20:
 - a. \$178,516.65 toward transportation mitigation in the form of a bus shelter as identified in Condition #20 below as well as for other transportation mitigation including but not limited to bike share or the City's commuter service ("Newmo"), as determined by the Director of Planning and Development in consultation with the Commissioner of Public Works.
 - i. \$89,258.33 at the issuance of any Building Permit for the Project.
 - ii. \$89,258.32 at the first dwelling unit certificate of occupancy (temporary or final) in the Project, less the cost and installation of the bus shelter referenced in Condition #20 below.
 - b. \$59,505.55 for sewer mitigation ("Infiltration and Inflow").
 - i. \$29,752.78 at the issuance of any Building Permit for the Project.
 - ii. \$29,752.77 at the first dwelling unit certificate of occupancy (temporary or final) in the Project
 - c. All funds shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law.
20. The Petitioner shall purchase and install a bus shelter on the eastern side of Walnut Street adjacent to 916 Walnut Street. Prior to the issuance of any Building Permit, the Petitioner shall meet with the Director of Planning and Development and the Commissioner of Public Works to agree on the type and the location of the shelter. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Petitioner shall install the shelter and receive approval from the Commissioner of Public Works. The cost and installation of the shelter shall be credited toward the payment referenced in Condition #19 above, subject to review and approval from the Commissioner of Public Works.
21. Prior to the issuance of any Building Permit pursuant to this Special Permit/Site Plan Approval,

the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be adopted by the petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.

22. The Petitioner shall do the following to remediate pest and rodent activity:
- a. Prior to issuance of any demolition permit, the petitioner shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity prior to demolition, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Planning and Development Department, Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of any temporary certificate of occupancy, the Pest Control Operator shall file a final report with the Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site and neighborhood assessment.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final) ,the petitioner shall offer rodent abatement services on an as needed basis for all direct abutters, subject to owner authorization of such properties and a waiver of liability.
23. All construction activity shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-7:00PM on Saturdays, excluding holidays, unless waived by the Mayor in accordance with Revised Ordinances, §20-13. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed.
24. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, the Commissioner of Public

Works, the City Engineer, and the Chief of the Fire Department. The CMP shall be in compliance with all applicable policies and ordinances in effect at the time of submission. The Petitioner shall comply in all material respects with the Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Order and shall include, but not be limited to, the following provisions:

- a. 24-hour contact information for the general contractor of the project.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for construction materials and delivery vehicles and equipment, and location of any security fencing.
 - d. Proposed methods for dust control including, but not limited to: covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the site.
 - e. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practical from noise sensitive locations.
 - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - g. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties;
 - h. The CMP shall include a vibration control plan that includes a study of projected vibration impacts and a monitoring program to be implemented with regular reporting.
25. The Applicant shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
26. The Petitioner shall be responsible for repairing any damage to public ways and public property caused by construction activities or any construction vehicles traveling to or from the Development Parcel. All repair work shall be done prior to the issuance of the final certificate of occupancy for the final dwelling unit in the Project, unless the Commissioner of Public Works determines either: (a) that the damage to the public way is so extensive that it limits the use of the public way; (b) that the damage interferes with traffic flow; or (c) that

the damage poses a threat to public safety. In such cases, the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.

27. Any portions of the Project subject to the jurisdiction of the Conservation Commission must receive an Order of Conditions from the Conservation Commission prior to the issuance of any building permit for work on the Project that is subject to such jurisdiction.
28. The Petitioner shall use best efforts to underground utilities along the frontage. If the Petitioner is unable to underground the utilities due to not obtaining the utility company's approval/permission, they shall submit evidence or documentation to the Planning Department showing such efforts.
29. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced as soon as feasibly possible with similar material.
30. No building permit (other than a demolition permit) shall be issued by the City pursuant to this Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
 - a. Recorded a certified copy of this Special Permit/Site Plan Approval at the Middlesex South Registry of Deeds and filed proof of such recording with the City Clerk, the Inspectional Services Department, and the Department of Planning and Development.
 - b. Submitted the cash fractional payment in accordance with Condition #4.
 - c. Submitted the payments required in accordance with Condition #19.
 - d. Determined the location and the type of bus shelter in accordance with Condition #20.
 - e. Submitted an Final CMP for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer.
 - f. Submitted final engineering, utility, and drainage plans, and a recorded copy of the O&M Plan with the Middlesex South District Registry of Deeds and provided a copy of the recorded document to the City Engineer in accordance with Condition #21.
 - g. Submitted an Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development in accordance with Conditions #2-13, and §5.11.8 of the Zoning Ordinance.
 - h. Submitted a LEED Checklist prepared and certified by a LEED Accredited Professional to the Director of Planning and Development, indicating which points the building intends to realize to demonstrate LEED Gold certifiability.

- i. Complied with all applicable tree preservation provisions in accordance with Chapter 21 of the Revised Ordinances.
31. No certificate of occupancy (temporary or final) shall be issued by the City pursuant to this Amended and Restated Special Permit/Site Plan Approval unless all applicable terms and conditions have been complied with and the Petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1
 - b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division, final as-built survey plans in digital format.
 - c. Submitted the payments required in accordance with Condition #19.
 - d. Received final approval for the bus shelter in accordance with Condition #20.
 - e. Submitted to the Law Department copies of a fully executed Regulatory Agreement and Affordable Housing Restriction in accordance with Conditions #2-13.
 - f. Provided evidence satisfactory to the Law Department that the Regulatory Agreements have been recorded at the Southern Middlesex District Registry of Deeds.
 - g. Inclusionary Units shall be completed and occupied no later than the completion and occupancy of the market-rate units within such building. If the Inclusionary Units are not completed as required within that time, temporary and final certificates of occupancy may not be granted for the number of market-rate units equal to the number of Inclusionary Units that have not been completed within such building.
 - h. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department.
 - i. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
 - j. Filed with the Department of Inspectional Services and the Department of Planning and Development a certificate from a licensed architect certifying that: (i) all dwelling units in the building for which a certificate of occupancy is requested have been constructed and conform with MAAB requirements for "Group 1" units; a minimum of 5% of the dwelling units conform with MAAB requirements for "group 2A" units; and (iii) stating

the number of additional "Group 2A" units, if any, above the 5% minimum in the building, in accordance with Condition #48.

- k. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that utilities have been located underground for the portions of the Project for which a certificate of occupancy is requested to the extent required by Conditions #28, or submit evidence that best efforts have been made to underground the utilities.
 - l. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that the criteria for LEED certifiability of the subject building have been satisfied.
32. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the site prior to installation of final landscaping, fencing, and/or benches provided that the Petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site work to secure installation of such landscaping, fencing, signage and parking areas.