



Ruthanne Fuller
Mayor

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

#28-22
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 25, 2022
Land Use Action Date: April 12, 2022
City Council Action Date: April 18, 2022
90-Day Expiration Date: April 25, 2022

DATE: January 21, 2022

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner

SUBJECT: **Petition #28-22**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three story, 12-unit multi-family dwelling with an FAR of 1.5 and 36' in height, ground floor residential use, a building with more than 20,000 sq. ft., to alter and extend a nonconforming side setback, to waive six parking stalls, to reduce the width of parking stalls, to reduce the driveway width for two-way traffic, to allow a loading facility which may impede traffic, and to allow a retaining wall greater than four feet in height within the setback at 50 Jackson Street/383-387 Boylston, Ward 6, Newton, on land known as Section 65 Block 11 Lot 04, containing approximately 14,866 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.4, 5.1.8.B.1, 5.1.8.D.1, 5.1.12.D.5, 5.1.13, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



383-387 Boylston Street

EXECUTIVE SUMMARY

The subject property consists of 14,866 square feet in the Business 1 (BU-1) zone in Thompsonville. The property is improved with two commercial buildings containing retail and restaurant uses. The petitioner is proposing to raze the structures and construct a 12-unit, multifamily dwelling. To construct the proposed multi-family dwelling, the petitioner requires special permit relief which consists of allowing a residential use with ground floor units, allowing development exceeding 20,000 square feet, allowing a floor area ratio (“the FAR”) of 1.5 in a three-story structure with 36 feet in height, to alter a nonconforming side setback and to construct retaining walls exceeding four feet in height within the side setback. The project also includes a waiver of six parking stalls, a waiver of the dimensional width requirements and waiver associated with allowing a loading zone in the driveway for deliveries.

The Planning Department believes the site is an appropriate location for residential development. The site is close to neighborhood amenities on Route 9, including a grocery store, restaurants, and other local businesses. While Planning Staff believes the site is an appropriate location, staff questions whether the eastern side setback and the retaining wall along the western boundary could be altered to align with the zoning ordinance more closely.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family dwelling as designed. (§7.3.3.C.1.)
- The specific site is an appropriate location for the proposed retaining wall greater than four feet in height within the setback. (§7.3.3.C.1.)
- The proposed multi-family dwelling as developed and operated will adversely affect the neighborhood. (§7.3.3.C.2)
- There will be a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed floor area ratio of 1.5 in a three-story structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§4.1.2.B.3, §4.1.3 and §7.3.3)
- 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. (§7.3.3.C.5)
- Literal compliance with the dimensional parking requirements is impracticable due to

- the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13)
- Literal compliance with the required number of parking stalls is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13)
 - The proposed extension of a nonconforming side setback is substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

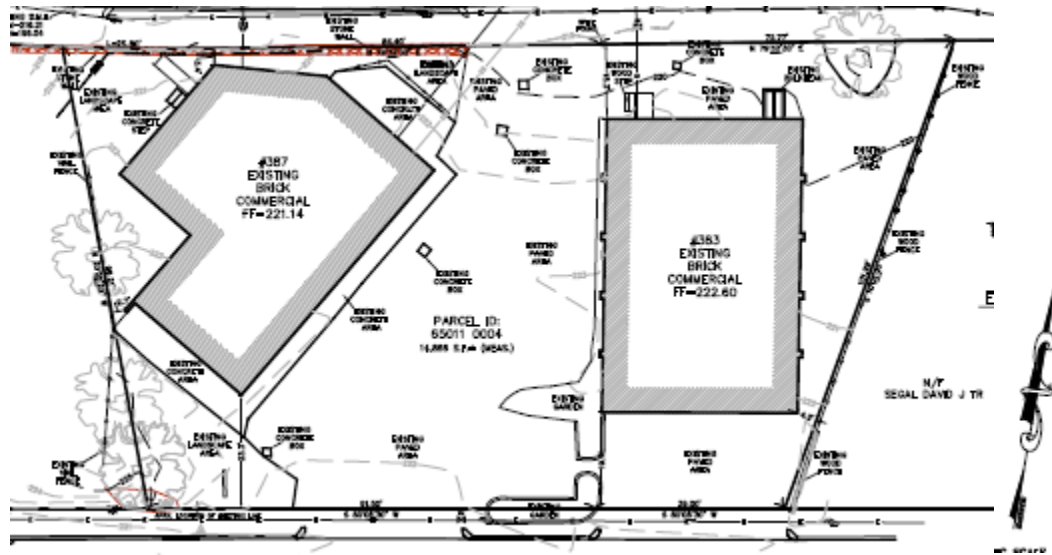
The subject property is located on Boylston Street in the BU-1 zoning district. The BU-1 zones are located to the east of the parcel, to the northeast on Langley Road, and to the southeast across Boylston Street. There are also Multi Residence 1, 2, and 3 zones on the opposite side of Jackson Street, to the west of the site, and on Langley Road (**Attachment A**). The site abuts a retail use at 30-34 Boylston to the east, and a two-family residential use at 62 Jackson Street. There are a mix of uses nearby including multi residential in all directions, commercial and nonprofit organization uses (**Attachment B**).

B. Site

The site is bound by Boylston Street to the south and Jackson Street to the north and contains 14,866 square feet of land improved with two commercial buildings constructed in 1930 with associated parking. 387 Boylston Street houses two restaurants, 383 Boylston Street is a retail use. The site is relatively flat and mostly impervious aside from landscaping on the western side of 387 Boylston Street. 387 Boylston Street has a nonconforming front setback of 3.4 feet from Jackson Street, and a nonconforming side setback of 2.7 feet from the western boundary. 383 Boylston has a nonconforming side setback from the eastern boundary of 4.2 feet, where 18 feet is required.

Existing Conditions

Jackson Street



Boylston Street

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will change from retail and restaurant uses to a 12-unit multi-family structure, should the petition be approved.

B. Site and Building Design

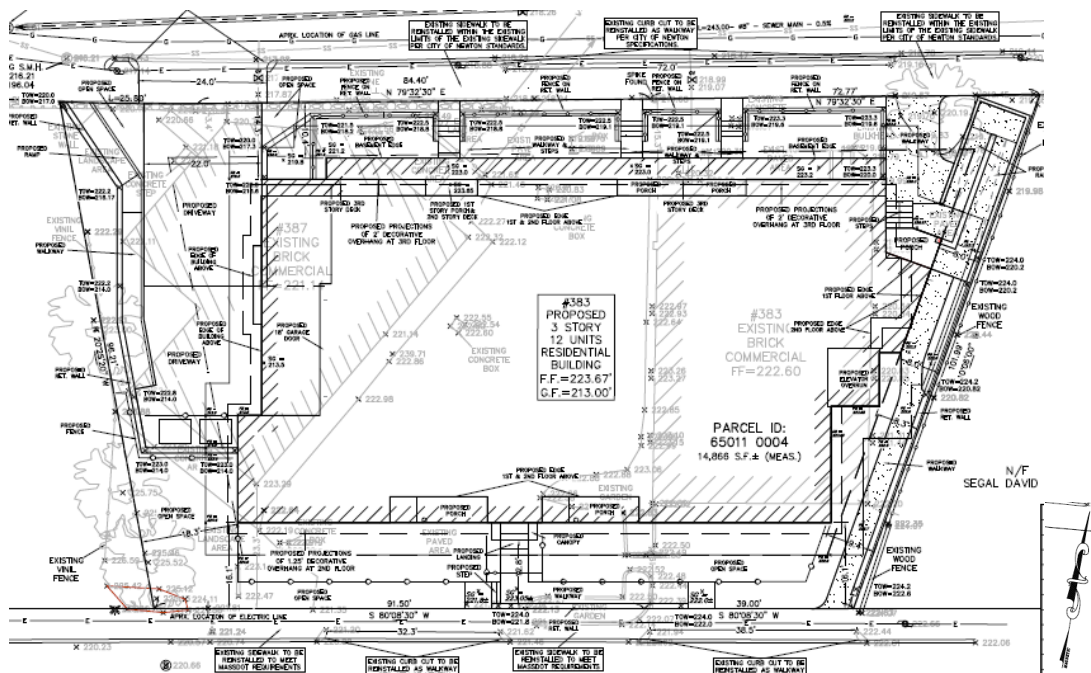
The petitioner is proposing to raze the structures to construct a three-story, 12-unit multi-family dwelling containing 22,279 square feet. The proposed structure will measure 36 feet tall where two stories and 24 feet is allowed as of right. The proposed building will alter the nonconforming side setback at the eastern boundary from 4.2 feet to 8 feet, where 18 feet is required, requiring a special permit. The Planning Department suggests the petitioner further improve the nonconforming eastern side setback without affecting the proposed conforming setback at the western boundary. The side setback from the western boundary is improving from 2.7 feet to 18.3 feet, where 18 feet is required. The front setbacks as proposed are 12.8 feet from Boylston Street and 10.4 feet from Jackson Street, where 10 feet is required.

The site would be accessed by one 24-foot-wide curb cut from Jackson Street. The entrance to the underground garage is accessed via the drive aisle along the western property line from Jackson Street. The petitioner proposes to construct a retaining wall along the western property line that starts at a height of three feet and reaches a height of ten feet, and then a maximum height of nine feet where the entrance to the garage is

located. This proposed retaining wall requires a special permit for its height and location within the side setback. Another retaining wall is proposed along the eastern property line that reaches a maximum height of 3.8 feet. Planning Staff previously suggested the petitioner consider measures that may reduce the height of the previously proposed 10–12-foot wall, which they have scaled down to nine feet at the highest point.

Proposed Site Plan

Jackson Street



Boylston Street

In Business districts, the FAR corresponds to the number of stories. The zoning ordinance allows an FAR of 1.0 for a two-story structure, and up to 2.0 for a four-story structure. Earlier iterations of the project calculated the FAR at 1.5, however Section 1.5.5.B.2 states that the floor area shall not include any portion of a basement used for storage, parking, or building mechanicals, which the original calculation included. Excluding the previously counted basement space, the revised FAR is anticipated to be 1.43, however the petitioner should submit a revised FAR worksheet. The revised proposed FAR of 1.43 for a three-story structure still requires a special permit.

Eastern Elevation Lobby



Jackson Street Elevation





The petitioner submitted a landscaping plan showing landscaping around the perimeter of the site, including along the Boylston Street and Jackson Street frontages. Additional screening is also proposed along the driveway to screen from the abutter to the west.

C. Shadow Study

The petitioner submitted a shadow study to show potential shadow impacts from the proposed structure. It is anticipated that the building will cast shadows, with the most impact during the winter solstice on December 21st, where much of the area will experience shadows from buildings in the area. At 9:00 AM the shadow will be cast to the northwest of the site, moving toward the east during the midday hour, and lastly, at 3:00 PM it will be cast to the northeast. During this time, the building largely places Jackson Street in its shadow, with the shadow extending to the front of two single-family homes. The Spring, Summer, and Autumnal afternoon equinoxes

anticipate shadows cast to the east (right) of the building but is not expected to reach adjacent buildings.

D. Urban Design Commission

The Urban Design Commission (the “UDC”) last reviewed this project on October 27, 2021. The UDC is in support of the massing, and believes the proposed building is appropriate for the neighborhood (**Attachment C**). The east elevation, where the pedestrian lobby is located, shows the third story stepped back to allow for balconies along the Jackson and Boylston Street facades. The Planning Department is supportive of the changes to the facades from previous iterations of the project, but suggests the petitioner continue to explore bringing the side yard setback (east) closer to the required 18 feet.

E. Traffic, Parking and Circulation

The City engaged a Peer Reviewer, Green International Affiliates, Inc. (“Green”) to review the petitioner’s Traffic Impact and Access Study. Green’s most recent response is attached (**Attachment D**).

Compared to the existing commercial uses at the site, the project is estimated to generate 294 fewer trips daily, however two additional trips are expected during the morning peak hour, and 26 fewer trips are estimated during the weekday evening peak hour.

The petitioner’s response included the requested crash data and sight triangle plans. When measuring site distances, Green found that vegetation removal and a parking restriction would allow the minimum required sight distances to be met. The petitioner plans to apply to the City’s Traffic Council to restrict parking along the south side of Jackson Street to meet or exceed the recommended minimum sight distance. City Staff recommends a condition that the petitioner apply for the restriction prior to a Certificate of Occupancy.

The petitioner is proposing 18 parking stalls in the underground garage. The stalls are all 19 feet long, but 11 of the stalls will measure 8.5 feet wide, requiring a special permit. With a total of 18 parking stalls on site for the 12-unit building, where 24 stalls are required, the petitioner is seeking a waiver of six parking stalls.

From previous iterations of the project, the petitioner relocated the proposed bicycle storage closer to the garage vehicular entrance, accessed internally from the garage. The plans show nine double bike racks in the bicycle room for a total storage for 18 bicycles. There are also lockers in the bicycle room.

Another newer aspect of the project is relief for a loading zone in the driveway. The proposed loading zone requires relief to allow a reduction in the two-way aisle width when the loading zone is in use.

As a result of discussions between Planning Staff, the Transportation Division of Public Works, and the City’s transportation peer review consultant, Green International, nearby transportation mitigation items were explored. City Staff recommends 75% of the I&I fee (**Attachment E**) be allocated to transportation mitigation for localized improvements in the area, for example, pedestrian and safety improvements to the Langley Road and Jackson Street intersection. City Staff recommends the petitioner design and construct the improvement in coordination with the Department of Public Works.

Staff and Green requested clarification around trash and recycling. The petitioner’s response stated that dumpsters would be located within a trash/recycling room within the building and would be brought out by a property management staff member on the day(s) trash is picked up by a privately contracted company. The petitioner estimates trash to be picked up twice a week. Additional information from the petitioner is requested, such as turning movements for emergency vehicles, as well as the type of truck that will be picking up the trash and whether it will need to back out of the driveway.

F. Affordable and Fair Housing Policy

The project will consist of 12 units, a mix of two- and three-bedroom units. The unit sizes range from 1,150 square feet to 1,984 square feet. Inclusionary units will have assigned parking stalls, per the Inclusionary Zoning Ordinance. Planning Staff from the Housing Division reviewed the Inclusionary Housing Plan for compliance with the Zoning Ordinance. The petitioner worked with Housing Staff in reassigning Units 105 and 204 as the affordable units to reflect a more balanced contribution in line with the intent of the Ordinance. Housing Staff also recommend that there be no Local Preference Units for this project, which the petitioner has agreed to.

Table 1. Unit Mix, Architectural Plans, sheet A-9

Units

Unit	Bedrooms	Stories	Area S.F.
101	3 + office	2	1,902 S.F.
102	2	1	1,150 S.F.
103	3 + office	2	1,984 S.F.
104	3	1	1,202 S.F.
105 affordable	3	1	1,306 S.F.
202	2	1	1,150 S.F.
203	3	1	1,326 S.F.
204 affordable	3 + office/den	1	1,286 S.F.
301	3	1	1,582 S.F.
302	2 + office/den	1	1,240 S.F.
303	3	1	1,502 S.F.
304	3 + office/den	1	1,379 S.F.
TOTAL			17,009 S.F.

G. Signage

The petitioner has not requested relief from the zoning ordinance regarding the number, size, or type of signs. As a result, all signs are expected to be as of right and will be reviewed by the Urban Design Commission, should this petition be approved.

H. Accessibility

The project is required to be compliant with Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (MAAB) regulations. All units are expected to be adaptable to those with disabilities and built to ADA and MAAB requirements. As such, all units should be accessible and visitable to those with disabilities. Regarding parking, the submitted plans show one ADA van stall in the underground garage. The petitioner should confirm that the height of the garage entrance can accommodate an accessible van.

I. Sustainability and Conservation of Natural Resources

The proposed multi-family structure will exceed 20,000 square feet thereby prompting the fifth special permit criterion which states 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. The petitioner is also subject to the Sustainable Development Design ordinance adopted in December 2019.

The petitioner provided a sustainability narrative in accordance with the requirements of the special permit application, which was reviewed by the City's Energy Coach, Liora Silkes (**Attachment F**). Ms. Silkes is encouraged to see the petitioner providing one electric vehicle charging outlet for every two cars and would recommend installing Level II chargers. While Ms. Silkes notes that the project will achieve LEED Silver certification, she is interested in whether the petitioner could conduct a full Passive House feasibility study and strive for Passive House building envelope goals, to further prepare to be a future net zero building.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum dated January 4, 2022, provides an analysis of the proposal regarding zoning (**Attachment G**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

<i>Ordinance</i>	<i>Relief</i>
§4.4.1	Request to allow ground floor residential use
§4.1.2.B.1	Request to allow a building with more than 20,000 square feet
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height
§4.1.3	Request to allow an FAR of 1.50
§4.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming side setback
§5.1.4 §5.1.13	Request to waive six parking stalls
§5.1.8.B.1 §5.1.13	Request to reduce the width of parking stalls
§5.1.8.D.1 §5.1.13	Request to waive the driveway width for two-way traffic
§5.1.8.D.1 §5.1.13	Request to allow a loading facility which may impede traffic
§5.4.2	Request to allow a retaining wall greater than four feet in height within the setback

B. Newton Historical Commission Review

The petitioner applied for the total demolition of both structures. On March 22, 2018, the Chief Preservation Planner deemed the structures not historically significant, no further review is required.

C. Engineering Review

Associate City Engineer John Daghlian reviewed the plans and issued a memorandum (**Attachment H**) providing an analysis of the proposal with regard to engineering issues. Mr. Daghlian notes that both a Construction Management Plan and O&M plan will be required. Any work within Route 9 will also require MassDOT approval.

D. Fire Department Review

The plans will be reviewed prior to the issuance of any building permits, should this project be approved.

V. PETITIONER'S RESPONSIBILITIES

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

future public hearings.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** UDC Memorandum
- Attachment D:** Peer Review Memorandum
- Attachment E:** I&I Memorandum
- Attachment F:** Sustainability Memorandum
- Attachment G:** Zoning Review Memorandum
- Attachment H:** Engineering Memorandum
- Attachment I:** DRAFT Council Order

ATTACHMENT A

Zoning

383-387 Boylston Street

City of Newton,
Massachusetts

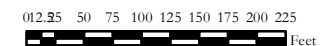
Legend

- Single Residence 1
- Single Residence 3
- Multi-Residence 1
- Multi-Residence 2
- Multi-Residence 3
- Business 1
- Business 2
- Public Use

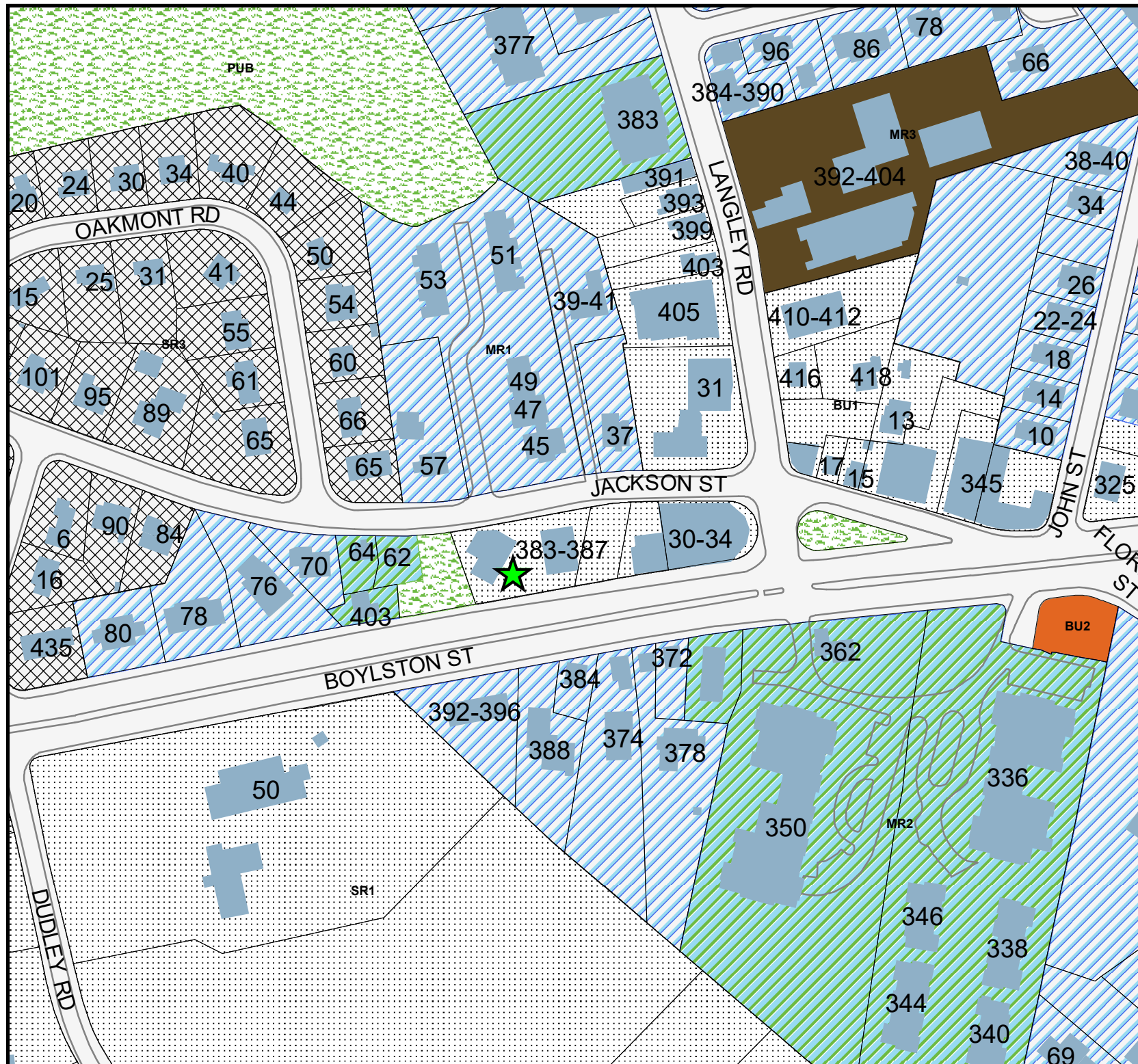


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: July 13, 2021



ATTACHMENT B









Land Use

383-387 Boylston Street

City of Newton,
Massachusetts

Land Use

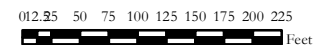
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

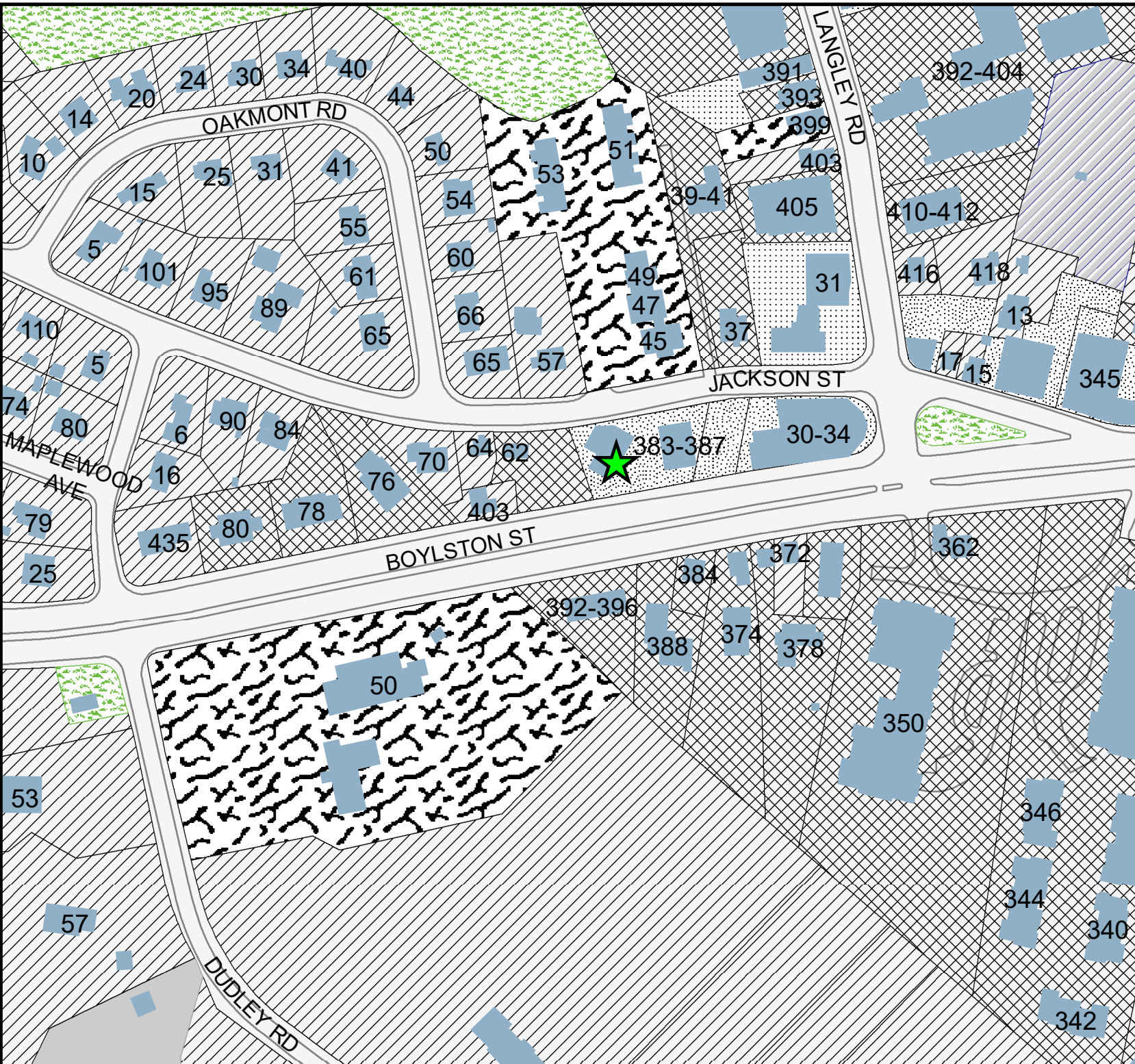


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: July 13, 2021





Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
Urban Design Commission

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

Barney Heath
Director

DATE: October 27, 2021

TO: Neil Cronin, Chief Planner

FROM: Urban Design Commission

RE: 50 Jackson Street/ 383-387 Boylston Street

CC: Land Use Committee of the City Council
Barney Heath, Director of Planning and Community Development
Jennifer Caira, Deputy Director
Petitioner

Section 22-80 of the Newton City Ordinances authorizes the Urban Design Commission to act in an advisory capacity on matters of urban design and beautification. At their regular meeting on October 13, 2021, the Newton Urban Design Commission (UDC) reviewed the proposed project at 50 Jackson Street for design. The Urban Design Commission had the following comments and recommendations:

- The UDC commented that this is a better project as compared to last time UDC reviewed it in February. The UDC commented that the project looks like it has developed and looks better. Its natural evolution, project is making progress.
- From marketing point of view, changes will be great, and it looks like it will be a very successful project.
- The applicant asked about one of the elements. In the previous UDC meeting, UDC felt the massing of the building was appropriate in this neighborhood. The applicant asked the Commission about their thoughts/opinion on the massing of the building. The UDC commented considering the location of the project, close to the commercial area and not further into the neighborhood, the massing is appropriate for this location. Clearly, this corner is greater density than further into the neighborhood. Looking at other buildings across the street and some other buildings on Langley Road, this is certainly not out of place.
- The UDC recommended to ensure there is enough head room for the accessible space.
- The UDC commented that the project has improved in a good way.


GREEN INTERNATIONAL AFFILIATES, INC.

239 LITTLETON ROAD, SUITE 3 WESTFORD, MA 01886

T: (978) 923-0400 | F: (978) 399-0033 | WWW.GREENINTL.COM

January 20, 2022

Ms. Katie Whewell
 Senior Planner
 Planning and Development Department
 Newton City Hall
 1000 Commonwealth Ave
 Newton, MA 02459

Subject: **Transportation Peer Review Responses
 Proposed Residential Use
 383-387 Boylston Street
 Newton, Massachusetts**

Dear Ms. Whewell:

On behalf of the City of Newton (the City), Green International Affiliates, Inc. (Green) is submitting this letter of review of the responses to the original comments submitted by Green to the City on September 3, 2021 from our engineering peer review of the application package for the proposed residential use on Boylston Street and Jackson Street. This review included an examination of the following documents submitted in support of the proposed project:

- Technical Memorandum titled "Transportation Impact Assessment, Proposed Multifamily Residential Development – 50 Jackson Street, Newton, Massachusetts," prepared by Vanasse & Associates, Inc., dated May 25, 2021.
- Plan Set titled "383-387 Boylston Street, Newton, Massachusetts," prepared by Spruhan Engineering, P.C., dated March 15, 2021 and revision dated November 10, 2021.
- Plan Set titled "Residential Building @ 383-387 Boylston St Newton MA," prepared by Dooling & Company Architects, dated November 11, 2020 with revision dated December 3, 2021.

Vanasse & Associates (VAI) provided responses to comments regarding the Transportation Impact Assessment and Rosenberg, Freedman & Lee LLP (RFL) provided responses to comments regarding the plan set. What follows are the original comments submitted by Green, followed by the corresponding responses in italicized text, followed by Green's latest comments in bold text.

May 2021 Transportation Impact Assessment

1. Green's original comment: Traffic volumes on Jackson Street were collected using an automatic traffic recorder (ATR) on Wednesday April 28 through Thursday April 29, 2021. Since April traffic volumes are generally higher than average, the traffic volumes were not seasonally adjusted. Green concurs with this methodology. To account for traffic volume impacts due to the COVID-19 pandemic, traffic volumes from a nearby MassDOT continuous count station were used to adjust the recorded volumes. Green concurs that a 23.5 percent increase is appropriate and no further information is needed regarding ATR counts.

VAI Response: *No response required.*

Green Response: **No further information is required.**

2. Green's original comment: The Massachusetts Department of Transportation (MassDOT) *Transportation Impact Assessment (TIA) Guidelines* require turning movement counts (TMCs) to be conducted at all site driveways and intersections along the project site frontage. No TMCs were conducted as part of this analysis. Given the negligible increase in trips during the AM peak hour and decrease in trips during the PM peak hour, Green concurs that TMCs and capacity analysis are not necessary. The distribution of trips to and from the site is expected to change due to the closing of the curb cuts on Boylston Street, but the site-generated traffic volumes are low enough that the redistribution is unlikely to affect the surrounding roadways and nearby intersections. No further information is required.

VAI Response: No response required.

Green Response: **No further information is required.**

3. Green's original comment: The TIA states that there are no locations in the vicinity of the project site that are listed as HSIP high crash locations. Please provide crash data for roadways in the project vicinity or state that there were no crashes during the most recently available five-year period.

VAI Response: *Motor vehicle crash information was obtained from the Massachusetts Department of Transportation (MassDOT) Highway Division Safety Management/Traffic Operations Unit for the most recent five-year period available (2014 through 2018, inclusive) in order to examine motor vehicle crash trends occurring in the vicinity of the Project site. Based on a review of this data, a copy of which is attached, the following information was discerned for the five-year review period:*

- *Two (2) motor vehicle crashes were reported to have occurred along Jackson Street in the vicinity of the Project (as defined as approximately 150 feet in advance of and including the project site frontage), both of which involved a collision with a parked motor vehicle that occurred during daylight, with one resulting in property damage only and the crash severity for the other incident indicated as "unreported";*
- *No (0) motor vehicle crashes were reported to have occurred along Route 9 in the vicinity of the Project; and*
- *No (0) fatal motor vehicle crashes were reported to have occurred.*

Green Response: **Green finds this crash analysis acceptable and not indicative of any existing safety deficiencies. No further information is required.**

4. Green's original comment: Data from the 2015-2019 American Community Surveys (ACS) showed that approximately 33% of workers in the project's Census Tract utilize forms of transportation other than single-occupancy vehicles to commute to work. Trip generation calculations did not include a reduction in single-occupancy trips to provide a conservative analysis. Green concurs with this, and no further information is needed.

VAI Response: No response required.

Green Response: **No further information is required.**

5. Green's original comment: Project-generated traffic was estimate using the ITE Trip Generation Manual methodology for Land Use Code (LUC) 221, Multifamily Housing (Mid-Rise). The project is

expected to generate 64 trips (32 entering, 32 exiting) daily, 4 trips (1 entering, 3 exiting) during the morning peak hour, and 6 trips (4 entering, 2 exiting) during the evening peak hour. Green concurs that this methodology and is acceptable and no further trip generation information is needed for the proposed land use.

VAI Response: *No response required.*

Green Response: **No further information is required.**

6. Green's original comment: The estimated project-generated trips were compared to existing trips to determine the net traffic volume effect of the project. ITE Trip Generation methodology was used to estimate trips generated by the existing land uses. LUC 820, Shopping Center, and LUC 932, High-Turnover (Sit-Down) Restaurant, were used. AM Peak hour trips for LUC 932 were excluded since the existing restaurants are not open during this time. Using this methodology, the project is expected to generate 294 fewer trips daily, two additional trips in the morning peak hour, and 26 fewer trips in the evening peak hour. Green concurs that these land uses are appropriate and no further information is needed.

VAI Response: *No response required.*

Green Response: **No further information is required.**

7. Green's original comment: In Table 2, Traffic-Volume Comparison, trips listed in Column B, Existing Uses, differ from trip generation calculations provided in the appendix. Additionally, the footnote states that ITE LUC 820, Shopping Center was used, but LUC 876, Apparel Store is used in the appendix. The footnote states that a gross floor area (GFA) of 2,433 SF was used for LUC 932, but a GFA of 4,600 SF was used in the appendix calculations. Please revise the appendix to include the correct Trip Generation calculations.

VAI Response: *The corrected trip generation calculations are provided as an attachment.*

Green Response: **Green has reviewed the correct trip generation calculations. The results do not change the conclusions of the analysis and no further information is required.**

8. Green's original comment: Stopping sight distances and intersection sight distances were measured at the site driveway on Jackson Street. Minimum required sight distances were met in each direction for both stopping sight distance and intersection sight distance. Green measured sight distances during our site visit on August 10, 2021 and confirmed that the minimum stopping sight and intersection sight distances could be met with parking restriction and vegetation removal. Please provide a figure showing sight triangles and indicating where parking would be restricted.

VAI Response: *A sight triangle plan has been prepared for the Project site driveway intersection with Jackson Street that illustrates the location of the recommended vegetation trimming/removal and the areas where parking should be restricted. The plan is included as an attachment.*

Green Response: **Green has reviewed the sight distance figure provided. A 40-foot no parking zone is proposed to the east of the site driveway and no parking restrictions are proposed to the west of the driveway. The proposed parking restriction will improve visibility, but sight distance may still be slightly restricted.**

9. Green's original comment: The TIA should acknowledge that parking restriction will require an application with the City Traffic Council.

VAI Response: The Project proponent will apply to the City Traffic Council for the recommended changes to the parking regulations along Jackson Street. As identified in the May 2021 TIA, the overall number of on-street parking spaces will increase with the construction of the Project (discussion follows).

Green Response: Green acknowledges that the proponent will apply to the City Traffic Council for the proposed parking restriction.

10. Green's original comment: The TIA recommends that the project site driveway accommodate emergency vehicles. Green concurs with this recommendation and the Applicant should provide turning movement figures showing that emergency vehicles can enter and exit the site driveway.

VAI Response: A plan showing swept path analysis for the largest responding emergency vehicle as defined by the Newton Fire Department will be provided by others under a separate cover.

Green Response: Green will review the swept path analysis when it is available.

11. Green's original comment: Please clarify how trash and recycling pick-up will operate.

VAI Response: Trash/recycling will be collected in a dumpster(s) that will be located in a trash/recycling room within the building. Building maintenance staff will place the dumpster(s) outside of the parking garage for pick up by a private carrier (currently envisioned to occur twice a week), after which the dumpster(s) will be returned to the trash/recycling room. The dumpster(s) will be placed so as not to obstruct the movement of vehicles or bicyclists internal to the site.

Green Response: Please provide more information regarding the type of truck that will pick up trash and how it will access the site, including whether it will back into or out of the driveway.

12. Green's original comment: The TIA recommends that vehicles exiting the driveway should be placed under stop control, all signs and pavement markings should be MUTCD compliant, the driveway should be ADA-compliant, signs and landscaping should not restrict sight distance, on-street parking should be prohibited near the driveway to maintain sight lines, and snow windrows within the sight triangles should be promptly removed. Green concurs with these recommendations and no further information is needed.

VAI Response: No response required.

Green Response: No further information is required.

13. Green's original comment: The TIA states that the number of on-street parking spaces will increase due to closing one of the driveways on Jackson Street; however, it also recommends restricting parking near the site driveway to maintain sight lines. Please clarify whether there will be an overall increase or decrease in on-street parking spaces and provide the net number of spaces.

VAI Response: The existing driveway along Jackson Street (approximately 80 feet in width) will be closed in conjunction with the Project. With the closure of the existing driveway, up to four (4) new on-street parking spaces can be created. As recommended in the May 2021 TIA and further refined

by the sight triangle plan attached hereto, two (2) on street parking space located to the east of the proposed driveway should be eliminated in order to provide the necessary sight lines for motorists exiting the Project site driveway. As such, the construction of the Project would result in a net increase of two (2) on-street parking spaces along Jackson Street.

Green Response: Green concurs that the closure of the existing driveway and implementation of proposed parking restriction would result in a net increase of two (2) on-street parking spaces.

14. Green's original comment: The TIA lists six Transportation Demand Management (TDM) measures to minimize single-occupancy vehicle trips. Green concurs with the TDM measures listed but requests that more specifics be provided. Please clarify whether the TDM coordinator will be a full-time or part-time employee and whether they will work on site. Please state how many bicycle parking spaces will be provided and that the bicycle parking will be indoor, secure, and weatherproof. The Applicant should also provide electric vehicle charging stations and be able to add more in the future if necessary. The Applicant should consider contributing to bike share and/or car share in the project area. In addition, the parking costs should be unbundled from rent as a TDM measure.

VAI Response: The TDM coordinator will be a full time employee that may have other responsibilities and will be a part of the property management team that manages one or more properties from an off-site management office. The Project will include a secure, weather protected bicycle room adjacent to the parking garage that can accommodate up to 18 bicycles. Initially, electric vehicle (EV) charging accommodations for up to nine (9) vehicles will be provided within the parking garage for residents of the Project, with the necessary infrastructure installed to expand the number of EV charging accommodations from nine (9) vehicles to 18 vehicles as demand warrants. Parking costs will be unbundled from the rent. The Project proponent will discuss making a contribution to the City for car/bike sharing that is commensurate with the size of the Project and the contributions that have been made as a part of other similar sized projects in the City.

Green Response: Green finds the bicycle parking spaces, electric vehicle charging stations, and unbundling of parking to be acceptable TDM measures. Please provide a bicycle rack outside of the parking garage for visitors. The City is currently finalizing standardized TDM requirements and will provide them to the Applicant shortly. The TDM is likely to include a \$10,000 total contribution to shuttle service and bicycle share, as well as other TDM elements to be provided by the proponent.

15. Green's original comment: Green concurs that the project can be accommodated within the existing transportation infrastructure with the implementation of the recommendations outlined in the TIA.

VAI Response: No response required.

Green Response: No further information is required.

March 2021 Plan Set

16. Green's original comment: Please clarify whether sidewalks along the site frontage will be reconstructed outside of the limits of existing curb cuts.

RFL Response: The sidewalk along Jackson Street fronting the subject property will be reconstructed to reflect the proposed conditions plan provided herein.

Green Response: **No further information is required.**

17. Green's original comment: The plans note that existing curb cuts will be reinstalled as walkways per the City of Newton specifications. As Boylston Street is under MassDOT jurisdiction, reconstruction of existing Boylston Street curb cuts will require a MassDOT permit and need to comply with MassDOT standards. Please revise the plans accordingly.

RFL Response: *The Petitioner has communicated with MassDOT regarding reconstruction of sidewalk on Route 9 and Petitioner will obtain all required permits and approvals from MassDOT. The proposed site plan shows that it will meet MassDOT requirements.*

Green Response: **No further information is required.**

18. Green's original comment: There is an existing utility pole located within the proposed Jackson Street curb cut. The plans should show relocation of this pole.

RFL Response: *The proposed driveway has been shifted easterly so as not to interfere with utility poles.*

Green Response: **Green has verified that the conflict has been eliminated and no further information is required.**

19. Green's original comment: Some survey features shown on the plan near the western property line of the site appear to differ from field conditions. For example, the utility pole and existing curb cut within the proposed site driveway is located directly at the end of the existing vinyl fence between the site and 62 Jackson Street, but the plan shows them offset from each other by approximately 10 feet. Please verify the locations of existing features on the plans in this area and show the location of the adjacent driveway on the Survey.

RFL Response: *The site features on the westerly side of the property have been verified by the surveyor to be accurate.*

Green Response: **The survey features have been verified and no further information is required.**

20. Green's original comment: The plans include one van-accessible space in the parking garage as required; however, this parking space is adjacent to the proposed bicycle rack, creating the potential for bicycles to overflow into the aisle. The accessible space should be relocated to the southeastern corner of the parking garage adjacent to the elevator to avoid this potential conflict

RFL Response: *Interior changes to the garage have been made to address the bike room and accessible van space.*

Green Response: **Proposed bicycle racks have been relocated to a separate room in the southwest corner of the parking garage. No further information is required.**

December 2021 Refiling

21. Green has reviewed the proposed delivery location within the site driveway. While the usable driveway width would be 12 feet during deliveries, the projected entering and exiting traffic volumes are low and we do not expect this to be an issue. Please clarify whether the Applicant plans

Ms. Katie Whewell
January 20, 2022

to apply to City Traffic Commission to designate the on-street delivery location as a loading zone. Please provide more information on the logistics and storage of package delivery to the site.

22. As mitigation, the City requests that the Applicant fund the survey, design, and construction of pedestrian enhancements at the intersection of Langley Road and Jackson Street. Enhancements would include replacing all existing curb ramps with ADA-compliant curb ramps and constructing curb extensions on the northwest and northeast corners.

If either the City staff or the Applicant's engineer would like to discuss any of these comments further, please feel free to contact me at 978-843-5214.

Sincerely,
Green International Affiliates, Inc.



Corinne Tobias, P.E., PTOE
Transportation Planning Group


cc: W. Wong, Green

\\EgnyteDrive\Greenintl Files\Shared\Engineering\Projects\2018\18078\18078.0075\DOCS\RPTS\50 Jackson Street Peer Review - Responses to VAI_ver02.docx

City of Newton

**DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
OFFICE OF THE CITY ENGINEER
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449**

Ruthanne Fuller
Mayor

DATE: January 18, 2022 (REVISED)
TO: Barney Heath, Director of Planning
FROM: Louis M. Taverna, P.E., City Engineer 
RE: Sewer Inflow and Infiltration Mitigation Fee,
383 Boylston St / 50 Jackson St
Ordinance No. B-45

The City Engineer has calculated the sewer infiltration/inflow mitigation cost for this project. See calculations below. The total mitigation cost for the assumption of low flow fixtures throughout the project is \$179,943.

Calculation of sewer infiltration/inflow mitigation:

Low flow fixtures:

Proposed daily flow = 33 bedrooms x 65 gal/bedroom/day = 2,145 gal/day
Existing Property flow = 32 gal/day, per water meter data, averages
Net flow = 2,113 gal/day x 4:1 x \$21.29 (as of 1/1/2021) = \$179,943

cc: Jen Caira
Neil Cronin
Michael Gleba
John Daghlian
Jonah Temple
James McGonagle
Shawna Sullivan



City of Newton, Massachusetts Climate and Sustainability Team



Date: January 20, 2022

To: Councilor Richard Lipof, Land Use Committee Chair

CC: Abdi Behajat, Velo Construction; Laurance Lee, Attorney; Neil Cronin, Senior Planner; Katie Whewell, Planning Associate

From: Ann Berwick, Co-Director of Climate and Sustainability; Bill Ferguson, Co-Director of Climate and Sustainability; Liora Silkes, Energy Coach

RE: 50 Jackson St/383 Boylston St Special Permit Sustainability Review

The Climate and Sustainability Team has reviewed the materials submitted by the project team and found the plans for 50 Jackson St/383 Boylston St to be in compliance with the Sustainability Requirements as set forth by Zoning Ordinance Chapter 5 Section 13.

By planning to build 383 Boylston St. to LEED Silver certifiable standards, this project is on track to meet the requirements of Section 5.13.4.A of the Newton Zoning Ordinance. By planning to provide one electric vehicle charging outlet for every two cars, this project is on track to meet the requirements of 5.13.4.B of the Zoning Ordinance. We see you mention charging outlets, rather than charging stations, and would be interested to know if you're planning to install Level I or Level II chargers. We would encourage installing Level II chargers.

The City Climate and Sustainability Team is pleased to see this project is committing to high levels of insulation and an all-electric design, including HVAC, hot water, and ENERGY STAR appliances. We would be interested to hear what may be holding the project back from conducting a full Passive House feasibility study and aiming for Passive House building envelope goals, to further prepare to be a future net zero building.

We are also very glad the project is committing to installing solar onsite.

Finally, it is great to see mention of looking into recycled materials/low VOC materials in the Sustainable Strategy. We would encourage the project team to consider the embodied carbon of their project materials as well, particularly the steel, concrete, and insulation used.



Ruthanne Fuller
Mayor

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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 4, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Barbara & Gerald Baratz Revocable Trusts, Applicant
Laurance Lee, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow a 12-unit multi-family dwelling

Applicant: Barbara and Gerald Baratz Revocable Trusts

Site: 383-387 Boylston Street	SBL: 65011 0004
Zoning: BU1	Lot Area: 14,866 square feet
Current use: Mixed commercial	Proposed use: 12-unit multi-family dwelling

BACKGROUND:

The subject site consists of a 14,866 square foot lot improved with two multi-tenanted single-story commercial buildings built in 1930 with surface parking. The petitioner proposes to raze the buildings and construct a 12-unit three-story multi-family dwelling with underground garage parking.

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

- Zoning Review Application, prepared by Laurance Lee, attorney, dated 3/18/2021
- Existing Conditions Plan, signed and stamped by Christopher C. Charlton, surveyor, dated 12/4/2020
- Proposed Plot Plan, prepared by Spruhan Engineering, dated 3/15/2021 revised 10/17/2021, 11/3/2021, 11/10/2021
- FAR worksheet, signed and stamped by Mark L. Dooling, architect, submitted 3/18/2021, 11/15/2021
- Floor Plans and Elevations, prepared by Mark L. Dooling, architect, submitted 3/15/2021 revised 11/11/2021
- Delivery truck option locations, submitted 11/30/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner intends to raze the two mixed commercial buildings and construct a three-story 12-unit multi-family dwelling with underground parking. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor in a Business 1 zoning district.
2. Per section 4.1.2.B.1, a special permit is required for any development in a Business district of over 20,000 square feet or more of new gross floor area. The proposed building is 22,266 square feet, requiring a special permit.
3. The petitioner intends to construct a three-story multi-family dwelling. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 35.97 feet in height.
4. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, up to 1.50 by special permit. The building is proposed with a total of 22,266 square feet resulting in an FAR of 1.50, requiring a special permit.
5. The building known as 383 Boylston has a nonconforming side setback of 4.2 feet where 9.9 feet is required for the 19.73-foot tall building. The petitioner proposes to construct a 35.97-foot tall building, which requires an 18-foot side setback per section 4.1.3. The petitioner seeks a special permit per sections 4.1.3 and 7.8.2.C.2 to alter and extend the nonconforming side setback on the easterly side to allow for an 8-foot side setback where 18 feet is required.
6. The petitioner proposes 12 residential units. Per section 5.1.4 two parking stalls per unit are required in a multi-family dwelling, resulting in a requirement of 24 stalls. The petitioner proposes to construct 18 parking stalls, requiring a waiver of six stalls per section 5.1.13.
7. Per section 5.1.8.B.1, the minimum required stall width is 9 feet. The petitioner proposes parking stalls with an 8.5-foot width, requiring a special permit per section 5.1.13.
8. The petitioner intends to construct a loading zone for use by delivery trucks as needed within the driveway. The loading area meets the dimensional requirement of 10 feet in width by 35 feet in length per section 5.1.12.D.1. The driveway is 22-feet wide, which meets the minimum requirement of 20-feet in width for two-way use per section 5.1.8.D.1. However, while the loading zone is for temporary use during deliveries and passenger pick-ups, the 10-foot wide stall renders the driveway 12-feet wide while in use, requiring a special permit from the two-way use driveway width requirement.
9. Section 5.1.12.D.5 requires that loading facilities be designed and used so as not to be a nuisance or hazard or unreasonable impediment to traffic. The proposed loading zone blocks traffic within the site while in use, as well as requiring that the delivery vehicle back out into street traffic. A special permit to waive this provision is required.
10. Section 5.4.2 requires a special permit for retaining walls within the setback of four feet in height or greater. The petitioner proposes to construct a retaining wall on the westerly side of the

property reaching a maximum height of 9 feet. A special permit per section 5.4.2 is required to construct the retaining wall as proposed.

BU1 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	14,866 square feet	No change
Setbacks			
• Front (Boylston St)	10 feet	19.7 feet	16.1 feet
• Front (Jackson St)	10 feet	3.4 feet	14.3 feet
• Side (west)	18 feet	2.7 feet*	18.3 feet
• Side (east)	18 feet	4.2 feet**	8 feet***
Building Height	24 feet (36 feet by SP)	17.5 feet/19.73 feet	35.97 feet***
Max Number of Stories	2 (3 by SP)	1	3***
Lot Area Per Unit	1,200 square feet	NA	1,239 square feet
FAR	1.00 (1.50 by SP)	.33	1.50***

*The building known as 387 Boylston is 17.5 feet tall, requiring an 8.75 foot side setback

** The building known as 383 Boylston is 19.73 feet tall, requiring a 9.9 foot setback

***Requires relief

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use	S.P. per §7.3.3
§4.1.2.B.1	Request to allow a building with more than 20,000 square feet	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	Request to allow a three-story structure with 36 feet in height	S.P. per §7.3.3
§4.1.3	Request to allow an FAR of 1.50	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	Request to alter and extend a nonconforming side setback	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive 6 parking stalls	S.P. per §7.3.3
§5.1.8.B.1 §5.1.13	Request to reduce the width of parking stalls	S.P. per §7.3.3
§5.1.8.D.1 §5.1.13	Request to reduce the driveway width for two-way traffic	S.P. per §7.3.3
§5.1.12.D.5 §5.1.13	Request to allow a loading facility which may impede traffic	S.P. per §7.3.3
§5.4.2	Request to allow a retaining wall greater than four feet in height within the setback	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Rick Lipof, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – #383-387 Boylston Street

Date: July 13, 2021

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

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

383-387 Boylston Street
Newton, MA
Prepared by: Spruhan Engineering P.C.
Dated: 12/4/2020

Executive Summary:

This application entails the demolition of two commercial buildings on a 14,866 square foot [0.34 acre] lot and the construction of a 3 story (12 residential units) with an underground garage. The existing site has 130-foot frontage on Boylston Street along the south with two existing curb cuts that will be closed and remodeled as sidewalks: residential homes to the west, a commercial building to the east, and approximately 183 feet of frontage on Jackson Road. A new access driveway will be provided from Jackson Road approximately centered on the following photo.

Jackson Road view looking towards south



New access driveway centered approximately with existing utility pole that will need relocation.

The underground parking garage will provide 22 parking stalls a turning template plan should be provided to demonstrate turning maneuvers; additionally where will trash & recycling be located within this space?

The property has a high point at elevation 223-feet and slopes towards the north and south to Jackson Road & Boylston Street respectively. The site currently has no stormwater collection nor controls. Stormwater sheds off to each street with no treatment and enters either the state highway or City's drainage system. The engineer of record has designed a stormwater collection and infiltration system in accordance with the DEP and DPW Stormwater policy, however; an Operations and Maintenance plan is required for the design.

Pedestrian circulation is provided along the eastern property line via an ADA ramp system and walkway between the two streets, it may be prudent to have this ramp heated to avoid the requirements for ice/snow melt. New cement concrete sidewalks and granite curbing will be

installed as part of the project to current City/State Standards. Any work within Rte. 9 will require MassDOT permits.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction materials and equipment, parking for construction workers vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of the general contractor. It shall also address anticipated dewatering during construction, site safety & stability, siltation & dust control and noise impact to abutters.
2. Stabilized driveway construction entrance(s) will be required for the duration of the construction which will provide a truck wash to prevent tracking of mud and silt onto City streets.
3. Catch basins within and downstream of the construction zone will be required to have siltation control installed for the duration of the project and must be identified on the site plan.

Drainage:

1. An Operations and Maintenance (O&M) plan for the long-term maintenance of the proposed stormwater management facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by the applicant/property owner, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
2. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, trench drains, and pipe(s) are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E Investigation and report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and Engineering Division.

2. Are there any existing underground oil or fuel tanks? Have they been removed, if they have been, evidence of the proper removal should be submitted to the Newton Fire Department and the Board of Health.

Sanitary Sewer & Domestic Water Service(s):

1. Existing water and sewer services to building(s) shall cut and capped at the respective mains and completely removed from the main(s) and its entire length and properly backfilled. The Engineering Division must inspect and approve this work, failure to having this work inspected will result in delay of issuance of the new Utility Connection or issuance of a Certificate of Occupancy.
2. All new sewer service(s) shall be pressure tested in accordance to the City Construction Specifications & Standards and inspected via Closed Circuit Television CCTV inspection after installation is completed. A copy of the video inspection and written report shall be submitted to the City Engineer or his representative. The sewer service will NOT be accepted until the two methods of inspection are completed AND witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until these tests are completed to the satisfaction of the City Engineer.
3. All sanitary sewer manhole(s) shall be vacuum tested in accordance to the City's Construction Standards & Specifications, the sewer service and manhole will NOT be accepted until the manhole(s) pass the testing requirements. All testing MUST be witnessed by a representative of the Engineering Division. A Certificate of Occupancy will not be recommended until this test is completed to the satisfaction of the City Engineer and a written report of the test results is submitted to the City Engineer.
4. With the exception of natural gas service(s), all utility trenches within the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E up to within 18-inches of the asphalt binder level, after which Dense Grade Gravel compacted to 95 % Proctor Testing shall be placed over the CDF. Details of this requirement is the Engineering Division website "Standard Construction Details".
5. Fire Flow testing is required for the proposed fire suppression system. The applicant must coordinate the fire flow test with both the Newton Fire Department and the Utilities Division, representative of each department shall witness the testing. Test results shall be submitted in a written report along with hydraulic calculations that demonstrate the required size of the fire suppression system, these calculations shall be

submitted to the Newton Fire Department for approval, and copies give to the Engineering Division.

6. For water quality issues a fire hydrant will be required at the end of the proposed water main/service. This hydrant will be utilized for flushing out the main as required.
7. All water services shall be chlorinated, and pressure tested in accordance to the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
8. Approval of the final configurations of the water service(s) shall be determined by the Utilities Division, the engineer of record shall submit a plan to the Director of Utilities for approval.

Infiltration & Inflow:

- Will be addressed via a separate memo.

General:

1. 5 Year Moratorium – if at time of construction the roadway is under a 5-year moratorium, the roadway must be milled and paved gutter-to-gutter for a distance of 25 feet in each direction from the outermost trenches.
2. All trench excavation shall comply with Massachusetts General Law Chapter 82A, Trench Excavation Safety Requirements, and OSHA Standards to protect the general public from unauthorized access to unattended trenches or excavations. Trench Excavation Permit is required prior to any construction. This applies to all trenches on public and private property. *This note shall be incorporated onto the final plans.*
3. All tree removal shall comply with the City's Tree Ordinance.
4. The contractor of record is responsible for contacting the Engineering Division and scheduling an appointment 48-hours prior to the date when the utilities will be made available for an inspection of water services, sewer services and drainage system installation. The utility in question shall be fully exposed for the Inspector to view, backfilling shall only take place when the City Engineer's Inspector has given their approval. *This note shall be incorporated onto the final plans.*

5. The applicant shall apply for a Building Permit with the Inspectional Services Department prior to ANY construction.
6. Before requesting a Certificate of Occupancy, an As Built plan shall be submitted to the Engineering Division in both digital and paper format. The plan shall show all utilities and final grades, any easements and improvements and limits of restoration. The plan shall include profiles of the various new utilities including but not limited to rim & invert elevations (City of Newton Datum), slopes of pipes, pipe materials, and swing ties from permanent building corners. The as built shall be stamped by both a Massachusetts Registered Professional Engineer and Registered Professional Land Surveyor. Once the As built plan is received the Engineering Division shall perform a final site inspection and then make a determination to issue a Certificate of Occupancy. *This note shall be incorporated onto the final plans.*
7. All site work including trench restoration, sidewalk, curb, apron and loam border (where applicable) shall be completed before a Certificate of Occupancy is issued. *This note shall be incorporated onto the final plans.*
8. The contractor of record shall contact the Newton Police Department 48-hours in advanced and arrange for Police Detail to help residents and commuters navigate around the construction zone.
9. If any changes from the final approved design plan that are required due to unforeseen site conditions, the contractor of record shall contact the design engineer of record and submit revised design and stamped full scale plans for review and approval prior to continuing with construction.
10. *The engineer of record shall add the following attestation to the plans when applying for a building permit:*

I certify that the construction so shown was inspected prior to backfill and that all work conforms with the Approved Plan and meets or exceeds the City of Newton Construction Standards.

Signature & Date

Note: If the plans are updated it is the responsibility of the applicant to provide all City Departments [ISD, Conservation Commission, Planning and Engineering] involved in the permitting and approval process with complete and consistent plans.

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

CITY OF NEWTONIN 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 12-unit three story multi-family dwelling with over 20,000 square feet of gross floor area and 36 feet in height, to allow residential units on the ground floor and in the upper stories, with a floor area ratio (FAR) of 1.43, to alter and extend a nonconforming side setback, to waive six parking stalls, to reduce the minimum stall width dimension, to reduce the driveway width for two-way traffic, to allow a loading facility which may impede traffic, and to allow a retaining wall greater than four feet in height within a setback, 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 as designed due to its location in a Business 1 zoning district and proximity to amenities. (§7.3.3.C.1.)
2. The specific site is an appropriate location for the proposed retaining wall greater than four feet in height within the setback because it will accommodate a driveway that serves as an access point for vehicles and pedestrians. (§7.3.3.C.1.)
3. The proposed multi-family dwelling as developed and operated will not adversely affect the neighborhood because the neighborhood is comprised of a mix of uses and complies with the lot area per unit dimensional standard. (§7.3.3.C.2)
4. There will not be a nuisance or serious hazard to vehicles or pedestrians because there will be sufficient sight distance for vehicles exiting the driveway. (§7.3.3.C.3)
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
6. The proposed floor area ratio of 1.43 in a three-story structure is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because of its proximity to a commercial area and there are similarly sized structures nearby on Langley Road. (§4.1.2.B.3, §4.1.3 and §7.3.3)
7. The site and buildings as designed, constructed, and operated will contribute significantly

to the efficient use and conservation of natural resources and energy because the petitioner is designing the project to be LEED Silver certifiable, the project is providing 1.5 bicycle spaces per unit, and electric vehicle chargers. (§7.3.3.C.5)

8. Reducing the parking stall width is in the public interest to accommodate resident parking in the garage. (§5.1.13)
9. Reducing the driveway width for two-way traffic and to allow a loading facility which may impede traffic is in the public interest as it will allow deliveries to be made on site. (§5.1.13)
10. Waiving six parking stalls is in the public interest as additional bicycle parking is being offered to offer alternate modes of transportation and the cost of parking will be separate from the cost of a dwelling unit. (§5.1.13)
11. The proposed extension of a nonconforming side setback is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because the setback is increasing from four feet to eight feet. (§7.8.2.C.2)

PETITION NUMBER: #28-22

PETITIONER: Barbara and Gerald Baratz Revocable Trusts

ADDRESS OF PETITIONER: 383-387 Boylston Street/50 Jackson Street
Newton, MA 02459

LOCATION: 383-387 Boylston Street/50 Jackson Street
Newton, MA 02459

OWNER: Barbara and Gerald Baratz Revocable Trusts

ADDRESS OF OWNER: 383-387 Boylston Street/50 Jackson Street
Newton, MA 02459

TO BE USED FOR: A multi-family development consisting of 12 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 12-unit multi-family structure with 20,000 square feet or more of new gross floor area with three stories and 36 feet in height (§4.1.2.B.1, §4.1.2.B.3), and ground-floor units (§4.4.1); to allow an FAR of 1.5 (§4.1.3); to waive six parking stalls (§5.1.4, and §5.1.13), to waive the minimum parking stall width requirements (§5.1.8.B.1); to reduce the driveway width for two way traffic (§5.1.8.D.1); to allow a loading facility

(§5.1.12.D.5) and to allow a retaining wall greater than four feet in height within a setback (§5.4.2)

ZONING: Business Use 1

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 Spruhan Engineering, Professional Engineer, consisting of the following five (5) sheets:
 1. Proposed Grading Plan, Sheet 2, dated March 15, 2021, revised December 10, 2021
 2. Proposed Drainage and Utilities Plan, Sheet 3, dated March 15, 2021, revised December 10, 2021
 3. Details, Sheet 4, dated March 15, 2021, revised November 3, 2021
 4. Details, Sheet 5, dated March 15, 2021, revised November 3, 2021
 5. Details, Sheet 6, dated March 15, 2021, revised November 3, 2021
 - b. Architectural Plans, prepared by Dooling and Company Architects., dated November 11, 2020, revised December 3, 2021, consisting of seven (7) sheets:
 1. Basement, A-10
 2. First Floor, A-11
 3. Second Floor, A-12
 4. Third Floor, A-13
 5. Roof Plan, A-14
 6. Building Elevations, A-15 showing West Elevation and Boylston Street Elevation
 7. Building Elevations, A-1, showing West Elevation and Jackson Street Elevation
 - c. Site Plan/Landscape Plan, A-7, prepared by Dooling and Company Architects, dated November 11, 2020, revised December 3, 2021
 - d. Sustainability Strategy document, on file with the Planning Department and City Clerk, prepared by Green Building Consulting, dated December 14, 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:

	3 BR
Inclusionary Units	2

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. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. The Inclusionary Units shall be designed and constructed subject to the provisions of the Inclusionary Zoning Ordinance, §5.11.7.

10. 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.
11. No dwelling unit 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 plans referenced in Condition #1.
12. 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.
13. The petitioner shall comply with the City's Tree Preservation Ordinance §21-80 et seq.
14. Parking stall(s) shall be sold separately from the cost of a dwelling 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.
15. All dwelling units shall conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
16. 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.
17. The Petitioner shall comply with all applicable sustainable design provisions of the Revised Ordinances.
18. In accordance with Section 29-169 of the Revised Ordinances, the Petitioner shall contribute the following monies, for an aggregate amount of \$179,943.00:
 - a. \$134,957.25, or 75%, shall go toward design and construction of safety improvements at the intersection of Langley Road and Jackson Street, as determined by the Director of Planning and Development in consultation with the Commissioner of Public Works.
 - b. \$44,985.75, or 25%, -for sewer mitigation ("Infiltration and Inflow").
 - i. \$22,492.87 at the issuance of any Building Permit for the Project.
 - ii. \$22,492.88 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.
19. The Petitioner shall survey, design, and construct pedestrian and safety improvements at the intersection of Langley Road and Jackson Street. Within 90 days of the issuance of any Building Permit for vertical construction, the Petitioner shall submit engineering plans for the off-site improvements to the Commissioner of Public Works for review and approval. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Petitioner shall construct the improvements and receive approval from the Commissioner of Public Works.
 20. 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.
 21. The Petitioner shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment:
 - a. Prior to the issuance of any demolition, foundation or building permit, the Petitioner shall conduct a pre-construction survey of all buildings and structures within 250 feet of the Project, with owner approval and at no charge to the owners. Subject to owner approval, photos must be taken both inside and outside prior to construction to set a baseline of existing conditions.
 - b. Prior to the issuance of any demolition, foundation or building permit, the Petitioner shall establish a \$100,000 vibration mitigation fund (or other security in a form satisfactory to the City Solicitor) so that the funds are available for payment of valid claims for damage caused by vibration impacts to private property within 250 feet of the project. Claims shall be administered in conjunction with a responsible third party approved by the City Solicitor. Notice shall be provided to such private property owners on how to make a claim for damages.
 - c. The Petitioner shall engage a qualified professional to develop and prepare a vibration control plan demonstrating the following:
 - d. Measurements of static ground vibration prior to construction.
 - e. Vibration level limits for demolition and construction activities based on building conditions and soil conditions. The limit should be determined using industry standards, provided that vibration level limits shall not exceed .50 peak particle velocity (PPV).
 - f. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.

- g. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
 - h. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.
 - i. The Petitioner shall submit the vibration control plan to the Commissioner of Inspectional Services for review and approval prior to the issuance of any demolition, foundation or building permit.
 - j. The Petitioner shall implement the approved vibration control plan. Vibration levels shall be regularly monitored during demolition and construction. The Petitioner shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
 - k. All work shall be performed within the vibration level limits established by the vibration control plan. If the vibration limit is exceeded, the construction activity causing the vibration shall cease and not resume until mitigation measures are implemented and notice is provided to the Commissioner of Inspectional Services.
 - l. The Petitioner shall provide written notice to all property owners within 250 feet of the Project 48 hours prior to vibration-related activity that includes an explanation of the proposed activity, address of the site, date and time of the work, and contact information of the contractor overseeing the work.
 - m. Following construction, the Petitioner shall re-inspect all homes, with approval of the owners, subject to the pre-construction survey to determine any damages caused by vibration. The Petitioner shall maintain records of all complaints it receives for vibration-related damages. All claims submitted to the mitigation fund shall be fully administered prior to the issuance of the final certificate of occupancy for the Project. Any monies remaining in the fund upon issuance of the final certificate of occupancy shall be retained by the Petitioner.
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;
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. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan (which shall indicate the location of adequate snow storage area(s) or identify a suitable alternative for snow removal) for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
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. Should the Petitioner obtain the approval/permission of the utility, the Petitioner shall pay for the cost of undergrounding the utilities.
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 until the petitioner has submitted a statement certified by an architect or design professional that the initiatives included in the Sustainability Narrative referenced on Condition 1 have been incorporated into the building permit plan set. These include but are not limited to:
- a. All-electric mechanical systems and appliances.

- b. High performance building envelope with measures to minimize thermal bridging, resulting in reduced heating and cooling loads and thus energy consumption and cost.
 - c. Air barrier, insulation, and air sealing inspections & testing of exterior enclosure assemblies to identify leaks
31. 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 payments required in accordance with Condition #18.
 - c. Submitted design plans to the City Engineer, Director of Planning and Development, and Commissioner of Public Works in accordance with Condition #19.
 - d. Submitted a 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.
 - e. 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 #20.
 - f. 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 #2-14, and §5.11.8 of the Zoning Ordinance.
 - g. 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 Silver certifiability.
 - h. Submitted a LEED checklist prepared and certified by a LEED Accredited Professional to the Director of Planning and Development, certifying compliance with the Sustainability Narrative in accordance with Condition 1.
 - i. Complied with all applicable tree preservation provisions in accordance with Chapter 21 of the Revised Ordinances.
32. No Certificate of Occupancy (temporary or final) 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. 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 #18.
- d. Completed and received final inspection for the work outlined in Condition #19.
- e. Applied to the City's Traffic Council for a parking restriction along the Jackson Street frontage.
- f. Submitted to the Law Department copies of a fully executed Regulatory Agreement and Affordable Housing Restriction in accordance with Conditions #2-14.
- g. Provided evidence satisfactory to the Law Department that the Regulatory Agreements have been recorded at the Southern Middlesex District Registry of Deeds.
- h. Inclusionary Units shall be completed and occupied no later than the completion and occupancy of the market-rate units. 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.
- i. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the Project have been constructed to standards of the City of Newton Public Works Department.
- j. 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.
- k. Filed with the Department of Inspectional Services and the Department of Planning and Development a certificate from a licensed architect certifying that all dwelling units in the Project have been constructed and conform with MAAB requirements for "Group 1" units.
- l. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that utilities have been located underground, or submitted evidence that best efforts have been made to underground the utilities.

- m. 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.
 - n. Filed with Inspectional Services and the Planning Department, a statement or certificate from a licensed architect certifying that the portions of the residential building that are designated LEED Silver certifiable have been constructed in accordance with the sustainability narrative referenced in Condition #1.
 - o. Submitted a statement certified by an architect or sustainable design professional that the Project has been constructed in accordance with the initiatives included in the Sustainability Narrative referenced in Condition #1.
33. 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.