



Land Use Committee Report

City of Newton In City Council

Tuesday, March 8, 2022

Present: Councilors Lipof (Chair), Kelley, Bowman, Greenberg, Markiewicz, Laredo and Lucas

Also Present: Councilor Wright

Absent: Councilor Downs

City Staff Present: Chief Planner Neil Cronin, Senior Planner Michael Gleba, Senior Planner Katie Whewell
Assistant City Solicitor Jonah Temple

All Special Permit Plans, Plan Memoranda and Application Materials can be found at the following link <https://www.newtonma.gov/government/city-clerk/city-council/special-permits/-folder-1058>. Presentations for each project can be found at the end of this report.

Chairs Note: *The Committee will review the post-occupancy transportation conditions as required by Special Permit Council Order #127-16 for 288 Walnut Street.*

Note: Chief Planner Neil Cronin presented a post occupancy check-in for the above-referenced property. Mr. Cronin presented the site plan and site access layout as shown in the attached presentation.

This a special permit site plan approval to waive the parking requirement for a daycare center. The petitioner received a special permit in 2016 to waive the parking requirement for a daycare center for up to 60 children and 12 staff members. As part of that approval, the petitioner committed to a transportation demand management (TDM) plan, as well as a traffic pattern recommendation for parents to access the site via Bowers Street. The special permit required the petitioner to appear before the Land Use committee at six and 12 months after receipt of a final certificate of occupancy. The six month check-in was performed in February 2021.

The daycare center is currently operating with 44 children and 10 employees. This is an increase from 18 children and six staff members from the 2021 check-in. Parents are grouped into half-hour windows for pickup and drop off to minimize the number of vehicles coming to the site at once.

As part of the approval the petitioner was to require parents to access the site from Bowers Street so that vehicles taking a left from Newtonville Avenue on to Bowers Street would not slow eastbound traffic on Newtonville Avenue. The Planning Department observed pickup and drop off operations and noted that some parents were not utilizing the access point from Bowers street but were instead taking left turns onto Bowers Street from Newtonville Avenue to access the site. No impacts to either Bowers Street or

Newtonville Avenue traffic were observed when this occurred, however Planning staff recommends that the petitioner continue to reinforce TDM measures with parents to ensure they are following the traffic pattern from Bowers Street.

The Committee thanked Mr. Cronin for the update and noted no action was necessary.

#159-22 **Request to amend Council Order #58-21 and to waive parking stalls at 1241 Centre Street**
LINEAR RETAIL NEWTON 1 LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Order #58-21 to allow additional seats and seek an additional waiver of parking stalls at 1241 Centre Street (1239-1243), Ward 6, Newton Centre, on land known as Section 64 Block 28 Lot 24, containing approximately 9,000 sq. ft. in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 6-0 (Councilor Greenberg not voting); Public Hearing Closed 3/8/22**

Note: Attorney Kathy Winters, with offices at 1200 Walnut Street, represented the petitioner Linear Retail Newton 1, LLC. Ms. Winters presented the request to amend Special Permit #58-21 to increase the number of seats and waive seven additional parking stalls.

The petitioner is seeking an amendment to the special permit to add 19 seats to the floor plan. The additional 19 seats would bring the total of interior seats to 99, as shown in the attached presentation.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown in the attached presentation. Mr. Gleba confirmed that the 25 outdoor seats count toward the parking requirement. Outdoor seating is allowed year-round.

The planning department is supportive of the request based upon the location and the availability of public parking both on street and in nearby public parking areas.

The Public Hearing was Opened. No member of the public wished to speak.

Councilors were supportive of the petition.

Parking can be accommodated; outdoor seating is not generally utilized during the winter months and college students leave for the summer break so there isn't a great burden on parking year round.

The Committee discussed revising a condition requiring an annual donation to the City to support the Newton Centre green. Chief Planner Neil Cronin explained that the Planning Department has recently reviewed the way these types of conditions have been structured. The review resulted in a Planning Department recommendation to revise the condition to require a one-time lump sum payment of \$6000 prior to the issuance of a Council Order vs. an annual \$1000 payment over a 10-year period. In calculating this one-time \$6000 payment, the Planning Department used a net present value calculation.

Councilor Bowman motioned to close the public hearing which carried 6-0. Councilor Bowman motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation and requested a finding waiving 7 parking stalls be edited to note "total seats" instead of "19 additional interior seats". The Committee voted unanimously in favor of approval, 6-0.

#160-22 **Request to amend Council Order #332-65 and to waive parking stalls at 381 Elliot Street**
MARY R BUTLER petition for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Special Permit Order #332-65 to allow a change of use and seek an additional waiver of parking stalls at 381 Elliot Street, Ward 5, Newton, on land known as Section 51 Block 01 Lot 06, containing approximately 186,883 sq. ft. in a district zoned MAN. Ref: Sec. 7.3.3, 7.4, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Approved 6-0 (Councilor Greenberg not voting); Public Hearing Closed 3/8/22**

Note: Petitioner Mary R. Butler, of Echo Bridge LLC, 34 Wellesley Hills, presented the request to amend Special Permit #332-65 to allow for improvements that will expand congregational seating, waive parking stall requirements and allow parking on Sundays at the parking lot across the street.

The petitioner noted that the tenant, StoryHeights Church is seeking to enlarge their existing auditorium by approximately 5500 sq. feet to increase seating from 70 to 140 seats. The tenant will be moving the Sunday school use to another location within the building.

Senior Planner Katie Whewell presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown in the attached presentation. Ms. Whewell noted that the proposed improvements and use requires 50 parking stalls. There are 291 parking stalls between the two parking facilities. Most of the parking is utilized Monday-Friday during regular business hours. As the proposed religious use would operate on Sundays, there is unlikely to be overlap between the uses.

Ms. Whewell noted that when reviewing the petition with the Transportation Division, they recommended that the petitioner install a crosswalk with a rectangular rapid flashing beacon (RRFB) across Elliott Street.

The Public Hearing was Opened. No member of the public wished to speak.

The petitioner noted the accessory lot is always empty because there are more than enough spaces in the main lot of the office park, especially on Sundays when the offices and stores are closed.

The petitioner additionally noted that there is a traffic light there at a nearby intersection where people can cross safely, again noting that it was unlikely to occur as there is ample parking in the main lot.

Committee members were supportive of the petition. Committee members discussed the recommendation for a flashing beacon.

It was noted a beacon would cost about \$20,000; the Committee is sensitive to the fact that the tenant is a non-profit organization that may not be able to afford to install a flashing beacon.

Adding a beacon would make more sense if there wasn't a four-way signalized intersection adjacent to the property. As well, due to the size of the main lot, it would be unlikely that there would be a great need for it.

Councilor Laredo motioned to close the public hearing, which carried 6-0. Councilor Laredo motioned to approve the petition. Committee members reviewed the draft findings and conditions as shown in the attached presentation. The Committee voted unanimously in favor of approval, 6-0.

#161-22 Petition to allow retaining wall in excess of 4 feet and to exceed FAR at 26 Magnolia Avenue

JOHN ARONE petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a new dwelling with retaining walls along the sides and rear of the property exceeding 4' in height at 26 Magnolia Avenue, Ward 7, Newton, on land known as Section 72 Block 39 Lot 23, containing approximately 15,787 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9, 5.4.2.B of the City of Newton Rev Zoning Ord, 2017.

Action: **Land Use Held 7-0; Public Hearing Continued**

Note: The petitioner John B. Arone of Arone Brothers Development, Waltham, MA, provided the attached materials after the Land Use hearing on 3/8/22.

The petitioner presented the request to allow construction of new 2 ½ story single family dwelling that would result in an increase in the property's FAR to .40 (where .33 is allowed). The proposed plan also includes construction of several retaining walls within the setbacks, some portions of which would exceed 4 ft. and reach a maximum of 9 ft.

The property's grade drops 22 feet from the front left to the back right of the property. The proposed design would create a two-tier topography in the rear.

The wall material and color (shea, shipped granite, pre-cast concrete block) was chosen by the abutting neighbors.

Senior Planner Michael Gleba presented the requested relief, criteria for consideration, land use, zoning and proposed plans as shown in the attached presentation. The proposed plan shows retaining walls around most of the perimeter of the property and an additional wall that would bisect the property in the rear, to create two level areas. The perimeter walls are within the setbacks, requiring a special permit.

The Public Hearing was opened.

Neighbors expressed appreciation for the petitioner's efforts at community conversation.

Ms. Sara Hirzel, 50 Valley Spring Road, noted that the general trend of leveling the lots that enclose this neighborhood is creating a basin like feeling for the entire community who lives there. This is a different aesthetic than the original neighborhood design. Some of the homes in the area were designed to be more concealed and more in contact with excellent views of the abutting golf course and the natural surroundings.

Other neighbors, including Max Heiman, 33 Elliot Memorial Road, and Brian Lannery, 31, Dorr Road, echoed similar concerns and expressed concern about wall heights and blocked views.

Carl and Suzanne Cohen, 15 Magnolia Road, noted that two other large houses in the neighborhood were built/renovated to respect the landscape they were on, with no leveling/alteration of the grading, and no retaining walls added.

John and Katerina Kreatsoulas, 25 Dorr Road, sought clarification on the rear wall heights, noting that the plans submitted to City appear to show a 4' wall along the whole side from beginning to end. Mr. Kreatsoulas' understanding from the petitioner was that the wall would taper from 4' to 0'.

The petitioner noted that the tapering of the wall from 4' to 0' would be visible from the property owner's perspective. The neighbors would see a 4' wall from their view.

Neighbors noted the absence of another immediate abutter, Ms. Penny Benjamin, 20 Magnolia Road, whose health precluded her ability to speak at the hearing. Ms. Benjamin has created a horticultural garden that is open to the City and group tours. This new house would be directly to the south of her house, possibly blocking the sunlight in a way that could adversely impact her garden.

Councilor Questions and Comments:

Clarification was provided that directives regarding water overflow and drainage issues are within the purview of the City's Engineering department. As such, the Council cannot put conditions in special permit orders.

The walls don't appear to fit in with the established neighborhood. Has consideration been given to soften the look or pull them back a bit?

The petitioner noted an extensive landscape plan will be implemented on both sides of the walls. The petitioner consulted with abutting neighbors who will have significant say in the type of plantings that will be used to camouflage the wall.

Has consideration been given to shorten the driveway width to 12' (vs. 16') in order not to compromise a mature tree on the property?

Was it the petitioner's intention when they purchased the property to raze the existing building and then seek a special permit for this proposed plan?

It was noted that it was possible to work around the FAR relief being requested by reducing the size of the house.

Appreciation was expressed for the neighbors' feedback. It is valued and helpful.

Committee members were sympathetic to the length of time this project has taken, while also noting that it is best to try to work with the neighbors. The absence of two abutting neighbors was noted.

A Committee Member noted that in evaluating this special permit, the Committee should consider what a by-right alternative to the proposed retaining wall and requested FAR would look like, and whether what is being proposed is better than a by-right alternative.

Councilors expressed concern about the visuals, noting that they wished more wall renderings and a landscape plan had been provided to fully illustrate the proposed design. A fully baked landscape plan is often a good thing to submit with these types of new projects.

Committee members addressed the special permit process. It is designed to help petitioners achieve certain relief where it would not be available on a by right basis, but it is also a give and take, as the process is designed to result in a better project. Councilors expressed uncertainty in voting to approve, noting that it did not appear some of the abutters' concerns were addressed.

Committee members agreed a site visit would be helpful before voting on this item.

Councilor Laredo motioned to hold and continue the public hearing, which carried 7-0.

The Committee adjourned at 9:02 p.m.

Respectfully Submitted,

Richard Lipof, Chair

Department of Planning and Development



PETITION #127-16

288 WALNUT STREET

**SPECIAL PERMIT/SITE PLAN
APPROVAL TO WAIVE THE
PARKING REQUIREMENT OF
A DAY CARE CENTER**

MARCH 8, 2021



Petition Details



- The petitioner received a special permit in 2016 to waive the parking requirement of a day care center for up to 60 children and up to 12 staff members.
- The petitioner committed to a Transportation Demand Management Plan as well as a traffic pattern for parents to access the site via Bowers Street.
- The special permit requires the petitioner to appear before the Land Use Committee at six and at 12 months after receipt of a final certificate of occupancy.

Operation



- The petitioner is operating the center with 44 children and ten employees.
- Parents are grouped into half-hour windows for drop-off and pick-up.
- Most employees park off site, carpooling and ridesharing have not been common due to Covid-19.

Site Access



Department of Planning and Development



PETITION #159-22

1241 CENTRE STREET (1239-1243)

SPECIAL PERMIT/SITE PLAN APPROVAL TO AMEND SPECIAL PERMIT ORDER #58-21 TO ALLOW ADDITIONAL SEATS AND SEEK AN ADDITIONAL WAIVER OF PARKING STALLS

MARCH 8, 2022



Requested Relief



Special permit per §7.3.3 to:

- amend Special Permit #58-21
- waive additional parking stalls (§5.1.4, §5.1.13)

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

To amend Special Permit #58-21-

- The specific site ins a Business 1 (BU1) district is an appropriate location for a restaurant with 124 seats (99 interior and 25 outdoor) (§7.3.3.C.1)
- The proposed restaurant with 124 seats (99 interior and 25 outdoor) will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed restaurant with 124 seats (99 interior and 25 outdoor) will create 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)

Criteria to Consider (cont.)

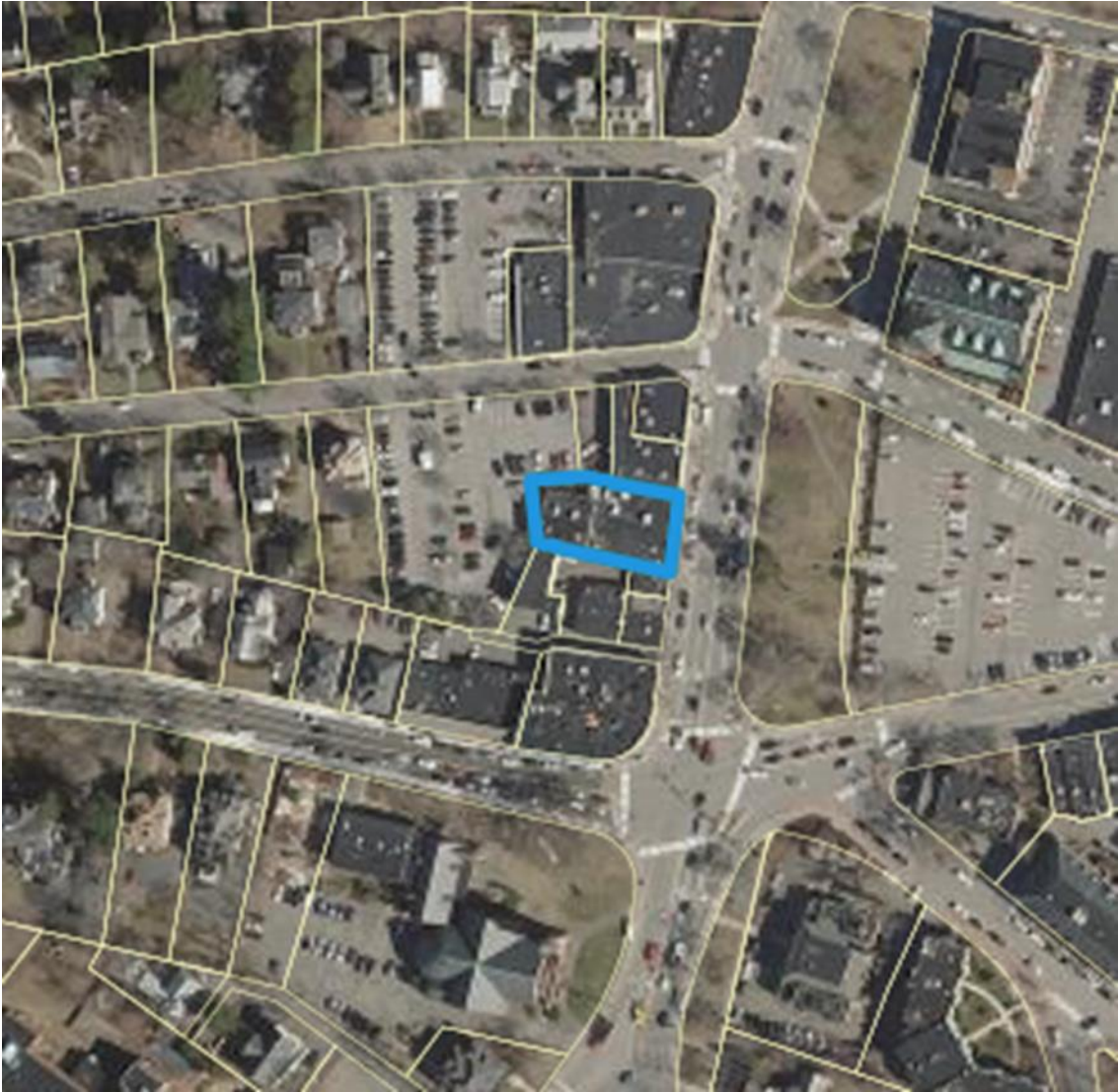


To waive seven additional parking stalls -

- Literal compliance with the parking requirements per Sec. 5.1 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. (§5.1.4, §5.1.13)

AERIAL/GIS MAP

#159-22



Zoning

#159-22

ATTACHMENT B




Zoning

1241 Centre St.

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1
-  Business 1
-  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: February 19, 2021

Land Use

#159-22

ATTACHMENT A

Land Use

1241 Centre St.

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Private Educational
-  Nonprofit Organizations



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

0 12.5 25 50 75 100 125 150 175 Feet

Map Date: February 19, 2021



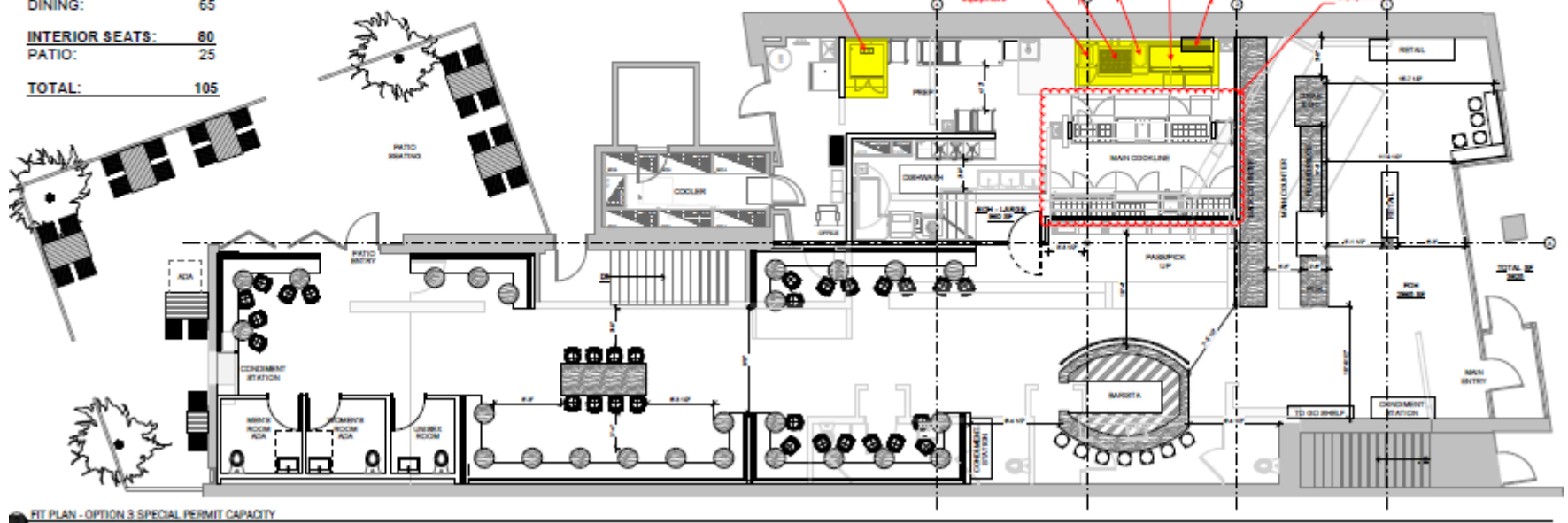
Floor Plan- SP approved

#159-22

Item #40: Gas Countertop Griddle
 Item #50 Cheese Melter
 Item #51 Multi-function Electric Cooker
 Item #52 Gas Range

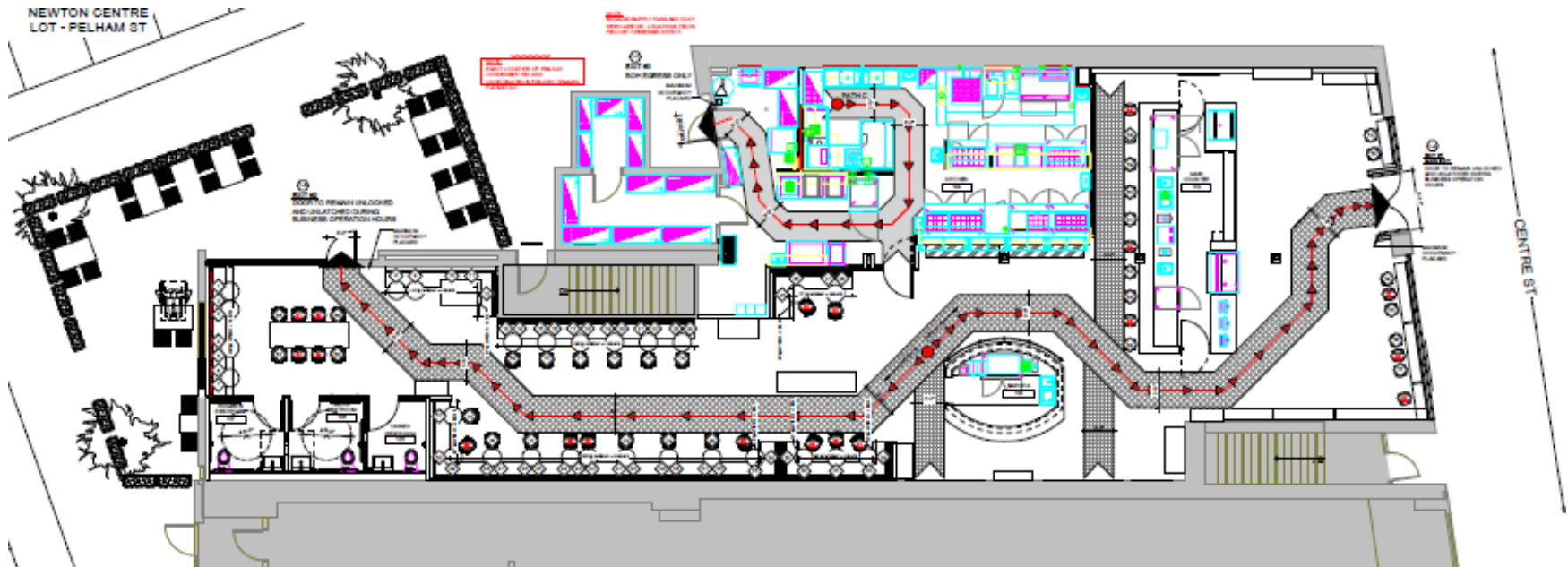
SEATS:

BARISTA:	07
COMMUNAL TABLE:	08
DINING:	65
INTERIOR SEATS:	80
PATIO:	25
TOTAL:	105



Floor Plan- proposed

#159-22



Photos

#159-22





Proposed Findings



- The specific site in a Business 1 (BU1) district is an appropriate location for a restaurant with 124 seats (99 interior and 25 outdoor) as it is located in a mixed-use business area with on- and off- street parking facilities (§7.3.3.C.1)
- The proposed restaurant with 124 seats (99 interior and 25 outdoor) will not adversely affect the neighborhood given the mixed-use nature of the surrounding area and the presence of nearby on- and off- street parking (§7.3.3.C.2)
- The proposed restaurant with 124 seats (99 interior and 25 outdoor) will not create 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)
- Literal compliance with the parking requirements per Sec. 5.1 that require seven parking stalls for the proposed 19 additional interior restaurant seats is impracticable due to the nature of the use and the location and size of the lot (§5.1.13)

Proposed Conditions



The conditions set forth in a prior special permit for this property, Special Permits #242-09 and #58-21 remain in full force and effect except as modified herein.

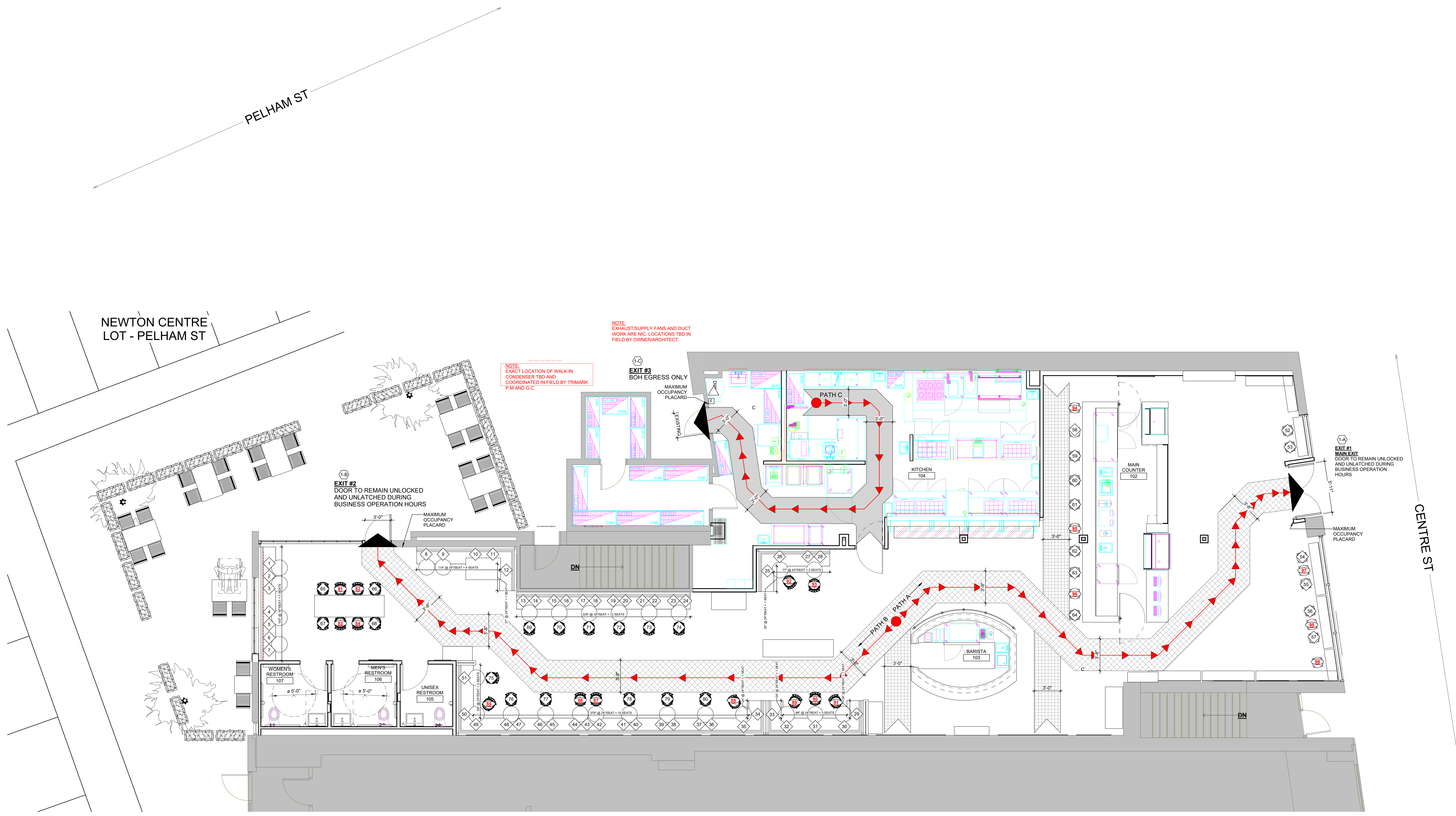
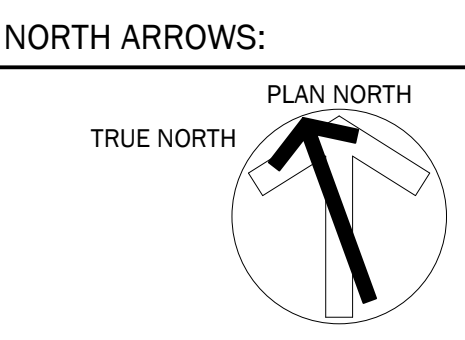
- Floor rplan replaced with a floor plan entitled “Tatte Bakery, 1241 Centre St, Newton, MA 02459- Job No. 2020- 3903, First Floor Plan (A100),” prepared by McMahan Architects, undated, Signed and stamped by David R. McMahan, Registered Architect
- The petitioner may operate a bakery/café restaurant with a maximum of 99 seats and 12 employees on the largest shift, with a parking waiver of 22 parking stalls. The petitioner may locate an additional 25 seats on an outdoor patio during a six-month period from May through October, with an additional parking waiver of 9 parking stalls for such use, provided, however, that the total number of seats shall not exceed 124 and the total number of outdoor patio seats shall not exceed 25, notwithstanding any subsequent change to the Zoning ordinance which may authorize additional outdoor seating independent of a parking requirement
- Condition 10 of Special Permit #242-09 is deleted:

10. The petitioner shall make an annual donation of \$1,000, due and payable on or before April 1st of each year, to be applied to the maintenance of the Newton Centre green.

Proposed Conditions (cont.)



- *No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have made a one-time payment of \$6,000 to the City of Newton to be applied to the maintenance of the Newton Centre green.*
- *Standard Building Permit Condition.*
- *Standard Final Inspection/Certificate of Occupancy Condition.*



NOTE: EXHAUST/SUPPLY FANS AND DUCT WORK ARE NIC LOCATIONS TBD IN FIELD BY OWNER/ARCHITECT.

NOTE: EXACT LOCATION OF WALK-IN CONDENSER TRIO AND COORDINATED IN FIELD BY TRIMARK T.M AND G.C.

EXIT #3 BOH EGRESS ONLY
MAXIMUM OCCUPANCY PLACARD

EXIT #2 DOOR TO REMAIN UNLOCKED AND UNLATCHED DURING BUSINESS OPERATION HOURS
MAXIMUM OCCUPANCY PLACARD

EXIT #1 MAIN EXIT DOOR TO REMAIN UNLOCKED AND UNLATCHED DURING BUSINESS OPERATION HOURS
MAXIMUM OCCUPANCY PLACARD

GENERAL NOTE

IN THE EVENT OF AN EMERGENCY, ALL OCCUPANTS ARE TO EVACUATE THE PREMISES AND MEET ON THE CORNER OF CENTRE AND PELHAM STREETS.

LEGEND

- PATH OF EGRESS
- (1-A) MAIN EGRESS ONTO CENTRE STREET
- (1-B) SECONDARY EGRESS ONTO NEWTON CENTRE PARKING LOT - PELHAM STREET
- (1-C) BOH EGRESS ONTO NEWTON CENTRE PARKING LOT - PELHAM STREET

TOTAL EGRESS PATH LENGTHS

PATH	LENGTH OF TRAVEL
PATH A	697'-10"
PATH B	771'-2"
PATH C - BOH	450'-0"

EXISTING OCCUPANCY CHART

AREA	QUANTITY
MAXIMUM INTERIOR OCCUPANCY (INCLUDES: MAXIMUM 9 EMPLOYEES ON LARGEST SHEET)	89
MAXIMUM OUTDOOR PATIO OCCUPANCY	25

SPECIAL PERMIT:
EXISTING BOARD ORDER FROM THE CITY OF NEWTON: #242-02 PAGE 3
2- THE PETITIONER MAY OPERATE A BAKERY/CAFE RESTAURANT WITH A MAXIMUM OF 89 SEATS AND 9 EMPLOYEES ON THE LARGEST SHEET, WITH A PARKING WAIVER OF 14 PARKING STALLS. THE PETITIONER MAY LOCATE AN ADDITIONAL 25 SEATS ON AN OUTDOOR PATIO DURING A SIX-MONTH PERIOD FROM MAY THROUGH OCTOBER, WITH AN ADDITIONAL PARKING WAIVER OF 9 PARKING STALLS FOR SUCH USE, PROVIDED HOWEVER, THAT THE TOTAL NUMBER OF SEATS SHALL NOT EXCEED 109 AND THE TOTAL NUMBER OF OUTDOOR PATIO SEATS SHALL NOT EXCEED 25.

DOCUMENT NUMBER: 7739 RECORDED DATE: JANUARY 14, 2010
DOCUMENT TYPE: DECIS

STANDING ROOM - PATRONS TO ORDER AND LEAVE PREMISES ON PATRONS SIT AT ALLOWED SEATING

SEAT CALCULATION LEGEND

SEATING TYPE	CALCULATION
FIXED STRAIGHT SEATING	18" SEAT
FIXED BOOTH SEATING	24" SEAT
EXISTING SEAT NUMBER DESIGNATED BY:	◆
PROPOSED SEAT NUMBER DESIGNATED BY:	●

REFERENCE FIXED SEATING DIMENSIONS AND DESIGNATIONS ON PLAN ABOVE

ISSUE	DESCRIPTION	DATE

M
McMahon
architects

535 ALBANY STREET
BOSTON, MA 02118
T 617.482.5353
www.mcmahonarchitects.com

JOB TITLE & ADDRESS:
TATTE BAKERY
1241 CENTRE ST | NEWTON,
MA 02459

PROJECT INFORMATION:
SCALE: As indicated
DRAWN BY: AN
CHECKED BY: AN
JOB NO: 2020-3903

SHEET TITLE:
FIRST FLOOR PLAN

STAMP:

A100

Department of Planning and Development



PETITION #160-22
365-381 ELLIOT STREET

TO AMEND SPECIAL
PERMIT ORDER #332-65 TO ALLOW
A CHANGE OF USE, A 25-STALL
PARKING WAIVER, AND REMOVE
SUNDAY PARKING RESTRICTION
FOR ASSOCIATED PARKING LOT

MARCH 8, 2022



Requested Relief



Special Permits per §7.3.3, 7.8.2.C.2 of the Newton Zoning Ordinance to:

- Amend Special Permit #332-65 to allow parking on Sundays at the Elliot Street/River Street lot; and
- To waive 25 parking stalls (§5.1.4.A and §5.1.13)

Criteria to Consider



When reviewing this request, the Council should consider whether:

1. The specific site is an appropriate location for the 25-stall parking waiver
2. The specific site is an appropriate location for the proposed amendments to Council Order 332-65, to allow parking on Sundays at the Elliot Street/River Avenue parking lot
3. The 25-stall parking waiver will adversely affect the neighborhood
4. There will be nuisance or serious hazard to vehicles or pedestrians
5. Access to the site over streets is appropriate for the types and numbers of vehicles involved
6. A waiver of 25 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.

ATTACHMENT A

Zoning

365-381 Elliot Street

City of Newton,
Massachusetts

Zoning

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

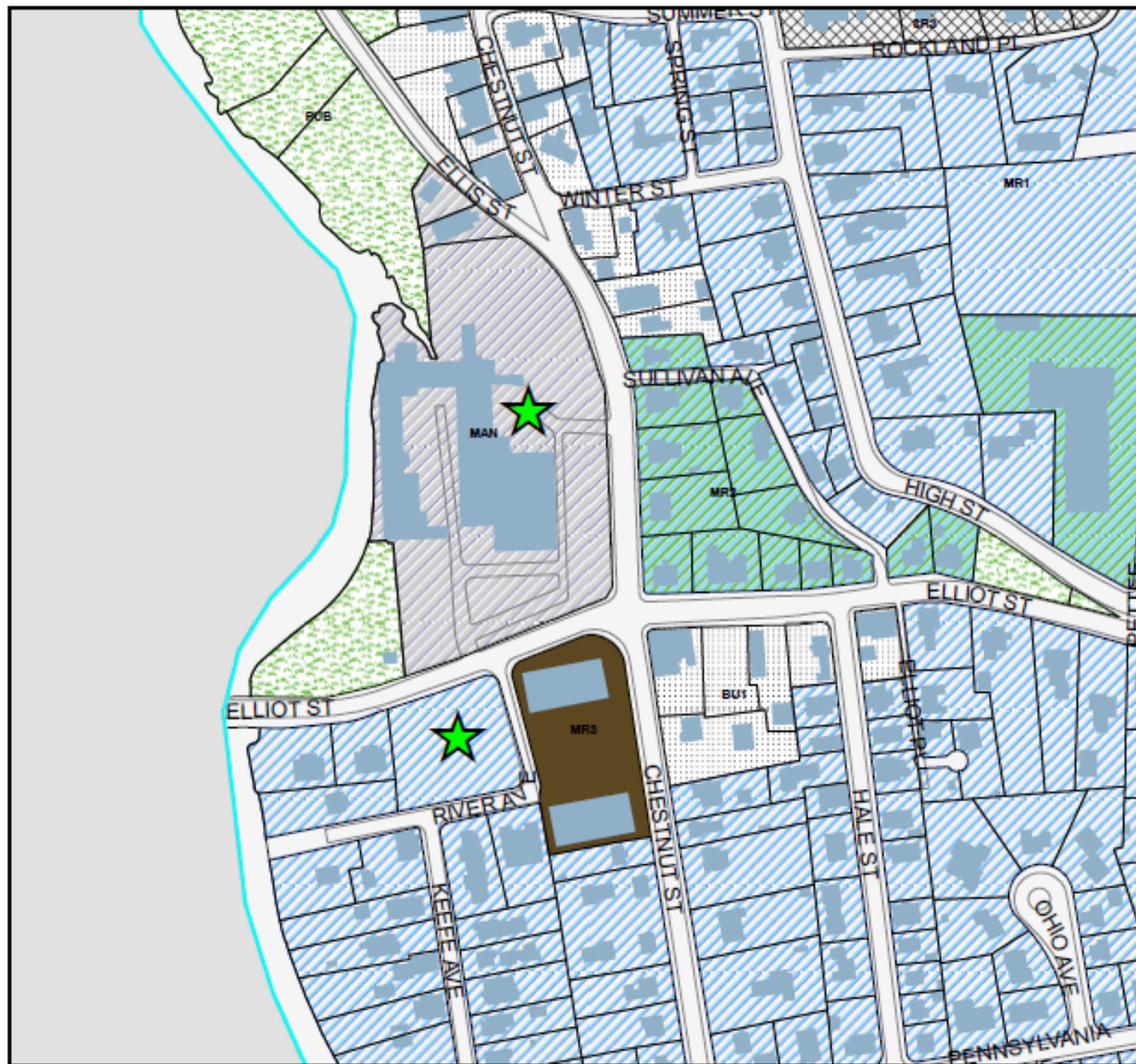


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

82.85 50 75 100 125 150 175 200 225 250 275
 Feet

Map Date: March 01, 2022



ATTACHMENT B

Land Use

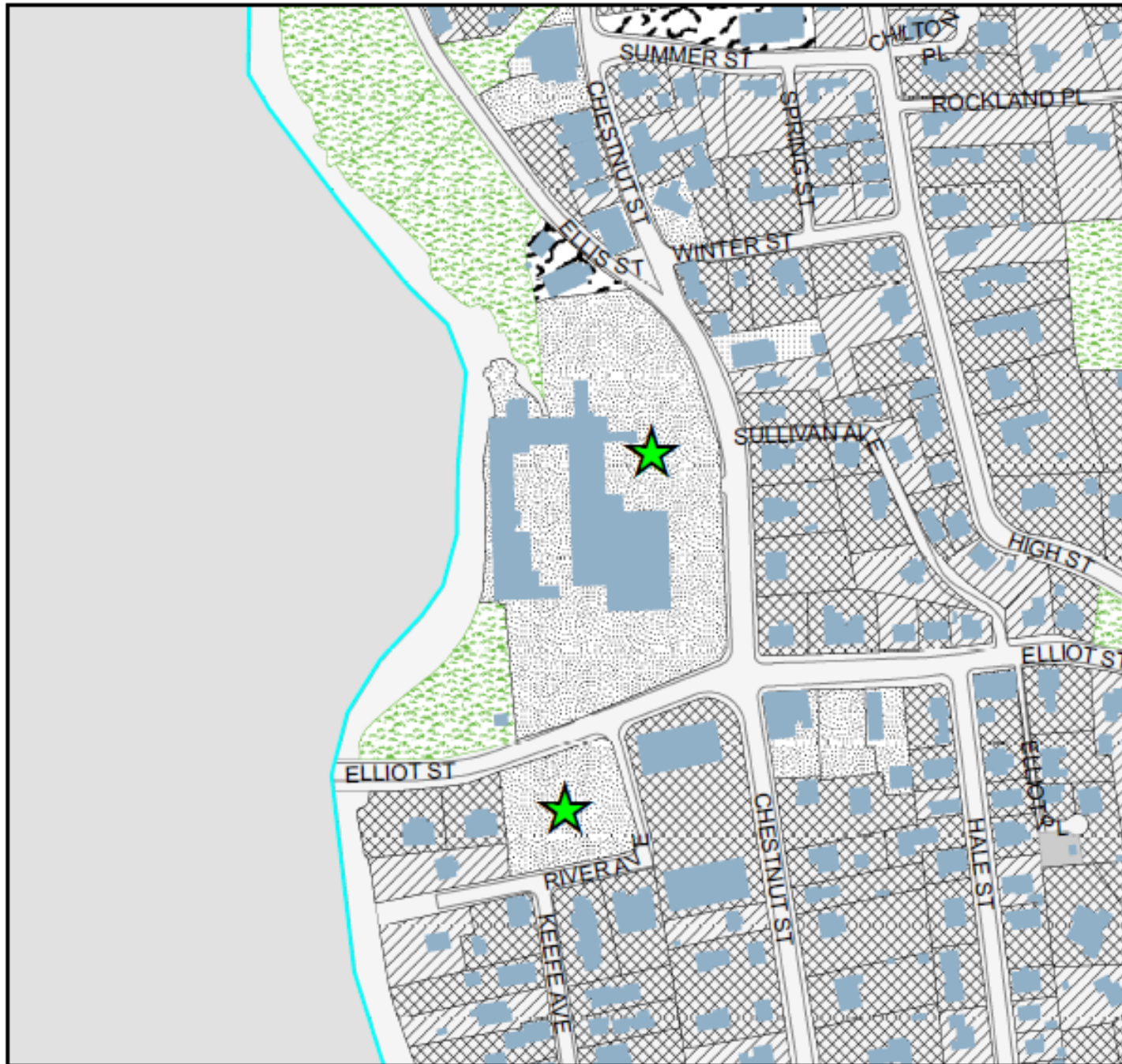
365 - 381 Elliot Street

*City of Newton,
Massachusetts*

Land Use


Land Use

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



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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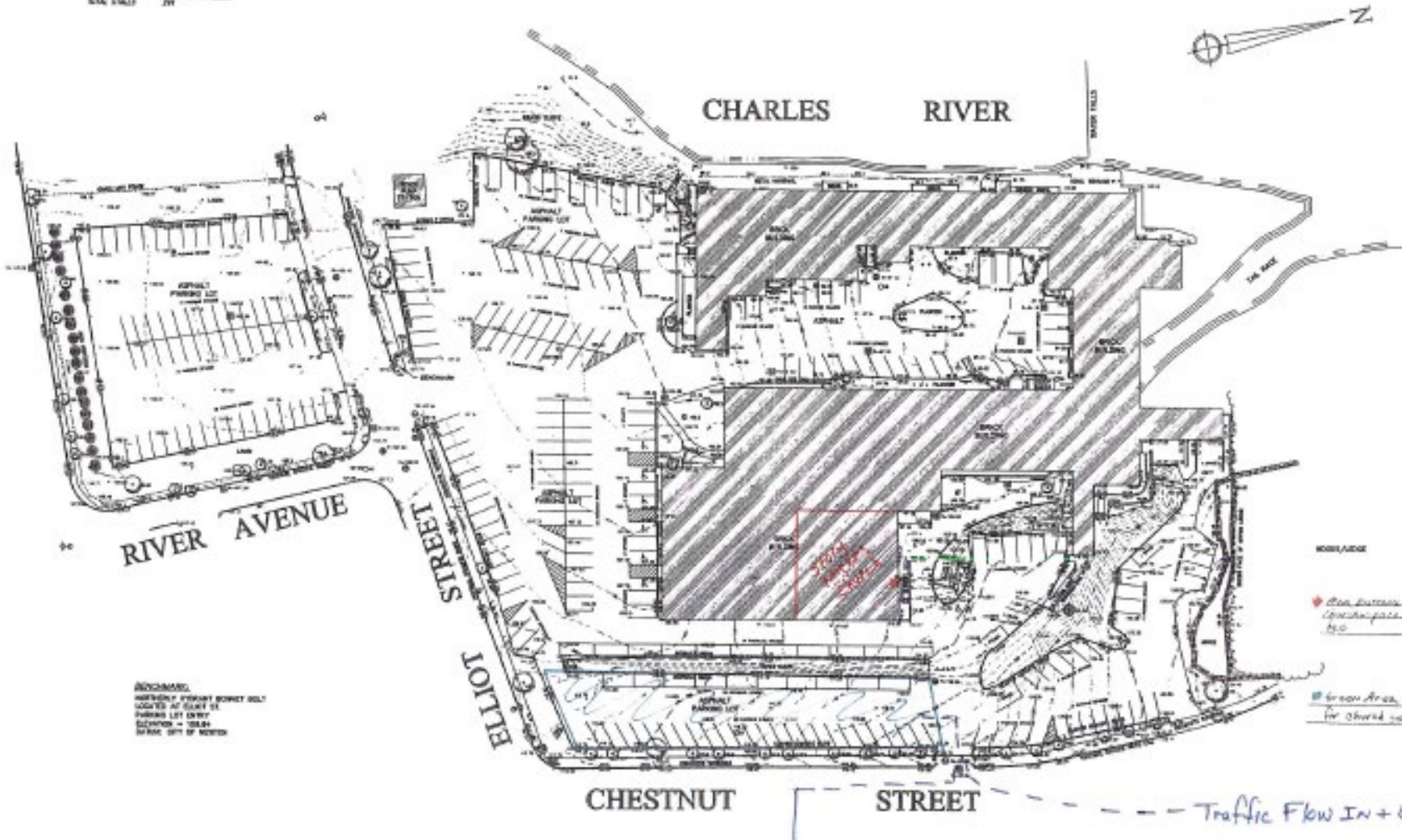
82.85 50 75 100125150175200225250275
 Feet

Map Date: March 01, 2022

Site Plan

PARKING SUMMARY

DAY PARKS	STANDARD	HANDICAP
279	279	2
52	52	2
TOTAL TOTAL	331	4



NOTES:
 1. WHEELCHAIR ACCESSIBLE PARKING SPOTS LOCATED AT ELIOT ST. PARKING LOT ENTRY.
 2. ELEVATOR - 100.04' MARK. 50' BY 60" WIDTH.

LEGEND

- Wheelchair Accessible
- Green Area for Church Use

Traffic Flow IN + 1

Parking Waiver



- Additional 5,840 square feet to allow relocated Sunday School
- Parking Requirement: 50 stalls, 25 of which can be accommodated on site, resulting in a 25-stall parking waiver

Use	Parking Requirement	Days of Operation
Office	214	M-F
Medical Office	16	M-F
Retail	24	M-Sun
Storage	3	N/A
Other	1	M-F
Religious Use	58	Sunday
Total	316 stalls	-
Provided	291 stalls	-

Amendment to Special Permit 332-65



- Special Permit #332-65 to utilize the Elliot St/River Ave parking lot with restrictions
- Condition 3: *Parking on the site shall be prohibited before 7 AM and after 8 PM Monday through Saturday of each week and all day on Sundays.*
- Proposed: *Parking on the site shall be prohibited before 7 AM and after 8 PM Monday through **Sunday.** ~~of each week and all day on Sundays.~~*
- Transportation Division recommends crosswalk with RRFB.

Proposed Findings



1. The specific site is an appropriate location for the 25 stall parking waiver **due to the mix of uses on site and their hours of operation** (§7.3.3.C.1).
2. The specific site is an appropriate location for the proposed amendment to Council Order #332-65, to allow parking on Sundays at the Elliot Street/River Avenue parking lot **because the site is currently used for parking all other days of the week and has been in existence for over 57 years.** (§7.3.3.C.1).
3. The 25-stall parking waiver will not adversely affect the neighborhood because the **use operates on Sundays, when other uses on site are closed.** (§7.3.3.C.2).
4. There will be no nuisance or serious hazard to vehicles or pedestrians because **there are no changes to the site plan proposed** (§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. A waiver of twenty-five parking stalls is in the public interest because the proposed religious use **does not create additional parking demand during peak hours and only operates on Sundays.** (§5.1.13)

Proposed Conditions

(1 of 2)



1. Plan Referencing Condition.
2. Standard Building Permit Condition.
3. This Special Permit/Site Plan Approval governs both 365-381 Elliot Street and 25 River Avenue (Elliot Street/River Avenue parking facility). As such, this Special Permit/Site Plan Approval shall be recorded against both lots at the Middlesex South Registry of Deeds.
4. The parking waiver of 25 stalls shall only apply to the religious use, any change in use seeking to use the parking waiver, requires an amendment to this Council Order. Any change in ownership shall require the petitioner contact the Planning Department to ensure the site operations still justify the granted relief.
5. In the event the accessory parking is no longer available, the property owner shall contact the Planning Department to ensure compliance with this special permit and to determine if an amendment to this special permit is required.

Proposed Conditions

(2 of 2)



1. Standard Final Inspection/Certificate of Occupancy Condition.

Conditions incorporated from Special Permit #332-65 governing the Elliot Street/River Avenue parking facility consisting of 62 surface parking stalls.

1. Vehicular and pedestrian ingress and egress to and from the site shall be limited to the two driveway openings on Elliot Street shown on the site plan referenced in Condition 1.
2. Use Elliot Street/River Avenue parking facility shall be limited to the parking of private passenger vehicles of employees and guests of the owner of 365-381 Elliot Street.
3. *Parking on the Elliot Street/River Ave parking facility shall be prohibited before 7 AM and after 8 PM on Monday through Sunday of each week.*
4. The petitioner shall maintain the parking area, trees, shrubbery and fencing in good order and repair and shall engage such personnel as may be necessary to enforce compliance with this Council Order and to prevent the use of the site for any purpose other than parking. The Police Department in its discretion may require the owner to install appropriate gates to be used in closing off Elliot Street openings when the premises are not open for parking.

Department of Planning and Development



PETITION #161-22

26 MAGNOLIA AVENUE

SPECIAL PERMIT/SITE PLAN
APPROVAL TO CONSTRUCT A
NEW DWELLING WITH
RETAINING WALLS ALONG THE
SIDES AND REAR OF THE
PROPERTY EXCEEDING 4' IN
HEIGHT

MARCH 8, 2022



Requested Relief



Special permit per §7.3.3 to:

- exceed floor area ratio (FAR) (§3.1.3, §3.1.9)
- allow retaining walls exceeding four feet within setbacks (§5.4.2.B)

Criteria to Consider



When reviewing the requested special permits the Council should consider whether:

- The site in a Single Residence 2 (SR2) zoning district is an appropriate location for the proposed retaining walls exceeding four feet in height within the side and rear setbacks (§5.4.2.B)(§7.3.3.C.1)
- The proposed retaining walls exceeding four feet in height within the side and rear setbacks will adversely affect the neighborhood (§5.4.2.B)(§7.3.3.C.2)
- The proposed retaining walls exceeding four feet in height within the side and rear setbacks will create a nuisance or serious hazard to vehicles or pedestrians (§5.4.2.B)(§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 dwelling with a floor area ratio (FAR) of 0.40 where 0.33 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood (§3.1.3, §3.1.9)

AERIAL/GIS MAP

#161-22



Zoning

#161-22

ATTACHMENT B

Zoning

26 Magnolia Ave.

*City of Newton,
Massachusetts*



- Single Residence 1
- Single Residence 2
- Public Use



The information on this map is
Geographic Information Systems (GIS) data. 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: February 28, 2022

Land Use

#161-22



ATTACHMENT A

Land Use

26 Magnolia Ave.

City of Newton,
Massachusetts
Land Use
Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space
- Vacant Land
- Tax Exempt



The information on this map is derived from the City of Newton's Geographic Information System (GIS) data. 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.

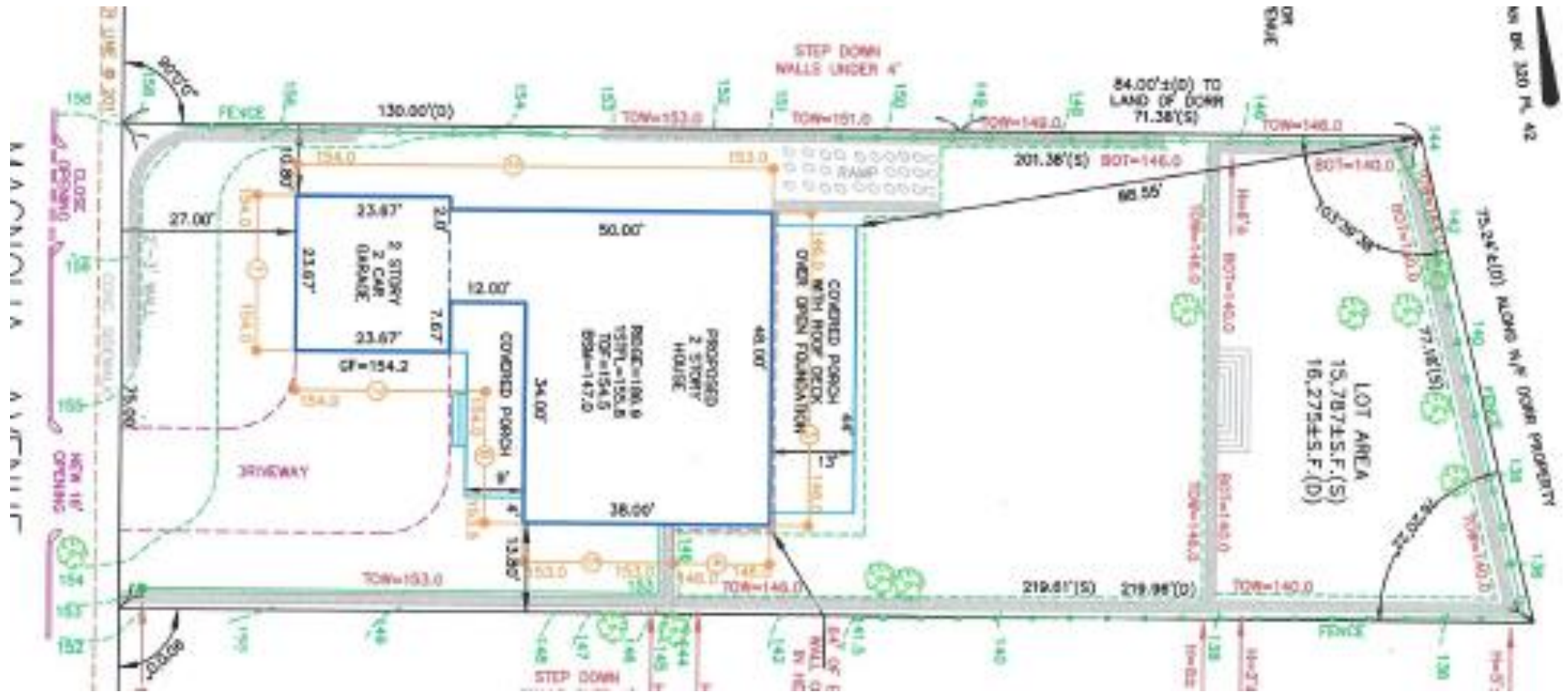
CITY OF NEWTON, MASSACHUSETTS
Mayor - Barbara Fuller
GIS Administrator - Douglas Greenfield



Map Date: February 28, 2022

Site Plan- proposed

#161-22



Elevations- proposed left, front, right & rear

#161-22



Photos

#161-22



Photos

#161-22



Photos

#161-22



Proposed Findings



1. The site in a Single Residence 2 (SR2) zoning district is an appropriate location for the proposed retaining walls exceeding four feet in height within the side and rear setbacks given the slope of the lot (§5.4.2.B)(§7.3.3.C.1)
2. The proposed retaining walls exceeding four feet in height within the side and rear setbacks will not adversely affect the neighborhood given their limited visibility from adjacent properties and public ways (§5.4.2.B)(§7.3.3.C.2)
3. The proposed retaining walls exceeding four feet in height within the side and rear setbacks will not create a nuisance or serious hazard to vehicles or pedestrians (§5.4.2.B)(§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
5. The proposed dwelling with a floor area ratio (FAR) of 0.40 where 0.33 is the maximum allowed by right is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood as the resulting structure would be similar *in* size and scale to existing structures in the surrounding neighborhood (§3.1.3, §3.1.9)

Proposed Conditions



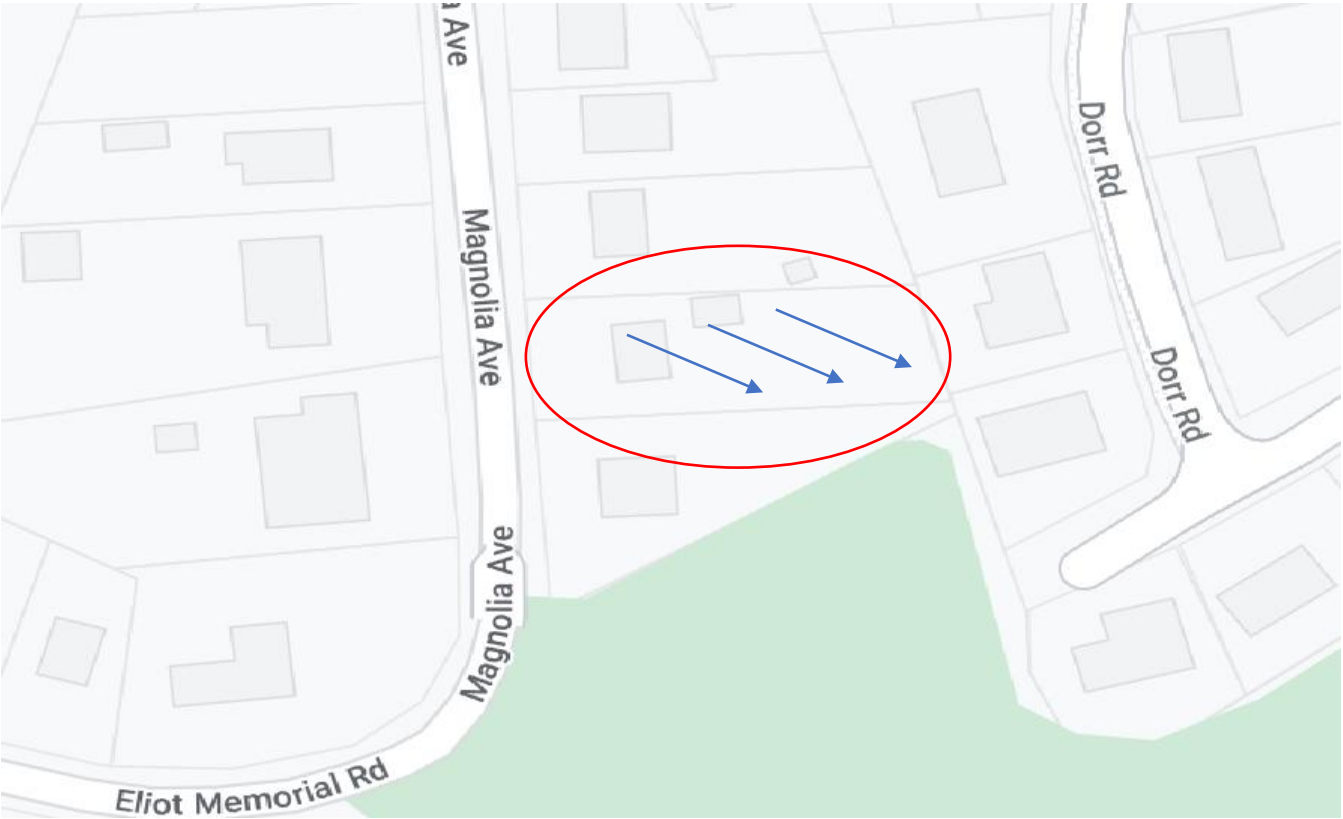
- *Plan Referencing Condition (Mar. 4, 2022)*
- *Rodent and Pest Control*
- *Standard Building Permit Condition.*
- *Standard Final Inspection/Certificate of Occupancy Condition.*

26 Magnolia Avenue

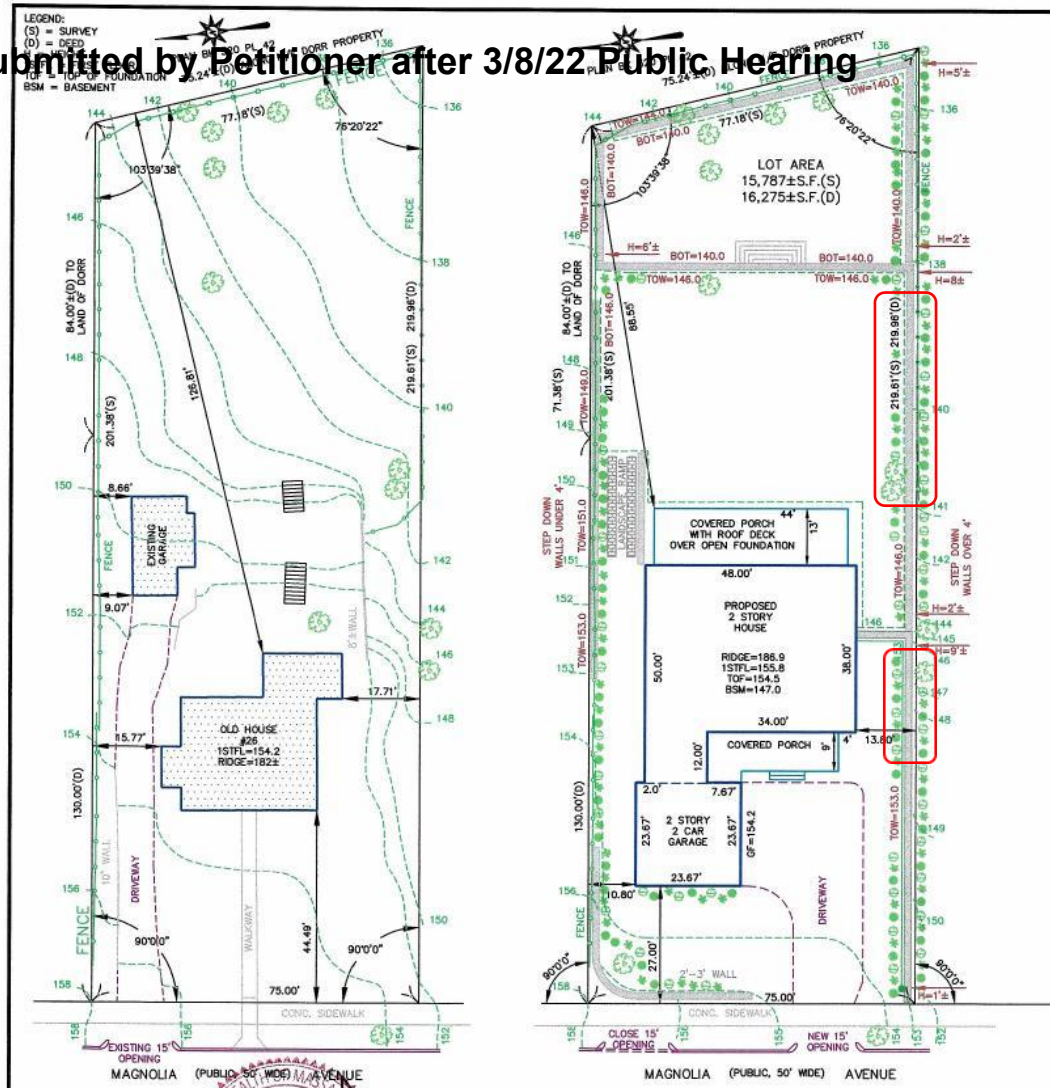
Arone Brothers Development



26 Magnolia Site Location



Former Conditions



RECORD OWNER:
MICHAEL ARONE

DEED REFERENCE:
BOOK 71877 PAGE 143

PLAN REFERENCE:
PLAN BK 320 PLAN 42
PLAN #565 OF 1951
PLAN #508 OF 1937
PLAN #835 OF 1981
PLAN #110 OF 1934
PLAN #491 OF 1931
PLAN #687 OF 1962
PLAN #387 OF 1933
PLAN #150 OF 1951
PLAN #1025 OF 1929
PLAN #1026 OF 1929



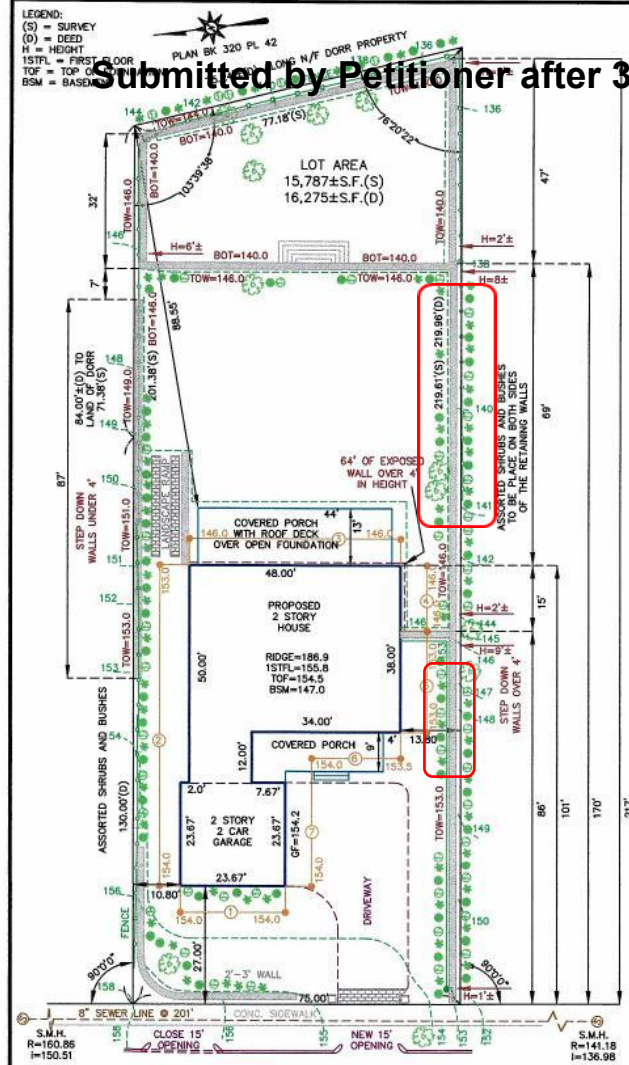
THE PROPERTY SHOWN ON THIS PLAN IS IN FLOOD ZONE "X" AREA OF MINIMAL FLOODING AS DESIGNATED BY THE FLOOD INSURANCE RATE MAP, PANEL #2501/C05506 DATED JUNE 4, 2010.

LOTS CREATED BEFORE 12/07/53			
	REQUIRED	EXISTING	PROPOSED
AREA	= 10,000sf	= 15,787sf	= 15,787sf
FRONTAGE	= 80ft	= 75.00ft	= 75.00ft
FRONT	= 25.0ft	= 44.49ft	= 27.00ft
SIDE	= 7.5ft	= 15.77ft, 17.71ft	= 10.80ft, 13.80ft
REAR	= 15.0ft	= 126.81ft	= 86.55ft
F.A.R.	= 33 (5,210sf)	= 16 (2,530±sf)	= 40 (6,298sf)
HEIGHT	= 30ft	= 35.2ft	= 35.2ft
STORIES	= 2.5	= 2	= 2
LOT COV.	= 30%	= 22.0%	= 22.0%
OPEN SPACE	= 50%	= 85.9%	= 70.4%

PLAN OF LAND NEWTON MA SHOWING PRIOR AND PROPOSED HOUSE WITH GRADES #26 MAGNOLIA AVENUE
Date: 3/10/22 Scale: 1" = 30'
PREPARED BY:
BIBBO BROTHERS AND ASSOCIATES
SURVEYING, ENGINEERING, CONSTRUCTION CONSULTING
10 HAMMER STREET WALTHAM MA 02453
781-891-0417
RALPH BIBBO JR. - MANAGER - OWNER
ROBERT BIBBO - P.L.S. - OWNER

Proposed Home Property

Submitted by Petitioner after 3/8/22 Public Hearing



F.A.R. CALCULATIONS
 (BASED ON SIDING / FOUNDATION)

BASEMENT FLOOR CALCULATION
 64' OF EXPOSED WALL 4' OR MORE IN HEIGHT

BASEMENT PERIMETER
 (EXCLUDING GARAGE) = 199'
 BASEMENT AREA = 1,992SF
 $64/196 \times 1,992 \pm SF = 650 \pm SF$
 50% OF 1,992±SF = 996±SF
 $650 \pm SF < 996 \pm SF$
 EXPOSED WALL MAY VARY, USE 996±S.F.

BASEMENT = 996±SF
 FIRST FLOOR (SIDING) = 2,605±SF
 SECOND FLOOR (SIDING) = 2,605±SF
 PART OF FRONT PORCH = 92±S.F.
 ATTIC = 0±S.F. (SEE ARCHITECT)

TOTAL = 6,298±SF OR .399 CALL .40 FAR

PRO COVERAGE:
 HOUSE / PORCHS = 3,480±SF OR 22.0%
 PAVEMENT = 1,200±SF OR 7.8%
 OPEN SPACE = 11,107±SF OR 70.4%

LOTS CREATED BEFORE 12/07/53
 SR2 ZONE

	REQUIRED	PROPOSED
AREA	= 10,000sf	= 15,787sf
FRONTAGE	= 80ft	= 75.00ft
FRONT	= 25.0ft	= 27.00ft
SIDE	= 7.5ft	= 10.80ft, 13.80ft
REAR	= 15.0ft	= 88.55ft
F.A.R.	= 33 (5,210sf)	= 40 (6,298sf)
HEIGHT	= 36ft	= 35.2ft
STORIES	= 2.5	= 2
LOT COV.	= 30%	= 22.0%
OPEN SPACE	= 50%	= 70.4%

MAGNOLIA AVENUE
(PUBLIC, 50' WIDE)

RECORD OWNER:
 MICHAEL ARONE

DEED REFERENCE:
 BOOK 71877 PAGE 143

PLAN REFERENCE:
 PLAN BK 320 PLAN 42
 PLAN #565 OF 1951
 PLAN #508 OF 1937
 PLAN #635 OF 1981
 PLAN #110 OF 1934
 PLAN #491 OF 1931
 PLAN #687 OF 1962
 PLAN #367 OF 1933
 PLAN #1180 OF 1951
 PLAN #1025 OF 1929
 PLAN #1026 OF 1929

THE PROPERTY SHOWN ON THIS PLAN IS IN FLOOD ZONE "X" AREA OF MINIMAL FLOODING AS DESIGNATED BY THE FLOOD INSURANCE RATE MAP, PANEL #20170008E DATED JUNE 4, 2010.



PLAN OF LAND NEWTON MA SHOWING PROPOSED HOUSE #26 MAGNOLIA AVENUE

Date: 3/10/22 Scale: 1" = 30'

PREPARED BY:
BIBBO BROTHERS AND ASSOCIATES
 SURVEYING, ENGINEERING, CONSTRUCTION CONSULTING
 10 HAMMER STREET WALTHAM MA 02453
 781-691-0417
 RALPH BIBBO JR. - MANAGER - OWNER
 ROBERT BIBBO - P.L.S. - OWNER

Front Elevation



Left Elevation



26 MAGNOLIA AVE
 LEFT ELEVATION

RESIDENCE
 AT
 MAGNOLIA AVE
 26 MAGNOLIA AVE
 NEWTON, MASSACHUSETTS
 02459

I S L A N D
 ARCHITECTS
 2311 E BROAD ST | RICHMOND VA 23221 | ISLANDARCHITECTS.COM

REVISIONS	

SCALE
 1/4" = 1'-0"

DATE
 4 MAR 2022

A2.4

LEFT ELEVATION

Ride Side and Rear Elevation



I S L A N D
A R C H I T E C T S

2311 E BROAD ST | RICHMOND VA 23223 | ISLANDARCHITECTS.COM





Current

Current



Current



Current



Current



Current





Current

Proposed Wall (John and Katerina view)



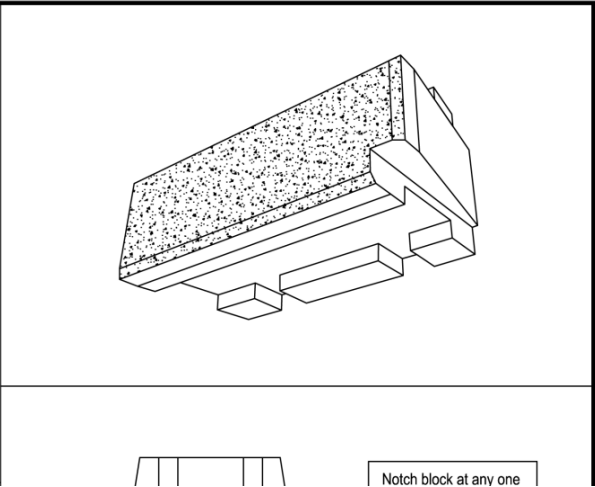
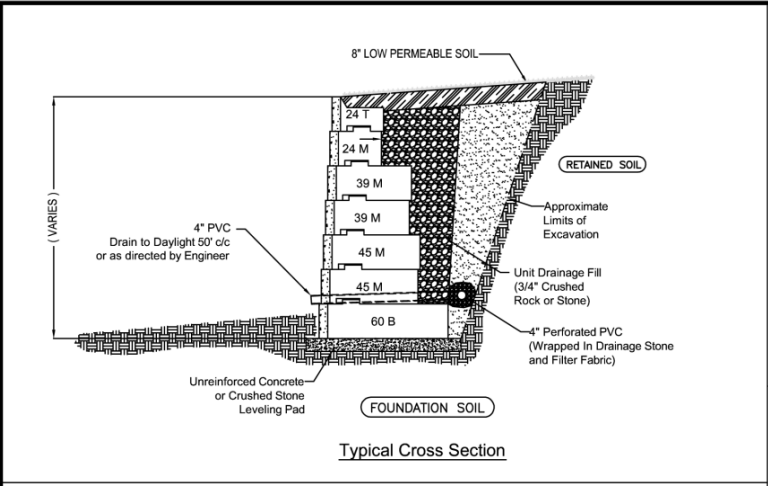
Proposed Elevation (Graham view)



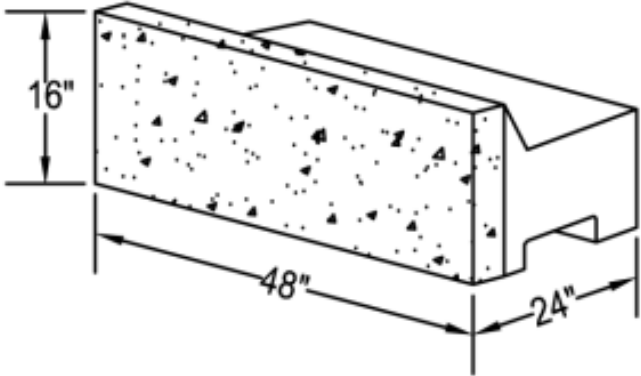


SHEA Walls (Graham View)

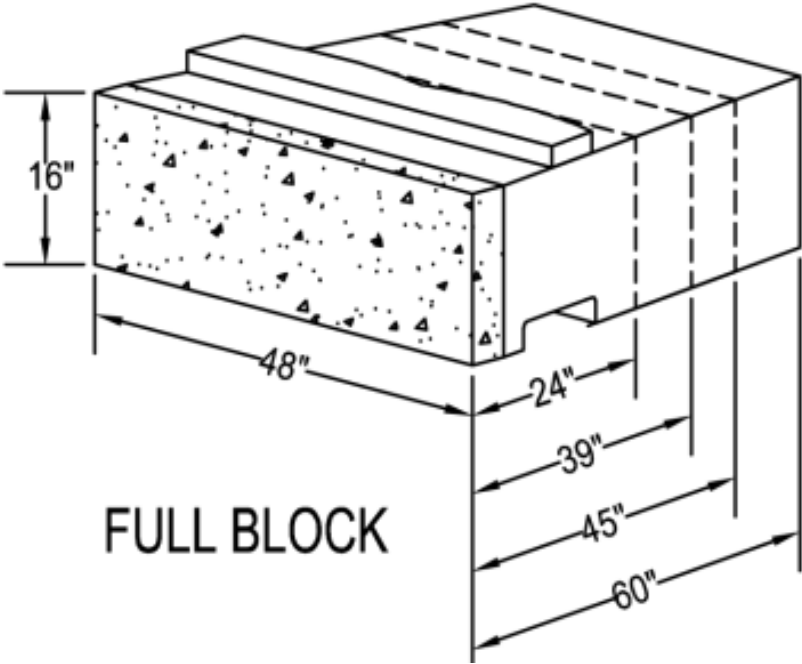
Drainage



Block Spec's



FULL TOP BLOCK



FULL BLOCK

Field Stone Walls



Field Stone Wall



Rear Walk out



Current Curb Cut – 15'

