



#418-22

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

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: October 6, 2022
Land Use Action Date: December 27, 2022
City Council Action Date: January 2, 2023
90- Day Expiration Date: January 4, 2023

DATE: September 30, 2022

TO: City Council

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

SUBJECT: **Petition #418-22**, for SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the FAR by constructing an attached two car garage and to allow three stories, at 53 Neshobe Road, Ward 5, Newton, on land known as Section 42 Block 07 Lot 06, containing approximately 17,173 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.1.3, 3.1.9 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.



EXECUTIVE SUMMARY

The property located at 53 Neshobe Road consists of a 17,173 square foot lot in the Single Residence 2 (SR-2) zone in Waban. The lot is improved with a single-family residence constructed in 1898. The petitioners are seeking to construct an attached two-car garage attached to the single-family dwelling via a breezeway as well as an addition to the rear of the dwelling. As proposed, the additional floor area exceeds the by right Floor Area Ratio ("the FAR") and creates a three story structure, both requiring a special permit. If approved, the dwelling will total 5,086 square feet of floor area and have an FAR of .36 where .33 is the maximum allowed as of right and .31 currently exists.

This project meets all other dimensional standards for the SR-2 zoning district including setbacks and preserves 73% of open space, where 50% is the minimum allowed. Due to the average grade of the site, the basement counts as a story, and partially counts towards FAR which contributes to the relief requested. Additionally, several other buildings in the neighborhood have exposed basements and similar topographies, and because the building exceeds all the setbacks required of principal structures, the visual impact will be mitigated by that distance and existing landscape screening.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed three-story structure which exceeds the maximum allowed FAR as of right. (§7.3.3.C.1)
- The proposed three-story structure which exceeds the maximum allowed FAR as of right will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed three-story structure which exceeds the maximum allowed FAR as of right 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)
- The proposed FAR of .36, where .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, and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

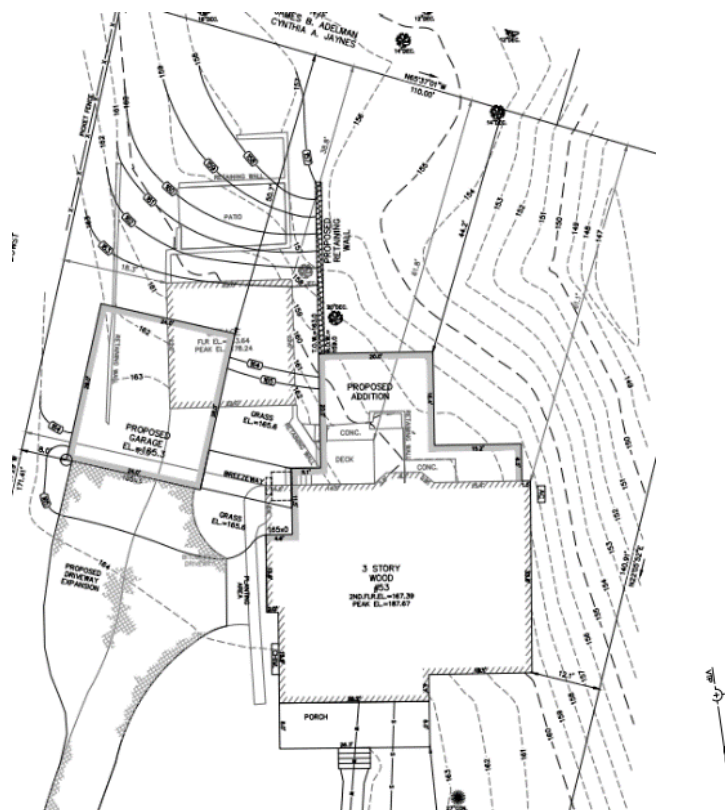
A. Neighborhood and Zoning

The subject property is located in Waban at the intersection of Agawam Road and Neshobe Road. The property is in the SR-2 zone, which encompasses most of Neshobe Road. Further northwest are parcels zoned BU5. **(Attachment A)**. The surrounding land use of the neighborhood is primarily single family residential, with commercial uses to the northwest. **(Attachment B)**.

B. Site

The site consists of 17,173 square feet of land and is improved with a two-and-a-half story single-family dwelling. The site is accessed by one curb cut providing access to an existing asphalt driveway that leads up to a detached garage. The site has a downward slope from the front to the rear and a retaining wall at the rear of the house.

Proposed Site Plan



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If approved, the use will remain single-family residential.

B. Building and Site Design

The petitioner proposes to raze the detached garage and remove a patio at the rear of the dwelling. The petitioner proposes to construct an attached two-car garage with habitable space above and connected to the dwelling by a breezeway. The new construction requires relief to exceed the FAR and to allow a three-story structure. Due to the topography of the lot, the basement level is considered the first story, and counts towards the FAR. The proposed addition adds 192 square feet above the garage, increasing the square footage of the floor area above the second story to more than two-thirds of the second story, thereby creating a third story where 2.5 stories currently exists, and 2.5 stories is allowed by right.

The addition meets the setback requirements for a single-family dwelling in the SR-2 zoning district. The dwelling will consist of three stories, with the basement as the first story. The dwelling will measure 28.8 feet tall, less than the 36 feet allowed by right. The petitioners are proposing a lot coverage of 18.5%, where 30% is the maximum allowed and 13.8% exists. The proposed open space is 73% where 50% is the minimum required and 84.9% exists. A four-foot-tall retaining wall will be constructed towards the rear property line from the proposed addition in the back of the dwelling. Because the retaining wall is outside of the setbacks, this is allowed as of right.

The basement (first story) will consist of 1,716 square feet of floor area. The first floor (second story) will consist of 2,198 square feet of floor area, and the third story will consist of 1,547 square feet of floor area. The proposed FAR is .36, where .33 is the maximum allowed by right, and .31 exists. The proposed FAR of .36 translates to 6,136 square feet of floor area, where 5,667 is the maximum allowed by right, a difference of 469 square feet.

Proposed Front Elevation

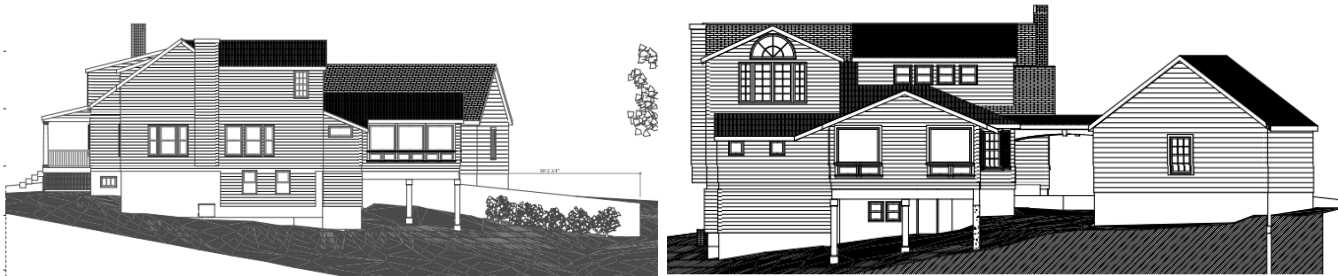


Proposed Side Elevation (east)



Proposed Side Elevation (west)

Proposed Rear Elevation



C. Parking and Circulation

The petitioner is proposing to keep the location of the existing asphalt driveway and further expand it from 1,371.9 square feet of impervious area to 1,462.6 square feet. The existing detached garage will be demolished and a new attached garage with space for two cars constructed, consisting of 675 square feet.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**Attachment C**) provides an analysis of the proposal regarding zoning. The petitioner is seeking the following relief:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9	To exceed FAR	S.P. per §7.3.3
§3.1.3	To allow three stories	S.P. per §7.3.3

B. Engineering Review

Engineering Review is not required at this time.

C. Newton Historical Commission

The Chief Preservation Planner found that the building is historically significant on

September 22, 2021. The proposed project was approved, but final review of construction plans is required prior to issuance of a building permit.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Council Order



ATTACHMENT A

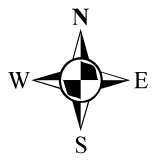
Zoning

53 Neshobe Road

*City of Newton,
Massachusetts*

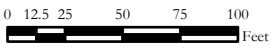
Zoning

-  Single Residence 2
-  Business 5



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: September 28, 2022



ATTACHMENT B

Land Use

53 Neshobe Road

*City of Newton,
Massachusetts*

Land Use

Land Use

-  Single Family Residential
-  Commercial
-  Open Space
-  Vacant Land

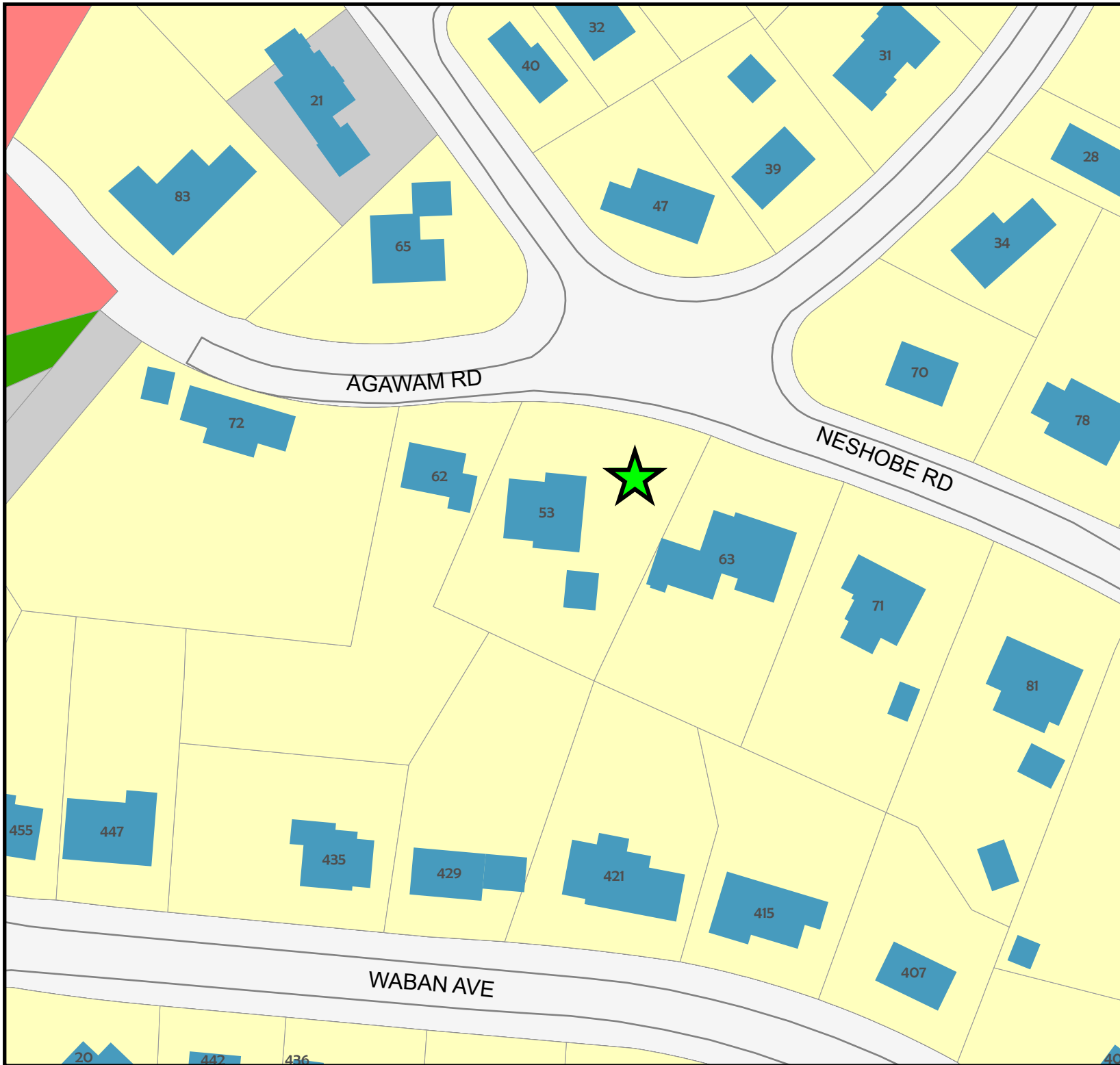


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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 25, 2022

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Katie Whewell, Chief Planner for Current Planning

Cc: Ronald and Caryn Harding, Applicants
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to exceed FAR and to allow three stories

Applicant: Ronald & Caryn Harding	
Site: 53 Neshobe Road	SBL: 42007 0006
Zoning: SR2	Lot Area: 17,173 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 53 Neshobe Road consists of a 17,173 square foot lot improved with a single-family dwelling constructed circa 1898. The petitioners propose to construct an attached two-car garage with space above. The proposed additions will exceed the maximum FAR and create a three-story structure, requiring a special permit.

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

- Zoning Review Application, prepared by Ronald Harding, applicant, submitted 6/30/2022
- Proposed Conditions Plan, signed and stamped by Joseph R. Porter, surveyor, dated 3/31/2022
- Plans and elevations, prepared by drm, Design Build, Inc, submitted 6/30/2022
- FAR calculation, submitted 6/30/2022

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners propose to construct a two-car attached garage with habitable space above. The proposed addition increases the FAR from .31 to .36 where .33 is the maximum allowed. A special permit per sections 3.1.3 and 3.1.9 is required.
2. Due to the average grade, the basement is considered the first story. The existing structure is 2.5 stories as allowed by section 3.1.3. The proposed addition adds 192 square feet above the garage, increasing the square footage of the floor area above the second story to more than two-thirds of the second story, thereby creating a third story. Per section 3.1.3, a special permit is required to allow a three-story single-family dwelling.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	17,173 square feet	No change
Frontage	100 feet	109.7 feet	No change
Setbacks			
• Front	25 feet	38.4 feet	No change
• Side	25 feet	43 feet	8 feet
• Side	7.5 feet	12.1 feet	No change
• Rear	15 feet	44.2 feet	No change
Max Number of Stories	2.5	2.5	3*
Max Height	36 feet	28.6 feet	28.8 feet
FAR	.33	.31	.36*
Max Lot Coverage	30%	13.8%	18.5%
Min. Open Space	50%	84.9%	73%

*Requires relief

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §3.1.9	To exceed FAR	S.P. per §7.3.3
§3.1.3	To allow three stories	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three story structure which exceeds the floor area ratio (FAR) from .31 to .36, where .33 is the maximum allowed by right 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 three-story structure which exceeds the maximum allowed FAR as of right because the topography of the site is such that the basement counts as the first story, and towards the FAR. (§7.3.3.C.1)
2. The proposed three-story structure which exceeds the maximum allowed FAR as of right will not adversely affect the neighborhood because other structures in the neighborhood have exposed basements and similar topographies. (§7.3.3.C.2)
3. The proposed three-story structure which exceeds the maximum allowed FAR as of right will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained. (§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 FAR of .36, where .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 because screening and setbacks will mitigate the impact of the additions on Neshobe Road. (§3.1.3, and §7.8.2.C.2)

PETITION NUMBER: #418-22

PETITIONER: Ronald and Caryn Harding

LOCATION: 53 Neshobe Road, on land known as Section 42, Block 7, Lot 6, containing approximately 17,173 square feet of land

OWNER: Ronald and Caryn Harding

ADDRESS OF OWNER: 53 Neshobe Road
Newton, MA 02468

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To allow a three-story structure and to exceed the FAR
(§3.1.9, §3.1.3 and §7.3.3)

ZONING: Single Residence 2

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Site Plan, prepared by VTB Associates, signed and stamped by Joseph Porter, Professional Land Surveyor, dated March 31, 2020
 - b. Plans and elevations, prepared by drm, Design Build, Inc, dated 4/18/2022
2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Inspectional Services, Engineering Division of Public Works, and the Department of Planning and Development.
3. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
 - a. Recorded a certified copy of this council order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - 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, including the as built FAR of the structure.
 - b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor