



Ruthanne Fuller  
Mayor

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

**#447-22**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

**Barney S. Heath**  
Director

---

## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** December 9, 2022  
**MEETING DATE:** December 13, 2022  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Katie Whewell, Chief Planner for Current Planning  
Cat Kemmett, Senior Planner  
**CC:** Petitioner

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

---

### PETITION #447-22

**106 River Street**

Special Permit/Site Plan Approval to allow nine single-family attached dwellings with three stories, to allow an FAR of 1.20, to allow assigned parking stalls, to allow ground floor residential use with residential above, to allow outdoor parking within five feet of a residential building, to allow a reduced maneuvering aisle width, to reduce the driveway width for two-way traffic, to waive perimeter screening, to waive lighting, and **to waive two parking stalls**

---

### Background

The Land Use Committee (the "Committee") last held a public hearing on this petition on October 18, 2022. The Committee voted to hold the item based on the discussion at the hearing.

### Revised Plans

#### Parking

The Petitioner submitted revised plans eliminating two of the originally proposed parking stalls, reducing the number of stalls proposed from 19 to 17. With this revision, the petitioner proposes to construct 17 parking stalls in total to serve the nine residential units. This includes one visitor stall designated for use as seasonal snow storage. Because 18 parking stalls are required, a two-stall parking

waiver is required. This waiver accounts for the periods when the visitor stall is unavailable due to snow storage, this not meeting the parking requirement during those periods. While the plan now requires this parking waiver, the previously requested relief to allow restricted end stalls is no longer needed.

In the revised plans, visitor parking stalls 14 and 15 at the northeast of the site are removed. Parking stall 4 has been reduced in size from 11'x19' to 9'x19', which means that all proposed stalls are now 9'x19'. Visitor stall 16 along the southern property line is proposed to serve as seasonal snow storage. The plan also indicates that bicycle parking has been added with space for five bicycles, and a six-foot-tall fence is proposed at the southern perimeter.

### Landscaping & Tree Ordinance

The petitioners have also submitted a revised landscape plan which extends the proposed plantings at the northeast corner of the site into the space where the two removed parking stalls were previously. The mix of vegetation and trees and the general landscape program is largely unchanged in the revised plan. The Urban Design Commission reviewed a previous iteration of this project, and their comments and questions are attached (**Attachment B**).

The City Forester, Marc Welch, reviewed the proposed landscape plan and was not concerned about the species proposed, but recommended more variety and the use of some larger maturing trees. However, Mr. Welch raised a concern regarding the placement of the driveway entrance. The petitioners have proposed locating the driveway between two existing street trees, which are not clearly indicated in the landscape plan. Per the City Forester, all new driveway openings must be outside of the dripline of an existing street tree. This would require the driveway to be placed at least 10 to 12 feet from the base of the tree trunks, which would not be possible in the site plan as proposed. Planning staff request that the petitioners consider an alternative site design outside the dripline of public street trees, or work with the City Forester to reconcile the proposed design with the restrictions in the Tree Ordinance. Planning staff will also continue to work with the City Forester to clarify the restriction and provide any updates at the hearing.

### Infiltration and Inflow Mitigation

The City Engineer has determined that the mitigation cost for infiltration and inflow on the site will be a total \$44,561. The Engineering and Planning Department recommends 25% of this fee, or \$11,140, be used for the design and construction of sewer improvements, and the remaining 75%, or \$33,421, be dedicated to other mitigation purposes.

The Transportation Division of Public Works and Planning Department recommend that the \$33,421 be dedicated towards future traffic and pedestrian improvements in the area, based on the recommendation of the Complete Streets Working Group and/or the Director of Transportation Operations.

### Stormwater Management

The Associate City Engineer has submitted a memo dated November 3, 2022 with comments on the drainage plan for the project (**Attachment C**). He notes that the site has a significant amount of impervious surface and little existing stormwater management infrastructure. The stormwater collection system proposed is sufficient to meet the requirements of the Ordinance, and an Operations and Maintenance plan is needed for the proposed stormwater improvements.

It is the opinion of the Engineering department that the proposed overflow connection is unwarranted, and the Associate City Engineer noted that the plan does not indicate the source of the proposed municipal water and sanitary sewer service. Additionally, the sidewalks and pedestrian curb cut at the intersection of River & Elm Streets must be updated to current standards.

**ATTACHMENTS:**

- Attachment A:** Revised Zoning Review Memorandum
- Attachment B:** Urban Design Commission memo
- Attachment C:** Engineering memo
- Attachment D:** DRAFT Council Order



Ruthanne Fuller  
Mayor

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

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

Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: November 7, 2022

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Norton Point Street LLC, Applicant  
106 River Street LLC T/C David Oliveri, Applicant  
Terrence P Morris, Attorney  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Deputy City Solicitor

RE: Request to allow a 9-unit residential dwelling and associated parking waivers

**Applicant: Norton Point Street LLC & 106 River Street LLC**

<b>Site:</b> 106 River Street	<b>SBL:</b> 33024 0011A
<b>Zoning:</b> BU1	<b>Lot Area:</b> 15,802 square feet
<b>Current use:</b> Office	<b>Proposed use:</b> 9-unit residential dwelling

### BACKGROUND:

The subject site consists of a 15,802 square foot lot improved with a single-story office building built in 1930 with surface parking located at the corner of River Street and Elm Street. The petitioner proposes to raze the building and construct a nine-unit, three-story residential dwelling with surface parking portions of which are covered by the upper stories of the proposed dwelling.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, dated 6/2/2022
- Plot Plan of Land, prepared by Peter Nolan, surveyor, dated 12/4/2020
- Proposed Plan, prepared by Peter Nolan, surveyor, dated 5/3/2022, revised 10/26/2022
- Floor Plans and Elevations, prepared by Sustainable Comfort, architect, dated 5/4/2022

**ADMINISTRATIVE DETERMINATIONS:**

---

1. The petitioner intends to raze the single-story office building and construct a three-story, nine-unit residential dwelling with covered parking. Per section 4.4.1, a special permit is required to allow residential uses on the ground floor with residential uses above in a Business 1 zoning district.
2. The petitioner intends to construct a three-story structure. Per section 4.1.2.B.3 and 4.1.3, a special permit is required to allow for a three-story structure with 36 feet in height.
3. Per section 4.1.3, the maximum by-right FAR for a three-story building is 1.00, and up to 1.50 by special permit. The building is proposed with a total of 18,962 square feet resulting in an FAR of 1.20, requiring a special permit.
4. Per section 5.1.4, two parking stalls are required per unit, resulting in a requirement of 18 stalls. The petitioner proposes to construct 17 parking stalls to serve the nine residential units, with one visitor stall designated for use as seasonal snow storage. The petitioner requires a waiver of two stalls per section 5.1.13 for those periods when the stall is unavailable.
5. Four of the stalls are reserved for visitor use. Per section 5.1.3.E required parking stalls shall not be assigned to specific persons or tenants so as to render them unavailable to the persons they are intended to serve. To the extent that "visitor" stalls are assigned, a special permit is required per section 5.1.13.
6. Per section 5.1.8.A.2, no outdoor parking may be located within five feet of a building containing residential units. The proposed covered parking is within five feet of the building, requiring a special permit per section 5.1.13.
7. Section 5.1.8.C requires a 20-foot wide maneuvering aisle for two-way traffic where there is parallel parking. The proposed aisle is 18 feet wide, requiring a special permit per section 5.1.13.
8. An entrance and exit drive is required to be a minimum of 20 feet wide for two-way traffic per section 5.1.8.D.1. The proposed drive is 18 feet wide, requiring a special permit per section 5.1.13.
9. Section 5.1.9 requires outdoor parking facilities containing more than five stalls to be screened from abutting streets and properties. No screening is proposed along the perimeter of the parking areas abutting neighboring properties, requiring a special permit per section 5.1.13.
10. Outdoor parking facilities containing more than five stalls used at night are required to provide security lighting designed to maintain a minimum intensity of 1-foot candle on the entire surface of the facility. The petitioner seeks a waiver from the lighting requirements per section 5.1.13.

<b>BU1 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	15,802 square feet	No change
Setbacks			
• Front (River St)	10 feet	<b>1.7 feet</b>	10 feet
• Front (Elm St)	10 feet	<b>1.4 feet</b>	10 feet
• Rear (east)	18 feet	53.7 feet	18 feet
• Rear (south)	18 feet	122.4 feet	29 feet
Building Height	24 feet (36 feet by SP)	14.9 feet	<b>36 feet*</b>
Max Number of Stories	2 (3 by SP)	1	<b>3*</b>
Lot Area Per Unit	1,200 square feet	NA	1,756 square feet
FAR	1.00 (1.50 by SP)	.33	<b>1.20*</b>

\*Requires relief

See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow ground floor residential use with residential above	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 1.20	S.P. per §7.3.3
§5.1.3.E §5.1.13	Request to allow assigned parking stalls	S.P. per §7.3.3
§5.1.4 §5.1.13	Request to waive two parking stalls	S.P. per §7.3.3
§5.1.8.A.2 §5.1.13	Request to allow outdoor parking within five feet of a residential building	S.P. per §7.3.3
§5.1.8.C §5.1.13	Request to allow a reduce maneuvering aisle width	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
§5.1.9 §5.1.13	Request to waive perimeter screening	S.P. per §7.3.3
§5.1.10 §5.1.13	Request to waive lighting	S.P. per §7.3.3



Ruthanne Fuller  
Mayor

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

**Attachment B**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

**Barney Heath**  
Director

---

**DATE:** October 14, 2022  
**TO:** Katie Whewell, Chief Planner  
**FROM:** Urban Design Commission  
**RE:** 106 River Street  
**CC:** Barney Heath, Director of Planning and Community Development  
Jennifer Caira, Deputy Director  
Land Use Committee of the City Council  
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 March 9, 2022, the Newton Urban Design Commission (UDC) reviewed the proposed project at 106 River Street for design.

This project was also reviewed by UDC in September 2021. Attachment A includes the memo from that meeting. Since the project's last design iteration, the following changes were made:

- The dwelling unit count has increased from 6 to 9 to provide smaller, more attainable unit.
- Unit areas have decreased with the typical unit at approximately 1,550 SF.
- Two larger units at approximately 1,740 SF are provided.
- Parking stalls reduced from 14 to 13 (Including visitor spaces). 1 handicapped accessible space provided.
- Parking stalls designated as EV ready
- Tenant parking will be in an open carport instead of private garages
- The raised courtyard has been removed
- The paseo access to parking from Elm Street has been removed
- The entry access drive has been widened to accommodate two-way traffic
- The FAR has been reduced from 1.17 to 1.0
- The ridge height of the Elm Street facing units has been raised from 134'-6" to 137'-6" in alignment with the ridge height of the River Street facing units.

At the March 9, 2022 meeting, the Urban Design Commission had the following comments and recommendations:

The UDC commented that it is supportive of the overall project as well as the building's massing and orientation but needs additional information regarding landscape and public realm.

### **Building Massing, Height, and Architecture**

- Some members commented that they like the elevation because it articulates individual units and that they like the reference image shown. The UDC commented that there is not much contrast between each unit, it recommended that little more subtlety among the colors would be worth looking at.
- The UDC commented that it was nice to have the second level courtyard space, as shown in the previous plan. The applicant commented that there were some benefits to have the courtyard and they weighed pros and cons and decided to move forward without the courtyard. The number of units have increased from 6 to 9 units. The reason for the change from 6 to 9 units is because of needs of the city. They have heard from the Council the need to have smaller, affordable, accessible units. That's why the applicant modified the plan on this project to achieve the corresponding city goals and align with the comprehensive plan.
- Some members commented that they appreciate the motivation and the need for housing but were troubled by the length of the unbroken townhouses on Elm Street. The building is about 130 feet long on Elm Street. It is nicely executed but makes for a long building wall along Elm Street.

### **Landscape, Streetscape and Open Space**

- The UDC asked for a landscape plan that shows street trees and demonstrates how the design works within a 10 feet setback. The precedent image shows a planting strip, sidewalk, and a setback which appears to be around 18 to 20 feet. The applicant clarified that the design has a 10 feet setback from the parcel line.
- The UDC asked if there was any green space or is it all paved around the building. The applicant responded that there will be green space along the edges and in the setback areas and all the space that surrounds the perimeter along the sidewalk. The applicant mentioned that it will be an urban space and will feel more urban with a little green space in front of each unit. The applicant also commented that there is a large park nearby for residents, that's why it is more of an urban design. The applicant mentioned that Commonwealth Avenue in Boston is a good example, each unit will have its own small green space. The applicant also mentioned that they will come back with a more detailed landscape plan.
- The UDC requested the applicant to come back with a landscape plan. The UDC pointed out that it will be important to see that aspect, Elm Street is not Comm. Ave. The previous design had a break in the building because of the courtyard. On this street, there have been redevelopments of large lots, but they are setback from the street.

### **Parking**

- The UDC asked about the parking spaces and how the layout works behind units C and D, whether the space behind them was an empty space? The applicant responded that it is one space, but they are working to make it more efficient in terms of the space. Unit E is the



accessible unit, accessible space is directly adjacent to it and there is also space carved out for a future lift.

**Additional information request**

- The UDC commented that this submission and review is incomplete because there is no landscape plan which is key to what people will experience and more context is important.
- The UDC commented that they appreciate the presentation but feel inadequacy in the street scape and public realm. The applicant commented that they will come back with a detailed landscape plan.
- UDC needs more information to understand the public realm, landscape plan, and how the project faces the abutters.



Ruthanne Fuller  
Mayor

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

**Attachment B**  
Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

**Barney Heath**  
Director

---

**DATE:** October 22, 2021  
**TO:** Neil Cronin, Chief Planner  
**FROM:** Urban Design Commission  
**RE:** 106 River 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 September 22, 2021, the Newton Urban Design Commission reviewed the proposed project at 106 River Street for design. The Urban Design Commission had the following comments and recommendations:

The UDC commented that this is an interesting, skillful project on a tough, corner site. It is great seeing a scheme that doesn't have garages/driveways in the front.

### **Site Plan, Circulation and Connectivity**

- There was discussion about the parking underneath the courtyard and its access. Looking at the plans closely, it was clear that it is built as a wall so the only entrance for the parking garage to units A, B, and C is through the small entrance shown as dotted lines on the first-floor plan between units D and E. The Commission commented that functionally, it may create a problem to have a small entrance to private garages. For example, if a resident in unit C wanted to take their car for a short trip, they will need to back out, go all the way across the garages for units A and B, pivot, and then go through that one little opening, then turn and finally get to the street. That will be an annoyance. The applicant responded that it was a recommendation from one of the Ward Councilor that they thought it would be better to have that as an opening and each unit would have their own door for safety. The applicant also commented that they looked at all the turning radii and it works. They had to give a little here so there are no garages facing the street. The Commission commented that they are supportive of the way it looks both on Elm Street and River Street. It's a visual problem when cars come off the street or physical problem when they go through this sort of back entrance.

- The UDC asked if the existing electric poles will stay and if they block any entrances? The applicant responded that they don't believe they will block any entrance but will investigate and confirm that. The applicant also mentioned that the Special Permit process may require under-grounding.

### **Building Massing, Height and Architecture**

- The Commission commented regarding Elm Street elevation, the architecture is good and elevated private space is good, but it is a long building. The covered parking in a way is good but would have preferred to see a landscaped green opening in keeping with the neighborhood. The existing building across the street is quite different, building shape may be similar but the site plan and massing is quite different. Hiding of the parking is skillfully executed but there is limited driveway space and probably not much space to provide landscape screenings for the abutters who will be seeing the driveway and parking. Will there be any fencing or landscaping to deal with it? Is there any additional roof equipment or protrusions through the roof that may be visible? In the massing, there was a linking piece at the second level, what is that? The applicant responded that the idea behind the linking piece is to create a courtyard space. The applicant mentioned that they have been talking to the 3 Ward Councilors and one of the comments that came up early on is that this didn't feel like a courtyard space but felt like an open deck and by enclosing it, it felt more like a bungalow and it gave a scale to this courtyard, it is usable living unit space.
- The Commission asked where the entrance to the corner unit is. The applicant responded that it is under the porch and the entire porch will belong to that unit. The Commission commented that the porch doesn't feel right. The applicant responded that it could be because the porch needs a plinth or a deck, so it ties more with the building than just sitting on the ground in the landscape. Another option will be to make the porch smaller. The applicant also mentioned that the openness of the porch was to improve the visibility at the intersection. The Commission commented that the porch may be too grand for that corner. The applicant responded that they would investigate it and may be tone it down a little.
- The Commission asked if there is an egress from the raised courtyard? The applicant responded that they are from within each unit and are considering providing a stairway from the top to the back or to the garage. The applicant also said that they first thought of providing a staircase in the front (as shown in some of the drawings) but are going to remove it due to safety reasons. The Commission commented that it is probably a good idea since the staircase doesn't fit well with the elevation.

### **Landscape, Streetscape and Public Open Space**

- The Commission also commented that the corner is important, and it is good that safety has been considered. It's going to be very important to look at the landscape plants to make sure there is no growing understory so there's visibility which is a tremendous improvement from the existing condition of the site. The applicant mentioned that the landscape architect is Tom Ryan, from Ryan Associates who did the landscape for the project across the street, they will be putting a lot of time and effort in the landscaping.
- The Commission asked how many bedrooms these units are typically? The applicant responded that they will be a mix of unit sizes, 2, 3, or 4 bedrooms. The Commission commented that some of these units will probably have children because of the unit size. There's no place for them to play. There needs to be some green open space. The applicant responded that there is West

Newton Playground on Elm Street, with a very significant tot lot, it is within a 5-minute walking distance. The Commission responded that is good, but parents won't be able to look out their window and watch while the kids play outside the kitchen. The architecture is great, and the concept is great, but no open space is a major drawback.

- There was discussion about the gravel area in the northeast part of the site. What's happening in that area? The applicant responded that they would investigate about providing a play space in that area. There is also a south facing space that may work as well.
- The Commission commented that it may help to have 1 more curb cut. The applicant responded that the only place to provide it would be at River Street but would defeat the purpose of using that space as a play space. The Commission suggested that a second curb cut could be provided if it were 2 buildings, so the curb cut could be in the middle of both the buildings. The applicant responded that zoning doesn't allow for 2 buildings in this zone, there is no avenue to seek that kind of relief.
- The Commission asked if it is required to provide visitor parking and the applicant responded that they are not required to provide visitor parking. It might help to not provide visitor parking, there are plenty of on-street parking spaces.

The Commission commented that there are two weak points from visual standpoint, first is the connector between the two buildings (the one along Elm St. and the other along River Street) with the door and the stair, it feels funny. The second weakness is the plinth that happens above the drive to four of the six parking garages.

The UDC commented that there may be too many units at this site. One less unit will give a lot more flexibility to the site plan and parking. A plan with five units could be very different, has different qualities and meets the street in a similar way. The applicant responded that as a developer there are financial aspects to consider, six units is the amount that is required to do the type of architecture and quality work.

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 – 106 River Street

Date: November 3, 2022

CC: Barney Heath, Director of Planning  
Jennifer Caira, Deputy Director  
Katie Whewell, Chief Planner  
Lou Taverna, PE City Engineer  
Dominic Warren, Committee Clerk  
Michael Gleba, Sr. Planner

---

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

106 River Street  
Newton, MA  
Drainage Plan

Prepared by: Spruhan Engineering

Dated: 7/8/2022

Executive Summary:

The proposed permit entails the demolition of an existing structure and the construction of a three story 9-unit multi-family residential building. The site is 15,804 square feet [0.36 acres], it is essentially entirely all impervious surfaces (paved parking lot & roof) and the topography is relatively flat. The lot has approximately 135 feet along River & Elm Streets to the north and west and residential dwelling along the south and eastern property lines.

The site has very little existing stormwater controls one double catch basin that appears to have a direct connection to the City drain in River Street; the engineer of record has designed a stormwater collection system to collect the City's 100-year storm event and infiltrate it on site

via underground Stormtec leaching chambers, with a proposed overflow system to the City's drain system. Test pits provided indicate that the no groundwater nor estimated seasonal high ground water was present down to a ten-foot depth; therefore, it is our opinion that the proposed overflow connection is un-warranted. The infiltration system will enhance stormwater quality on the site while reducing stormwater runoff, however; calculation must submitted to quantify the reduction of phosphors and total suspended solid.

An Operations and Maintenance plan is needed for the proposed stormwater improvements.

The plan does not indicate where municipal water and sanitary sewer service will be provided from.

The sidewalks and pedestrian curb cut at the intersection of River & Elm Streets need to be updated to current standards.

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).
3. If the overflow connection is allowed the engineer of record needs to submit hydraulic calculation to ensure that there is adequate capacity in the City's drainpipe in River Street from the point of connection to the next downstream manhole. Additionally, a Closed-Circuit Television (CCTV) inspection will be required for Pre & Post Construction and must be witnessed by the Engineering Division, video copies shall be provided for review.

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. Section 29-59, which states "A separate and independent building sewer shall be provided for every building on which construction begins after July 17, 1981."
3. All new sewer service(s) shall be pressure tested in accordance with 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.

4. 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.
5. 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".
6. 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.
7. 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.
8. All water services shall be chlorinated, and pressure tested in accordance with the AWWA and the City Construction Standards & Specifications prior to coming online. These tests MUST be witnessed by a representative of the Engineering Division.
9. 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

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 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 9-unit residential dwelling with three stories and 36 feet in height, ground floor residential use with residential above, an FAR of 1.20, assigned parking stalls, outdoor parking within five feet of a residential building, a reduced maneuvering aisle width, a reduced driveway width for two-way traffic, waived perimeter screening, waived lighting, and a waiver of two parking stalls 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 nine unit building with three stories as proposed due to its location in the BU 1 zoning district and the project exceeds the required lot area per unit for residential units in the BU-1 zone. (§7.3.3.C.1)
2. The proposed nine unit building with three stories as proposed will not adversely affect the neighborhood because the neighborhood has a variety of housing types and uses. (§7.3.3.C.2)
3. The proposed nine unit building with three stories as proposed will not create a nuisance or serious hazard to vehicles or pedestrians because proposed design also brings the nonconforming front setbacks into compliance with the ordinance, increasing the site distance of the intersection and screening will be provided along the street frontage. (§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. Literal compliance with the driveway location in proximity to the side lot lines is impractical due to the shape of the lot. (§6.2.3.B.2)
6. Literal compliance with the required number of parking stalls in the interest of environmental features as the reduction in the number of parking stalls reduces the amount of impervious area. (§6.2.3.B.2)

PETITION NUMBER: #447-22

PETITIONER: Terrence Morris

LOCATION: 106 River Street, on land known as Section 33 Block 24 Lot 11A, containing approximately 15,802 sq. ft.

OWNER: Norton Point Street LLC, 106 River Street LLC T/C David Oliveri

ADDRESS OF OWNER: 12 Morse Lane  
Natick, MA 01760

TO BE USED FOR: 9-unit multifamily dwelling

CONSTRUCTION: Wood Frame

EXPLANATORY NOTE: Special permit per §7.3.3 to allow a 9-unit residential dwelling with three stories and 36 feet in height, ground floor residential use with residential above, an FAR of 1.20, assigned parking stalls, outdoor parking within five feet of a residential building, a reduced maneuvering aisle width, a reduced driveway width for two-way traffic, waived perimeter screening, waived lighting, and two waived parking stalls (§4.4.1, §4.1.2.B.3, §4.1.3, §5.1.3.E, §5.1.13, §5.1.4, §5.1.8.A.2, §5.1.8.C, §5.1.8.D.1, §5.1.9, §5.1.10)

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. A site plan entitled "Drainage Plan" showing proposed conditions at 106 River Street, signed and stamped by Peter J. Nolan, Professional Land Surveyor, also signed and stamped by Edmond Spruhan, Civil Engineer, dated July 8, 2022, revised October 26, 2022, Sheet 1
  - b. A set of architectural plans and elevations prepared by Sustainable Comfort, unsigned and unstamped, dated October 26, 2022 consisting of five (5) sheets:
    - i. First floor site plan, A-2.0
    - ii. Basement unit area, SK1.0

- iii. First floor unit area, SK1.1
    - iv. Second floor unit area, SK1.2
    - v. Third floor unit area, SK1.3
  - c. Planting Plan prepared by Ryan Associates, unsigned and unstamped, dated October 25, 2022, L-1.0
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Director of Planning and Development, City of Newton Fire Department, Department of Planning and Development, Department of Engineering, and Department of Inspectional Services.
3. 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 (the "O&M Plan") for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works and submitted with the Building Permit application.
4. The Petitioner shall do the following to remediate pest and rodent activity:
  - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, 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, 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 Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
  - 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 the Operator deems necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed within the subject property and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
  - d. Prior to issuance of the certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site assessment and neighborhood.
  - 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 and provide, at its sole cost and expense, rodent abatement

- services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.
5. Prior to the issuance of any Building Permit, the Petitioner shall submit a Construction Management Plan (the "CMP") for review and approval to the Commissioner of Inspectional Services, the Director of Planning and Development, 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.
    - 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 and erosion control.
    - d. A plan showing temporary pedestrian access within work zones in accordance with DPW Policy
    - e. 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. Include watering
    - f. 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.
    - g. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
    - h. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
  6. Construction activity shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-7:00PM on Saturdays, excluding federal, state, and local 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.
  7. The Petitioner shall underground all lateral utility connections from the right of way to the structure(s).
  8. 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 hired and paid for by the Petitioner, subject to review and approval by the City Solicitor. Notice shall be provided to such private property owners on how to make a claim for damages. This condition is not intended to limit any claims for damages for any amount through private action
- c. The Petitioner shall engage a qualified professional to develop and prepare a vibration control plan demonstrating the following:
  - i. Measurements of static ground vibration prior to construction.
  - ii. 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).
  - iii. Planned demolition and construction methods to ensure vibration levels will not exceed the identified limit.
  - iv. Specific measures to be taken during construction to ensure the specified vibration level limits are not exceeded.
  - v. A monitoring plan to be implemented during demolition and construction that must include installation of vibration measuring devices and alarms.
- d. 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.
- e. 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.
- f. 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.
- g. 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.

- h. 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.
9. The Petitioner shall make payments in the aggregate amount of \$11,140 to the City for infrastructure improvements for infiltration and inflow (I&I). Payments shall be made as follows:
  - a. \$5,570 at the issuance of any Building Permit for the Project.
  - b. \$5,570 at the first dwelling unit certificate of occupancy (temporary or final) in the Project.

The Petitioner shall make payments in the aggregate amount of \$33,421 to the City for off-site transportation, pedestrian, or safety improvements or mitigation in the vicinity of the Project. The Petitioner's payments shall be made to a municipal account dedicated for such mitigation and improvements as follows:

- a. \$16,710.50 at the issuance of any Building Permit for the Project.
- b. \$16,710.50 at the first dwelling unit certificate of occupancy (temporary or final) in the Project.

Funds from the account in which these payments will be held shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. The Director of Planning and Development, after consultation with the Commissioner of Public Works, shall recommend improvements for funding to the City Council.

10. The Project shall contain nine (9) dwelling units. In accordance with the City's Inclusionary Zoning Ordinance, §5.11.4, the Project shall include one (1) affordable housing unit (the "Inclusionary Unit"), as follows:
  - a. One (1) of the residential units in the Project shall be made available to households earning 50%-80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA ("Tier 1 Units"). The AMI used for establishing rent and income limits for the Tier 1 Units must average no more than 65% AMI. Alternatively, at least 50% of the Tier 1 Units may be priced for households having incomes at 50% of AMI and the remaining Tier 1 Units priced for households at 80% of AMI.
11. The Petitioner shall provide a fractional cash payment of \$195,000 in accordance with the City's Zoning Ordinance, §5.11, prior to the issuance of any certificate of occupancy.
12. Prior to the issuance of any building permits for the vertical construction of the Project,



the Petitioner shall provide an updated Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan (AFHMP) for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the City of Newton Zoning Ordinance. The Inclusionary Housing Plan and 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. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and leased through a lottery.

13. Prior to the issuance of any temporary or final occupancy certificates, the Petitioner, the City, and 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 Tier 1 Inclusionary Units in perpetuity.
14. 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.
15. Any guest suites or temporary housing that meet the definition of a dwelling unit under the zoning ordinance shall be counted as a dwelling unit for purposes of calculating the Project's inclusionary zoning requirement.
16. 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.
17. All residential units shall conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. The design and construction of the site and proposed structure shall comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.
18. The applicant shall retain a qualified accessibility consultant to independently review the building permit plans for compliance with MAAB requirements. The applicant shall submit the consultant's qualifications to the Inspectional Services Department. Prior to the issuance of a building permit, the consultant shall submit a report to the Inspectional Services Department detailing compliance with MAAB and identifying any variances needed.
19. The building shall be designed and constructed to achieve LEED for Homes.
20. The Petitioner shall submit to the Planning Department any updates to the above referenced documents along with the following:

- a. An affidavit certifying that the pre-construction commissioning process requirements of LEED for Homes have been met and that the post-construction commissioning process requirements of Section 5.13 of the Zoning Ordinance were included in the scope of work and will be met, including a schedule of when each commissioning requirement was or will be met.
  - b. Credentials of the project's accredited Green Building Professional and an affidavit signed by that professional stating that they have reviewed all relevant documents and that to the best of their knowledge, the documents provided indicate that the project was built to achieve the requirements of Section 5.13 of the Zoning Ordinance.
21. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until 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 and submitted a copy with the building permit application.
  - b. 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 this Order, and §5.11.8 of the Zoning Ordinance.
  - c. 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 this Order.
  - 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 in accordance with this Order.
  - e. Received approval for the Pest Control inspection report and the remediation action plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
  - f. Received approval for the vibration control plan and submitted a copy of such approval to the Director of Planning and Development in accordance with this Order.
22. 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 building permit application statements by a registered architect and a professional land surveyor certifying compliance with Condition #1.
  - b. Submitted final as-built survey plans in digital format.
  - c. Submitted to the Law Department copies of a fully executed Regulatory Agreement and Affordable Housing Restriction in accordance with this Order.
  - d. Provided evidence satisfactory to the Law Department that the Regulatory Agreements have been recorded at the Southern Middlesex District Registry of

Deeds.

- e. 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.
  - f. Obtained approval from the City Engineer certifying that all engineering details for the portion of the Project for which a certificate of occupancy is requested have been constructed to standards of the City of Newton Public Works Department
  - g. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which a certificate of occupancy is requested.
  - h. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that utilities have been located underground for the portions of the Project for which a certificate of occupancy is requested to the extent required by this Order or submit evidence that best efforts have been made to underground the utilities.
23. 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.
24. The trash and recycling disposal shall be handled by a private entity and shall comply with the City's Noise Control Ordinance.