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Mayor

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date: April 13, 2017  
Land Use Action Date: June 27, 2017  
City Council Action Date: July 3, 2017  
90-Day Expiration Date: July 12, 2017

DATE: April 7, 2017

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Alexandra Ananth, Chief Planner for Current Planning  
Michael Gleba, Senior Planner

SUBJECT: **Petition #63-17**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct six dwelling units with shared underground parking by combining three lots at **16-26 Dalby Street**, Ward 1, Newton, on land known as SBL 11007 0046, 11007 0045, 11007 0044, containing approximately 23,400 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: 7.3.3, 7.4, 3.4.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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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.



**16-26 Dalby Street**

### EXECUTIVE SUMMARY

The subject site consists of three currently separate 7,800 square foot lots located in a mixed-use neighborhood that includes Multi-Residence 1 (MR1), Multi-Residence 2 (MR2), Business 1 (BU1) and Manufacturing (MAN) zoning districts. 16 and 26 Dalby Street, which are separated by a vacant lot, are each improved with a two-family dwelling constructed in the late 19th century.

The petitioner is proposing to combine the existing three lots into a single 23,400 square foot lot, demolish the existing dwellings and construct a six-unit, 11,608 square foot, 32.8 foot high, 2½ story multi-family dwelling that meets requirements for setbacks, building height, number of stories, and lot area per unit. Per Section 3.4.1, a special permit is required for a multi-family dwelling in the MR2 zoning district.

As proposed, the multi-family dwelling's six new units would be grouped in two sets of three units that face each other across, and are connected by, a raised courtyard and a below-grade parking level. The entrances to each of the six dwelling units would be located on the courtyard, which would also function as the roof of an enclosed covered driveway and circulation area that provides access to two-car garages located on the basement levels of each of the six units.

While the Newton Historic Commission found the property at 26 Dalby Street not preferably preserved, the property at 16 Dalby Street was found preferably preserved and a demolition delay is in effect until September 22, 2017.



#### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Board should consider whether:

- the specific site is an appropriate location for the proposed multi-family dwelling (§7.3.3.C.1);
- the proposed multi-family dwelling as developed and operated will not adversely affect the surrounding neighborhood (§7.3.3.C.2);

- there will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- access to site is appropriate for the number and types of vehicles involved (§7.3.3.C.4).

## II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

### A. Neighborhood and Zoning

The subject property is located on Dalby Street just south of California Street in a mixed-used neighborhood that includes multi-family dwellings, as well as commercial and manufacturing uses. The properties abutting to the immediate north (left) include a two-family dwelling and a concrete block car repair facility. Three properties abut directly to the rear; from north to south these are a one-story office building, a nine unit condominium and a two-family dwelling. Two-family dwellings abut to the south (right). Across Dalby Street to the west is a mix of single-, two- and three- family dwellings. The section of California Street to the north of the subject property features a variety of uses, including single- two and multi-family dwellings, including a 12-unit condominium at the southwest corner of Dalby and California streets and the Nonantum Post of the American Legion (**Attachment A**).

The zoning in the surrounding neighborhood predominantly consists of MR 2 in the immediate area, with the exceptions of BU1 to the north and east along the south side of California Street, with MR1 and M present a block to the west. (**Attachment B**).

### B. Site

The site consists of a level 23,400 square foot lot with two, two-family dwellings (on currently separate lots) with lawns and other vegetation, and associated paved driveways and parking areas served by two curb cuts. These two improved lots are separated by an unimproved lot with lawn and vegetation, including a high row of hedges along the sidewalk. Mature trees are located in the area of the right rear corner of the site.

## III. PROJECT DESCRIPTION AND ANALYSIS

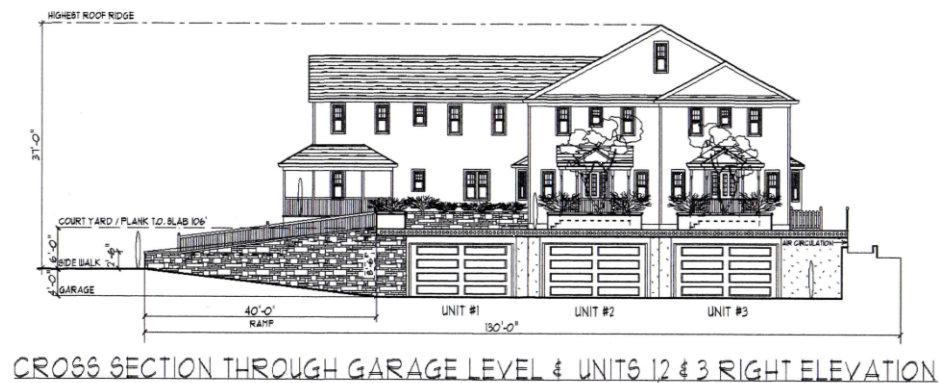
### A. Land Use

The petitioner is proposing to change the use of the property from two, two family dwellings, each on its own lot, and a vacant lot (located between the two) to six unit multi-family dwellings on a single combined lot connected with a raised courtyard and below-grade parking level accessed by a single driveway.

### B. Building and Site Design

The petitioner is proposing to combine the existing three lots into a single 23,400 square foot lot and construct a six-unit, wood framed 11,608 square foot, 32.8 foot high, 2½ story multi-family dwelling. As proposed, the multi-family dwelling's six new units would be grouped in two sets of three, connected by a raised courtyard and a below-grade parking level accommodating 12 vehicles.

The average grade of the property would be raised approximately five feet. The courtyard, which would be approximately 6 feet higher than the elevation of the sidewalk along Dalby Street, would be approximately 60 feet long and range in width from approximately 17 to 60 feet. It would serve as a roof for a covered driveway and circulation area providing access to two-car garages to be located on the basement levels of each of the six units. The parking would be accessed via a single 20 foot wide curb cut serving a two way ramp of equal width. The floor of the garage would be approximately four feet lower than the back of the sidewalk on Dalby Street.



A low retaining wall would ring much of the property, excluding the back left corner of the lot. The rear set back would be 15 feet, the minimum allowed, as measured to the exposed portion of the back wall of the below-grade parking area (the dwellings' rear facades would be 19 feet from the rear property line). The left and right setbacks would each be 27 feet, more than the current approximately 10 and 18 feet, respectively, as well as the required 25 feet. The front setback would be 25 feet, greater than the required 17 feet, as established by setback averaging rule in Sec. 1.5.3.B of the NZO.

The property's lot coverage would be 26.7%, below the maximum 30% allowed in an MR2 district. It would have 69.7% open space, considerably above the required 50%. The proposal's lot area per unit is 3,900 square feet, above the minimum 3,000 square feet required. The NZO does not establish FAR requirements for multifamily dwellings in a MR district, but the Planning Department notes that the proposed project's floor area ratio (FAR) is 0.50; for comparison, by right single- and two- family structures in an MR2 district are limited to an FAR of 0.38.

C. Parking and Circulation

To provide the required parking stalls (2 per unit) the petitioner is proposing, as discussed above, to construct a below-grade parking level accommodating twelve vehicles within two-car garages located beneath each of the six units.

The petitioner is proposing to replace two existing curb cuts (one each at 16 and 26 Dalby Street) with a single 20 foot wide curb cut located in the center of the proposed combined lot. The site plan indicates a 40 foot long driveway, of varying grades, leading down to the entrance of the enclosed parking area. The driveway would be flanked by twin walkways providing access up to the shared courtyard and the entrances to each of the six units located thereon.

The Planning Department recognizes that the proposal's approach toward parking is not typical. By placing the parking below grade, the design avoids creating visible large, paved parking and circulation areas and allows for more usable green open space on the site. Also, by consolidating the garage entrances into a single, shared entryway it avoids having numerous garage doors facing the street and/or abutting properties. The Planning Department does, however, suggest that the petitioner consider installing a garage door at that single entrance to both control access to the basement level garage area and maintain an appearance consistent with the residential use of the site.

D. Landscape Screening

The petitioner has submitted a landscape plan showing lawn areas as well as extensive vegetation around the perimeter of the site and on the raised courtyard. This vegetation includes approximately 30 trees distributed along the front property line, the side property lines, and the rear left and right corners. A considerable amount of shrubbery is planned for the length of the rear property line. The Planning Department believes that the proposed vegetation, together with the existing mature trees located near the rear of the property, should provide an appropriate level of screening. The Planning Department further notes that the Landscape Plan does not indicate any fencing and suggests that the petitioner address this issue at the public hearing.

IV. TECHNICAL REVIEW

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

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

- Special permit per §7.3.3, to allow a multi-family residential use in an MR2 zoning district (§3.4.1)

B. Engineering Review

At the time of the writing of this memorandum the current proposed Site Plans and drainage report are under review by the Engineering Division.

The Engineering Division of Public Works will review this project for conformance with the City of Newton Engineering Standards prior to the issuance of a building permit for the proposed work should this petition be approved.

C. Newton Historical Commission

On September 22, 2016, the Newton Historic Commission found the property at 26 Dalby Street not preferably preserved and waived the demolition delay; on the same day it found 16 Dalby Street preferably preserved, and a demolition delay is in effect for that property until September 22, 2017.

D. Newton Fire Department

The petitioner and Fire Department have been in contact with regard to this project to ensure its compliance with relevant fire prevention requirements.

V. PETITIONER'S RESPONSIBILITIES

*The petition is considered complete at this time.*

**ATTACHMENTS:**

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



# ATTACHMENT A



## Existing Land Use

16-26 Dalby St.

*City of Newton,  
Massachusetts*

### Land Use

#### Land Use

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



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

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100 125 150 175  
Feet

Map Date: April 05, 2017










# ATTACHMENT B

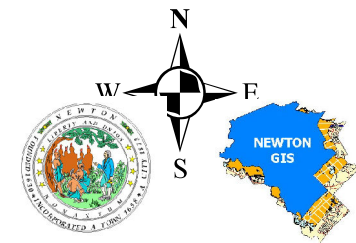
## Zoning

16-26 Dalby St.

*City of Newton,  
Massachusetts*

## Legend

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

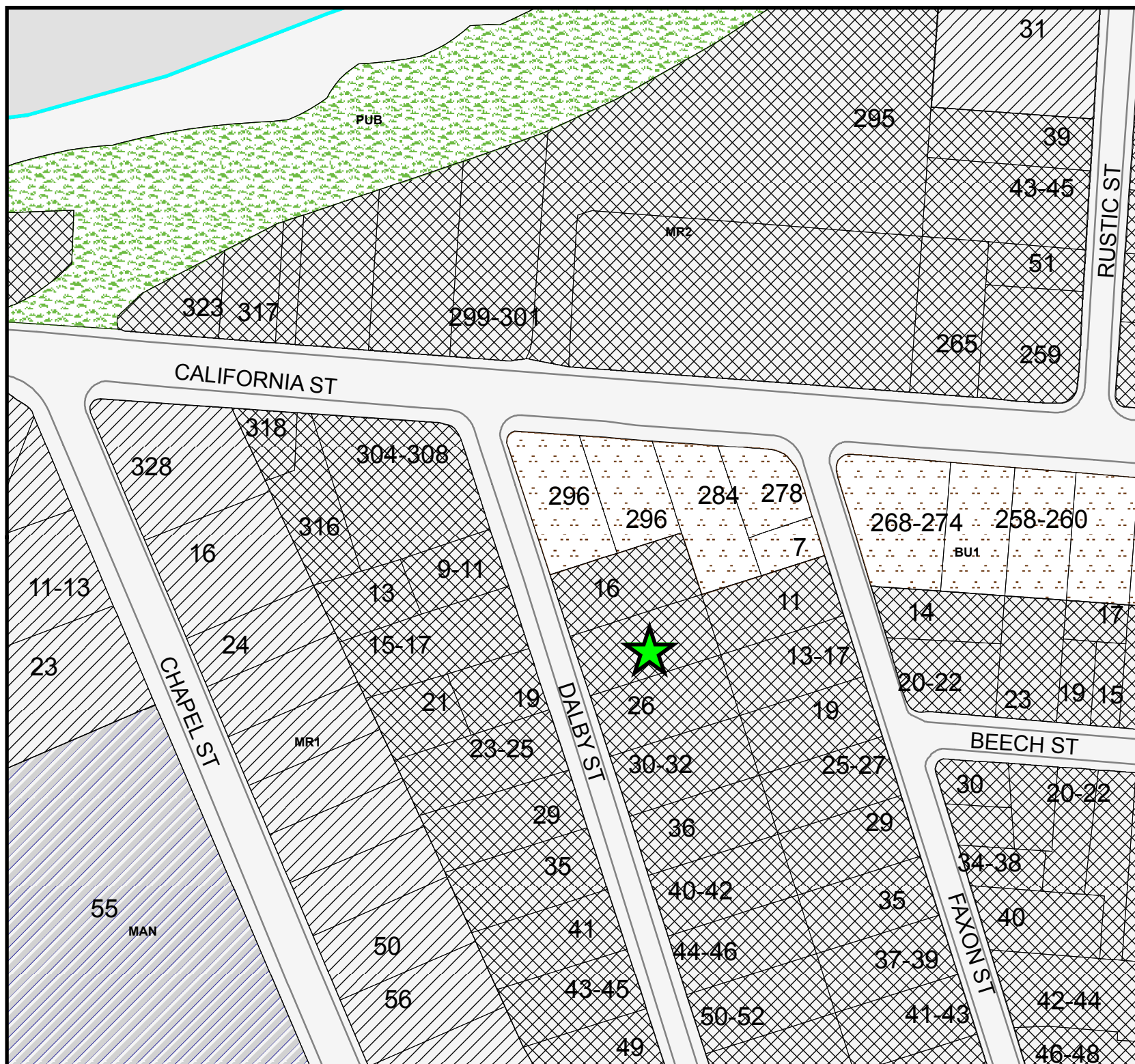


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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150 175 Feet

Map Date: April 06, 2017







Setti D. Warren  
Mayor

**ATTACHMENT C**  
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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: November 14, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Alexandra Ananth, Chief Planner for Current Planning

Cc: Dalby Development LLC, applicant  
Terrence P. Morris, attorney  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

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

Applicant: Dalby Development LLC	
Site: 16-26 Dalby Street	SBL: 11007 0046, 11007 0045, 11007 0044
Zoning: MR2	Lot Area: 23,400 square feet
Current use: Two two-family dwellings on three lots	Proposed use: Six-unit multi-family dwelling

### BACKGROUND:

The subject site of this memo consists of three separate 7,800 square foot lots from 16-26 Dalby Street, totaling 23,400 square feet. 16 and 26 Dalby Street are both improved with two-family dwellings constructed in the late 19<sup>th</sup> century. A vacant lot separates the two improved lots. The applicant proposes to bring 16 Dalby Street to its original single-family dwelling configuration and construct an addition with two more units. Further, the applicant intends to construct three new units on the site of the current 26 Dalby Street, and connect all six units together with a below-grade parking level accessed by a single driveway.

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 9/30/2016
- Site Plan, prepared by C.D. Calhoun and Associates architect, dated 9/16/2016
- Elevations and cross-section, prepared by C.D. Calhoun and Associates architect, dated 9/16/2016

**ADMINISTRATIVE DETERMINATIONS:**

1. The applicant proposes to combine the existing three 7,800 square foot lots into a single 23,400 square foot lot. The intention is to preserve the original structure at 16 Dalby Street by reverting back to its original single-family configuration and construct an addition of two more dwellings. The dwelling at 26 Dalby Street will be razed and three units will be constructed. All six units will be connected by a below-grade parking level accommodating twelve vehicles, creating one multi-family structure. Per Section 3.4.1, a special permit is required for a multi-family dwelling in the MR2 zoning district.

MR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	23,400 square feet	No change
Frontage	80 feet	180 feet	No change
Setbacks <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Rear</li></ul>	25 feet 7.5 feet 15 feet		25 feet 25 feet 19 feet
Building Height	36 feet		31.8 feet
Max Number of Stories	2.5		2.5
Lot Coverage	30%	N/A	29%
Open Space	50%	N/A	68%
Lot Area Per Unit	3,000 square feet		3,900 square feet

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.1	To allow a multi-family residential use in an MR2 zoning district	S.P. per §7.3.3

## ATTACHMENT D

DRAFT- #63-17  
16-26 Dalby Street

### CITY OF NEWTON IN CITY COUNCIL

April 10, 2017

#### ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to construct a six-unit multifamily dwelling in a Multi-Residence 2 (MR2) zoning district, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Marc Laredo:

1. The specific site is an appropriate location for the proposed six-unit multi-family dwelling as it is located in a mixed-use neighborhood that includes other multi-family dwellings (§7.3.3.C.1);
2. The proposed multi-family dwelling as developed and operated will not adversely affect the surrounding mixed-use neighborhood as the proposed structure conforms with applicable dimensional regulations and will provide off-street, enclosed space for the required parking stalls; (§7.3.3.C.2);
3. There will be no nuisance or serious hazard to vehicles or pedestrians; (§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).

PETITION NUMBER: #63-17

PETITIONER: Dalby Development LLC

LOCATION: 16-26 Dalby Street, Ward 1, on land known as Section 11, Block 7, Lots 44, 45 and 46, containing approx. 23,400 sq. ft. of land

OWNER: Dalby Development LLC

ADDRESS OF OWNER: 96 Jewett Street  
Newton, MA 02458

TO BE USED FOR: 6 Unit multi-family dwelling

EXPLANATORY NOTES: §3.1.1 To allow a multi-family residential use in an MR2 zoning district.

ZONING: Multi-Residence 2 (MR2) district

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. Engineering plans entitled "16-26 Dalby Street, Newton, MA, Section 11 - Block 7 – Lots 44, 45 & 46":
    - i. "Proposed Grading and Building Locations," prepared, signed and stamped by Verne T. Porter, Professional Land Surveyor, dated December 6, 2016;
    - ii. "Existing Conditions Plan," prepared, signed and stamped by Verne T. Porter, Professional Land Surveyor, dated December 6, 2016.
  - b. A plan entitled " 16-26 Dalby Street, Newton, MA, Section 11 - Block 7 – Lots 44, 45 & 46, Proposed Site Plan," prepared, signed and stamped by Verne T. Porter, Professional Land Surveyor, signed and stamped by Paul J. Tyrell, Professional Engineer, dated December 6, 2016.
  - c. A plan entitled " 16-26 Dalby Street, Newton, MA, Section 11 - Block 7 – Lots 44, 45 & 46, Proposed Utility (sic) Plan," prepared, signed and stamped by Verne T. Porter, Professional Land Surveyor, signed and stamped by Paul J. Tyrell, Professional Engineer, dated December 6, 2016.
  - d. A plan entitled " 16-26 Dalby Street, Newton, MA, Section 11 - Block 7 – Lots 44, 45 & 46, Detail Sheet," prepared, signed and stamped by Verne T. Porter, Professional Land Surveyor, signed and stamped by Paul J. Tyrell, Professional Engineer, dated December 6, 2016.
  - e. Architectural drawings, entitled "Dalby Street Special Permit, 16/26 Dalby Street, Newton Mass," prepared by C.D. Calhoun & Associates Incorporated, stamped and signed on March 16, 2017 by Charles D. Calhoun, Registered Architect, consisting of the following five (5) sheets:
    - i. Title Sheet;
    - ii. Site Plan / Street Elevation (A-1);
    - iii. Front & Rear Elevations (A-2);
    - iv. Units 1, 2 & 3 Right & Left Elevations (A-3);
    - v. Units 4, 5 & 6 Right & Left Elevations (A-4).
2. Prior to the issuance of any building permit issued pursuant to this special permit, the petitioner shall: record at the Registry of Deeds for the Southern District of Middlesex County a lot plan showing the lots known as Section 11, Block 7, Lots 44, 45 and 46 and subject to this special permit combined into a single lot, and



- b. file certified copies of such recorded document(s) with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
- 3. The petitioner shall comply with the Tree Preservation Ordinance.
- 4. All utilities shall be located underground from the property line.
- 5. All lighting fixtures shall be residential in scale.
- 6. Prior to the issuance of a building permit the petitioner shall submit final Engineering Plans to the City Engineer for review and approval.
- 7. If so required by the City Engineer, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval prior to the issuance of any Building Permit. Once approved, the O&M must be adopted by the applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
- 8. Prior to the issuance of any building permit the petitioner shall submit a Construction Management Plan for review and approval by the Commissioner of Inspectional Services, the Director of Planning and Development, and the City Engineer. The Construction Management Plan shall be consistent and not in conflict with relevant conditions of this Board Order and shall include, but not be limited to, the following provisions:
  - a. 24-hour contact information for the general contractor of the project.
  - b. Hours of construction: construction shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays except in emergencies, and only with prior approval from the Commissioner of Inspectional Services.
  - c. The proposed schedule of the project, including the general phasing of the construction activities.
  - d. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging areas(s) for delivery vehicles, and location of any security fencing.
  - 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.
  - f. Proposed methods of noise control, in accordance with the City of Newton's Ordinances. 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 for protection of any existing trees to remain on the site.

- h. A plan for rodent control during construction.
9. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
- a. Recorded a certified copy of this Order for the approved Special Permit/Site Plan Approval 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. Obtained a written statement from the Planning Department that confirms the Building Permit plans are consistent with plans approved in Condition #1.
  - e. Submitted a Final Landscape Plan to the Director of Planning and Development for review and approval.
10. No Final Inspection/Occupancy Permit for the use covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
  - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
  - c. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.
  - d. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Engineering Division of Public Works a statement from the Department of Planning and Development approving the final location, number and type of plant materials and final landscape features.
11. Notwithstanding the provisions of Condition #10 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the buildings prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.