



Ruthanne Fuller
Mayor

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

215-18
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov
Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 8, 2018
Land Use Action Date: July 3, 2018
City Council Action Date: July 9, 2018
90-Day Expiration Date: August 6, 2018

DATE: May 4, 2018

TO: City Council

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

SUBJECT: **Petition #215-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to create two lots, raze the existing single-family dwelling and construct single-family dwellings on each lot at 156 Otis Street, Ward 2, West Newton, on land known as Section 24, Block 13, Lot 14A, containing approximately 43,700 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3, 7.4, 3.1.5, 3.1.10 and 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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.



156 Otis Street

EXECUTIVE SUMMARY

The property at 156 Otis Street consists of a 43,700 square foot lot in a Single Residence 2 (SR2) district improved with a single-family dwelling built in 1955. The applicant proposes to raze the existing single-family dwelling and divide the property into two lots, creating a rear lot subdivision.

As proposed, the front lot ("Lot 1A") would have 18,456 square feet and the rear lot ("Lot 1B") would have 25,244 square feet. A new single-family dwelling is proposed on each of the two lots; the dwelling proposed for Lot 1A would contain 5,977 square feet of floor area; the dwelling proposed for Lot 1B would contain 4,823 square feet of floor area. Each would include a basement level two-car garage. The property has 145 feet of frontage on Otis Street. Access to Lot 1B would be provided via an approximately 16-foot-wide driveway bounded by retaining walls on either side and located within a 30-foot-wide easement along the left (east) side of Lot 1A.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

The creation of a rear lot requires a special permit. The City Council may grant a special permit for a rear lot that satisfies the minimum frontage requirement by measuring lot frontage along the rear line of the lot or lots in front of it (§3.2.12.A).

When reviewing this petition, the City Council should consider whether the rear lot meets the general standards for the requested special permit, namely whether:

- the site is an appropriate location for the two proposed one-family dwellings with the proposed retaining walls in excess of four feet in height in a setback (§7.3.3.C.1);
- the project as proposed will not adversely affect the neighborhood, (§7.3.3.C.2);
- there would be no 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);

As the petition is requesting approval of a rear lot development in a residential zoning district, the City Council shall also consider the following additional criteria:

- whether the proposed buildings or structures exceed the respective average height of abutting residential buildings and any structures used for accessory purposes (§7.3.4.B.1);
- the scale of proposed buildings or structures in relation to adjacent residential buildings and structures used for accessory purposes and in relation to the character of the neighborhood (§7.3.4.B.2);
- topographic differentials, if any, between proposed buildings or structures and adjacent residential buildings and any structures used for accessory purposes

- (§7.3.4.B.3);
- proposed landscape screening (§7.3.4.B.4);
- adequacy of vehicular access, including, but not limited to fire and other public safety equipment, with emphasis on facilitating common driveways (§7.3.4.B.5);
- whether any historic or conservation public benefit is provided or advanced by the proposed development (§7.3.4.B.6);
- siting of the proposed buildings or structures with reference to abutting residential buildings or any structures used for accessory purposes (§7.3.4.B.8); and
- impact of proposed lighting on the abutting properties (§7.3.4.B.9).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the south side of Otis Street just west of Walden Street. The properties in the neighborhood are almost uniformly single-family dwellings, with exceptions including a few multifamily dwellings to the east and some vacant lots, including one directly abutting the site to the east (also, Newton North High School is several hundred feet to the east along Lowell Avenue (**Attachment A**). The site and surrounding areas to the east and south are zoned Single Residence 2 (SR2); the area to the north/northwest directly across Otis Street are zoned Single Residence 1 (SR1) (**Attachment B**).

B. Site

The property consists of 43,700 square feet of land improved with a single-family dwelling located toward the front of the lot with a basement level garage accessed via a paved driveway on the right side of the lot. It is heavily vegetated and features mature trees, and extensive ground cover and vines. A 15-foot wide City drainage easement traverses the proposed rear lot, as does a stream and associated wetland buffer zone subject to Conservation Commission jurisdiction.

The parcel slopes downward about 20 feet from its high point along its western boundary to its eastern boundary; it also slopes downward about 16 feet from the southern boundary line to the drainage easement that crosses the property.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If built as proposed, the principal use of the site would be two single-family homes, one on each of two newly created lots.

B. Building and Site Design

The petitioner is proposing to remove the existing single-family home with attached garage and divide the property to create two new lots. Both lots meet the frontage requirement of 100 feet for “new lots” per Section 3.1.10.B.2. Lot 1A would inherit the existing undivided lot’s frontage of 145 feet along Otis Street; Lot 1B’s frontage would be established along Lot 1A’s rear lot line which measures 121.4 feet, which meets the requirements of the Ordinance.

The lots would be accessed by a new 20-foot wide curb cut and shared driveway on the left (east) side of the property. The rear lot would be accessed via an approx. 16-foot-wide driveway located within a 30-foot access and utilities easement that would cross the front lot along that same side. Retaining walls of approx. 4 feet in height are proposed for both sides of the 16-foot wide driveway; the 6-foot high combination of walls at the driveway’s southern terminus requires relief per §5.4.2.B.

Lot 1A (the front lot) would measure 18,456 square feet and be improved with a 2 ½ story, 5,977 square foot single-family dwelling located in the general area of the existing dwelling. It would have a floor area ratio (FAR) of 0.32, slightly below the 0.33 allowed by right. Its height, as measured above average grade, would be 29.98 feet, below the maximum 36 feet allowed.

The lot’s front setback would be 30.5 feet, just greater than the required 30 feet. The right (west) side setback would be 15.5 feet, similarly just above the required 15 feet (its left (east) side setback would be 43 feet). The Lot Coverage would be 13.6% well below the maximum 30.0% allowed; the Open Space percentage would be 65.8%, above the required 50%.

Lot 1B (the rear lot) would contain 25,244 square feet and be improved with a new 2 ½ story, 4,823 square foot single-family dwelling located near the center of the existing undivided lot. It would have a floor area ratio (FAR) of 0.19, slightly lower than the maximum 0.20 allowed for a single family detached dwelling on a rear lot in an SR2 zone. Its height, as measured above average grade, would be 30.37 feet, below the maximum 36 feet allowed.

The lot’s front setback, as measured from Lot 1A’s rear lot line would be 30.5 feet, just greater than the required 30 feet. The right (west) side setback would be 24.5 feet, slightly above the minimum 23 feet required (its left (east) side setback would be 35.4 feet). The Lot Coverage would be 8.9%, well below the maximum 17% allowed; the Open Space percentage would be 83.4%, well above the required 65%.

In aggregate the two dwellings would contain approximately 10,800 square feet of floor area; it should be noted that on the existing undivided 43,700 square foot lot

this would represent a combined FAR of 0.25, less than the maximum 0.33 allowed for a single-family dwelling on a lot that size in a SR2 district.

The Planning Department notes that § 7.3.4 of the NZO establishes additional, special requirements for rear lots in residential districts, including additional review criteria (see above). These include assessing analysis of the height, scale and topographical differences of and between proposed structures which are the products of rear lot subdivisions and abutting and adjacent residential buildings and structures used for accessory purposes. Other additional criteria include potential impacts on abutting properties from mechanical equipment and lighting. Toward that end, §7.3.4.B provides that petitioners seeking rear lot subdivisions submit additional materials so as to allow analysis of the proposed projects under those criteria. While the petitioner has submitted an area plan with some of the information required by that section, other important information (e.g., distances to, and heights and number of stories of, existing residential buildings and structures) has not, as of the writing of this memorandum, been received by the Planning Department. Particularly helpful, given the extensive grading being proposed and the hilly nature of the site and surrounding neighborhood, would be information regarding topographical differences between the proposed and adjacent residential structures as that would allow analysis per the criteria provided by §7.3.4.B.1-3.

The Planning Department notes that this information has been requested from the petitioner and it expects to provide an update at the public hearing or a subsequent working session.

C. Landscape and Screening

The petitioner has submitted a tree removal plan and a tree plan for the property. Approximately 50 trees under 8 feet would be removed in addition to 23 trees considered to be dead or in poor or fair condition which would not be replaced. Thirty-six trees would be removed and replaced while 28 would be retained, protected and/or girdled/treated.

Tree work within the wetlands Buffer Zone is addressed within the “Amended Revised Site Report to Supplement Notice of Intent” provided with the petition and includes the establishment of three “Enhancement Areas” responsive to the conditions in the rear third of the property where no development will occur. Work within that area is related to the Order of Conditions issued by the Conservation Commission discussed below.

Regarding the balance of the property, generally between the drainage easement and Otis Street, approximately 99 trees would be installed. These include 55 arborvitaes in long rows along the left and right sides, from Otis Street back toward the Enhancement Areas in the rear of the property, that would provide screening for

adjacent properties. The Planning Department notes that the Tree Plan indicates these would be only two feet high at installation and suggests that the petitioner consider taller trees to provide more immediate screening. Several other species would be interspersed, including four red oaks and ten river birches and ten holly trees.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking as Special Permit per §7.3. to :

- allow the subdivision of a rear lot (§3.2.12)

The project as designed will also require a Special Permit per §7.3 to allow a retaining wall of more than 4 feet within a setback (§5.4.2.B).

B. Engineering Review:

The Associate City Engineer submitted an Engineering Review Memorandum (**Attachment D**), providing an analysis of the proposal with regard to engineering issues. Among other issues, the memo indicated the need for additional information regarding the proposed retaining walls and associated grading and states that some site sections would be helpful in clarifying such issues. The memo also raises a question as to whether the proposed driveway's width is adequate for fire department purposes. The petitioner should be prepared to address these and the other issues raised in the memo in advance of the public hearing and/or any subsequent working session(s).

C. Conservation Commission Review

The Conservation Commission has reviewed the project and approved and conditioned it as per the project's Order of Conditions issued on March 15, 2018 and its Findings and Special Conditions (**Attachment E**).

Conservation staff has noted that while there is an intermittent stream and related wetlands (the products of a nearby clogged and non-functional culvert) on the property, and the scale of the development is significant and within the Buffer Zone of said wetlands, the project is permittable under the state wetland regulations as the wetlands will not be removed, damaged, or altered in any way as the limit of work is clearly marked and perpetually enforced with bounds on the approved plans and is at least 15 feet from the flagged intermittent stream on the property or on the opposite side of the drainage easement from the stream.

D. Newton Historical Commission:

On July 23, 2015 Newton Historical Commission staff found the existing dwelling not historically significant and not subject to demolition delay. No further review by NHC is required.

V. PETITIONER'S RESPONSIBILITIES

As referenced above, the petitioner is required to submit an area plan with all required information and should also submit information related to lighting and placement of mechanical equipment so as to allow full review of the project, including but not limited to those criteria established by §7.3.4.

ATTACHMENTS:

- | | |
|----------------------|---|
| Attachment A: | Land Use Map |
| Attachment B: | Zoning Map |
| Attachment C: | Zoning Review Memorandum |
| Attachment D: | Engineering Memo |
| Attachment E: | Conservation Commission Findings and Special Conditions |

ATTACHMENT A

Land Use

156 Otis St.

City of Newton,
Massachusetts

Legend

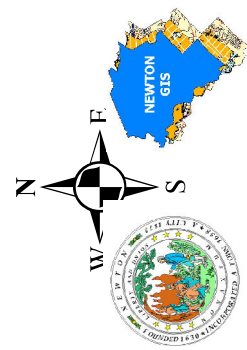
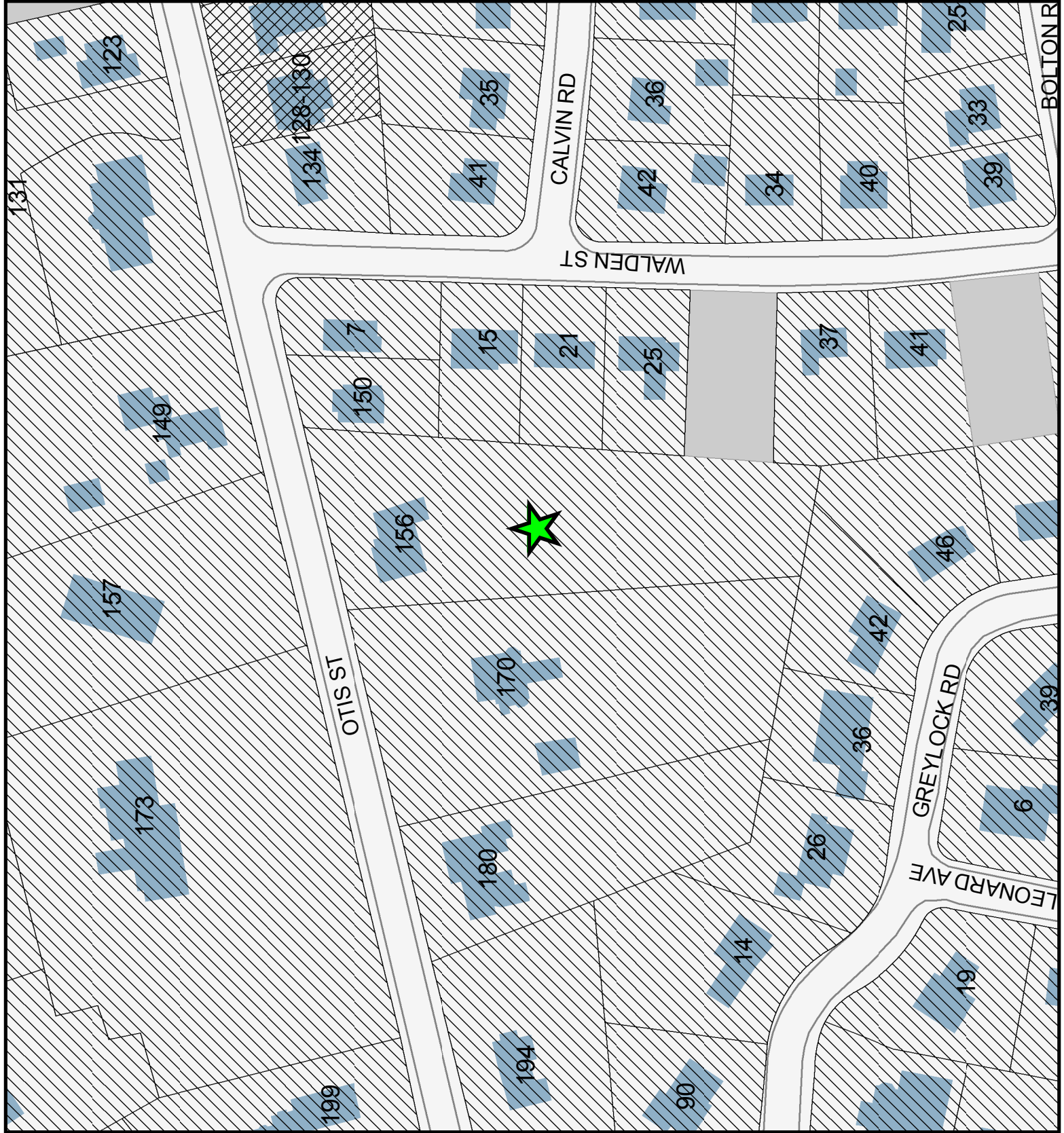
Land Use

Land Use

Single Family Residential

Multi-Family Residential

Vacant Land



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

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



Map Date: April 30, 2018

ATTACHMENT B

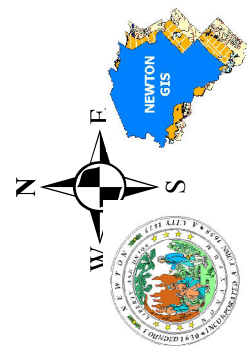
Zoning

156 Otis St.

City of Newton,
Massachusetts

Legend

- Single Residence 1
- Single Residence 2

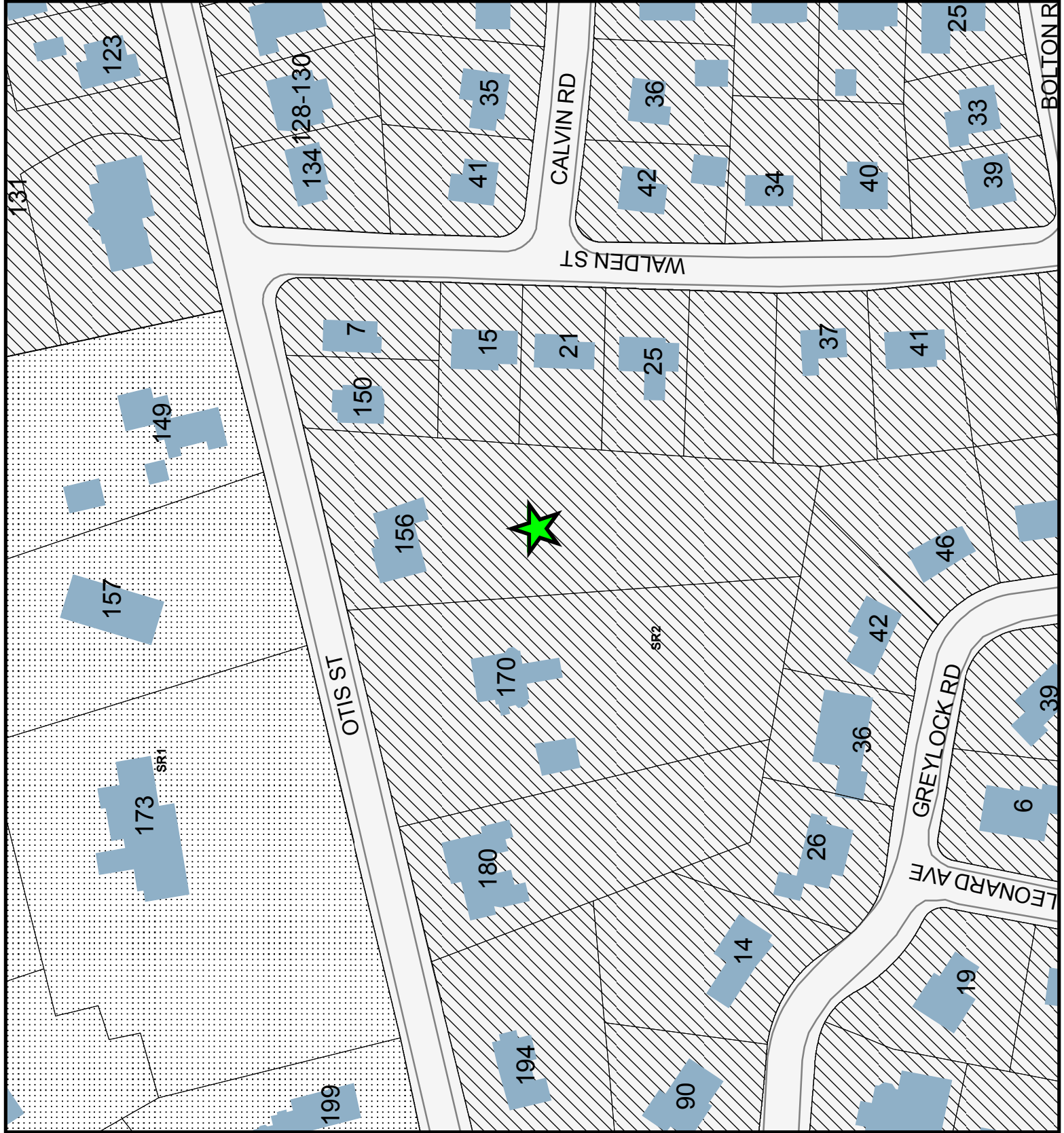


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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Map Date: April 30, 2018





Ruthanne Fuller
Mayor

ATTACHMENT C

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

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

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 9, 2018

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official

Cc: Laurance Lee, Attorney
156 Otis Street LLC, Applicants
Barney S. Heath, Director of Planning and Development
Ouida Young, Acting City Solicitor

RE: Request to allow a rear-lot subdivision

Applicant: 156 Otis Street LLC	
Site: 156 Otis Street	SBL: 24013 0014A
Zoning: SR2	Lot Area: 43,700 square feet
Current use: Single-family dwelling	Proposed use: Two single-family dwellings on two separate lots

BACKGROUND:

The property at 156 Otis Street consists of 43,700 square feet and is improved with a single-family dwelling built in 1955 in the SR2 zoning district. The applicant proposes to raze the existing single-family dwelling and divide the property into two lots through a rear lot subdivision. A new single-family dwelling is proposed on each lot.

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

- Zoning Review Application, prepared by Laurance Lee, Attorney, dated 2/16/2018
- Newton Historical Commission Demolition Review Decision, dated 5/1/2015
- Proposed Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 2/14/2018
- Architectural Plans and Elevations, prepared by LDA Architecture and Interiors, dated 2/16/2018
- FAR worksheets, submitted 2/16/2018

ADMINISTRATIVE DETERMINATIONS:

1. The applicant proposes to create a rear lot subdivision per Section 3.1.5 and 3.1.10. To subdivide the land as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 3.1.10.A.
2. Section 3.1.10.B.1 requires that a 20-foot wide vehicular access, or access easement, be provided. The rear lot will be accessed by a 20-foot wide paved driveway opening from Otis Street shared with the front lot. The driveway narrows to 16 feet approximately 25 feet into the property and then serves only the back lot. There are retaining walls proposed on both sides of the 16-foot wide driveway, none of which require relief as proposed.
3. Section 3.1.10.B.2 requires both the front and rear lots to meet the frontage requirements for new lots in the zoning district. The front lot has an existing frontage of 145 feet, where 100 feet is required. The rear lot gains its frontage from the rear lot line of 156 Otis Street. The frontage for the rear lot is the width of the property, or 121.4 feet, which meets the requirements of the Ordinance.
4. The proposed dwelling on the rear lot is situated 30.5 feet from the rear lot line of 156 Otis Street, which meets the requirements of Section 3.1.10.B.3.a
5. The proposed structures meet the required rear and side setbacks set forth in Sections 3.1.3 and 3.1.5.
6. Both dwellings are proposed to be approximately 30 feet in height, which is below the maximum height allowed of 36 feet. No relief is required for the proposed heights of the structures.
7. The proposed single-family dwelling on the front lot will have an FAR of .32, where .33 is the maximum allowed. The dwelling on the rear lot will have an FAR of .19, where .20 is the maximum allowed. Neither structure requires FAR relief.

Front Lot (Lot 1) per Section 3.1.3

SR2 Zone	Required/Allowed	Proposed
Lot Size	15,000 square feet	18,456 square feet
Frontage	100 feet	145 feet
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	30 feet 15 feet 15 feet	30.5 feet 15.5 feet 56.3 feet
FAR	.33	.32
Building Height	36 feet	29.98 feet
Maximum Stories	2.5	2.5
Max. Lot Coverage	20%	13.6%
Min. Open Space	50%	65.8%

Proposed Rear Lot (Lot 2), per Section 3.1.5

SR2 Zone	Required/Allowed	Proposed
Lot Size	18,000 square feet	25,244 square feet
Frontage	100 feet	121.37 feet
Vehicle Access	20 feet	20 feet
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	30 feet 23 feet 23 feet	30.5 feet 24.5 feet 131.4 feet
FAR	0.20	0.19
Building Height	36 feet	30.31 feet
Maximum Stories	2.5	2.5
Max. Lot Coverage	17%	8.9%
Min. Open Space	65%	83.4%

8. See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§3.1.5 §3.1.10	Request to allow a rear lot subdivision	S.P. per §7.3.3

ATTACHMENT D

CITY OF NEWTON Department of Public Works ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 156 Otis Street

Date: May 2, 2018

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Michael Gelba, Sr. Planner
Natasha Bhan, Permits Engineer

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

*Grading, Drainage & Utility Plan
Showing Proposed Conditions at
156 Otis Street
Prepared By: VTP Associates, Inc.
Dated: February 23, 2018
Revised: March 21, 2018*

Executive Summary:

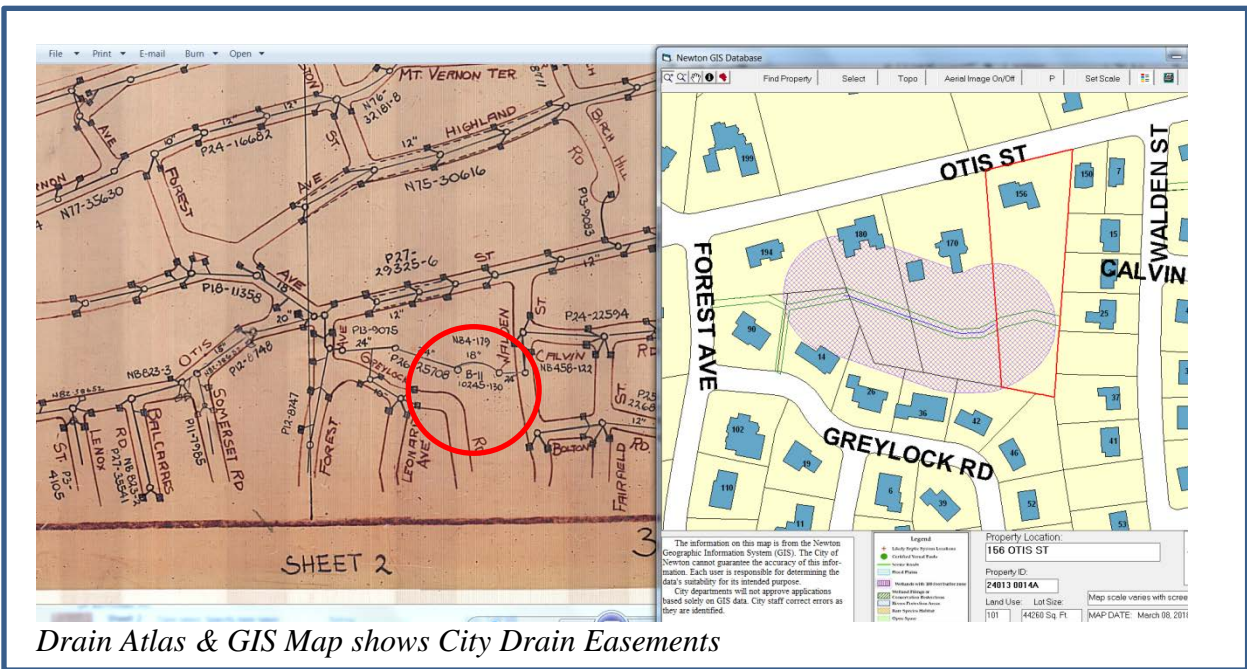
This project entails the demolition of an existing single family dwelling and subdividing the lot by creating a rear lot subdivision. If the special permit is approved an Approval Not Required (ANR) plan will be needed in accordance to Massachusetts General Laws Chapter 41 Section 81P requiring the two separate lots be combined into one lot.



Drain easement & Stream

The site is just over 1-acre; it is heavily wooded with mature trees, dense ground cover, and vines. The property is bound on the north by Otis Street, and on the west, south and east by residential homes. Towards the rear portion of the lot a 15-foot wide City Drain Easement traverses the site; according to the following plans drain pipes were installed to channel the brook. A stream was flowing on the surface during a site visit yesterday. The stream elevation drops approximately 18-feet from west to east. It is important to note that no heavy equipment will be allowed to cross the drainage easement.

The site has a high point of 138' near the western property line then slopes towards the eastern property line at elevation 118-feet. Near the southern property line a high point of 136' slopes fairly steeply down towards the drain easement. Ultimately the entire site drains from the west towards the east.



Drain Atlas & GIS Map shows City Drain Easements



The engineer has designed a stormwater system to store the 100 year storm event from all impervious surfaces and calculations have been submitted to the Conservation Commission which proves that the systems will drain within the required 72 hours mandated by the DEP by having an overflow connection to the drainage system in Otis Street.

In light of this, the engineer needs to perform a *pre & post Closed Circuit Television (CCTV)* inspection of the drain pipe in Otis Street and submit capacity calculations to verify that there is no impact to the City system downstream. Otis Street was paved in 2015, a five [5] year moratorium on the street is in place until 2020; any trench work within the street will require curb line to curb line cold planning and overlay for the entire frontage of the property. Additionally cement concrete sidewalk and granite curbing will be required.

The Operations and Maintenance (O&M) plan for Stormwater Management Facilities is acceptable, it must be adopted by applicant(s)/homeowner(s), 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. 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, and pipes are the sole responsibility of the property owner(s).

The grades of the proposed retaining wall near the easterly property line do not have sufficient grades to clearly understand the height of this wall, this needs attention & clarification. A guard rail may be needed if the driveway elevations are above the proposed wall which appears to be the case based on the grades provided: (bottom of wall 116.6' and grades on the driveway between 122 - 123 feet).

The 15-foot wide driveway may not be sufficient for the Fire Department, specifically during the winter when snow banks on both sides of the driveway will further restrict the width for safe passage and apparatus setup.

Finally a couple of site sections would be useful to help clarify the grading specifically in areas of the retaining walls.

Construction Management:

1. How the site will be stabilized during construction, a substantial tree & ground cover removal program is expected, with a vast areas of bare soils exposed, how will the neighbors properties, the drainage easement, the brook and Otis Street be protected from siltation, excessive runoff during construction?
2. How will bare soil and stock piles be protected from scouring and runoff? A detailed construction management plan is warranted for this site.

Sewer:

1. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the main and the site then properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.

2. With the exception of natural gas service(s), all utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) Excavatable Type I-E, detail is available in the City of Newton Construction Standards Detail Book.
3. All new sewer service and/or structures shall be pressure tested or videotaped after final installation is complete. Method of final inspection shall be determined solely by the construction inspector from the City Engineering Division. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. 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 and a written report is received by the City Engineer. *This note must be added to the final approved plans.*
4. All sewer manholes shall be vacuum tested in accordance to the City's Construction Standards & Specifications. The sewer service will NOT be accepted until one of the two methods stated above is completed. 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 and a written report is received by the City Engineer. *This note must be added to the final approved plans.*

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. All water connections shall be chlorinated & pressure tested in accordance to AWWA and the City of Newton Construction Standards and Specifications prior to opening the connection to existing pipes. *This note must be added to the final approved plans.*
3. Approval of the final configuration of the water service(s) shall be determined by the Utilities Division, the engineer of record should submit a plan to the Director of Utilities for approval

General:

1. Otis Street was paved in 2015, a 5 year moratorium on the street is in place until 2020; any trench work within the street will require curb line to curb line cold planning and overlay for the entire frontage of the property. Additionally cement concrete sidewalk and granite curbing will be required.
2. Prior to and demolition & construction the applicant shall have the culvert inspected via a Closed Circuit Television Inspection (CCTV). The Engineering & Utilities Division shall be given 48 hours prior notice to the date of the CCTV inspection to arrange an Inspector to witness the inspection.
3. Snow storage areas need to be identified on the site plan.
4. The existing driveway apron shall be remodeled as a compliant City sidewalk; the new driveway apron shall conform to the City's Construction standards.
5. The applicant's contractor shall apply with the DPW for Utilities Connection permits. Note that the winter moratorium will be in effect on December 15th no excavations will be allowed with public right of ways until April 15th.
6. All siltation control systems shall be installed and inspected by the Conservation Commission Agent(s) prior to any construction. *This note must be incorporated onto the final contract plans.*
7. All trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
8. All tree removal shall comply with the City's Tree Ordinance.
9. The contractor 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 service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
10. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*

11. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
12. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading, improvements and limits of restoration work. The plan shall also include profiles of the various new utilities, indicating rim & invert elevations, slopes of pipes, pipe material, and swing ties from permanent building corners. *This note must be incorporated onto the final contract plans.*
13. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, 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 @ 617-796-1023.

ATTACHMENT E

Findings and Special Conditions of the Newton Conservation Commission DEP #239-801, 156 Otis St, SFH Construction on rear lot of a 2-lot subdivision

Findings (considered as and given equal status as special conditions)

- Owner: Brian Hickey, 156 Otis St LLC
- Applicant: Brian Hickey, 156 Otis St LLC
- Representative: John Rockwood, EcoTec, Inc.
- In case of emergencies, problems, or questions, contact: Jennifer Steel: 617-796-1134.
- Approved Project:
 - Project Summary: Proposed project involves the demolition of the existing single-family home with associated driveway and lawn with a mature woodland and an intermittent stream in the back half of the lot, to allow for the creation of a two-lot subdivision and subsequent construction of two single family homes with associated grading, tree clearing, and stormwater management. Construction of the house and deck on Lot 1B is within 28 ft of the flagged wetland. Proposed plan calls for clearing and grading 78% of the buffer zone on the north side of the stream. Proposed bank impacts would be minimal and temporary (construction of a 4' wide bridge over the intermittent stream to allow access for invasive control work).
 - Jurisdiction/Performance Standards
 - Buffer Zone: 301 CMR 10.53(1)
 - Bank: 301 CMR 10.55(4)
 - Land Under Waterways and Waterbodies 310 CMR 10.56
 - Impact Summary/Reasons for Approval
 - The intermittent stream was flowing during the 3/6/18 site visit, but apparently the stream runs due to a failure in the drain pipe within the drainage easement. Utilities Division intends to CCTV the pipe. The applicant and the Utilities Division will determine how to solve any problems discovered.
 - The wooded portion of the lot is dominated by Norway Maple, invasive shrubs, and invasive ground covers.
 - Although the applicant proposes to remove the majority of the trees and greatly increase the impervious area on site, the applicant proposes to infiltrate stormwater and undertake a significant invasive control program, removing Norway maples, English ivy, pachysandra, and other invasive species, and planting XX native trees and XXX native shrubs. Proposed invasive work includes cutting vines, removal of Norway maples and winged euonymus through cut and blot methods. All invasive work is proposed to be done by hand outside of the proposed limit of work for construction of the house on Lot 1B.
- Final Approved Plans:
 - Plans entitled: "... 156 Otis Street", prepared by VTP Associates, stamped and signed by Joseph Porter
 - Tree removal plan (revised April 3, 2018)
 - Zoning plan (revised March 21, 2018)
 - Grading, Drainage, Utility plan (revised March 21, 2018)
 - Erosion and Sediment Control (and Enhancement Planting) plan (revised April 3, 2018)
 - Detail 1 (revised March 21, 2018)
 - Detail 2 (revised March 21, 2018)
 - Tree Plan (March 22, 2018)
- Plan Revisions
 - The Newton Conservation Commission shall retain the right to require the submittal of additional information or additional construction measures deemed necessary to ensure the protection of wetland resource areas
 - Any required or desired deviations from this plan shall be requested in writing of the Commission Office, who shall determine if said changes require filing a new Notice of Intent.
 - When plans are updated it is the responsibility of the applicant to provide all City Departments involved in the permitting and approval process complete and consistent plans.

Newton's Conditions Specific to this Site

Prior to the start of work

21. A Tree Permit, issued by the Newton Tree Warden, must be submitted to the Newton Conservation Commission.
22. The applicant must schedule and attend a pre-construction site visit to review construction activities with the Conservation office with:

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- a. Applicant or Applicant's Representative(s)
 - b. Applicant's Construction Supervisor (person responsible for compliance with this Order and who may be held jointly responsible for any violations and the penalties under the law for said violations)
 - c. Agent(s) of the Commission
- At the pre-construction site visit the following will be checked by an agent of the Conservation Commission:
- d. Sedimentation/erosion controls are properly installed in the correct locations – Limit of Work Line and catch basin protection.
 - e. DEP File number sign of minimum size 2'x2' shall be displayed clearly visible from the street
 - f. Proof of Recording the Order has been supplied to the Conservation office
 - g. Contact information for those responsible for construction, sediment controls, and landscaping has been supplied to the Conservation office
 - h. Anticipated timeline has been supplied to the Conservation office
23. An Environmental Monitor, paid for by the Applicant, shall report to the Commission, to assist the Commission in its overall oversight of the invasive control and restoration planting activities approved by this Order. The name, e-mail address and cell phone number of the Environmental Monitor will be provided to the Commission. The Environmental Monitor will:
- a. *Ensure adherence to the Order of Conditions* and report any non-compliance to the Commission;
 - b. *Be present on site* during:
 - i. Tree cutting for site work to ensure grubbing and root removal does not occur
 - ii. Installation of bridge to access enhancement areas
 - iii. Tree, shrub, vine, and groundcover removal and treatment in the enhancement areas
 - iv. Planting native trees and shrubs in the enhancement areas, spreading of seed mixture in drainage easement.
 - v. Occasional visits to ensure proper watering
 - vi. Occasional visits to monitor the health and survival of the planted stock
 - c. *Have the authority and responsibility to stop work* at any time and/or to implement additional impact mitigation measures on site whenever necessary to prevent or halt existing or imminent violations of this Order;
 - d. *Provide to the Commission two annual reports* (created and submitted at the end of each growing season) summarizing enhancement area work completed, any problems that arose in the Commission's jurisdiction, corrective measure(s) made in the field, and any additional corrective measures needed. The Applicant will be supplied with all reports submitted by this outside consultant. The Applicant will be expected to make said changes immediately as identified and requested by the Environmental Monitor.

During work

- 24. If dewatering on the project site is required, the Applicant shall provide to the Conservation Commission for review and approval prior to a dewatering plan designed to limit and control any effects of dewatering on the wetlands resource area adjacent to the project site.
- 25. Tree Protection: The Applicant shall protect the trees shown on the plan as "to be protected" during construction with orange snow fence at or near the drip line of each tree.
- 26. Enhancement area plantings within Commission jurisdiction must:
 - a. Be installed in compliance with the approved plans. Desired deviations from the approved plans must be approved by the Conservation office in advance
 - b. Survive over 75% of the planting area for 2 growing seasons for a Certificate of Compliance to be granted
- 27. The stormwater infiltration system must be installed as per the plans.
- 28. The City Engineer must inspect the stormwater infiltration system. The applicant must submit proof of inspection to the Conservation Commission.

Perpetual Conditions Specific to this Project that shall not expire upon completion of the project or the issuance of a Certificate of Compliance

- 29. The use of herbicides and other pesticides is prohibited and fertilizers shall be limited to slow-release organic fertilizers to improve water quality in the adjacent wetlands and waterways.
- 30. Operation and Maintenance: The approved Operations and Maintenance Plan is appended hereto and must be adhered to.

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31. The Approved Limit of Work is demarcated in the field with six (6) stone bounds. No work or alteration (which includes, but is not limited to, building; grading; clearing; dumping of leaves, grass-clippings, or other vegetation; and mowing) beyond this point other than the approved invasive control plan is allowed without the permission of the Newton Conservation Commission or its staff. This condition shall survive the issuance of a Certificate of Compliance.
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Newton's Standard Conditions (Note: Violation of any condition stated herein may result in Enforcement Action.)

Before Work Begins

32. Before any work on-site begins, all other applicable federal, state &/or local permits and/or approvals must be obtained.
33. Notice shall be given to the Newton Conservation Commission no less than two (2) business days prior to the commencement of construction activities.
34. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The Applicant shall assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. Nothing in this paragraph shall limit or restrict the liability of the Applicant for violations of this Order.
35. Wetlands flags in the vicinity of the work area are to be clearly marked and numbered exactly as they are surveyed on the approved plan cited in this Order. They must be maintained at all times and replaced if missing or illegible.

During Construction

36. Appropriate erosion control measures must be installed, inspected, and maintained during the construction period until the site is stable. Erosion control measures shall be installed as shown on the approved Plan and shall indicate the limit of work. Earth shall not be backfilled against or allowed to overtop erosion control barriers. Silt and sand accumulating behind said barriers shall be removed regularly. If a breach of the erosion control barriers occurs, the Newton Conservation Commission shall be notified, and measures shall be taken to remediate said breach under the guidance of the Commission. All soils must be contained on the site. City streets shall be kept clean and catch basins in the immediate area shall be protected from eroding soils. Hay bales, for any purpose without explicit permission from the Commission, are prohibited by this Order. An adequate supply of extra erosion control materials shall be stored on-site at all times for repair or replacement. Erosion control barriers shall remain in place until a Certificate of Compliance is issued for said work or upon written authorization from the Newton Conservation Commission.
37. The applicant shall ensure that throughout the construction period, all measures necessary to prevent any damage to the wetland resource area are taken. Should any damage occur during the course of the project, the applicant, any successor in interest, or successor in control shall be responsible for and bear the full cost of restoration of the wetland to the satisfaction of the Conservation Commission.
38. A copy of the approved plans and Order of Conditions shall be kept on-site and available for review at all times. All contractors are expected to adhere to the approved plan and these Conditions.
39. "Good housekeeping practices" shall be implemented at all times, including:
- a. appropriate limits to discharges within a Resource Area, Buffer Zone, or an area leading to a stormwater conveyance system
 - b. appropriate stockpile area management
 - c. appropriate limits to vehicle refueling, washing, etc.
 - d. appropriate litter management
 - e. appropriate controls for tire tracking

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40. During the construction period and prior to issuance of a Certificate of Compliance, members and agents of the Conservation Commission shall have the right to inspect the applicant's project to evaluate compliance with the approved plans and these conditions.
41. Work shall be immediately halted on the site if an Agent of the Commission or DEP determines that any of the work is not in compliance with this Order of Conditions or Special Conditions.

Upon Completion of the Project

42. Upon completion of the project, all exposed soil areas shall be stabilized and re-vegetated. Any excess spoil material which is to remain on Applicant's premises and all areas of disturbed soil shall be left stabilized with mulch, grass or other plantings and protected against erosion and sedimentation. All materials not to remain on Applicant's premises shall be removed from said premises and disposed of in a legal manner.
43. Upon completion of the project, the Conservation Office shall be notified, and permission to remove sediment barriers and the DEP file number sign shall be sought.
44. No Certificate of Occupancy shall be approved by Conservation unless a Certificate of Compliance has been issued or the request receives the written approval of the Sr. Environmental Planner.
45. Upon completion of the project, the applicant must apply for a Certificate of Compliance in accordance with DEP Condition #12, by submitting:
 - a. A completed "Request for Certificate of Compliance (WPA Form 8A)."
 - b. A written statement from a Professional Engineer registered in Massachusetts certifying that the work has been completed in substantial compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). If the completed work differs from that in the approved plans and conditions, the report must specify how the project differs.
 - c. An as-built plan signed and stamped by a professional land surveyor registered in Massachusetts. This plan will include all structures, grading (topography), drainage, and landscape features and plantings.
 - d. A letter from the landscaper or Environmental Monitor certifying compliance with the approved planting scheme. A Certificate of Compliance shall not be issued until after two growing seasons after plantings have been installed and found to be well established.