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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	October 3, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 17, 2019
90-Day Expiration Date:	January 1, 2020

DATE: September 27, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #312-19**, petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a three-story 24-unit multi family dwelling greater than 20,000 sq. ft. of new gross floor area, to allow ground floor residential units, to reconstruct and further extend nonconforming side setbacks, to allow an FAR of 1.4 in a three-story structure, to waive 24 parking stalls, to waive minimum stall depth requirements, to waive the maximum driveway width requirement and to allow a retaining wall greater than four feet in height within a setback at 20 Kinmonth Road, Ward 5, Waban, on land known as Section 53 Block 29 Lot 2, containing approximately 24,302 sq. ft. of land in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 4.4.1, 4.1.2.B.1, 4.1.2.B.3, 4.1.3, 7.8.2.C.2, 5.1.4.A, 5.1.13, 5.1.8.B.2, 5.1.8.D.2, 5.4.2.B of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced

review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.

EXECUTIVE SUMMARY

The subject property is a 24,302 square foot lot in the Business 1 (BU-1) zone in Waban. The petitioner is proposing to raze the existing structure and construct a 24-unit, multifamily dwelling. To construct the proposed multi-family dwelling, the petitioner requires special permits, including but not limited to, allowing a residential use with ground floor units, allowing development exceeding 20,000 square feet, waiving 24 parking stalls, and dimensional waivers to extend nonconforming side setbacks, a three story structure, and floor area ratio.

The Planning Department believes the subject property is an appropriate location for a multi-family development given the mixed-use nature of nearby Beacon Street and the site's proximity to transit. The site is tucked away from Beacon Street and will have limited visibility from Beacon Street. The petition satisfies several goals found in the *Comprehensive Plan of 2007*, as well as the *Transportation* and *Housing Strategies* such as offering a range of unit types and sizes, providing inclusionary zoning units, and by adhering to Smart Growth principles of locating new development in a walkable, mixed use neighborhood and encouraging alternative methods of transportation by subsidized transit passes.

SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed multi-family structure. (§7.3.3.C.1.)
- The proposed multi-family structure as developed and operated will not adversely affect the 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 the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)
- The proposed floor area ratio of 1.4 in a three story structure, where 1.0 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§4.1.2.B.3, §4.1.3 and §7.3.3).
- The reconstruction and further extending the nonconforming side setbacks is more substantially detrimental to the neighborhood than the existing nonconforming structure (§7.8.2.C.2).
- The site planning building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy. (§7.3.3.C.5.)

- Literal compliance with the parking requirements of the Newton Zoning Ordinance (Ordinance) is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features. (§5.1.13.)

I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

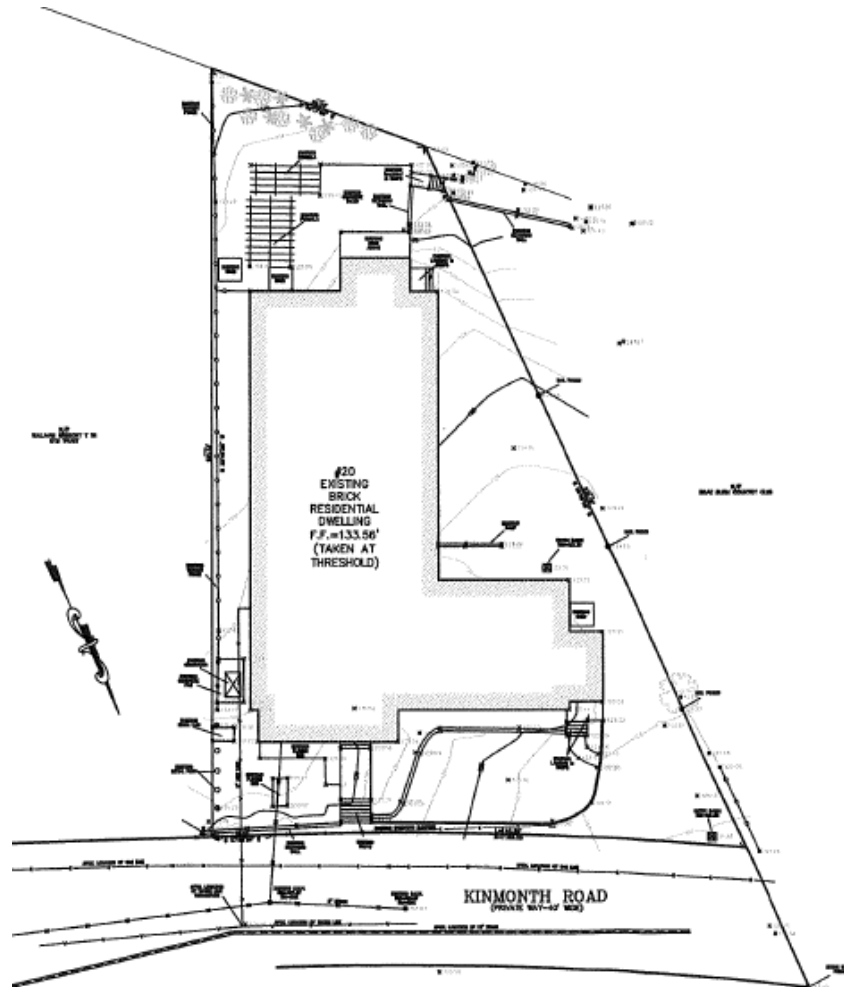
The subject property is located on Kinmonth Road in Waban. Kinmonth Road connects to Beacon Street via Windsor Road and is less than a five-minute walk from the Waban MBTA station. The site abuts Brae Burn Country Club to the north and west, and MBTA rail tracks to the south of the site. Beacon Street is comprised of a mix of uses and the intersection of Beacon, Windsor, and Woodward is an especially vibrant village center with a library, coffee shop, bank and other small businesses. The surrounding area is comprised of a mix of zones and consists of a variety of land uses from single-and multi-family residences to commercial, and nonprofit uses **(Attachments A and B)**.

As Kinmonth Road transitions to Beacon Street, there is a surface parking facility adjacent to the site before the village center. Building heights in the Waban Village Center range from one to two stories. Kinmonth Road is a quiet, dead end street that lacks a consistent context.

B. Site

The site consists of 24,302 square feet of land and is improved with a two-story nursing home and health facility constructed in 1965. There is a driveway that leads to a surface level paved parking facility along the western property line. The site has a downward slope from the eastern property line to the western property line and a retaining wall along half of the front property line. There is an existing stockade fence along the eastern property line. Currently, there is no sidewalk in front of the site and there are five street parking stalls in front of the building.

Existing site plan:



II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will change from a nursing home and health facility to a 24-unit multi-family structure.

B. Site Design

The petitioner is proposing to raze the existing structure at 20 Kinmonth Road to construct a three-story, 24-unit multi-family dwelling. The proposed structure will be approximately 34 feet tall, containing 25,818 square feet of floor area. The structure will be closer to the front property line than the existing building, decreasing the front

setback from 27.4 feet to 21.2 feet. This project requires an extension of nonconforming side setbacks, with the western side setback decreasing from 12.9 feet to 12.4 feet, and the eastern side setback decreasing from 11.6 feet to 11.4 feet. The western side of the property abuts a 60-stall parking facility and the eastern side abuts the Brae Burn Country Club. The rear setback will be 34 feet which exceeds the requirement of the BU-1 zone. There is a 4.5-foot-high retaining wall that requires a special permit proposed at the front of the site because of its location within the front setback.

Due to the Petitioner constructing an additional three-bedroom inclusionary unit in exchange for an additional three market rate units, the proposed lot area per unit with the density bonus is 1,013 square feet, below the 1,200 square feet required by the Newton Zoning Ordinance. This is a provision in the Ordinance that allows for density in exchange for additional inclusionary units and does not require a special permit.

The design proposes a paved driveway, 20 feet wide, from Kinmonth Road leading to a 24-stall underground parking facility. Kinmonth Road is a private road and features areas of asphalt, paving, and parking. The existing surface parking facility along the western property line that abuts Brae Burn will be converted to lawn and landscaped. The Planning Department, Transportation, and Engineering would like to see pedestrian enhancements such as a sidewalk installed at the front of the site which would greatly improve accessibility. The petitioner has agreed to install a sidewalk and it will be incorporated as a condition of the Council Order.

The Petitioner is proposing a variety of landscaping to the site that is an improvement from its current state. Additionally, the site abuts Brae Burn Country Club and there is mature landscaping on the Brae Burn site. The petitioner will also screen the site further by landscaping portions of the site closest to Brae Burn in. The rear of the site, at the southern property line, will feature a patio space made up of pavers with outdoor amenities and gathering space for residents as well as an existing pergola. The rear of the site will feature trees, shrubs, and vines such as: rhododendrons, hydrangeas, white pine and Allegheny Serviceberry. The front of the site will also be heavily landscaped with various shrubs and vines as well as red maple trees. The eastern property line will feature shrubs and arborvitae, screening the site from the neighboring parking facility.

The Petitioner originally proposed a 24-foot-wide driveway, and upon Planning's recommendation, they have decreased that to 20 feet, allowed by right. Planning recommends the petitioner withdraw the relief for the driveway width requirement. The Planning Department is unconcerned with the retaining wall in the front setback, as there is an existing retaining wall much closer to the front property line and is necessary due to the site's topography and to construct the accessible path to the front door. The Petitioner has agreed to decrease the length of the retaining wall along the eastern property boundary to reduce conflicts with landscaping.

The Planning Department has requested updated plans from the Petitioner showing the above changes and anticipates receiving those prior to the public hearing.

C. Building Design

The petitioner is proposing to construct a 34-foot tall multi-family dwelling. The proposed structure is an example of flat roof contemporary architecture. The structure features balconies on each façade for some of the residential units. The building will feature a mixture of cedar, cement board, and stone in terms of materials.

In the BU-1 district, FAR corresponds to the number of stories. The Ordinance allows an FAR of 1.0 for a two story structure, and up to 1.5 for a three story structure. The proposed FAR of 1.4 for a three-story structure requires a special permit.

At the recommendation of Planning Staff, the Petitioner has made streetscape improvements that will enhance the site experience. In prior versions of the plans, there were two front entrances, one of those entrances has been eliminated so there is one accessible front entrance, at the recommendation of the City's ADA Coordinator. Staff also recommended enhancing the front left corner of the building as viewed from the street since that is a prime location on the building. Staff recommended relocating the lobby to the front corner of the site, but topographical aspects of the site limit the location of the lobby and stairs. The architect has agreed to install windows in the stairwell and incorporate a design feature.

The Planning Department has requested updated plans from the Petitioner showing the changes agreed upon with the removal of the front stairs, windows incorporated to the left corner of the building, sidewalk on Kinmonth Road, location of access aisle in the garage, and materials being used on the plans.

Planning Staff discussed moving the garage entrance to the side of the building, however site constraints limit the opportunities to move the garage entrance. Staff is understanding of the constraints with the location of the garage entrance and is satisfied with the location of the garage entrance since Kinmonth Road is a dead-end street. Staff is supportive of encouraging activity to the front of the building in terms of the lobby, sitting room and staircase at the corner of the building with windows that will ultimately engage with the street.

D. Neighborhood Context

While the proposed 24-unit, 34-foot-high structure will be one of the taller buildings in the neighborhood, it is tucked away from Beacon Street and the proposed structure will only be five inches taller than the existing structure. The structure is considered

a three-story structure, and there are two-story residential homes in the neighborhood. There is no consistent height of structures in the neighborhood. The buildings on Beacon Street range from one to two stories and residential homes nearby appear to be two stories. Angiers Elementary School, which is to the rear of the site on the other side of the MBTA tracks is also three stories.

The BU-1 zone allows development as of right for two stories and 24 feet. Per special permit, development can reach a maximum of three stories and 36 feet. The petitioner is proposing a three-story structure, but with a height of 34 feet.

The proposed multi-family dwelling will be closer to the street by about six feet than the existing structure. The building is oriented to the street and is located in a walkable village center, in proximity to transit.

E. Circulation and Parking

The site is accessed by an accessible path to the front door. Prior iterations of plans showed stairs and two entrances at the front of the building. However, the petitioner has agreed to remove the stairs and the entrance served by the stairs. These changes consolidate entrances and eliminates the need for those with disabilities to use a separate entrance. The site will also be accessed by a 20-foot-wide driveway that provides access the underground parking facility.

The petitioner is proposing to construct a 24-stall underground parking facility beneath the multifamily structure. Access to the parking facility will be served by a 20-foot-wide paved driveway off Kinmonth Road. All on-site parking will be underground. The petitioner is requesting a waiver of 24 parking stalls, which is half of the 48 stalls required by the Newton Zoning Ordinance. In the garage, each stall is shown as having its own bike hook, as well as additional bike storage.

Planning Staff observed short term street parking on Kinmonth Road and surrounding Waban Village Center.

The petitioner is also requesting relief for the waiver from the parking stall dimensions. 18 of the 24 stalls are proposed to have an 18-foot depth, where 19 feet is required.

Due to the site's proximity to transit, and location near a walkable village center, the Planning Department believes the parking waiver of 24 stalls is appropriate for the site. Additionally, reducing the minimum parking stall dimensions makes for the most efficient layout of the parking garage and helps to maximize the number of stalls that will be available.

F. Transportation Demand Management

The project site is located .1 miles from the Waban MBTA Green Line stop, classifying the proposed project transit oriented. There are no bus routes nearby.

The petitioner has submitted a Transportation Demand Management Plan. The petitioner has stated that aside from the inclusionary units being designated one parking stall each, parking stalls will be unbundled, meaning not assigned with any of the units. The Petitioner will also be reimbursing residents 100% for a monthly LinkPass, which allows transit riders to take the local subway and buses (does not cover express buses). This will be adopted into the condominium budget and administered by a Transportation Coordinator from a private company that will also be responsible for the management of the condominium. The reimbursement will be available for two years.

An additional transit option is ride sharing and car sharing services. There are also zip cars available at the MBTA Waban station parking lot at 100 Wyman Street, .2 miles from the site.

The project is well served by transit and is located within walking distance of many services and amenities, allowing for residents to use alternative forms of transportation and to reduce vehicle trips.

G. Affordable and Fair Housing Policy

Unit Mix

Unit Type	Number of Units	Number of Deed Restricted Units	Average Square Footage (Of Unit Type)
One-Bedroom	13	2	832 S.F.
Two-Bedroom	9	1	1,316 S.F.
Three-Bedroom	2	1	1,575 S.F.
Total	24	4	N/A

As the project is creating new dwelling units, the petitioner will be required to comply with the Inclusionary Zoning section of the Ordinance. As such, the petitioner has submitted an Inclusionary Housing Plan and an Affirmative Fair Marketing and Resident Selection Plan. Because the units are designated as condominium, the petitioner is required to provide 15%, or three, of the units as inclusionary units, however they have elected to utilize the density bonus and are providing an additional three bedroom unit to gain three additional market rate units.

The base 20 units require the petitioner to provide at least 10% of Tier 1 units at 80% area median income, and an additional 5% Tier 2 units at 110% area median income.

The inclusionary units will include one second floor one-bedroom unit, one second floor two bedroom/two bath unit that will also be made fully accessible, one second floor three bedroom/three bath unit, and one third floor one-bedroom unit.

Staff have not yet completed review of the proposed Inclusionary Housing Plan.

H. Accessibility

The project is required to be compliant with ADA and Massachusetts Architectural Access Board (MAAB) regulations. The petitioner has made several changes at the recommendation of the city's ADA coordinator. These include consolidating entrances and removing external stairs, relocating the access aisle for the van accessible space in the garage, and making an inclusionary unit fully accessible. At the recommendation of several city departments, the petitioner will also be installing a sidewalk which is critical to the site's accessibility.

I. Signage

The petitioner has not requested relief from the Ordinance regarding the number, size or type of signs. As a result, all signs are expected to be as of right and will be reviewed by the Urban Design Commission, should this petition be approved.

J. Lighting

The petitioner has not supplied a photometric plan but should be required to do so prior to applying for a building permit.

K. Sustainability and Conservation of Natural Resources

The proposed multi-family structure will exceed 20,000 square feet thereby triggering the fifth special permit criterion to ensure the site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy.

The Planning Department has requested a formal, expanded Sustainability and Conservation of Natural Resources plan and has provided the petitioner with a template.

Project Phasing and Construction Management

Should this project be approved, a Construction Management Plan (CMP) will be required prior to the issuance of any building permits and will be reviewed by the Commissioner of Inspectional Services, the Commissioner of Public Works and the Director of Planning and Development.

III. CONSISTENCY WITH COMPREHENSIVE PLAN, TRANSPORTATION & HOUSING STRATEGIES

Newton's *Comprehensive Plan of 2007* seeks to protect the rich choice among the City's neighborhoods while also relating density to neighborhood character and infrastructure

capacity while promoting a range of housing opportunities. The *Housing Needs Analysis and Strategic Recommendations* from June 2016 contains housing strategy principles to provide greater housing diversity to preserve the City's character and quality and the *Newton Leads 2040 Transportation Strategy* contains strategies intended to make it safer and easier for Newtonians to utilize alternative modes of transportation such as walking, biking, and taking transit.

These plans contain relevant goals for residential development, such as smart growth principles to guide growth in the City to where it is "best served by public transport, where it is closest to businesses which provide services or to the largest employers, and for family housing, where it has safe and close access to public schools"; and providing greater housing diversity. The proposed project is located in a well-established, mixed-use neighborhood in Waban in close proximity to transit and alternative transportation options. Several transit options are located within walking distance, and the multitude of restaurants, shops, and services along Beacon Street are a quick walk from the site. Additionally, Angier Elementary School and Warren E. Lincoln Playground are nearby. The walkability of the neighborhood, proximity to transit and ridesharing services, on-site bicycle storage, reimbursement of LinkPasses, and the unbundling of the parking in the project will support the City's adopted smart growth policies.

In addition to supporting transportation access and choice, housing diversity and choice are critical goals of the City. The *Housing Strategy* contains principles which include pursuing diverse housing choices to meet changing housing needs of a diverse population, locating housing to promote access and choice, seeking high-quality design that is responsive to context, and pursuing green design. The proposed project will provide 24 residential units ranging from one-bedroom units to three-bedroom units in a walkable, transit-accessible neighborhood. Of the 24 units, four units will be deed-restricted under the City's new Inclusionary Zoning provision that requires 10% of units at 80% area median income and 5% at 110% area median income.

Overall, the Planning Department believes the petition satisfies many of the principles of the above referenced plan by providing much needed housing and an additional affordable housing unit in a location that meets smart growth principles. Due to the mix of uses nearby, walkability, proximity to transit and other neighborhood amenities the Planning Department is supportive of the 24 units proposed.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum, dated August 21, 2019 provides an analysis of the proposal regarding zoning. **(Attachment C)**

B. Newton Historical Commission Review

The petitioner applied for the total demolition of the existing structure. On May 2,

2019, the Newton Historical Commission unanimously voted not to preferably preserve the existing structure and no demolition delay was required.

C. Engineering Review

Associate City Engineer, John Daghlion, reviewed this petition for conformance with the City of Newton Engineering Standards (**Attachment D**). Mr. Daghlion identified several items to be addressed. The retaining wall along the western property line needs a three foot safety fence on top the wall. Adjustments to the stormwater collection system as well as water service also need to be rectified. A demolition plan, construction management plan, and an Operations and Maintenance plan are required.

D. Fire Department Review

The plans will be reviewed prior to the issuance of any building permits, should this project be approved. Mr. Daghlion noted in his memorandum that a fire suppression system may be required.

E. Urban Design Commission Review

The Petitioner has not formally met with the Urban Design Commission.

V. PETITIONER'S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

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

ATTACHMENT A

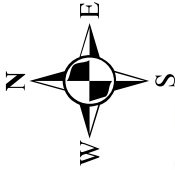
Zoning

20 Kinmonth Road

City of Newton,
Massachusetts

Legend

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

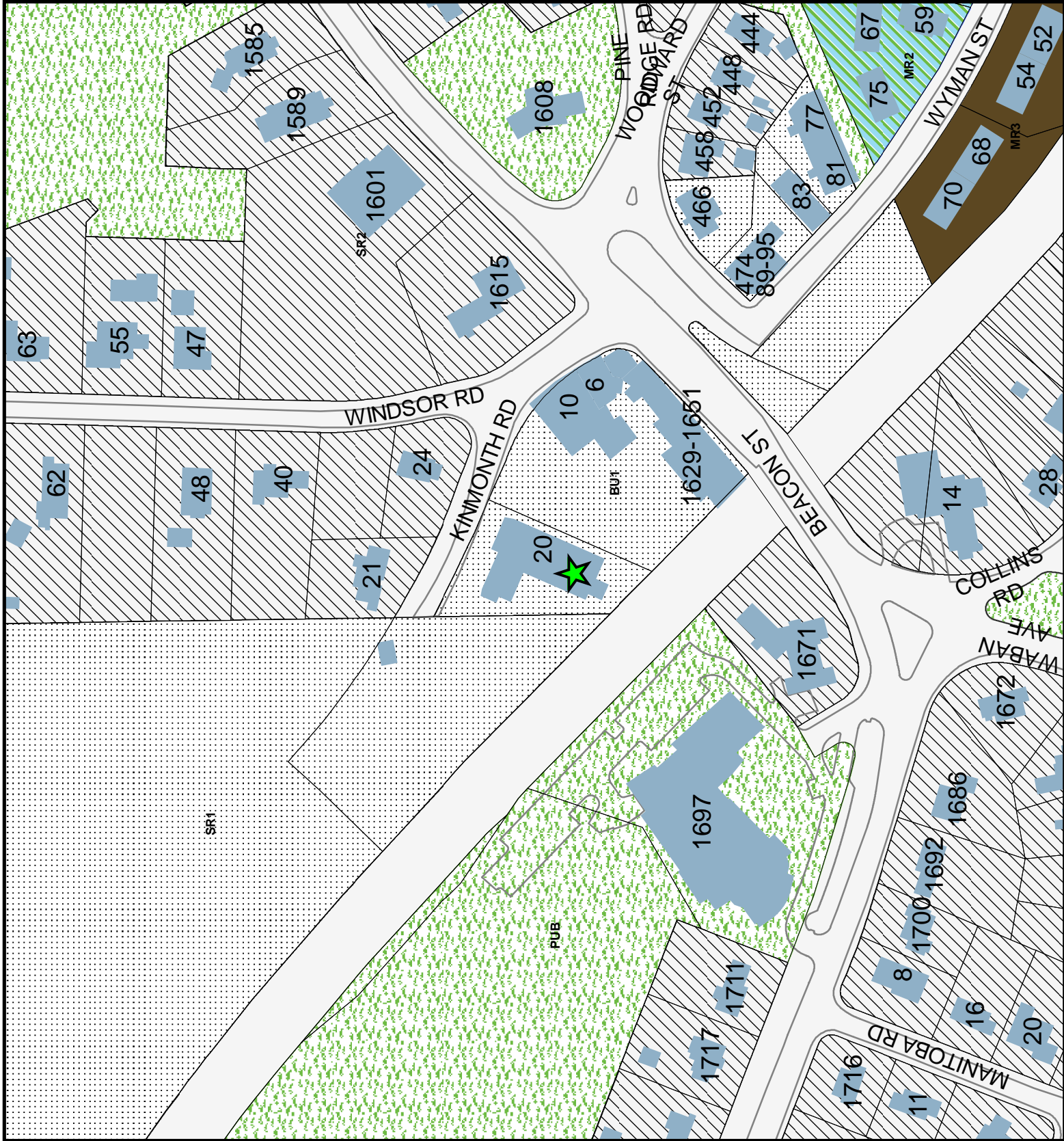


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150 175 200 225 Feet

Map Date: September 17, 2019



ATTACHMENT B

Land Use

20 Kinmonth Road

City of Newton,
Massachusetts

Legend

- Single Family Residential
- Commercial
- Mixed Use
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Vacant Land

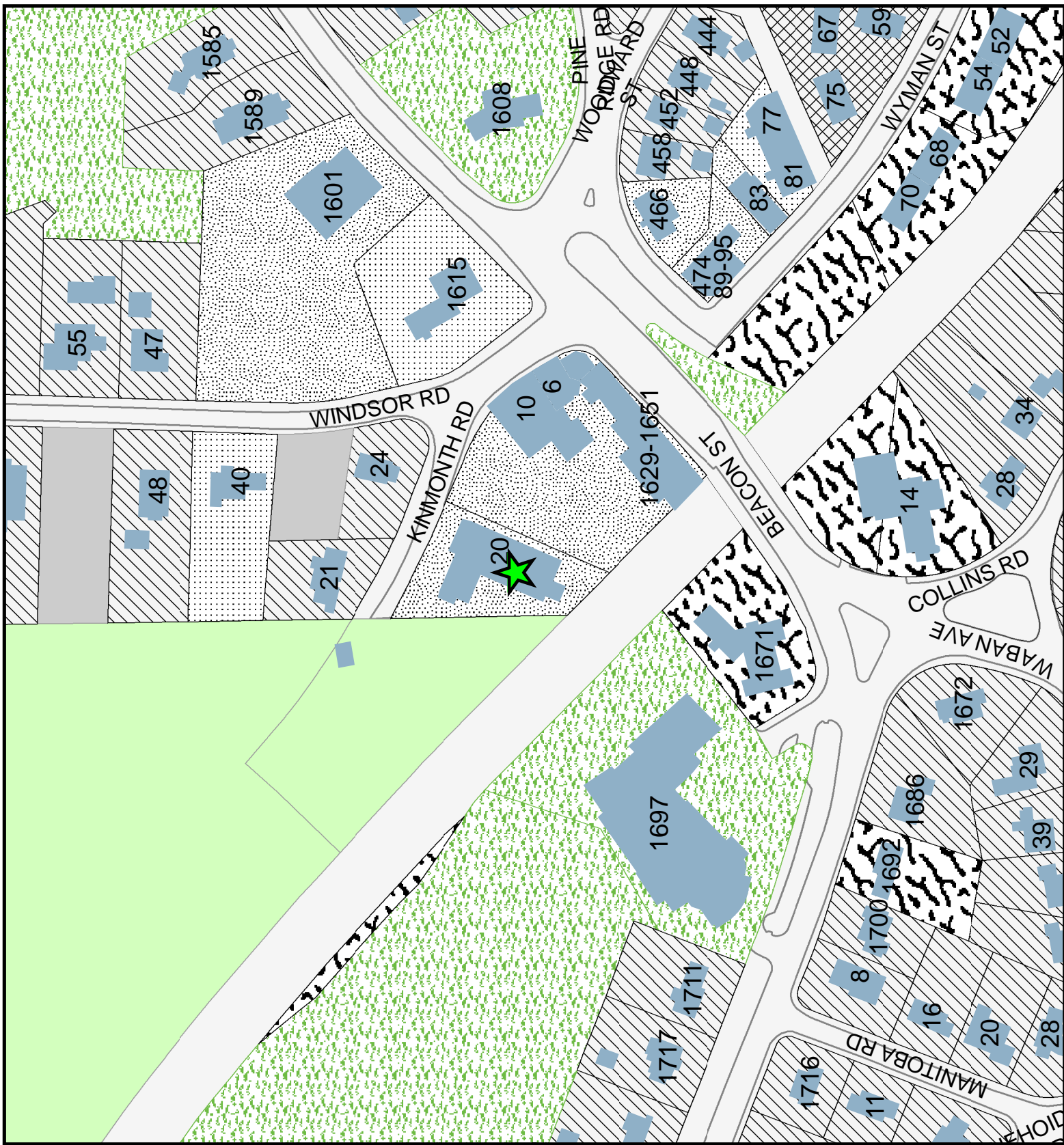


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CITY OF NEWTON, MASSACHUSETTS
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0 12.5 25 50 75 100 125 150 175 200 225 Feet

Map Date: September 17, 2019





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: August 21, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Kinmonth Road Investment LLC, Applicant
Terrence Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: **Request to allow 24-unit multi-family dwelling**

Applicant: Kinmonth Road Investment LLC	
Site: 20 Kinmonth Road	SBL: 53029 0002
Zoning: BU1	Lot Area: 24,302 square feet
Current use: Nursing home	Proposed use: 24-unit multi-family dwelling

BACKGROUND:

The property located at 20 Kinmonth Road consists of a 24,302 square foot lot improved with a nursing home and health facility constructed in 1965. The parcel is located in the BU1 zoning district abutting the MBTA tracks, retail and Brae Burn Country Club. The petitioner proposes to raze the existing structure and construct a three-story 24-unit multi-family dwelling with 24 below-grade parking stalls. To construct the project as proposed, the petitioner requires a special permit for ground level residential units, as well as relief from various dimensional and parking requirements.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 7/1/2019
- Existing Conditions Site Plan, prepared by Spruhan Engineering, surveyor, dated 5/21/2019
- Proposed Conditions Site Plan, signed and stamped by Edmond T. Spruhan, surveyor, dated 6/24/2019
- Architectural Plans and Elevations, prepared by McKay Architects, architect, dated 3/5/2019

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to raze the existing building and construct a 24-unit multi-family dwelling with ground floor residential units. Per section 4.4.1, a special permit is required to allow a multi-family dwelling with ground floor residential units in the BU1 zoning district.
2. Per section 4.1.2.B.1, a special permit is required for any development in the business districts of 20,000 square feet or more of new gross floor area. The petitioner proposes to raze the existing 18,324 square foot structure and construct a new 25,818 square foot multi-family dwelling. Per section 4.1.2.B.1 a special permit is required for the development of more than 20,000 square feet of new gross floor area.
3. The petitioner intends to raze the existing two-story building and construct a three-story multi-family dwelling with below-grade parking. Per sections 4.1.2.B.3 and 4.1.3, a three-story building requires a special permit.
4. The existing structure has nonconforming side setbacks of 11.6 feet on the easterly side and 12.9 feet on the westerly, where half the building height, or 16.78 feet, is required per section 4.13. The petitioner proposes to increase the building height to 34 feet, thereby increasing the required setback to 17 feet. The petitioner proposes to reconstruct and extend the nonconforming side setbacks, maintaining 11.5 feet on the eastern line and extending to 12.4 feet on the western. A special permit per sections 4.1.3 and 7.8.2.C.2 is required.
5. Section 4.1.3 allows for an FAR of 1.00 for two stories and 1.50 for a structure with three stories. The petitioner proposes a three-story structure with an FAR of 1.4. As three-story structures require a special permit, and the increased FAR is allowed only in a three-story structure, a special permit is required per section 4.1.3 to allow an FAR of 1.4 in a three-story structure.
6. Section 4.1.2.A.2 requires a minimum lot area per unit of 1,200 square feet. The 24,302 square foot lot allows for a total of 20 units by right. The petitioner proposes to construct 24 units by constructing an additional Tier 1 three-bedroom inclusionary unit above the required three units, allowing for three additional market rate units per section 5.11.4.C. The proposed lot area per unit with the density bonus is 1,013 square feet.
7. The required number of parking stalls for a multi-family dwelling is two stalls per unit per section 5.1.4.A, or 48 total required for this proposal. The petitioner proposes to construct 24 below grade parking stalls to service the 24 dwelling units. Per section 5.1.13, the petitioner seeks a waiver to allow for a reduction in the required number of parking stalls from 48 to 24.
8. Section 5.1.8.B provides the dimensional requirements for parking stalls. Per section 5.1.8.B.1, the minimum width for a stall is 9 feet wide, and per section 5.1.8.B.2, the minimum depth is 19 feet. The petitioner proposes 18 parking stalls with an 18-foot depth. A special permit is required per sections 5.1.8.B.2 and 5.1.13 to reduce the depth requirement for parking stalls.
9. Section 5.1.8.D.2 requires that driveways be no wider than 25 feet. The proposed driveway exceeds 25 feet in width as it nears Kinmonth Road, requiring a special permit per section 5.1.13.

10. Several retaining walls are proposed throughout the site, including one at the front and one along the western property boundary with the country club. Section 5.4.2.B requires a special permit for a retaining wall in excess of four feet in the setback. A 4.5 foot high retaining wall is proposed in the front setback at the entrance to the building, requiring a special permit.
11. Section 5.11.3 states that the inclusionary zoning provisions apply to any residential development with more than seven units constructed. It is intended that the units in the project will be ownership units, rather than rental. The petitioner must meet the requirements found in section 5.11.4.B.5 for ownership projects of at least 10% Tier 1 units at 80% area median income, and an additional 5% Tier 2 units at 110% area median income of the base 20 units before the density bonus.

BU1 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	24,302 square feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	10 feet 17 feet 17 feet	27.4 feet 11.6 feet 34 feet	21.2 feet 11.4 feet 33.8 feet
Building Height	24 feet (by right) 36 feet (special permit)	33 feet	34 feet
Stories	2 (by right) 3 (special permit)	2 stories	3 stories
Lot Area Per Unit	1,200 square feet	N/A	1,013 square feet*
FAR	1.00 (by right) 1.50 (special permit)	0.75	1.40

*with density bonus per section 5.11.4.C

See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§4.4.1	Request to allow a residential use with ground floor units	S.P. per §7.3.3
§4.1.2.B.1	A development of 20,000 square feet or more of new gross floor area	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	To allow a three-story structure at 34.5 feet in height	S.P. per §7.3.3
§4.1.3 §7.8.2.C.2	To reconstruct and further extend nonconforming side setbacks	S.P. per §7.3.3
§4.1.2.B.3 §4.1.3	To allow an FAR of 1.4 in a three-story structure	S.P. per §7.3.3
§5.1.4.A §5.1.13	To waive 24 required parking stalls	S.P. per §7.3.3
§5.1.8.B.2 §5.1.13	To waive the minimum stall depth requirements	S.P. per §7.3.3
§5.1.8.D.2 §5.1.13	To waive the maximum driveway width requirement	S.P. per §7.3.3
§5.4.2.B	To allow a retaining wall greater than four feet in height	S.P. per §7.3.3

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Council Gregory Schwartz, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – 20 Kinmonth Street

Date: September 6, 2019

CC: Barney Heath, Director of Planning
Jennifer Caira, Chief Planner
Lou Taverna, PE City Engineer
Nadia Khan, Committee Clerk
Katie Whewell, Sr. Planner

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

*20 Kinmonth Street
Waban, MA
Proposed Civil Plans
Prepared by: Spruhan Engineering, PC.
Dated: 8/16/19*

Executive Summary:

This project entails the demolition of a *multi-story* brick structure and the erection of a new residential building located on a private way. The site currently has a parking lot along the westerly property line abutting the [Brae Burn Golf Course] that is to be eliminated and landscaped with loam and seed, along with a retaining wall that varies in height. In sections where the wall exceeds 3-feet safety fence will be required along the top of the wall.

The engineer of record has designed a stormwater collection system, however; at the time of this review no report or analysis was provided. Additionally, the proposed infiltration system is less than 10-feet from the property line, this will require an impervious barrier along the downstream side(s) of the system that extends from the base of the system to the top of peastone that covers the units.

Kinmonth Street is a private way and there are existing parallel & perpendicular parking stalls along the edge of the roadway, it is unclear if these stalls will be eliminated. As with all private ways the DPW plows snow for public safety and access, it would be beneficial for the snow removal process to provide a “hammerhead” turnaround area at the end of the road.



Parking stalls along the frontage and end of the existing roadway looking easterly

The plan submitted does not indicate the number of dwelling units and only has a *1-inch* copper water service, which is the standard for single family residential homes; however, since the building has a garage entrance that is over 24-feet wide it appears to be larger than a single family dwelling. The engineer of record needs to design a properly sized water service to adequately supply domestic use. Additionally, based on the occupancy type and construction, the Fire Department & Inspectional Services may require a fire suppression system, this would have to be verified and designed to include a separate and dedicated fire service. If this is required fire flow tests are required from the closest fire hydrant the testing must be coordinated and witnessed by the Fire Department & Utilities Division.

Floor drains of the garage must be connected to the sanitary sewer system via an MDC gas trap per the Building Code, this needs to be indicated on the plan along with required details.

Based on the occupancy level on the new building, it may be beneficial to install granite curbing and sidewalk to enhance and encourage safe pedestrian travel towards Waban square which is in close proximity.

Construction Management:

1. A construction management plan is needed for this project. At a minimum, it must address the following: staging site for construction equipment, construction materials, parking of construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor. It shall also address any anticipated dewatering during construction, site safety & stability, and impact to abutting properties.
2. A demolition plan is needed to address the effects of dust, noise, etc.
3. Additionally, a building of this vintage more than likely will have asbestos material utilized for heating/steam pipe insulation, tiled floors, etc....this also needs to be addressed.
4. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.

Drainage:

1. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, 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, and pipes are the sole responsibility of the property owner(s).

Environmental:

1. Has a 21E investigation & report been performed on the site, if so, copies of the report should be submitted to the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks that are they to be removed? If they have been removed, evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

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.

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.
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. 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*
2. All tree removal shall comply with the City's Tree Ordinance.
3. 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*
4. The applicant will have to apply for Trench & Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. 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.***
7. 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.*

8. The contractor of record shall contact the Newton Police Department 48 hours in advanced and arrange for Police detail to help residents & commuters navigate around the construction activity.
9. If any changes from the original approved design plan that are required due to unforeseen site conditions, the engineer of record shall submit a revised design & stamped and submitted for review and approval prior to continuing construction.

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.

CITY OF NEWTON

IN CITY COUNCIL

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 a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a 25,818 square foot, 24-unit multi-family structure with residential units on the ground floor, of three stories and 34.5 feet in height, with a floor area ratio (FAR) of 1.4, to reduce the minimum stall dimensions, to waive 24 required parking stalls, to allow a retaining wall over four feet in the front setback, to reconstruct and further extend nonconforming side setbacks, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

- 1) The site is an appropriate location for the building as designed, as the structure is similar in size and scale to the existing structure and due to the site's proximity to amenities on Beacon Street and to transit. (§4.4.1, §4.1.2.B.1, §4.1.2.B.3, §4.1.3, §5.4.2.B, and §7.3.3.C.1)
- 2) The proposed project as designed, developed, and operated will not adversely affect the neighborhood because the petitioner is improving upon the existing structure in locating parking underground, providing landscaping and utilizing transportation demand management measures. (§4.4.1, §4.1.2.B.1, §4.1.2.B.3, §4.1.3, §5.4.2.B, and §7.3.3.C.2)
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians as the site is located on a dead end street. (§4.4.1, §4.1.2.B.1, §4.1.2.B.3, §4.1.3, §5.4.2.B, and §7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved due to the site's location in a transit served environment, and its proximity to Waban Village Center. (§4.4.1, §4.1.2.B.1, §4.1.2.B.3, §4.1.3, §5.4.2.B, and §7.3.3.C.4)
- 5) The proposed floor area ratio of 1.4 in a three story structure, where 1.0 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood (§4.1.2.B.3, §4.1.3 and §7.3.3).
- 6) The reconstruction and further extending the nonconforming side setbacks is not more substantially detrimental to the neighborhood than the existing nonconforming structure as the nonconforming setback is decreasing by 2.4 inches on the eastern property line and six

inches at the western property line (§4.1.3, and §7.8.2.C.2).

- 7) The site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy. (§7.3.3.C.5.)
- 8) Exceptions to the parking requirements, including waving the dimensional standards of parking stalls, waiving 24 parking stalls are in the public interest for the following reasons:
 - a. Reducing the minimum parking stall dimensions makes for the most efficient layout of the parking garage and helps to maximize the number of stalls that will be available.
 - b. Waiving 24 parking stalls is appropriate for this location given site's location in a walkable, transit accessible neighborhood.(§5.1.4.A.1, §5.1.8.B.2, §5.1.8.D.2, and §5.1.13)

PETITION NUMBER:	#312-19
PETITIONER:	20 Kinmonth Road Investment LLC
ADDRESS OF PETITIONER:	555 High Street Westwood, MA 02090
LOCATION:	20 Kinmonth Road
OWNER:	20 Kinmonth Road Investment LLC
ADDRESS OF OWNER:	555 High Street Westwood, MA 02090
TO BE USED FOR:	A multi-family development consisting of 24 units, including ground-floor units, and a below grade garage hereinafter the "Project."
EXPLANATORY NOTES:	Special permits per §7.3.3: To allow a 24-unit multi-family structure with 20,000 square feet or more of new gross floor area with three-stories and 34.5 feet in height, and ground-floor units (§4.4.1, §4.1.2.B.3, §4.1.3); to allow an FAR of 1.4 in a three story structure (4.1.2.B.3, §4.1.3); To reconstruct and further extend nonconforming side setbacks (§4.1.3 and §7.8.2.C.2); To waive the parking stall dimensional requirements (§5.1.8.B.2, and §5.1.13); To waive 24 parking stalls (§5.1.4.A, and §5.1.13); To allow a retaining wall greater than four feet in height within the front setback (§5.4.2.B);

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. Site/Civil plans, prepared by Spruhan Engineering, signed and stamped by Edmond T. Spruhan, Professional Land Surveyor, and Marc Besio, Professional Engineer, consisting of the following three (3) sheets:
 - Proposed Civil Plan, dated August 16, 2019, Sheet 1
 - Detail Sheet, dated August 16, 2019, Sheet 2
 - Detail Sheet, dated August 16, 2019, Sheet 3
 - b. Architectural Plans entitled, "Proposed Development at 20 Kinmonth Road Waban, Mass." prepared by McKay Architects., consisting of eight (8) sheets:
 - Illustrative Landscape Plan, dated July 24, 2019, L1
 - Plantings, dated July 24, 2019, L2
 - Garage Plan, dated April 24, 2019, A-1.1
 - First Floor Plan, dated April 24, 2019, A-1.2
 - Second and Third Floor Plan, dated April 24, 2019, A-1.3
 - Roof Plan, dated April 24, 2019, A-1.4
 - Front and Right Elevations, dated March 5, 2019, A-2.1
 - Rear and Left Elevation, dated March 5, 2019, A-2.2
2. In accordance with the City's Inclusionary Zoning Ordinance (§5.11.4), the project shall provide four (4) ownership inclusionary units, two of those Tier 1 and two Tier 2. The Tier 1 units must be 80% of Area Median Income (AMI) and those inclusionary units must be priced for affordability to households having annual gross income of not more than 70% at time of marketing. The Tier 2 Units must be 110% AMI and must be priced for affordability to households having annual gross incomes of not more than 100% AMI at time of Marketing. The Area Median Income is set as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA. Monthly housing costs (inclusive of real estate taxes, mortgage principal and interest, unit property insurance, monthly condominium home owner association fee, private mortgage insurance, and one parking space) shall not exceed 30% of the applicable monthly income limit for that unit. For the initial lottery, 70% of the Inclusionary Units shall be designated as Local Preference units, as permitted and defined by the Massachusetts Department of Housing and Community Development (DHCD).

3. The type of Inclusionary Units is based on the proposed unit mix of the Project which includes 13 one-bedroom units, 9 two-bedroom units, and 2 three-bedroom units. Given this units mix, the Inclusionary Units shall consist of two 1-bedroom units, one 2-bedroom units, and one 3-bedroom unit. One of these units shall be made fully accessible in accordance with the Massachusetts Architectural Access Board regulations.
4. To the extent permitted by applicable regulations of DHCD, the Inclusionary Units shall be eligible for inclusion on the State's Subsidized Housing Inventory (SHI) as Local Action Units through DHCD's Local Initiative Program. Prior to the issuance of any temporary occupancy certificates, the Petitioner, 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 Inclusionary Units in perpetuity.
5. Prior to the issuance of any building permits for the construction of the Project, the Petitioner shall provide a final Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan for review and approval by the Director of Planning and Development. The Inclusionary Housing Plan and Affirmative Fair 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. of the Newton Zoning Ordinance. In accordance with DHCD's current guidelines, the units will be affirmatively marketed and sold through a lottery.
6. All lighting fixtures must be residential in scale.
7. The cost of parking stall(s) shall be sold separately from the cost of a unit, provided, however that the cost of one parking stall shall be included in the price for each Inclusionary Unit. Prior to the issuance of any certificate of occupancy for a market rate unit (temporary or final), the Petitioner shall provide evidence of such separation to the Director of Planning and Development.
8. The Petitioner shall reimburse residents for an MBTA monthly LINK Pass (value \$84.50/month) for a period of two years. The owner shall establish a reimbursement program set forth in the condominium budget, rules, and regulations, which provides for a 100% reimbursement for the purchase of a monthly LINK Pass, upon proof of purchase. The private company responsible for the management of the condominium shall also function as the transportation coordinator for the building and shall be responsible for distributing information regarding transit pass reimbursement, and carpool, vanpool and zipcar opportunities.
9. Secure on-site bicycle storage shall be provided in accordance with the plans in Condition #1.
10. All new residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for "Group 1" units. In addition, per MAAB guidelines, 5% of the new units shall be designed as "Group 2A" units, which are designed spatially for immediate wheelchair use. The design and construction of the site and proposed structure shall

comply with Massachusetts Architectural Access Board regulations and the Fair Housing Act.

11. The trash and recycling disposal shall be handled by a private entity and collection shall be scheduled at such times to minimize any disruption of the on-site parking and shall comply with the City's Noise Control Ordinance.
12. All on-site landscaping associated with this Special Permit/Site Plan Approval shall be installed and maintained in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
13. At the Petitioner's sole expense, the petitioner shall construct a sidewalk at the front of the site. This work shall be completed to the satisfaction of the Engineering Division of Public Works prior to the issuance of a temporary Certificate of Occupancy for the Project.
14. Prior to the issuance of a temporary certificate of occupancy for the Project, 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. Once approved, the O&M must be recorded by the petitioners at the Middlesex South District Registry of Deeds and implemented. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works.
15. Prior to the issuance of any building permit for the Project, the petitioner shall provide a Final Site Plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works and Fire Department.
16. Prior to the issuance of any building permit for the Project the petitioner shall submit a Construction Management Plan (CMP) 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 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. The petitioner shall consider local traffic and pedestrian activity relating to the nearby public school in determining hours and routes for construction vehicles.
 - c. The proposed schedule of the project, including the general phasing of the construction activities and anticipated completion dates and milestones.
 - 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 construction and 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 and vibration 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. The Petitioner shall comply with the City's Tree Preservation Ordinance
 - h. A plan for rodent control prior to demolition, during demolition, and during construction.
 - i. The CMP shall also address the following:
 - safety precautions;
 - anticipated dewatering during construction;
 - site safety and stability;
 - impacts on abutting properties.
17. The petitioner shall be responsible for securing and paying for any and all police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
18. No building permit for the construction of the Project shall be issued pursuant to this Special Permit/Site Plan approval until the Petitioner has:
- a. Recorded a certified copy of this Council order with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms the final building permit plans and façade elevations are consistent with plans approved in Condition #1.
 - d. Received approval from Director of Planning and Development for the Inclusionary Housing Plan and Affirmative Fair Housing and Resident Selection Plan which shall be authorized by the Mayor and provided evidence of submission of the Local Action Unit Application to DHCD.
 - e. Submitted final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
 - f. Submitted a final plan of land, recorded at the Middlesex Registry of Deeds, to the Engineering Division of Public Works.
 - g. Submitted a final Construction Management Plan (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, the City Engineer, and the Director of Transportation.
19. No temporary or final 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 and civil engineer certifying compliance with Condition 1.
- b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in paper and digital format.
- c. Received approval from the City Engineer for the Operation and Maintenance (O & M) plan for Stormwater Management from the City Engineer. Such plan shall be recorded by the petitioners at the Middlesex South District Registry of Deeds. A certified copy of the O&M shall be submitted to the Engineering Division of Public Works and the Director of Planning and Development in accordance with Condition #16.
- d. Filed with the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that all engineering details for the project site have been constructed to standards of the City of Newton Public Works Department.
- e. 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, final landscape features, fencing, and parking areas.
- f. Provided evidence confirming the marketing, lottery, and resident selection for the Inclusionary Units has been completed to the Director of Planning and Development for review and approval.
- g. Entered into a Regulatory Agreement and Declaration of Restrictive Covenants for each of the Inclusionary Units with the City of Newton and the Department of Housing and Community Development, in a form approved by the Law Department, which will establish the affordability restriction for the Inclusionary Units in perpetuity.
- h. Deed Restricted Units shall be constructed and available for occupancy coincident with market rate units such that no more than five market rate units may receive occupancy permits until the corresponding affordable unit has received its occupancy permit.
- i. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for portions of the buildings, prior to installation of required on-site landscaping/ exterior hardscape improvements required per the approved plans. Prior, however, to issuance of any temporary certificate of occupancy pursuant to this condition, the Commissioner of Inspectional Services shall require that the Petitioner first file a bond, letter of credit, cash or other security in the form satisfactory to the Law Department in an amount not less than 135% of the value of the aforementioned remaining improvements.