**Approved subject to the following conditions:**

**GENERAL CONDITIONS**

1. All buildings, parking areas, driveways, walkways, landscaping and all other site features on the Development Parcel associated with this Special Permit/Site Plan Approval shall be located, constructed, and implemented consistent with the set of plans entitled “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” dated \_\_\_\_\_\_\_\_\_\_\_ (the “Special Permit Plan Set”), which are more particularly identified in Exhibit A and are hereby incorporated by reference. No changes to the Project are permitted unless they are consistent with the Special Permit Plan Set as set forth in Conditions #8 through 11.
2. All buildings, parking areas, driveways, walkways, landscaping and all other site features on the Development Parcel associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with the City of Newton Design Guidelines for the Riverside Station Development, dated \_\_\_\_\_\_\_\_\_\_ (the “Design Guidelines”), which are on file with the Department of Planning and Development, the Inspectional Services Department, and the City Clerk.
3. The Special Permit/Site Plan Approval shall be deemed to have been vested for the purposes of utilizing the benefits of the change of zone authorized by Council Order #26-20 for the entire Project for all purposes upon the earliest of: (a) the issuance of a building permit (other than a demolition permit) for all or any portion of the Project (including any parking structure) or (b) commencement of the removal of the relocation of the MWRA water line crossing the Development Parcel.
4. Pursuant to Section 7.3.2.E and Section 7.4.5.D of the City of Newton Zoning Ordinance (hereinafter, “Zoning Ordinance”), the time for exercise of this Special Permit/Site Plan Approval is extended to a period of three years, which shall not include such time required to pursue or await the determination of an appeal pursuant M.G.L. c. 40A, § 17 or an appeal of any other local permits or approvals necessary to complete the project, without the necessity of a further public hearing.  This Special Permit/Site Plan Approval shall be deemed to have been exercised upon the issuance of a building permit (other than a demolition permit) for all or any portion of the Project (including the parking structure).
5. If within X years from the date of this Special Permit/Site Plan Approval, which shall not include such time required to pursue or await the determination of an appeal pursuant M.G.L. c. 40A, § 17 or an appeal of any other local permits or approvals necessary to complete the Project, the Petitioner has not applied for all building permits necessary to complete construction of the Project, then further construction under this Special Permit/Site Plan Approval is not authorized unless the Petitioner seeks and receives an amendment to this Special Permit/Site Plan Approval that extends the time for fulfilling this condition. In no event shall any portion of the Project for which a Certificate of Occupancy has been issued in accordance with the provisions of this Special Permit/Site Plan Approval be deemed to be in violation of this Special Permit/Site Plan Approval or be deemed to have lapsed due to the fact that any other portion of the Project has not been commenced or completed.
6. All real and personal property that make up the Development Parcel and the Project, except for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage) owned and used by the MBTA for the provision of transportation that are deemed exempt by the Newton Assessors’ Office, shall be subject to the assessment of local taxes in accordance with the provisions of M.G.L. c. 59. However, in the event that a final binding decision of the Appellate Tax Board or appellate court determines that any other part of the Development Parcel or the Project is exempt from the assessment of local taxes notwithstanding the first sentence of this Condition, the Petitioner agrees to and shall immediately execute a PILOT with the City of Newton Board of Assessors which will require the Petitioner to make quarterly payments in lieu of taxes based on the market value of the portions of the Project determined to be exempt as though the same were subject to the assessment of local taxes, excluding those portions of the project used by the MBTA.
7. Prior to exercise of this Special Permit as defined in Condition #4 above and in accordance with the provisions of Section 4.2.4, an organization of all owners of land and ground lessees within the Development Parcel, which may but is not required to include the MBTA and the owners of land subject to easements benefiting the Project, shall be formed (the “Organization of Owners”). The Organization of Owners shall serve as the liaison between the City and any owner, lessee, or licensee (other than the MBTA) within the Development Parcel governed by this Special Permit. Such Organization of Owners shall be the primary contact for the City in connection with any dispute regarding violations of this Special Permit/Site Plan Approval or the Zoning Ordinance and, in addition to any liability of individual owners or lessees (with regard to matters specifically related to the individual owners’ or lessees’ parcels and not those related to the overall Project or Development Parcel), shall have legal responsibility for compliance of the Project with the terms of this Special Permit/Site Plan Approval and the provisions of the Zoning Ordinance.

**DESIGN REVIEW & PLAN CONSISTENCY CONDITIONS**

All buildings, other than the non-residential portions of Buildings 9 and 10) shall undergo a three-step process set forth in Conditions #8 through 11 for review of each building to ensure the Project is constructed in accordance with the Zoning Ordinance, this Special Permit/Site Plan Approval, and the Design Guidelines

1. Submission and Review of Schematic Plans
	1. At the schematic design stage, the Petitioner shall present individual building plans consisting of exterior renderings, preliminary building elevations, building footprints, and representative wall sections to the City of Newton’s Urban Design Commission (UDC), the Director of Planning and Development, and its consultants at a public meeting of the UDC. The Petitioner shall provide notice of this meeting to the Liaison Committee and the UDC should make all efforts to take public comment.
	2. Within 30 days of such public meeting, the UDC and the Director of Planning and Development shall each notify the Petitioner in writing as to whether the UDC and the Director of Planning and Development believes the schematic design plans are consistent with the Zoning Ordinance, the Special Permit/Site Plan Approval, and the Design Guidelines.
2. Submission and Review of Design Development Plans
	1. Upon completion of the schematic plan process set forth in Condition #8, the Petitioner may proceed to the design development stage. At this stage, the Petitioner shall file the following with the Director of Planning and Development, the Commissioner of Inspectional Services, the Director of Public Works, and the UDC:
		1. a copy of plans showing consistency with the Special Permit Plan Set and the Design Guidelines for the portions of the Project necessary for the permit or determination being sought (the “Design Development Plans”).
		2. a signed certificate from the Petitioner’s architect and/or civil engineer certifying that the Design Development Plans are consistent and in full compliance with the Special Permit Plan Set;
		3. a completed Evaluation Template in accordance with and in the form required by the Design Guidelines.
	2. Within forty five (45) days of receipt of a complete submission of the materials set forth in Condition #9(a) the Director of Planning and Development will review and provide an opinion as to whether the Design Development Plans are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines. If the Director of Planning and Development’s review requires the input or assistance from a peer review consultant, the Petitioner shall pay the reasonable fees for such peer review. The Director of Planning and Development’s opinion shall be submitted in writing to the Petitioner and the Commissioner of Inspectional Services. If it is the Director’s opinion that the Design Development Plans are not compliant with the Special Permit Plan Set or inconsistent with the Design Guidelines, such inconsistencies shall be expressly identified.
	3. Within forty five (45) of receipt of a complete submission of the materials set forth in Condition #9(a) (and concurrent with the review of the Director of Planning and Development), the UDC, after review of such submission at a public meeting, will provide an opinion as to whether the Design Development Plans are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines. The Petitioner shall provide notice of the UDC public meeting to the Liaison Committee and the UDC should make all efforts to take public comment. The UDC’s opinion shall be submitted in writing to the Petitioner and the Commissioner of Inspectional Services. If it is the UDC’s opinion that the Design Development Plans are inconsistent with either the Special Permit Plan Set or the Design Guidelines, such inconsistencies shall be expressly identified.
	4. Upon receipt of the written opinions referenced in Condition #9(b) and (c) above, the Petitioner may proceed to the Construction Documents phase.
3. Submission and Review of Construction Documents
	1. Upon completion of the design development process set forth in Condition #9, the Petitioner may proceed to the construction documents stage. At this stage, the Petitioner shall file the following with the Director of Planning and Development:
		1. a copy of plans showing consistency with the Special Permit Plan Set and the Design Guidelines for the portions of the Project necessary for the permit or determination being sought (the “Construction Documents”).
		2. a signed certificate from the Petitioner’s architect and/or civil engineer certifying that the construction Documents are consistent and in full compliance with the Special Permit Plan Set;
		3. a completed Evaluation Template in accordance with and in the form required by the Design Guidelines.
	2. Within thirty (30) days of receipt of a complete submission of the materials set forth in Condition #10(a) the Director of Planning and Development will review and provide an opinion as to whether the Construction Documents are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines. If the Director of Planning and Development’s review requires the input or assistance from a peer review consultant, the Petitioner shall pay the reasonable fees for such peer review. The Director of Planning and Development’s opinion shall be submitted in writing to the Petitioner and the Commissioner of Inspectional Services. If it is the Director’s opinion that the Design Development Plans are not compliant with the Special Permit Plan Set or inconsistent with the Design Guidelines, the Director has the option to seek the UDCs opinion regarding the Construction Documents.
	3. Upon receipt of the written opinion referenced in Condition #10(b) above, the Petitioner may submit a formal building permit application.
4. Formal Submission of Building Permit Application
	1. Upon receipt of a complete building permit application, the Commissioner of Inspectional Services shall make a final determination, with due consideration given to the written opinions of the Director of Planning and Development and the UDC on the Design Development Plans, as to whether the plans filed with such application are in full compliance with the Special Permit Plan Set and consistent with the Design Guidelines.
	2. The formal submission of the building permit application shall include a narrative setting forth the total gross square feet of development proposed in the building permit, the total gross square feet of commercial space proposed in the building permit, the total number of bicycle parking stalls proposed in the building permit, the total gross square feet of development on the Development Parcel for which building permits have already been issued, the total gross square feet of the commercial space for which building permits have already been issued, the total number of bicycle stalls for which building permits have already been issued the total number of residential units and Inclusionary Units proposed (if applicable), and the total number of residential units and Inclusionary Units on the Development Parcel for which building permits have already been issued.
	3. In making the final consistency determination, the Commissioner of Inspectional Services may elect to refer the matter to the Land Use Committee for the Committee’s review and recommendation, provided however that referral to the Land Use Committee is required for the Committee’s review and recommendation of any modifications or changes to the Special Permit Plan Set concerning the following: (i) increase in building height of two feet or greater where allowed under the Zoning Ordinance; (ii) building locations changes greater than five percent without decreasing setbacks; (iiI) increase in building massing where such increase in building massing results in an increase in the total gross floor area of a building greater than five percent from what is shown on the Special Permit Plan Set; (iv) footprints of buildings where such changes alter the footprint area or an overall dimension by more than five percent; (v) material changes to the interior road network layout, including driveway locations; (vi) reduction in open space of more than one percent and less than five percent; and (vii) significant changes to major design elements such as towers, vista terminations, entries, and façade treatments. Consistency determinations that are referred to the Land Use Committee for review and recommendation in accordance with this condition do not require the vote or approval of the Committee.
	4. If the Commissioner determines that the application plans are inconsistent with either the Special Permit Plan Set or the Design Guidelines, no building permit will be issued, and the Petitioner must either: (i) submit revised plans which the Commissioner deems to be consistent, or (ii) seek an amendment to this Special Permit/Site Plan Approval.
	5. The following modifications or changes shall not be eligible for a consistency determination and can only be done through amendment of this Special Permit/Site Plan Approval: (i) increase to the building stories shown on the Special Permit Plan Set; (ii) change in the total number of residential units in the Project; (iii) any increase in the total gross floor area of the Project above 1,025,000 square feet [which would also require an amendment to the Zoning Ordinance], (iv) any increase in the total gross floor area of any building greater than ten percent from what is shown on the Special Permit Plan Set, (v) any increase or decrease of more than one percent in the number of striped parking stalls on the Development Parcel from what is shown on the Special Permit Plan Set, or (vi) decrease of more than five percent to the amount of open space of the Project from what is shown on the Special Permit Plan Set.

**OFF-SITE IMPROVEMENT CONDITIONS**

1. The Petitioner shall design and construct, at no cost to the City, the Route 128/Interstate-95 Interchange improvements as shown on the conceptually approved plan (Figure 19) contained in the Transportation Impact and Access Study, dated December 2019 and as further described in the TIA Study in more detail (hereinafter, the “Interchange Improvements”).
	1. Prior to the issuance of any Building Permits for any of the buildings, except for the non-residential portions of Buildings 9 and 10 (the parking garage), the following must occur in connection with the Interchange Improvements:
		1. The Massachusetts Department of Transportation (MassDOT) must issue a Section 61 Finding (Mitigation Commitment Document required as part of the Massachusetts Environmental Policy Act (MEPA) process).
		2. The Petitioner must complete the 25% Design Submission phase of the application process for receiving a Highway Access Permit from MassDOT and receive MassDOT’s comments in response to the submission.
		3. The mitigation obligations in the Section 61 Finding and the MassDOT, comments on the 25% Design review must support approval of the Interchange Improvements.
	2. The Petitioner shall submit all state and federal submissions in connection with the Interchange Improvements, including engineered plans, to the Commissioner of Public Works for review simultaneous with submission to MassDOT and/or FHWA. The Petitioner shall also provide copies of all comments and responses it receives from any federal or state entity to the Director of Planning and Development and the Commissioner of Public Works in a timely manner.
	3. Any material modifications to the final design of the Interchange Improvements by either MassDOT or FHWA will be considered consistent with the conceptually approved plan if, in the opinion of the Commissioner of Public Works, the modified design achieves the same performance objectives as the conceptually approved design.
	4. Prior to the issuance of a Certificate of Occupancy for any of the buildings, except for a partial, temporary and permanent Certificate of Occupancy for the non-residential portions of Buildings 9 and 10 (the parking garage), construction of the Interchange Improvements must be substantially complete (i.e. a final inspection has been completed by MassDOT), but final punch list items, including but not limited to landscaping, may be scheduled for completion after the issuance of temporary Certificate of Occupancy provided the Petitioner posts a bond or other security as determined by the Commissioner of Inspectional Services (after consultation with the Director of Planning and Development and the Commissioner of Public Works) to be sufficient to complete such outstanding work.
2. The Petitioner shall design and construct, at its sole cost, the roadway improvements and mitigation along Grove Street as shown and described on the conceptually approved plan (Figure 19) contained in the Transportation Impact and Access Study, dated December 2019 (TIAS) and as shown on the approved Special Permit Plan Set (plan No. \_\_\_), dated April 28, 2020 (hereinafter, the “Grove Street Improvements”). *[To be modified as necessary based on resolution of the potential bike lane on the eastern side of Grove Street]*
	1. The Grove Street Improvements shall consist of the following:
		1. A new traffic signal at the Grove Street entrance. Such signal shall use adaptive technology and shall be connected to the signal proposed at the Grove Street and Recreation Road Extension intersection. The signal and lane striping shall prohibit left hand turns into the Project.
		2. A ten-foot wide bicycle track constructed along the Project frontage.
		3. A pedestrian walkway, no less than six feet in width throughout its length along the Project frontage.
		4. A tree way no less than five feet in width throughout its length along the Project frontage.
		5. Light poles separating the bicycle track from the pedestrian walkway. This buffer shall be at least 2.5 feet wide. All details of the light poles including but not limited to type, height, fixtures, and level of illumination shall be reviewed and approved by the Commissioner of Public Works or his/her designee.
		6. A crosswalk with a Rapid Reflectorized Flashing Beacon (the “RRFB”) adjacent to the transit plaza between Buildings 6 and 7. The Petitioner shall also design and construct a sidewalk on the eastern side of Grove Street from the RRFB to the existing sidewalk north of the Project. The final location of these improvements shall be reviewed and approved by the Commissioner of Public Works or his/her designee.
		7. General grading and drainage improvements as shown on the approved plans.
		8. Signage.
		9. Extension of the two-way cycle track, as shown on the conceptual plans in the TIAS and at least ten feet in width, from the proposed roundabout adjacent to Ashville Road to Pine Grove Avenue.
	2. Prior to the issuance of any Building Permits for any of the buildings, except for the non-residential portions of Buildings 9 and 10 (the parking garage), the Petitioner shall submit final engineered plans for the Grove Street Improvements for review and approval by the Public Facilities Committee and MassDOT.
	3. Prior to the issuance of a Certificate of Occupancy (temporary or final) for any of the buildings, except for the non-residential portions of Buildings 9 and 10 (the parking garage), the Petitioner shall, at its own expense, offer a permanent easement in favor of the City, in a form approved by the Law Department, to allow the City to maintain and the public to access and use the portion of the sidewalk (including paths intended for bicycle travel, buffer, and tree way) along the west side of Grove Street that is located within the Development Parcel. Such easement shall be executed and recorded upon substantial completion of the Grove Street Improvements.
	4. Prior to the issuance of any Certificate of Occupancy (temporary or final) for any part of buildings 5 and 6, construction of the Grove Street Improvements must be substantially complete (i.e. fully operational from a traffic management perspective), but final punch list items, including but not limited to landscaping, may be scheduled for completion after the issuance of a temporary Certificate of Occupancy provided the Petitioner posts a bond or other security as determined by the Commissioner of Inspectional Services to be sufficient to complete such outstanding work.
	5. Prior to operation of the new traffic signal at the Grove Street entrance, as well as prior to any subsequent adjustments or modifications to the timing of the signal, Petitioner must consult with the Commissioner of the Department of Public Works regarding the timing of the signal in order to establish the most beneficial traffic flow. Any future changes to the timing must be reviewed and approved by the Commissioner of Public Works.

**MITIGATION CONDITIONS**

1. The Petitioner shall make payments in the aggregate amount of $1,400,000.00 to the City for municipal infrastructure improvements, which amount shall be deemed to satisfy the Petitioner’s obligation for inflow and infiltration (I&I) mitigation in accordance with Section 29-169 of the Revised Ordinances of Newton, Massachusetts, 2017 (hereinafter, “Revised Ordinances”). Payments shall be made as follows:
	1. $700,000.00 at the first building permit for a residential building in the Project.
	2. $700,000.00 at the first residential unit occupancy permit (temporary or final) in the Project.
2. The Petitioner shall, within sixty days after the Project reaches 95% residential occupancy, undertake a post-occupancy measurement of the sewer flow from the Project, at its sole expense, to compare the actual sewer flow to the estimated 79,961 gallons per day of sewer flow that was used to calculate the Project’s I/I mitigation fee. The post-occupancy measurement shall be taken at a time and in a manner approved by the City Engineer to provide for typical conditions. In the event the sewer flow from the Project exceeds 79,961 gallons under typical conditions, then the Petitioner shall pay to the City an amount equal to the excess sewer flow beyond 79,961 gallons, multiplied by 4 and by $22.02 per gallon. Such payment shall be made within sixty (60) days from the date the City provides the Petitioner with written notification of the excess sewer flow amount.
3. The Petitioner shall make payments in the aggregate of $1,300,000.00 to the City for offsite traffic mitigation or other neighborhood improvements in the areas of Lower Falls and Auburndale impacted by the Project.
	1. The Petitioner’s payments shall be made to a municipal account designated for such mitigation and improvements (hereinafter, the “Mitigation Fund”) as follows
		1. $650,000.00 at the first building permit for a residential building in the Project.
		2. $650,000.00 at the first residential unit occupancy permit (temporary or final) in the Project.
	2. The Mitigation Fund shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. Requests for expenditures from the Mitigation Fund may be made by a Community Improvement Group (“CIG”), to be established by the City Council in accordance with this Condition, or at the request of City officials. The CIG shall serve in an advisory role regarding any expenditure from the Mitigation Fund. All requests for expenditures made by the CIG shall be referred to the appropriate City Department for review. All expenditures from the Mitigation Fund shall require, in addition to the approval of the City Council, the approval of the City Department, or State agency, if any, that oversees the proposed improvement.
	3. The City Council shall establish a five-member CIG composed of representatives from the Auburndale and Lower Falls neighborhoods. Any request for expenditures made by the CIG shall require a majority vote of a quorum of three members of the CIG, provided, however, that no vote shall be required when the CIG is providing advice to the City Council on a request for any expenditure from the Mitigation Fund by a party other than the CIG. The City Council may establish terms for the community members as well as additional procedural rules for the CIG, which shall be subject to the same laws and regulations as any other City board or commission.
4. The Petitioner shall make payments in the aggregate amount of $1,500,000.00 to the City for improvements to the Williams Elementary School. The Petitioner’s payments shall be made to a municipal account designated for improvements to the Williams School as follows:
	1. $750,000.00 at the first building permit for a residential building in the Project.
	2. $750,000.00 at the first residential unit occupancy permit (temporary or final) in the Project.
5. As mitigation for the Project, the Petitioner shall design and construct the off-site trail connections and improvements set forth in and in accordance with the approved plans attached hereto as Exhibit B (hereinafter, the “Off-Site Trail Work”) in an amount up to $3,000,000.00.
	1. The Off-Site Trail Work shall consist of the following:
		1. “Pony Truss Trail Link” consists of designing and constructing an approximately 6-8’ wide aggregate pathway recreational trail on a portion of the land owned by the Commonwealth of Massachusetts Department of Conservation & Recreation (“DCR”) which will link the recently improved pedestrian bridge crossing the Charles River from Riverside Park in Weston, Massachusetts and the existing Pony Truss Trail on land owned by DCR to the Depot Tunnel Link (as described below) in a northwesterly direction. The natural existing grade connecting the pedestrian bridge to the Depot Tunnel Link is quite steep and the pathway will follow existing grade and therefore will have slopes exceeding 5% and is intended not to have any ramps or handrails. Simple stormwater drainage solutions (e.g., swales, perpendicular channels across trail) will be considered in order to discourage erosion along the aggregate pathway.  No lighting or signage is included in the scope of the Pony Truss Trail Link, it is assumed a comprehensive signage strategy will be developed at a later date.
		2. “Depot Tunnel Link” consists of designing and constructing an approximately 8’ wide aggregate and hard paved pathway recreational trail which links Pigeon Hill Park in Newton, Massachusetts to an existing tunnel below the MBTA/Commuter Rail/Amtrak line.  The existing grade from the end of Charles Street to the existing tunnel will follow existing grade and therefore may have slopes exceeding 5% and is intended not to have any ramps or handrails.
		3. “Depot Tunnel Improvements” consists of preparing design plans to MBTA 100% Design Submission standards for improvements to MBTA-owned tunnel under the MBTA Worcester Line and the construction of the improvements. It is anticipated that the existing tunnel will require minor structural improvement but primarily shall consist of surface, safety and aesthetic improvements. The existing ceiling to floor height will not be increased as part of the Depot Tunnel Improvements. The existing stormwater system is assumed to be in working condition and no new subsurface stormwater system will be added. Lighting within the tunnel shall be added for safety purposes, but no additional lighting shall be included in the Depot Tunnel Link. The southeast exit from the tunnel is currently accessed through a flight of steps, and it is anticipated that the Depot Tunnel Improvements shall include removal of those steps, increase the length of wing walls, and create a sloped surface exit from the tunnel to the Pony Truss Trail Link. However, should construction management coordination with the MBTA or soil analysis prove that the removal of stairs causes operational or constructability hardships, then the existing stairs shall remain and be improved in place.
		4. “MWRA Path Link” consists of designing and constructing an approximately 8’ wide aggregate and hard paved pathway recreational trail which links the proposed 2-way multiuse path along Recreation Road from its terminus at Riverside Park in Weston, Massachusetts under the Recreation Road Overpass to the existing paved recreational trail adjacent to the existing MWRA facility.
		5. “Two Bridges Design” consists of reimbursing DCR for its preparation of design plans to MassDOT 100% Highway Design Submission standards for improvements to the following MassDOT-owned bridges: Bridge No. N-12-062 (892) and Bridge No. N-12-061 (891). This scope of work will include preliminary design plans, a Chapter 85 Structural Review, and 100% design approval for improvements to the above referenced bridges beginning at the Recreation Road Bridge Approach (as described below) to the north and terminating at City of Newton Tax Parcel 42012 0031 located off of Clearwater Road.
		6. “Recreation Road Bridge Approach” consists of designing and constructing an approximately 8’ wide aggregate and hard paved pathway recreational trail which links the proposed 2-way multiuse path along Recreation Road adjacent to the Project to the northern abutment of Bridge No. N-12-061 (891).
	2. Prior to the issuance of any occupancy permit (temporary or final) for the Project other than an occupancy permit for the non-residential portions of Buildings 9 and 10 (the parking garage), the Petitioner pay DCR the amount of $\_\_\_\_\_\_\_\_\_\_\_ for the Two Bridges Design work (the “DCR Funds”) and shall provide evidence of such payment to the Director of Planning and Development.
	3. The Petitioner shall make best efforts to diligently obtain all necessary approvals for the design and construction of the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach. Such best efforts must be documented to the Director of Planning and Development. The Petitioner must consult with the City of Newton and the non-profit group Newton Conservators Inc. during the design, approval, and construction phases of the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach. The Petitioner shall periodically meet with, update and solicit input and feedback from the City of Newton on a quarterly basis following approval of this Special Permit/Site Plan Approval.
	4. The Petitioner shall secure all necessary approvals for the design and construction of the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach prior to the issuance of the occupancy permit (temporary or final) for the 285th residential unit. Upon receipt of all necessary approvals within such time, the Petitioner shall diligently commence and complete the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach to be performed by the Petitioner, up to a maximum of $\_\_\_\_\_\_\_\_\_\_\_ [$3,000,000 less the DCR Funds].
		1. In the event that the Petitioner reasonably believes that the costs for performing the Off-Site Trail Work will exceed $3,000,000.00, the Petitioner shall endeavor to meet with DCR and utilize best efforts to reach agreement with DCR on modifications to the scope of the Off-Site Trail Work to reduce the costs of the Off-Site Trail Work to $3,000,000.00. The Petitioner shall also consult with the Director of Planning and Developer prior to any such modifications to the scope of the Off-Site Trail Work. At the completion of the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach, ownership of such improvements shall be transferred to DCR.
	5. In the event the Petitioner fails to secure all necessary approvals for the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach prior to the issuance of the occupancy permit (temporary or final) for the 285th residential unit, the Developer shall deposit $\_\_\_\_\_\_\_\_\_\_ [$3,000,000 less the DCR Escrowed Funds] into an escrow account (the “Newton Escrowed Funds”), which shall be held in escrow and disbursed in accordance with the following terms of this Special Permit/Site Plan Approval.
		1. The Newton Conservators shall have six months to secure its own approvals for the design and construction of the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach in accordance with the plans presented to the Council. In the event the Newton Conservators is successful in receiving all necessary approvals, as confirmed in writing by the City of Newton, and upon review and approval by the Law Department of a Memorandum of Understanding between the Newton Conservators, the Petitioner and the City of Newton, the Newton Escrowed Funds shall be released to the Newton Conservators for the sole purpose of performing the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge.
		2. If the Newton Conservators are not successful in securing all necessary approvals in the time frames set forth above, the Newton Escrowed Funds shall be released to the City of Newton and be subject to appropriation by the City for off-site improvements in the vicinity of the Project, including but limited to trail improvements.
	6. In the event the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach is undertaken by the Petitioner or the Newton Conservators, then prior to the issuance of the final occupancy permit for the final residential building, then either: (a) a one-time payment to Newton Conservators Inc. shall be made in the amount of $50,000.00 by the Petitioner (which shall be part of the total $3,000,000 commitment for the Off-Site Trail Work) in the event the Petitioner performs the work, or (b) the Newton Conservators shall be entitled to retain $50,000.00 from the Newton Escrowed Funds in the event the Newton Conservators performs the work. Such payment shall be used by the Newton Conservators for the ongoing maintenance of the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach.
	7. In the event the Pony Truss Trail Link, Depot Tunnel Link, Depot Tunnel Improvements, MWRA Path Link, and Recreation Road Bridge Approach is undertaken by the Petitioner, such work shall be substantially completed before the issuance of a final occupancy permit for the final residential building.

**AFFORDABILITY CONDITIONS**

1. In accordance with the Zoning Ordinance, §5.11.4, the Project shall include 103 affordable housing units (the “Inclusionary Units”), as follows:
	1. 88 of the residential units in the Project shall be made available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA (“Tier 1 Units”). The AMI used for establishing rent and income limits for the Tier 1 Units must average no more than 65% AMI. Alternatively, at least 50% of the Tier 1 Units may be priced for households having incomes at 50% of AMI and the remaining Tier 1 Units priced for households at 80% of AMI.
	2. 15 of the residential units in the Project shall be affordable to households earning greater than 80%, but at or below 110% of AMI, as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA (“Tier 2 Units”).
2. The Petitioner, the Project, and the Inclusionary Units shall comply with all applicable inclusionary zoning provisions of the Zoning Ordinance, §5.11, in effect as of the date of this Special Permit/Site Plan Approval, regardless of whether such requirements are set forth herein. The Project is not required to comply with the Zoning Ordinance provision, effective January 1, 2021, changing the requirements for projects with 100 or more residential units.
3. The bedroom mix of the Inclusionary Units shall be equal to the bedroom mix of the market-rate units in the Project. The proposed mix of the Inclusionary Units is:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Studio | 1BR | 2BR | 3BR |
| Tier 1 Inclusionary Units | 8 | 42 | 35 | 3 |
| Tier 2Inclusionary Units | 1 | 7 | 6 | 1 |

The final bedroom mix shall be reviewed and approved by the Director of Planning and Development prior to the issuance of a building permit for the Project.

1. Monthly housing costs (inclusive of rent, utility costs for heat, water, hot water and electricity, 1 parking space and access to all amenities offered to tenants in the building), must not exceed 30% of the applicable household income limit for that Inclusionary Unit and shall be consistent with Zoning Ordinance, § 5.11.4.D.1.
2. 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. Prior to the issuance of any building permits for the vertical construction of the Project, except for the non-residential and non-commercial portions of Buildings 9 and 10 (the parking garage), the Petitioner shall provide an updated Inclusionary Housing Plan and Affirmative Fair Marketing and Resident Selection Plan (AFHMP) for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the Zoning Ordinance. The Inclusionary Housing Plan and Affirmative Fair Housing Marketing and Resident Selection Plan must meet the requirements of DHCD’s guidelines for Affirmative Fair Housing Marketing and Resident Selection and be consistent with §5.11.8. of the Zoning Ordinance. In accordance with DHCD’s current guidelines, the units will be affirmatively marketed and leased through a lottery.
4. Prior to the issuance of any temporary or final occupancy certificates for any residential portions of the Project, the Petitioner, the City, and DHCD will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Tier 1 Inclusionary Units in perpetuity.
5. Prior to the issuance of any temporary or final occupancy certificates for any residential portions of the Project, the Petitioner and the City will enter into a Regulatory Agreement and Declaration of Restrictive Covenants, in a form approved by the City of Newton Law Department, which will establish the affordability restriction for the Tier 2 Inclusionary Units in perpetuity.
6. To the extent permitted by applicable regulations of DHCD, the Tier 1 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.
7. The Inclusionary Units shall be designed and constructed subject to the provisions of the Zoning Ordinance, §5.11.7.
8. Inclusionary Units, and their associated parking spaces, shall be proportionally distributed throughout the Project and be sited in no less desirable locations than the market-rate units, and the locations of such units and parking spaces shall be reviewed and approved by the Director of Planning and Development prior to the issuance of any building permit for vertical construction for the Project.
9. No residential unit or building shall be constructed to contain or be marketed and/or sold as containing more bedrooms than the number of bedrooms indicated for said unit in the plans submitted with the building permit application for such building.
10. Any room that meets the minimum dimensional and egress requirements to be considered a bedroom under the state building code and Title 5 regulations shall be counted as a bedroom for purposes of determining the required bedroom mix of the Inclusionary Units in accordance with the Zoning Ordinance.
11. Any guest suites or temporary housing that meet the definition of a Dwelling Unit under the Zoning Ordinance shall be counted as a unit for purposes of calculating the Project’s inclusionary zoning requirement.

**CONSTRUCTION CONDITIONS**

1. In accordance with the Memorandum of Understanding between the City of Newton and the Division of Professional Licensure, dated \_\_\_\_\_\_\_\_, the Petitioner shall apply for all required building, electrical and plumbing permits for construction on the Development Parcel with the City of Newton’s Inspectional Services Department, except for the parking garage portions of buildings 9 and 10 and the improvements between buildings 7 and 8 that connect to the MBTA station.
2. The Petitioner shall pay the reasonable fees of the City’s consultants for review of the building permit plans or documents described herein or for inspections required herein during the construction phase.
3. Each of the proposed buildings/site improvements may be constructed and occupied prior to construction of the remaining buildings/site improvements provided that the landscaping and public amenities associated with such proposed improvements are in place in accordance with the “Landscaping and Open Space Phasing Plan” that is part of the Special Permit plan Set or a bond is posted in accordance with Condition #66.
4. All open spaces that are freely open to the public pursuant to Section 4.2.4.C of the Zoning Ordinance and designated as public in the Special Permit Plan Set (the “Public Open Spaces”) shall be open to the public, at no cost to the public or the City, from at least dawn to dusk every day. The Petitioner’s obligation to maintain the Public Open Spaces and to allow public access as required by this condition shall continue for so long as the Project authorized by this Special Permit/Site Plan Approval or any amendment thereto is in effect, subject to the following:
	1. The construction of each Public Open Space shall be completed before the issuance of an occupancy permit (temporary or final) for the buildings associated with such Public Open Space as set forth in the “Landscaping and Open Space Phasing Plan” or a bond shall be posted in accordance with Condition #66.
	2. All Public Open Spaces must be accessible to persons with disabilities.
	3. The Petitioner shall provide appropriate and adequate lighting of all Public Open Spaces.
	4. The Petitioner shall maintain the landscape, lawns and plantings on the Public Open Spaces in good, healthy condition.
	5. The Petitioner and the City shall work together to allow the City to utilize the Public Open Spaces for public events from time to time. The City shall be responsible for the cost to set-up, clean up and operate such public events, but will not be charged rent for use of the Public Open Spaces.
	6. The Petitioner may promulgate reasonable rules and regulations that govern use of the Public Open Spaces, which must be reviewed and approved by the Commissioner of Parks, Recreation and Culture Department. The Public Open Spaces may be closed by the Petitioner, at periodic and reasonable times, for private events or for the minimum extent necessary to prevent the establishment of prescriptive easements.
5. All construction activity on the Development Parcel shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-7:00PM on Saturdays, excluding holidays, unless waived by the Mayor in accordance with Revised Ordinances, § 20-13. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed.
6. The Petitioner shall comply in all material respects with the final Construction Management Plan to be submitted for review and approval to the Commissioner of Inspectional Services, in consultation with the Director of Planning and Development, the Fire Department, the Commissioner of Public Works, and the City Engineer prior to issuance of any building permit for the Project. The Final Construction Management Plan, which shall be consistent with the preliminary construction management plan submitted to the City Council. Thereafter, supplemental/updated CMP’s shall be submitted with each building permit application that shall include, but not be limited to, the following provisions:
	1. The proposed schedule of the Project, including the general sequencing of the construction activities.
	2. The Proposed timeline and construction schedule for each building for which a building permit is sought.
	3. Site plan(s) showing the proposed location of contractor and subcontractor parking, on‐site material storage areas, on‐site staging areas for delivery vehicles, location of security fencing, and locations of on‐site dumpsters and regular disposal schedule for each building for which a building permit is sought.
	4. Proposed truck routes that minimize travel on local streets.
	5. 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; hosing during demolition and earth work where appropriate; and locating a truck washing station to clean muddy wheels on all truck and construction vehicles before exiting the Development Parcel.
	6. Proposed methods of noise control, in accordance with the Revised Ordinances, § 20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise producing staging activities should be located as far as practicable from noise sensitive locations.
	7. Proposed methods of vibration control.
	8. A plan for rodent control during construction.
	9. Anticipated dewatering (if any) during construction, site safety, and stability, particularly for driveway entrances.
	10. A site safety plan, which will show paths of travel for emergency vehicle access during construction of each building for which a building permit is sought.
	11. 24-hour contact information for the general contractor for each building for which a building permit is sought. This contact information shall be provided to the Commissioner of Inspectional Services and to the Newton Police Department, shall be posted on a construction activity website to be established by the Petitioner, and shall be posted on the job site.
	12. Security plan showing how the portions of the Development Parcel under construction will be secured during construction and after hours.
	13. Offer to provide a pre-construction survey at no charge to the owners of the properties abutting the portions of the Development Parcel under construction.
7. The Petitioner shall submit final engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management, for review and approval by the City Engineer for consistency with the Memorandum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, on file with the Engineering Department and the Planning Department.
8. The Petitioner shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
9. There shall be no on-site rock crushing.
10. Dust control shall include steps to prevent dust from leaving the Development Parcel and may include, as needed in the discretion of the Commissioner of Inspectional Services, an on-site water truck and the covering of dirt piles. The Petitioner will comply with applicable state and local laws, regulations, and protocols governing blasting, including the Standard Blasting Conditions for Special Permit/Site Plan Approvals, dated May 31, 2002, on file with the City Clerk.
11. The Petitioner shall be responsible for repairing any damage to public ways and public property caused by any construction vehicles traveling to or from the Development Parcel. All repair work shall be done prior to the issuance of final Certificate of Occupancy, unless the Commissioner of Public Works determines either: (a) that the damage to the public way is so extensive that it limits the use of the public way; (b) that the damage interferes with traffic flow; or (c) that the damage poses a threat to public safety. In such cases, the repair work must be initiated within one month of the Commissioner making such determination and shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame, as determined by the Commissioner.
12. The Petitioner shall implement a Community Engagement Plan during the construction period of the Project in order to predict, preempt and address issues which may arise affecting the general community. Implementation shall begin no less than two (2) months prior to the commencement of any site work and/or other construction activities related to the work approved through this Special Permit/Site Plan Approval. The Community Engagement Plan shall provide, without limitation, a communication plan and schedule for regular construction updates and advisories, point contacts for Petitioner and Petitioner’s primary contractors, engagement plan with the Lower Falls and Auburndale residents and local businesses, and communications with Ward councilors and any other interested Councilors. The Petitioner shall designate a single individual to communicate with the neighbors and the Ward 4 City Councilors via email. The designated individual shall send updates of any changes of the construction schedule to the established distribution list.
13. Not less than two (2) months prior to the commencement of any site work and/or other construction activities related to the work approved through this Special Permit/Site Plan Approval, a Liaison Committee shall be established consisting of two (2) designees of the Petitioner or Organization of Owners, four (4) residents from the neighborhood surrounding the Project, and two (2) Ward 4 City Councilors. The President of the City Council shall appoint the resident neighborhood members and the City Councilors. The Liaison Committee shall be the “advisory council” required by Section 4.2.3.I of the Zoning Ordinance. Meetings of the Liaison Committee will be open to the public, and the Liaison Committee will establish such agenda and procedures as it shall see fit.
	1. The purposes of the Liaison Committee shall be:
		1. To enhance and ensure communication as to the status and progress of the construction of the Project by the Petitioner.
		2. To provide a forum for initial presentation of a construction schedule and any significant changes to schedule or changes of plans for which public review is appropriate.
		3. To receive and deal with construction-specific issues including, without limitation, noise, dust, parking and traffic; to monitor implementation of the final Construction Management Plan; and to receive notices and communications from the Department of Inspectional Services and the Planning and Development Department.
		4. To ensure compatibility of the uses and activities within the Development Parcel and its neighbors after construction is complete.
	2. The Liaison Committee shall meet regularly (monthly for the first six months of the construction period, and thereafter, every three months), unless there is consensus within the Liaison Committee that no meeting is necessary, until at least six (6) months after the initial occupancy of the final building to be completed. The first meeting shall be convened jointly by the Petitioner and the Ward 4 City Councilors. The Liaison Committee shall work by consensus, but nothing in the establishment of the Liaison Committee shall inhibit any member, including the Petitioner, from engaging in any lawful activities.
	3. Following completion of construction, the Liaison Committee shall meet annually unless there is consensus within the Committee that no meeting is necessary or that more frequent meetings are necessary.
	4. The Liaison Committee shall, at a minimum, give written notice to the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development of its meetings.
14. Any portions of the Project subject to the jurisdiction of the Conservation Commission must receive an Order of Conditions from the Conservation Commission prior to the issuance of any building permit for work on the Project that is subject to such jurisdiction.
15. All residential units will conform to the Massachusetts Architectural Access Board (MAAB) requirements for “Group 1” units. In addition, 7% of the units shall be designed as “Group 2A” units, which are designed spatially for immediate wheelchair use and with the ability to adapt additional components of the units upon need, at the Petitioner’s sole cost and expense. This amount of “Group 2A” units is in excess of the 5% required by MAAB. At least 17.5% of the Group 2A units shall be Inclusionary Units.
16. All internal roadways shall be designed as shown on the Special Permit Plan Set and, except as otherwise provided for herein, shall be open to the public. The Petitioner is responsible for maintaining and plowing all internal roadways and sidewalks, ensuring they are clean, well-kept and in good and safe working order.
17. All sidewalks and accessible ramps shall be ADA compliant unless a variance for noncompliance is granted. A letter of compliance prepared by a professional engineer registered in the state of Massachusetts shall be submitted prior to issuance of an occupancy permit (temporary or final) that certifies compliance of any sidewalks and accessible ramps for portions of the Project for which an occupancy permit is requested.
18. The Petitioner shall locate all utility service lines within the Development Parcel underground, other than utility lines owned or controlled by the MBTA that are necessary for its transportation services.
19. All utility service lines along the frontages of the Development Parcel, other than utility lines owned or controlled by the MBTA that are necessary for its transportation services, shall be placed underground.
20. The Petitioner shall prepare and submit a final site plan and final circulation plan for review by the Fire Department that confirms the Fire Department will have sufficient access to all buildings on the Development Parcel, confirms that fire access will function safely, and shows all hydrants and fire connections, and other features as may be required for Fire Department approval.

**CONDITIONS RELATED TO SUSTAINABILITY**

1. All buildings, except for Buildings 1 and 2 and the non-residential portions of Buildings 9 and 10 shall be designed and constructed to achieve LEED v.4 Gold for Building Design and Construction Multifamily Midrise certifiable standard.
2. Buildings 1 and 2 shall be designed and constructed to achieve LEED v.4 Silver certifiable standard.
3. The Petitioner shall construct the residential portions of Buildings 7 and 8, plus the residential portions of one additional residential building to achieve Passive House certification in accordance with the requirements of the Passive House Institute US (PHIUS), the Passive House Institute (PHI) or other recognized passive house certification organization. The commercial portions of such buildings shall not be obligated to meet such standards and shall be excluded from the certification.
4. The Petitioner shall achieve and/or implement the following sustainability strategies which shall be incorporated into the Project:
	1. The Petitioner will conduct Passive House feasibility studies, incorporating energy modeling, for the residential portions of Buildings 3, 4, 5, 6, 9 and 10, unless such building is being constructed to achieve Passive House certification in accordance with Condition #55.
	2. The Petitioner will utilize all electric sourced heating and cooling systems in the residential portions of all buildings. The Petitioner will explore all electric sourced heating and cooling mechanical systems in Buildings 1 and 2.
	3. The Petitioner will utilize all electric sourced domestic hot water in the residential portions of all buildings.
	4. For all residential units, and in all other spaces where applicable, the Petitioner will utilize electric “Energy Star” appliances (or functional equivalent).
	5. Except for Buildings 9 and 10, all building roofs that are not essential locations for mechanical systems (which the Petitioner must make every effort to consolidate) shall be solar ready. To the greatest extent feasible, the Petitioner will utilize such building roofs for actual installation and implementation of sustainable strategies including photovoltaic panels, green roofs and/or reflective roof materials. A final roof mapping plan for each building in the Project (other than for Buildings 9 and 10) shall be submitted to the Director of Planning and Development for review and approval prior to the issuance of a building permit for vertical construction of such building.
	6. For Buildings 9 and 10 (the parking garage), the parking garage shall be designed and constructed to accommodate solar panel coverage on the roof. The Petitioner shall use best efforts to ensure that the MBTA undertakes the necessary procurement effort to implement solar on the roof of the parking garage.
	7. Bicycle parking/storage will be provided for at least 880 bicycles on the Development Parcel at full build out.
	8. Electric car charging stations will be provided for 10% of the striped non-MBTA parking spaces (anticipated to be 101 spaces), with expansion built in to double the amount to 20% of the non-MBTA parking spaces (anticipated to be 202). A parking layout plan showing these spaces shall be submitted to the Director of Planning and Development prior to the issuance of any building permit for the Project.
	9. A rain harvesting system will be utilized to capture some roof rainwater for irrigation.
	10. Drought tolerant and indigenous plants will be the predominant species installed in the landscape.
	11. Low Impact Design (LID) strategies will be employed in the design of the stormwater management system.
	12. Permeable pavement and pavers will be utilized as part of the LID strategy.
5. The Petitioner shall analyze, review and discuss with the Director of Planning and Development the following sustainability strategies, prior to the issuance of any building permit for the Project, in order to determine their feasibility and the possible return on investment if they were to be implemented:
	1. Depending on the results of the Passive House feasibility studies as required Condition #56 above and Petitioner’s return on investment analysis, the Petitioner will seek to achieve Passive House Certification similar to those contemplated in Condition #55 for the residential portions of some or all of these buildings to the fullest extent feasible.
	2. The Petitioner will study the feasibility of achieving the LEED Gold v.4 certifiable standard for Buildings 1 and 2.
	3. The Petitioner’s design teams will utilize the best available information to assess embodied carbon in building materials and incorporate that information into the design process so that low embodied carbon materials can be incorporated when cost, availability and performance is feasible.
	4. Depending on the future utilization of the electric car charging stations and the level of future potential demand, the Petitioner will explore the feasibility of securing increased electrical service to provide charging stations for up to 80% of the non-MBTA striped parking spaces as the market demand for charging stations increases.

**PARKING CONDITIONS**

1. The cost of residential tenant parking for market-rate units shall be charged separately from residential tenant rents, with the same rental period for both the units and the parking. one (1) parking stall shall be available for each Inclusionary Unit without charge to the tenant of such unit.
2. Prior to the issuance of any Occupancy Permit (temporary or final) for the buildings other than the non-residential portions of the Buildings 9 and 10 (the parking garage), the Petitioner shall submit a Parking Management Plan (the “Parking Management Plan”) to the Director of Planning and Development and the Commissioner of Public Works for review and approval that maximizes the use of available parking spaces, encourages shared parking opportunities, and identifies valet parking programs. The Parking Management Plan shall include, but not be limited to, the following:
	1. Flexibility in updating the Plan in the event that conditions change that merit different approaches to maximizing the use of available parking spaces. Changes to the Parking Management Plan shall require the approval of the Director of Planning and Development and the Commissioner of Public Works and should be reconsidered with each change in use.
	2. Number of parking garage staff working during the weekday evening peak hour and any events where inbound transit ridership may conflict with the weekday evening peak hour, e.g. Boston Red Sox games.
	3. Locations and type of signage and staff posted strategically to direct people to available parking on Red Sox game days.
	4. Incentives to reduce parking demand, such as renting parking spaces separately from rental of residential units so as to make extra parking available for use by nonresidents, assigning priority parking for carpoolers, and setting aside spaces for car‐sharing (e.g., Zipcar).
	5. Designate a Parking Manager who will respond to neighborhood concerns and enforce the Parking Management Plan, and whose contact information must be provided to the Commissioner of Public Works and the Director of Planning and Development.
3. Construction workers performing work on the Project shall not be permitted to park on the streets surrounding the Development Parcel.

**TRAFFIC CONDITIONS**

[TO BE INCLUDED IN NEXT DRAFT]

**SIGN CONDITIONS**

[TO BE INCLUDED IN NEXT DRAFT]

**POST-CONSTRUCTION STUDIES**

[TO BE INCLUDED IN NEXT DRAFT]

**OTHER CONDITIONS**

1. The Petitioner shall install all landscaping consistent with this Special Permit/Site Plan approval and shall maintain landscaping in good condition. Any plant material that becomes diseased or dies shall be replaced on an annual basis with similar material.
2. The Petitioner shall be responsible at its sole cost for trash and recycling disposal for the Project.
3. The Petitioner shall be responsible for keeping the internal roadways and sidewalks, as well as the sidewalks on Grove Street abutting the Development Parcel, clear of snow to ensure safe and reliable access to and from all buildings, parking circulation, and pedestrian movements at all times.

**CONDITIONS PRECEDENT TO THE ISSUANCE OF ANY BUILDING PERMIT**

1. No building permit shall be issued by the City pursuant to this Special Permit/Site Plan Approval until the Petitioner has:
	1. Recorded a certified copy of this Council Order with the Registry of Deeds for the Southern District of Middlesex County.
	2. Filed a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
	3. Submitted a copy if its executed amended lease with the MBTA to the Department of Planning and Development and the Law Department and/or provided its permission for the MBTA to produce the document to the City.
	4. Complied with all applicable sections of the Design Review and Plan consistency procedure set forth in Conditions #8 through 11 for the specific building(s) subject to such building permit, and obtained a written statement from the Department of Inspectional Services that confirms the final building permit plans and facade elevations are consistent with the Special Permit Plan Set and Design Guidelines approved in Conditions #1 and 2.
	5. Submitted a final Inclusionary Housing Plan for review and approval by the Director of Planning and Development in accordance with §5.11.8 of the Zoning Ordinance.
	6. Submitted engineering, utility, and drainage plans, and an Operations and Maintenance plan for Stormwater Management (“O&M Plan”), for review and approval by the City Engineer. Once approved, the O&M Plan must be adopted by the Petitioner and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
	7. Submitted final engineering plans for the specific building(s) subject to such building permit for review and approval by the City Engineer in accordance with the memorandum from the Associate City Engineer on file with the City Clerk.
	8. 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, and the City Engineer, as well as supplemental updates for the specific buildings subject to each building sought, in accordance with Condition #38.
	9. Submitted a final Community Engagement Plan for review and approval by the Director of Planning and Development in accordance with Condition #44.
	10. Submitted any payments required under Conditions #16, 17, and 18.
	11. Submitted the required documentation concerning the Interchange Improvements to the Commissioner of Public Works, Director of Planning and Development, and Commissioner of Inspectional Services in accordance with Condition #12(a). This requirement does not apply for a building permit for the non-residential portions of Buildings 9 and 10.
	12. Submitted a final site plan and final circulation plan of the specific building(s) subject to such building permit for review by the Fire Department that confirms the latest fire apparatus template for fire access will function safely showing all hydrants and fire connections, and other features as may be required for Fire Department approval.
	13. Submitted a LEED Checklist prepared and certified by a LEED Accredited Professional to the Director of Planning and Development for the specific building(s) subject to such building permit, indicating which points each building intends to realize in order to demonstrate LEED certifiability in accordance with Conditions #53-54 for the specific building(s) subject to such building permit.
	14. For the portions of the residential buildings that will obtain Passive House certification in accordance with Condition #55, submitted a Passive House narrative and/or checklist prepared and certified by a certified passive house consultant to the Director of Planning and Development, indicating standards that will be achieved.
	15. Complied with all applicable tree preservation provisions in accordance with Chapter 21 of the Revised Ordinance.
	16. To the extent applicable, received approval from the Planning Board for the removal of trees or stone walls within the layout of a designated scenic road in connection with the Grove Street Improvements in accordance with Revised Ordinances, § 22-5.
	17. Obtained an Order of Conditions from the Newton Conservation Commission if any proposed work set forth in the building permit is subject to the jurisdiction of the Conservation Commission.
	18. Obtained a certification from the Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs indicating that the Final Environmental Impact Report for the Project adequately and properly complies with the Massachusetts Environmental Protection Act.
	19. Developed a Stormwater Pollution Prevention Plan, as total site disturbance is over an acre. During construction, the Petitioner will comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site and provide documentation to the City once every four months during construction that the stormwater pollution control measures to be undertaken during construction have been implemented on an ongoing basis.
	20. Submitted to the Newton Health Commissioner and the City Engineer copies of the M.G.L. c. 21E environmental site investigation report covering the area subject to such building permit.
	21. Submitted to the Director of Planning and Development for review and approval a photometric and lighting plan that shows exterior lights on the buildings subject to such building permit with such exterior lights placed so as to have minimal impact on neighboring buildings and residents in the surrounding neighborhoods.
	22. Performed a pre‐blast survey and obtained a Blasting Permit from the Newton Fire Department to the extent necessary.
	23. Submitted to the Director of Planning and Development and the Tree Warden for their approval a final landscape plan for landscaping associated with the specific building(s) subject to such building permit including, but not limited, to the size and type of all trees, shrubs, and other plantings.
	24. Submitted a parking layout plan to the Director of Planning and Development for review and approval in accordance with Condition #56(h).

**CONDITIONS PRECEDENT TO THE ISSUANCE OF ANY OCCUPANCY PERMITS**

1. No occupancy permit (temporary or final) for any building authorized by this Special Permit/Site Plan Approval shall be issued by the City until the Petitioner has:
	1. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and engineer certifying compliance with Conditions #1 and 2.
	2. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division, final as-built survey plans in digital format for the portion of the Project for which an occupancy permit is requested.
	3. Submitted any payments required under Conditions #16, 17, and 18.
	4. 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 portion of the Project for which an occupancy permit is requested have been constructed to standards of the City of Newton Public Works Department.
	5. Filed with the City Clerk, the Department of Inspectional Services and Department of Planning and Development a statement by the City Engineer certifying that the infrastructure related to the building that is subject to the occupancy permit has been constructed to the standards of the City of Newton Engineering Department.
	6. If applicable, submitted to the Law Department copies of fully executed Regulatory Agreements and Affordable Housing Restriction for all Inclusionary Units, in accordance with Conditions #25-26.
	7. If applicable, provided evidence satisfactory to the Law Department that the Regulatory Agreements for all Inclusionary Units have been recorded at the Southern Middlesex District Registry of Deeds, as appropriate.
	8. Inclusionary Units shall be completed and occupied no later than the completion and occupancy of the market-rate units within such building. If the Inclusionary Units are not completed as required within that time, temporary and final occupancy permits may not be granted for the number of market-rate units equal to the number of Inclusionary Units that have not been completed within such building.
	9. Completed all landscaping and open space consistent with the Special Permit Plan Set and the Design Guidelines related to the portion of the Project for which an occupancy permit is requested in accordance with Condition #36, or posted a bond in accordance with Condition #66.
	10. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing and parking areas related to or for the portion of the Project for which an occupancy permit is requested.
	11. Filed with the Department of Inspectional Services and the Department of Planning and Development a certificate from a licensed architect certifying that all residential units in the building for which an occupancy permit is requested have been constructed and conform with MAAB requirements for “Group 1” units and stating the number of additional units that meet the requirements for “Group 2A”in accordance with Condition #47.
	12. Filed with the Department of Inspectional Services and the Department of Planning and Development a letter of compliance prepared by a professional engineer certifying that all sidewalks and handicapped ramps constructed as part of the building for which the occupancy permit is requested are ADA compliant in accordance with Condition #49.
	13. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that utilities have been located underground within the portions of the Project for which an occupancy permit is requested to the extent required by Conditions #50-51.
	14. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that the criteria for LEED certifiability of the subject buildings have been satisfied in accordance with Conditions #53-54.
	15. For the residential portions of the three buildings that will meet Passive House certification, filed with the Department of Inspectional Services and the Department of Planning and Development an updated Passive House narrative and/or checklist prepared and certified by a certified passive house consultant to the Director of Planning and Development, indicating the measures that have been completed for the building for which an occupancy permit is requested in accordance with Condition #55. A final certification from a certified passive house consultant that the Passive House standards have been achieved for the residential portions of the three buildings must be submitted prior to the issuance of an occupancy permit (temporary or final) for the first unit in the final residential building. In the event the final certifications are not secured by the issuance of the occupancy permit for the first unit in the final building, the Petitioner may be permitted to post a bond or other security as determined by the Commissioner of Inspectional Services to be sufficient to complete the performance obligation.
	16. Recorded with the Middlesex South District Registry of Deeds the O&M Plan that provides ongoing stormwater system cleaning and maintenance and provided a copy of the recorded document to the City Engineer.
	17. Substantially completed (i.e., a final inspection has been completed by MassDOT) construction of the Interchange Improvements prior to the issuance of an occupancy certificate for any building except the non-residential portions of Buildings 9 and 10.
	18. Substantially completed (i.e., fully operational from a traffic management perspective) the Grove Street Improvements prior to the issuance of an occupancy certificate (temporary or final) for either Buildings 5 or 6.
	19. Substantially completed the Off-Site Trail Work in accordance with the Condition prior to the issuance the final occupancy permit for the final residential building in the Project.
	20. Submitted a Parking Management Plan to the Director of Planning and Development and City Traffic Engineer for their review and approval prior to the issuance of any Occupancy Permit (temporary or final) for the buildings other than the non-residential portions of the Buildings 9 and 10 (the parking garage) in accordance with Condition #59.
	21. Submitted to the Director of Planning and Development a Transportation Demand Management Plan (TDM) in accordance with Condition #X.
2. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy or final certificates of occupancy for all or portions of the buildings prior to installation of landscaping, open space, or exterior hardscape improvements associated with each such building as set forth in the Landscaping and Open Space Phasing Plan, provided that the Commissioner of Inspectional Services, in consultation with the Director of Planning and Development and the Commissioner of Public Works, concludes that the request is commercially reasonable and the level of completion of the improvements is sufficient to permit temporary occupancy of the buildings without harm to public safety or convenience. 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 City Solicitor’s Office in an amount not less than 135% of the value of the remaining improvements associated with such building to ensure their completion.