Petition: #71-23
Public Hearing:
03/21/23

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459
617-796-1120

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: March 17, 2023

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Alyssa Sandoval, Deputy Chief Planner for Current Planning

SUBJECT: **Petition #71-23**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing one-story dwelling and construct a new two-family dwelling, altering and further extending the nonconforming use at 152-154 Lexington Steet, Ward 4, Auburndale, on land known as Section 44 Block 35 Lot 24, containing approximately 8,899 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2 of Chapter 30 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 which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.

152-154 Lexington Street

Current Planning is examining ways to better present materials to the Land Use Committee. To start, we've identified the Planning Memorandum and intend to use varying templates depending on the type of project. This memo is intended to be shorter, easier to read and focus on the key points of the petition before the Committee. The planners will continue to make improvements as we work with a more efficient, concise format and are open to feedback. If you have any feedback on this new format, please reach out to the Katie Whewell at kwhewell@newtonma.gov .

Project Description

Background

The subject property is located at 152-154 Lexington Street on a mid-block of Lexington Street southwest of River Street in the SR-3 zone in Auburndale. The area is comprised of a single residence zone (SR-3), multi-family residential zone (MR-2), as well as a public use zone (PUB) crossing Lexington Street, which includes a large solar installation to the north of Lexington Street and Burr Elementary Street to the south of Lexington Street. North of the site on Lexington Street are several apartment buildings within the MR-2 Zone. Directly across the street are the apartment building at 155-163 Lexington Street (52 units) and 145 Lexington Street (24 units). Lexington Street along this section is also served by three MBTA buses: MBTA Inbound Express Bus 505 (Downtown), MBTA Bus 558 (Riverside/Newton Corner), and MBTA Bus 554 (Newton Corner/Waverly).

Special Permit

The petitioner proposes to construct a two-family dwelling replacing an existing two-family dwelling, thereby extending the nonconforming two-family dwelling use in a Single Residence zone, requiring a special permit.

Analysis

Planning is unconcerned with the proposed extension of the nonconforming two-family residential use; however, staff suggests that an updated landscape plan be provided to show all existing trees and trees to be replaced. Staff believes the proposal is an improvement on existing conditions as it significantly reduces the amount of asphalt driveway (reduction of impervious surfaces) and provides additional landscaping. The proposed two-family home is compatible with the surrounding neighborhood, which includes multi-family developments. The new construction and replacement of the current home, which is in a deteriorated condition, improves the overall streetscape appearance. Staff notes that the present proposal maximizes the allowable FAR and while it meets the setback requirements, Planning suggests that the petitioner take caution not to encroach on required setbacks in the placement of HVAC equipment.

I. Zoning Relief Requested:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to alter and extend a nonconforming two-family dwelling use	S.P. per §7.3.3

For more details around the zoning analysis please refer to **Attachment A.**

II. Criteria for Consideration per §7.3.3. and/or §7.8.2.C.2:

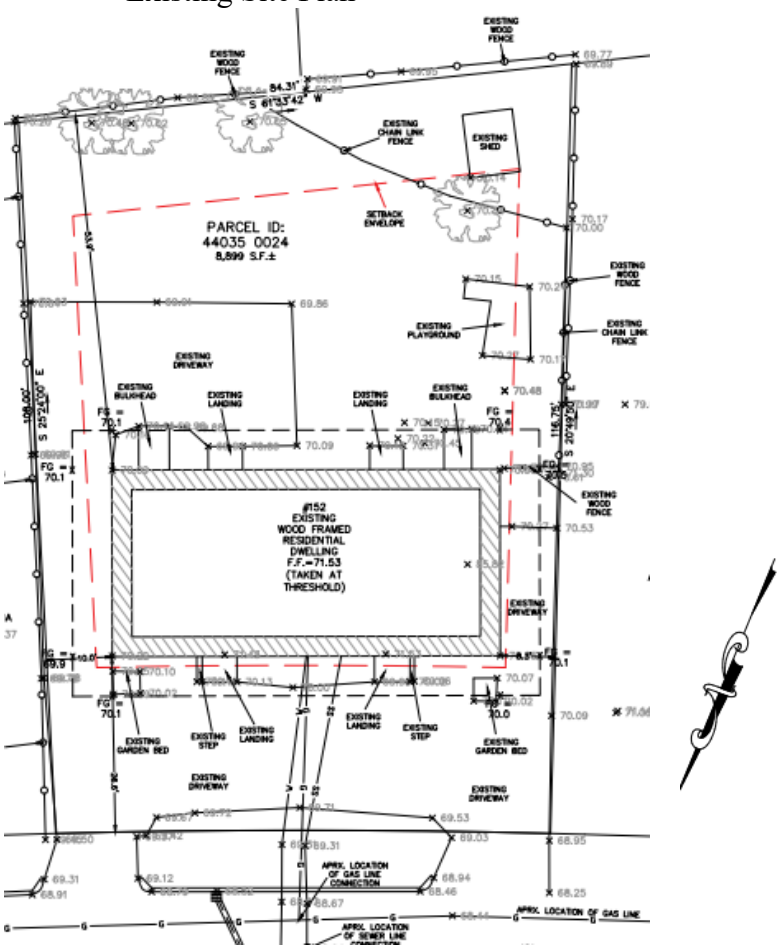
- The proposed extension of the nonconforming two-family dwelling use will be substantially more detrimental than the existing nonconforming residential use is to the neighborhood (§3.4.1, §7.8.2.C.2).

III. Project Proposal and Site Characteristics

A. Site - Existing Conditions

The site consists of one lot with 8,898 square feet of land improved with a two-family, single-story dwelling constructed in 1946. The site is currently accessed by two driveway entrances on each side of the property with the large, paved parking area taking up much of the front yard. The structure has a nonconforming lot size of 8,899 sf where 10,000 sf is required. In addition, the frontage is nonconforming at 70 feet where 80 feet is required in the SR3 Zone. The existing structure has a height of 15.67 feet, where 36 feet is the maximum allowed as of right. The site is relatively flat.

Existing Site Plan



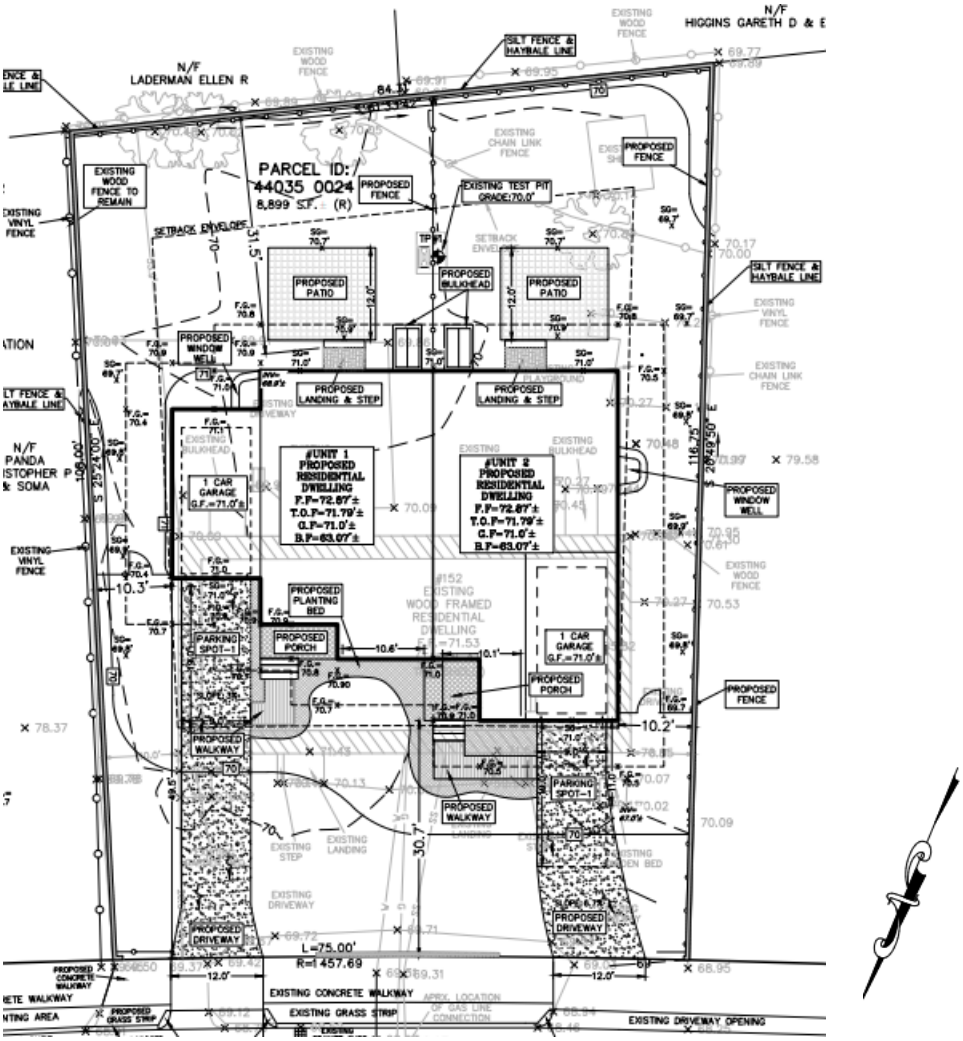
IV. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

If approved, the use will remain two-family residential.

B. Site and Building Design

The proposed two-unit dwelling will measure 31.51 feet tall, an increase of approximately 16 feet, and contain 2.5 stories and a finished lower-level basement.



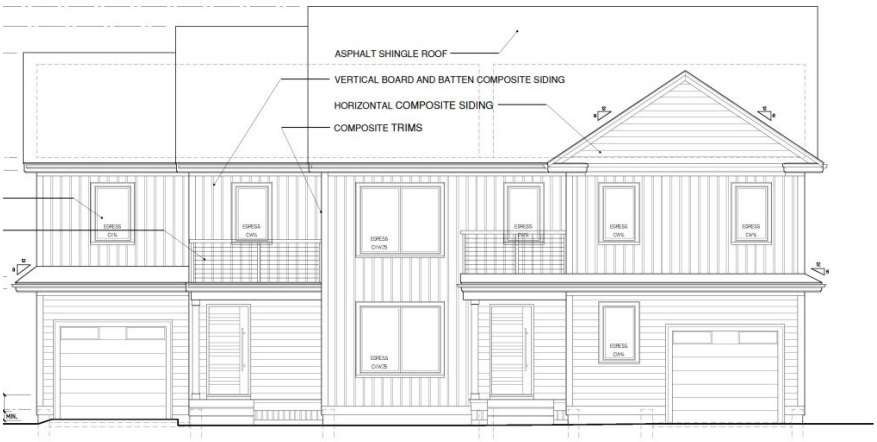
Proposed Site Plan

As proposed, the project has a floor area ratio (FAR) of .45, where .45 is the maximum allowed as of right in the SR3 zoning district. The petitioner is seeking to construct a new townhouse style structure for a two-unit dwelling consisting of 3,965 square feet. The new building increases the FAR from .19 to .45, the maximum allowable FAR. Unit sizes are 1,970 square feet and 1,990 square feet, not including approximately 790 square feet for each unit in the finished lower-level basement (not including unfinished garage areas).

The existing single-story front elevation contrasts with the abutting properties consisting of at least two-story homes and multi-story apartment complexes. The proposed front elevation from Lexington Street appears to be in keeping with

neighboring properties. The front elevation features distinctive architectural elements, such as a varied façade and small front porches and decks.

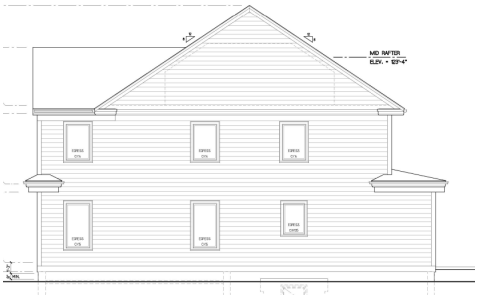
Proposed Front Elevation (Lexington Street)



Proposed Rear Elevation

Proposed Left Elevation

Proposed Right Elevation



Planning notes that the proposed side yard setbacks are conforming but questions whether there is sufficient space to locate any necessary mechanical equipment such as HVAC equipment, except for heat pump compressors, is not allowed in required setbacks per Inspectional Services. The petitioner should note this requirement in the placement of HVAC equipment.

Planning is unconcerned with the extension of the nonconforming residential use, and believes the design is appropriate for the location, and surrounding neighborhood, which includes a mix of apartment complexes and two-story homes. Other positive attributes of the proposal that provide an improvement over existing conditions include:

- Landscape Plan providing visual screening and interest in front of house.
- Increase in open space over existing conditions (proposed is 64.6% and existing is 44.5%).

C. Parking and Circulation

The petitioner is seeking to construct two single car garages (one for each unit) and separate driveways to the garages at each side of the property. In addition to the single-car garages, the driveways could accommodate at least one car each thus meeting the parking requirement of two (2) parking stalls per unit. There are presently two curb cuts to the existing house from Washington Street. Under the proposal, curb cuts would be constructed per City of Newton standards in the approximate locations of the existing curb cuts. The proposed parking stalls comply with the dimensional requirements of the Ordinance.

As noted earlier, MBTA bus service is provided on the street. Planning does not have any concerns with parking and circulation.

D. Landscaping

A landscape plan is provided. The addition of landscaping improves the aesthetic

appearance of the property over existing conditions, which has minimal landscaping and a large expanse of asphalt covering the front yard and part of the backyard. The landscape plan provides a mix of perennials, small evergreen and flowering shrubs, and small trees.

V. Interdepartmental Review:

- Engineering Review: The proposed redevelopment will require the petitioner to provide a drainage analysis to the Engineering Division for review and approval prior to the issuance of a building permit. Staff suggests incorporating the standard condition regarding the Operations and Maintenance (O & M) Plan for the stormwater management system, should a system be required, prior to the issuance of a temporary certificate of occupancy, should this petition be approved.
- Newton Historical Commission: The Newton Historical Commission reviewed the project and found that the building/structure at 152/154 Lexington Street was not historically significant and further review was not required.
- Tree Warden: The Tree Warden notes that the landscape plan is reasonable, however, the applicant will need to seek a tree permit prior to any construction activities as it is not clear if existing trees are being removed from the site. The proposed site plan shows the remaining trees, but the landscape plan does not show the existing trees. The landscape plan should be updated to show existing trees and/or any tree removals. Additional tree replacements may be necessary than are currently proposed.

VI. PETITIONER'S RESPONSIBILITIES

Should the project be approved, the petitioner should provide an updated landscape plan for review by the Tree Warden prior to the issuance of a building permit. The landscape plan will need to show existing trees and/or trees to be removed. The landscape plan may need to show more tree replacements if trees are to be removed. Otherwise, the petition is considered complete.

ATTACHMENTS:

Attachment A: Zoning Review Memorandum
Attachment B: DRAFT Council Order

Attachment A

Ruthanne Fuller
Mayor

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: February 16, 2023

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Turnkey Realty Group LLC, Applicant
Terrence P. Morris, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Deputy City Solicitor

RE: Request to extend a nonconforming two-family dwelling use

Applicant: Turnkey Realty Group LLC	
Site: 152-154 Lexington Street	**SBL:** 44035 0024
Zoning: SR3	**Lot Area:** 8,899 square feet
Current use: Two-family dwelling	**Proposed use:** No change

BACKGROUND:

The property at 152-154 Lexington Street consists of 8,899 square feet in the Single Residence 3 zoning district improved with a nonconforming two-family dwelling constructed in 1953. The petitioner proposes to raze the existing one-story dwelling and construct a new two-story two-family dwelling, altering and further extending the nonconforming use, requiring a special permit.

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

- Zoning Review Application, prepared by Terrence P. Morris, attorney, submitted 2/7/2023
- Floor plans and elevations, prepared by Ronald L. Bourque, architect, dated 1/26/2023
- Existing Conditions plan, signed and stamped by Christopher C. Charlton, surveyor, dated 10/19/2022
- Proposed Plot Plan, signed and stamped by Christopher C. Charlton, surveyor and Edmond Spruhan, engineer, dated 2/6/2023
- FAR worksheet, signed and stamped by Ronald L. Bourque, architect, submitted 2/7/2023

ADMINISTRATIVE DETERMINATIONS:

1. The property is located in the Single Residence 3 zoning district and is improved with a legal nonconforming two-family dwelling constructed in 1953. The petitioner proposes to raze the dwelling and construct a larger two-family dwelling. The proposed construction requires a special permit per sections 3.4.1 and 7.8.2.C.2 to alter and extend a nonconforming two-family dwelling use in an SR3 district.

2. The two-family dwelling use is not an allowed use in the SR3 district. Per section 3.1.2.A.3, where a density or dimensional control is not set forth in Section 3.1 Single Residence Districts for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed by right shall be applicable, unless otherwise required in the special permit. Two-family dwellings are allowed by right in the MR1 zoning district, with the most restrictive dimensional controls prescribed for a post-1953 (new) lot. The dimensional controls for a new MR1 lot have been applied below.

SR2 Zone (new MR1 lot standards applied)	**Required**	**Existing**	**Proposed**
Lot Size	10,000 square feet	**8,899 square feet**	**No change**
Frontage	80 feet	**70 feet**	**No change**
Setbacks • Front • Side • Side • Rear	 30 feet 10 feet 10 feet 15 feet	 26.6 feet 10 feet 8.3 feet 53.9 feet	 30.7 feet 10.3 feet 10.2 feet 31.5 feet
Max Number of Stories	2.5	1	2.5
Height	36 feet	15.7 feet	31.5 feet
FAR	.45 (.43+.02 bonus)	± .19	.45
Max Lot Coverage	30%	19.5%	25.6%
Min. Open Space	50%	44.5%	64.9%

BOLD indicates nonconformity

See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1 §7.8.2.C.2	Request to alter and extend a nonconforming two-family dwelling use	S.P. per §7.3.3

Attachment B Draft - #71-23
152-154 Lexington Street

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to extend a nonconforming two family dwelling use in a Single Residence 3 zone, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The proposed extension of the nonconforming two-family dwelling use will not be substantially more detrimental than the existing nonconforming residential use is to the neighborhood because the proposed two-family home complies with the FAR, height and setback requirements, and remains above the 50% required open space for the MR1 zoning district (§3.1.3, §3.1.9, §7.8.2.C.2).

PETITION NUMBER:	#71-23
PETITIONER:	Turnkey Realty Group LLC
LOCATION:	152 and 154 Lexington Street, on land known as Section 44, Block 35, Lot 24, containing approximately 8,899 square feet of land
OWNER:	Turnkey Realty Group LLC
ADDRESS OF OWNER:	189 Grove Street, Unit 2 Waltham, MA 02453
TO BE USED FOR:	Two Unit Dwelling
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	§3.4.1, and §7.8.2.C.2, to further extend the nonconforming residential use
ZONING:	Single Residence 3

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. Proposed Plot Plan, 152 Lexington Street, prepared by Scott Cerrato, signed and stamped by Edward Spruhan, Registered Engineer and Christopher Charlton, Professional Land Surveyor, dated February 6, 2023.
    b. Architectural Plans and Elevations, prepared by Bourque Design, prepared by Ron Bourque, dated January 26, 2023, consisting of eleven (11) sheets, including:
        i. Landscape Plan (to be updated – see Condition #6d for further details)
        ii. Basement Floor Plan and First Floor Plan
        iii. Second Floor Plan and Roof Plan
        iv. Proposed Exterior Elevations, showing Front elevation; Rear elevation; Left elevation; Right elevation

2. Prior to the issuance of any Building Permit, the petitioner shall provide a final Site Plan for review and approval by the Department of Planning and Development, and the Engineering Division of Public Works.

3. The petitioner shall comply with the City's Tree Preservation Ordinance §21-80 et seq.

4. The Petitioner shall do the following to remediate pest and rodent activity:
    a. Prior to issuance of any demolition or building permit, the petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and plan for preventing pest migration off-site during demolition and construction.
    b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit. Copies of such approvals shall be provided to the Department of Planning and Development.
    c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
5. Prior to the issuance of any temporary occupancy certificates for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management, should such a system be required, to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioner 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.
6. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
    a. Recorded a certified copy of this council order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
    b. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
    c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
    d. Provide an updated landscape plan (noted in Condition #1bi. above) showing all existing and proposed trees as well as trees proposed for removal for review and approval by the Department of Planning and Development and Tree Warden.
7. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
    a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development statements by a registered architect and professional land surveyor certifying compliance with Condition #1.
    b. Submitted to the Director of Planning and Development and Commissioner of

Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.

c. Provided a recorded copy of the O&M Plan in accordance with Condition #5 above, should a system be required.

d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.

8. All appliances and utilities for the building shall be all-electric, including heating and cooling.