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Community Preservation Committee

MINUTES

4 November 2013

Candace Havens
Director

The meeting was held on Monday 4 November 2013 at 7:30 pm at the Newton Senior Center, 345 Walnut Street, Newtonville.

Community Preservation Committee (CPC below) members present: chair Joel Feinberg, vice chair Jim Robertson, Leslie Burg, Thomas Turner, Dan Green (arr. 7:45 pm), Don Fishman, Mike Clarke. Member Beryl Gilfix was absent.

Also attending were a quorum of the Planning & Development Board (P&D below) and Rob Muollo, Interim Housing Programs Manager, Dept. of Planning & Development.

Community Preservation Program Manager Alice Ingerson served as recorder for the CPC, and Planning & Development Dept. Senior Community Development Planner Alice Walkup served as recorder for the P&D Board.

As chairs, Joel Feinberg (CPB) and Scott Wolf (P&D) asked the individual members of their respective committees to introduce themselves, then opened the public hearing.

PUBLIC HEARING, held jointly with the Planning & Development Board
Myrtle Village (affordable housing on Curve Street, West Newton)

The presentation was begun by Shelby Robinson, sole manager of the LLC formed by Myrtle Baptist Church to create affordable housing in the neighborhood. Their goal is for the currently proposed development to last as long as the church, which turns 140 this year. Since they are not experts in affordable housing, the LLC has partnered with Newton Community Development Foundation (NCDF) which will help with the lottery to select tenants and will manage the project once it is built, and with Angelo Kyriakides as architect and construction manager, who has been involved in many affordable housing projects.

In 2011 the church bought 12 Curve Street, next door to the former parsonage at 18-20 Curve Street, which the church had owned since 1960 and had converted to a duplex. The project proposes proposed 7 deed-restricted units on the combined lot, which will preserve some green space in keeping with Newton's character as "the Garden City." Two units will be visitable, meaning doorways on the first floor will be wide enough for wheelchairs and the units can be made fully accessible in the future if needed, by adding ramps and accessible bathroom and kitchen fixtures.

Units will be permanently affordable to households at from 50 to 85% of the area median income for households of comparable size in greater Boston. To avoid displacing current tenants who meet these income limits, construction will be phased. One tenant will live with friends during construction, and two others will live in whichever building is not under construction at any given time. The church will deed 12 parking spots to the development; there will be 1 accessible space and 2 temporary, drop-off parking spaces on the property itself.

Kyriakides presented the site plans and elevations. The project's scale, rooflines and details were designed to be consistent with the neighborhood. The buildings will have porches, with landscaping

and grass areas around the front, back, and sides of the combined lot. Trash barrels will be screened from the street. Units without basement space will have small back or side yard storage buildings.

Bob Engler of NCDF summarized the project's finances. Total project costs are projected to be \$3,077,604, with about 30% coming from CPA funds, 30% from Newton-controlled federal funds, 20% from a bank loan, and 20% from developer equity. The church is donating 18-20 Curve Street for the project. The only significant change from the 2011 proposal is the use of HOME funds, which are being requested at the City's invitation.

CPC/P&D QUESTIONS and COMMENTS

In response to Roger Wyner (P&D), Rob Muollo confirmed that all units will be kept affordable in perpetuity by restrictions held by the City, approved by the state and recorded with the deed. Joyce Moss (P&D) noted that 4 of the 7 units would be added to the state's Subsidized Housing Inventory (SHI) immediately, and the other 3 would be added if or when the current income-eligible tenants moved, when those units could meet state requirements for affirmative marketing. Muollo noted that the City would be requesting a waiver from the state to add those 3 units to the SHI immediately as well.

Also in response to Wyner (P&D), Kyriakides and Howard Haywood, Pastor Emeritus of Myrtle Baptist Church, explained that environmental consultant Goldman Engineers had found no evidence in 2005 that this property had been contaminated by oil spilled on an abutting property.

Planning & Development Director Candace Havens (P&D) and Feinberg (CPC) explained that more detailed studies of the project's design and of issues such as drainage, fire safety, traffic etc. will be done based on more final plans during the Zoning Board of Appeals' review of the comprehensive permit request. Engler noted that the project was expected to generate only about 2 more trips per day than the property's current use, and that Ch. 40B reviews must consider public safety but not traffic volume per se.

In response to Joyce Moss (P&D), Ingerson explained that the project was located in a National Register Historic District created to recognize the neighborhood's social history as the heart of Newton's historic African-American community rather than its architecture. The Newton Historical Commission considered the proposed renovations and new construction compatible with the neighborhood's historic character.

In response to Wolf (P&D), Moss (P&D), Wyner (P&D), Feinberg (CPC), and Dan Green (CPC), Kyriakides and Engler explained that the proposed project meets all standard setback, height, and floor-area ratio (FAR) requirements for the combined lot but needs zoning relief for on-site parking and a comprehensive permit (Chapter 40B) for the number of units.

Moss (P&D) noted that the plan provides more than the 1.5 parking spaces per unit are usually required for affordable housing. Kyriakides said the goal was to exceed the minimum, to address neighborhood concerns about parking. The church lot is being restriped now, which will result in more spaces.

The project budget was not economically viable with the maximum 5 units that could be built under a special permit, but the sponsor felt that 7 units was more appropriate than the 10 allowable under a comprehensive permit. Wyner (P&D) and Feinberg (CPC) pointed out that the project as proposed added only 4 more units to the existing 3, and essentially guaranteed a density of development lower than the maximum possible for the site. In response to Jim Robertson (CPC) and Wyner (P&D),

Kyriakides did not know the project's own FAR but directed members to the proposal for details about the square footage, household size, affordability and accessibility of each unit.

Feinberg (CPC) introduced Dan Gaulin, an independent consultant who had done the underwriting analysis of the project required by the federal government as part of the request for federal HOME funds. Gaulin had found that the project as proposed followed the federal rules for tenants' incomes, and that the rental income and expenses in the projected operating budget were realistic and allowable. Although Myrtle Village, LLC, is a brand-new organization, he also considered the project a low risk for public funding, because its architect and development consultant are highly qualified and experienced. Former Myrtle Baptist Church pastor Howard Haywood noted that the project's total requested public subsidy per unit was \$274,000, which was much lower than many recently housing projects recently funded in Newton.

Peter Doeringer (P&D) asked Gaulin whether he would recommend that the small positive operating cash flow projected for the project's first 10 years be used to reduce rents further. Gaulin noted that the project offered one of the smallest % returns on equity he has seen, because Myrtle Village LLC is contributing much more equity than is typical for such projects. He assumed that neither the private bank lender nor the City would want to see that percentage reduced, to ensure that the project can cover its debt service and respond to any unforeseen circumstances. He also noted that the state housing appeals committee might not support the City if its funding or comprehensive permit decisions imposed conditions that made the project uneconomic.

Feinberg (CPC) explained that Chapter 40B, the comprehensive permit state statute, limited project profits. Engler said that any profits would go into the project's replacement reserve or future affordable housing development. Leslie Burg (P&D, CPC) said this commitment was one reason she had supported the proposal when it was originally presented in 2011-12.

In response to questions from Wolf (P&D) and Green (CPC), Robinson and Engler explained that Robinson is currently the manager and sole member of the LLC. If and when public funding is committed to the project, the church will deed both properties over to the LLC, will then form a new, larger Board of Directors, only some of whom will be members of the church. Feinberg (CPC) suggested that one condition of public funding might be to create a new nonprofit corporation, with a mission of developing affordable housing, as the legal owner of the LLC.

Engler also explained the LLC would pay property taxes on the project. In response to Moss (P&D), Engler and Feinberg (CPC) noted that the project, including the deeded parking spaces, would be taxed as residential rental property, though the assessed value would undoubtedly take into account the deed restrictions limiting the rents that could be charged.

PUBLIC QUESTIONS and COMMENTS

Kathy Mazolla (79 Crescent Street, Auburndale) was concerned that the value of her home would be reduced if low-income rental housing were built both on Curve Street, for this project, and on the Crescent Street site formerly used by the City Parks and Recreation Department. In response to her question about how income limits for affordable housing were set, Engler and Muollo explained that federal regulations and state statutes required housing affordability in Newton to be based on the "area median income" (AMI) for greater Boston, rather than only for Newton. Muollo explained that 80% of AMI for a family of 4 is currently about \$67,000, and that this was defined as "moderate" rather than "low" income.

Eileen Budrie (29 Prospect Street, West Newton) was concerned that the project was attempting to accommodate too large of a building and too many people on too small a site, and that the proposed buildings would be too close to her condominium, which abuts the rear of the project site. In response to her questions about FAR, Feinberg explained that this stands for "floor area ratio," the ratio of the combined living space on all floors of a building to the land area of the property. Kyriakides used the presentation slides to explain that the project had been designed to preserve as much as possible of the properties' existing back and side yards, and that the proposed project's density was compatible with the density of the surrounding neighborhood.

Bin Wang (34 Curve Street, West Newton) had multiple concerns about the project: parking, traffic, density, tenant selection, property taxes, and conflict of interest. Wang believed that the FAR for the proposed project was significantly higher than for other nearby properties. He was also concerned that the City might lose potential tax revenue if the development's off-site parking spaces were considered tax-exempt because of their connection with the church.

Michael Lepie (422 Chestnut Street, Waban) felt that the combined total of compensation and fees in the project's budget for the project manager, architect, developer and consultant was excessive.

Wang and Lepie both felt that allowing the 3 current tenants at 12 and 18-20 Curve Street to occupy units in the redeveloped property was a conflict of interest, because these tenants had family or other relationships with Myrtle Baptist Church. Lepie was concerned that these tenants' units could not be added to the state's Subsidized Housing Inventory (SHI) until the units turned over, and new tenants were selected through affirmative marketing, such as a lottery. Wang felt that a lottery should be used to select tenants for all 7 of the project's units.

In response to these comments, Muollo explained that legal conflict-of-interest concerns had been resolved by having the member of the LLC who was related to a current tenant (Howard Haywood, whose daughter lives at 18-20 Curve Street) resign from all City bodies involved in reviewing the project, then waiting a year to bring the proposal forward again. Muollo also explained that for redevelopment projects, federal regulations and City policy require avoiding the displacement of current tenants who meet the proposed project's income limits.

Haywood explained that the State Ethics Commission had sent him a letter stating that the project as originally proposed had no conflict of interest under state law; but that he had resigned as described by Muollo to remove any appearance of a conflict. The church had continued to pay the mortgage on 12 Curve Street during the one-year waiting period, a year longer than it had anticipated when buying that property specifically for this project. He also explained that the church pays property taxes for both 12 and 18-20 Curve Street. Although the LLC's sole member Shelby Robinson is also a member of the church, the church does not own the LLC. He also noted that if current income-eligible tenants were required to move, federal regulations would require the project to cover both their moving costs and the difference between their prior and new rents for up to 4 years, thus increasing the public subsidy needed for the project.

Wang was also concerned that church allowed its members to park on a portion of the abutting public playground. Haywood noted the church had always allowed people to cross its property to reach the playground, which had no access over public property. The church had also deliberately kept as much of its own property green and unpaved as possible, and allows neighborhood residents to use its parking lot upon request, both temporarily and during the winter, when on-street parking is not allowed. Wolf (P&D) noted that any property boundary issues would be resolved by the survey

required later in the project development process, but said he would ask the Planning Dept. to follow up on this.

Along with Wang, Katherine and Albert Quern (13 Prospect Street, West Newton) and Sule Aksan (98 Crescent Street, Auburndale) were concerned about parking and traffic. Aksan felt the Myrtle Village project was an honorable proposal, but she agreed with other neighbors that the cumulative impact of new developments could worsen both the neighborhood's shortage of on-street parking and its serious traffic problems, caused partly by drivers seeking either to enter or to avoid the Massachusetts Turnpike. In addition to the new development proposed by Myrtle Village, residents cited a new project approved on Auburn Street and new housing that might be built on the Crescent Street site formerly occupied by the City's Parks Department.

Anthony Carr (owner of 14-16-18 Prospect Street, West Newton) spoke in support of the project. He felt strongly that Myrtle Village, as a project for households with incomes in the \$50-\$70,000 range, would not lower property values in the neighborhood. The new tenants might be firemen, policemen, or teachers. He felt that some of the new tenants would not have a significant impact on traffic because, like many current neighborhood residents, they would use public transit rather than drive to work. He also noted that Myrtle Baptist Church has the same right to develop its private property as any other property owner; and that this is the first new development undertaken by the church in its 140-year history.

In closing, Haywood and Carr emphasized that many longtime neighborhood residents see this project as restoring a small share of the housing lost when 29 homes in the neighborhood were taken by eminent domain and demolished for the Massachusetts Turnpike extension in the early 1960s.

Burg supported the comments by Haywood and Carr. For the benefit of new members, she noted that both the CPC and the Planning & Development Board had supported the project when it first came before them. She felt no substantive aspect of the project had changed since then.

Doeringer (P&D) noted that the neighborhood's greatest concerns seemed to be about parking and traffic. Burg (CPC) suggested that it would be better to address these concerns for the neighborhood as a whole, rather than for one project at a time. Planning and Development Director Candace Havens said her department would review the cumulative impacts, including on traffic, of recent and proposed development in the neighborhood.

After further discussion, the Planning & Development Board voted 5-2 to continue its public hearing until its next meeting, in early December.

In response to questions from Feinberg and Robertson, the CPC agreed by consensus to close its public hearing and vote on whether to recommend funding for the project. After discussing various possible funding conditions, the committee voted as follows:

CPC VOTE As moved by Mike Clarke, and seconded by Leslie Burg, the Community Preservation Committee voted 6-0 to recommend the \$910,179 requested for this project, subject to the execution of a detailed grant agreement including, but not limited to, the following conditions:

- key outcomes: creation of 7 units of rental housing, permanently affordable to households at the income levels listed in the August 2013 proposal
- conditions for the initial release of CPA funds, including: confirmation of all other required funding and receipt of all required permits, including approval of parking provisions through the Comprehensive Permit; confirmation that Village Bank will allow

- the LLC to assume mortgage currently held by the church, or will provide similar financing to the LLC; and City approval of the LLC final structure and ownership
- deadlines: the project will begin within 3 months of the grant agreement's execution, and be fully occupied within 36 months after the start of construction, or by any extension of that deadline granted by the City's Director of Planning and Development
 - the final 10% of CPA funds will be released only once the sponsor has provided an n and written final report to the CPC
 - any CPA funds not spent for purposes outlined in the August 2013 proposal will be returned to Newton's Community Preservation Fund
 - the City must approve the property manager hired by the LLC to run the completed project on a day-to-day basis

NOTE: As a member of Myrtle Baptist Church, CPC member Tom Turner recused himself throughout this discussion and did not participate in the vote.

Update on Waban Hill Reservoir

Wolf summarized the Planning & Development Board's previous discussion of this pending project and its draft letter to the Planning Department asking that City plans for the site include adequate parking, provide year-round benefits for a wider range of users, and community fundraising or betterment assessments to match any City or CPA funds appropriated for the project.

Clarke (CPC) favored requiring the community to create an endowment for site maintenance, so this would not depend on City operating funds. Green, Feinberg and Robertson (CPC) felt that the project as described in the pre-proposal discussed by the CPC on June 19th had been too narrowly focused and would benefit only immediate neighbors.

Ingerson summarized the information she had included in the CPC packet: that the bill allowing for transfer of the site from state to City ownership had made progress but had not yet been adopted by the legislature. The bill requires the City to pay for an appraisal commissioned by the state to determine the price of the property. As far as she was aware, the bill imposed no deadline for Newton to close on the property. She hoped that any appraisal would take into account the full engineering assessment of the reservoir dam, which the CPC had requested PC as a condition for consideration of a full funding proposal.

COMMITTEE BUSINESS

Ingerson summarized plans for distributing to the committee the new proposals due by 15 November 2013 and the tentative January-February 2014 schedule for public hearings on these proposals.

After a motion by Green, seconded by Robertson, the minutes of the CPC's 10 October 2013 meeting were approved with noted corrections by a vote of 6-0.

The CPC meeting was adjourned by committee consensus at 10:00 pm.