

APPLICATION FOR COMMUNITY PRESERVATION FUNDING

Submit to Jennifer Goldson, Community Preservation Planner
Newton Planning and Development Department
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Name of Applicant¹ Community Living Network Inc. (Revised 11/30/05)

Name of Co-Applicant, if applicable City of Newton, Housing Office, Dept. of Planning and Development

Contact Name Cyd Kane

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Name of Proposal Accessory Apartment Incentive Program

Address of Proposal (or assessor's parcel id) _____

CPA Category (circle all that apply): Open space Historic preservation Recreation Community housing

CPA Funding Requested \$317,640 Total Cost of Proposed Project \$317,640

PROJECT DESCRIPTION

1. Goals

The goals of the Accessory Apartment Incentive Program are, as a pilot program:

- ◇ to provide the means and incentive to facilitate the creation of accessory apartments for qualifying homeowners under the current ordinance;
- ◇ to provide assistance and the means and incentives needed for other homeowners to bring preexisting accessory apartment into compliance;
- ◇ to provide additional resources to homeowners which will enable them to remain in their homes and their community, particularly Newton's older residents and those on fixed and/or declining incomes;
- ◇ to increase the diversity of housing options in the City of Newton, and;
- ◇ to promote alternative uses of exiting housing stock for the creation of new, affordable housing units.

Project Description

The **Accessory Apartment Incentive Program** proposes to use Community Preservation funds to subsidize the costs related to creating code compliant accessory housing units. In return for receiving such funding, participating homeowners will agree to provide accessory housing units that are affordable to low-and-moderate income households.

It appears that relatively few homeowners seek permits to construct accessory apartments because of prohibitive costs of construction and the expense, complexity and uncertainty associated with both the administrative and special permit processes associated with accessory apartments. Through a partnership between the City of

Newton's Housing Department and Community Living Network, Inc, a local non-profit organization the Accessory Apartment Incentive Program is designed to assist the homeowner with each of these issues.

◇ Technical Assistance With the Process

The Accessory Apartment Incentive Program Coordinator will be the designated primary point of contact for anyone wishing to create a new, accessory apartment or legalize an existing one. The Coordinator will provide guidance and counseling concerning the administrative and special permit process: facilitate meetings with appropriate City, staff; provide information on professional services required (e.g. to develop a site plan and/or architectural plans); and provide information concerning financial assistance available to those who may qualify. Planning Dept., housing and land use staff will work closely with the applicant and the CLN Coordinator to facilitate the application process.

● Funding Assistance for both Approval and Construction Expenses

In order to assist with the expenses of creating an accessory apartment, eligible homeowners could apply for funded loans or grants of up to \$90,000 to defray the costs of obtaining required approvals (primarily for site plans and/or architectural plans) and the costs of construction required to legalize an existing, or create a new, accessory apartment. CPA funds will be used to fund these loans or grants.

- **Grants** would be secured by a deed restriction in perpetuity (if accepted by DHCD), which would ensure the affordability of the CPA-funded unit as community housing.
 - ◇ **Eligibility** –The unit not occupied by the owner would have to be rented to a household with an income of less than 80% of Area Median Income (AMI). Priority for the rental households will be given to those households that are the neediest.
- **Loans** would be secured by a mortgage, note, and deed restriction.
 - ◇ **Eligibility** – The owner's income can be no greater than 125% of Area Median Income (AMI), as determined by the U.S. Dept. of Housing and Urban Development. The unit not occupied by the owner would have to be rented to a household at less than 80% of AMI during the term of the loan. Priority for the rental households will be given to those households that are the neediest.
 - ◇ The term of the **deed restriction**, that would restrict tenancy to a household at less than 80% of AMI, would be thirty (30) years. For the first five years the deed restriction would run with the land regardless of ownership, meaning that even a change of ownership would not effect the deed restriction. After the initial five years, the deed restriction would be coterminous with ownership (the loan would still require a less than 80% of AMI household tenancy) and would not run with the land. The Director of Planning and Development could waive the five year tenancy requirement in the event of a hardship.
 - ◇ The term of the **loan** will start at initial occupancy and would be for thirty years at market rate, deferred payment, fixed simple interest (set using the current average, 30 year fixed-rate mortgage for residential properties *as reported in the Banker and Tradesman* as the Base Rate)
 - The interest rate would be set at the base rate;
 - There would be a declining prepayment fee. The fee would be set at the administrative cost (minus marketing and start-up costs) for a fully funded case (at \$90,000). In cases where the loan is for less than the full amount, the fee would be prorated by the same amount (e.g., the fee would be 50% for a \$45,000 loan). The fee would be reduced each year by one-thirtieth. The Director of Planning and Development could waive the fee in the event of a hardship

- As an example of the prepayment fee, for a fully funded case (\$90,000) the fee in the first year would be \$5,317. If the prepayment was done in the second year it would be \$5,133. And the prepayment fee would continue to decline until it was zero in year 30.
- If the property were transferred (through sale, inheritance or otherwise) prior to the end of the loan term,, the full amount of principal and interest would be repaid and returned to the Community Preservation Fund.
- ◇ At the end of the loan term, the interest would be forgiven, and after that, upon transfer of the property, though sale, inheritance or otherwise, only the principal would be repaid and returned to the Community Preservation Fund

In order to participate in the programs, applicants would agree to the following conditions:

- The owner must rent the unit not occupied by the owner to low-or-moderate income tenants (less than 80% of AMI) at affordable rents (see following bullet) during the term of the loan and/or deed restriction. The owner would be required to certify this on an annual basis. In the case of a loan, such certification would be required in order to continue the deferral of the loan payments.
- The monthly rents charged to tenants of Accessory Apartment Units shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a household whose gross income equals seventy percent (70%) of the median income for the Area, for a household size equal to the number of bedrooms in the Unit plus one. For example: a studio would have a household size of one and a one bedroom would have a household size of two. In determining the maximum monthly rent that may be charged for a Low and Moderate Income Unit, the developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. The rent may be adjusted annually to conform to changes to the Area Median Income.
- the tenant unit may not be occupied by a household with a full-time college/university student member; with the exception of a household that is (LIHTC criteria):
 - ◇ Married (prior to occupancy) AND filing a joint tax return;
 - ◇ Currently receiving JPTA or on a similar jobs program
 - ◇ Currently receiving Title IV of the Social Security Act - Title IV of the Social Security Act is Aid to Families with Dependent Children (AFDC); or
 - ◇ A Single parent with child(ren) who are not dependents of another individual;
- The owner must maintain their primary residence within the assisted property.
- The tenant unit may not be occupied by anyone employed by the owner.

2. Community Need

Due to recent and ongoing social, economic and population change, Newton's housing stock does not meet the needs of many of its residents. Newton's housing resources include over 31,000 existing units having a wide diversity in design and type, but offering few housing opportunities for residents other than those from comfortable affluent households. In addition, the number of older residents has increased while the average number of household members has decreased. At the same time, Newton's housing stock is aging and changes only slowly to adapt to rapidly changing local and regional demographics, resulting in a city of mostly larger homes serving mostly smaller households.

These circumstances present a range of challenges as well as opportunities. Newton's citizens and government frequently state their commitment to protecting Newton's diversity and serving its housing needs. Newton needs more housing opportunities for its older residents, as well as for families, individuals and households who earn

low, moderate and middle income. Properties in Newton that are available for new housing construction are relatively scarce and expensive. Consequently there need to be policies and programs that promote alternative uses of the existing housing stock.

This program will meet one of the major goals of the Community Preservation Committee: to create, preserve and support community housing. Additionally, in April 2001, the Newton Board of Aldermen adopted “A Framework for Newton’s Planning”, a planning framework conceived by Mayor Cohen as an important step in the preparation of a comprehensive plan for the City which addresses a broad range of issues including housing an economically diverse community. The Planning Framework acknowledges that a primary vehicle for meeting the City’s housing needs is how we sustain and use its existing housing stock. Elements of an overall plan for meeting those housing needs include: (1) providing incentives for modifications to existing housing meet the City’s housing goals, such as creating accessory apartments; and (2) attaching “affordability” restrictions to housing units created through subsidies or other programs that will remain in place for as long as is legally and economically feasible.

Recognizing the need for housing alternatives, and the additional value that accessory apartments could provide to senior and other low-and-moderate income homeowners, the City of Newton had approved an accessory apartment ordinance allowing certain conversions. Newton currently permits residents to construct an accessory apartment in owner-occupied single-family and two-family homes, either by right through an administrative process (called the Review of Accessory Apartment Petitions (RAPP)) or by obtaining special permit from the Board of Aldermen under Sections 30-8(d) and 30-9(f). However, due primarily to the difficulty and expense of implementation, only about 5-6 units per year have been realized, and none are required to be or remain affordable. Few homeowners seek permits to construct accessory apartments because of the prohibitive costs of construction and the expense, complexity and uncertainty associated with both the administrative and special permit processes. In addition, it also appears that minimum area, lot size and other requirements, particularly in overlay districts, severely limits the number of homeowners who can qualify for permits to construct accessory apartments in Newton. [Based on information provided by the Planning and Assessor’s departments, it appears that there are 1,000 or more accessory apartments scattered throughout the City, many of them un-permitted and unlawfully occupied, that nonetheless fill a market demand for rental housing at a cost that is typically below that of units which are and have been lawfully constructed and occupied.]

It is in the public interest, for the City of Newton to offer a means by which homeowners may bring unlawful or un-permitted accessory housing units into compliance with local and state laws. Providing incentives for homeowners to create accessory housing units that can remain affordable is also a need of the City. The Accessory Apartment Incentive Program can be one component of Newton’s overall housing plan that can achieve both of these objectives. The program would use existing housing stock to provide desirable, legal, safe and affordable housing for eligible residents. This program would enable the City of Newton to add such new affordable units to the number of units counted toward its on-going goal of having 10% of its housing units remain affordable to low-and-moderate income households under Chapter 40B of the Massachusetts General Laws.

3. Community Support

This program has been developed through the efforts of the City of Newton’s Department of Housing, The Accessory Apartment sub-committee of UCHAN – a group representing various affordable housing groups, non-profits, public officials and private individuals and CLN (Community Living Network, Inc.). It reflects a broad based concern for the need for new affordable housing units, a process to encourage homeowners to bring existing units up to code and to provide homeowners, particularly those of limited incomes, an option which can assist them to remain in their homes and their community. The subcommittee reflects support of diverse groups within the city.

4. Timeline

The attached Accessory Apartment Incentive Program, Program Implementation and Administration (Attachment A) details the tasks and schedule for this project’s implementation. A significant outreach and education component has been built into the first phase of this program. It is critical that prospective applicants fully understand the program, its benefits and restrictions, in order to assure that the highest number of applicants

possible complete the application process and complete the construction of their accessory apartment. The second and third phases of the program, application processing and apartment construction are also included.

5. Credentials

This program benefits from the active, ongoing participation of three separate groups: the City of Newton's Housing Development staff, the Newton Housing Rehabilitation Fund (NHRF) staff, and CLN. Each brings a unique set of skills and experience suited to this partnership. The Housing Development staff will complete the program design, guidelines, marketing materials and program handouts. They will also be utilizing their staff and experience to develop the loan/grant documents and work to clarify and resolve all legal issues. As they have done with other programs, they will process the loan/grant applications, working with the applicant and Program Coordinator to obtain all necessary income information. The staff of Newton Housing Rehab Fund will assist in the program design and help provide preliminary technical assistance to applicants on evaluating homeowner sites, proposed apartment plans with respect to permits from the building and zoning departments. NHRF staff will also oversee and monitor construction and construction payments and will manage the loan servicing after completion. NHRF staff have extensive experience overseeing construction and loan projects, and working with homeowners on rehabilitation projects to meet code and zoning restrictions. CLN will provide the Program Coordinator who will assist the applicant throughout the process from start to finish, helping to determine eligibility, secure the appropriate resources and professional services, navigate through the different municipal departments and make sure applicants understand the program. CLN will also be coordinating the outreach and marketing of the program, to ensure the greatest numbers of individuals in the community are aware of the program. CLN has worked with individuals for many years working one-on-one with individuals, to create options in their own homes to help them remain there as long as possible. CLN developed and managed a small accessory apartment program several years ago, providing information and technical assistance, and as part of that program ran a series of workshops and seminars educating people on accessory apartments.

6. Success Factors

The success of the project will be evaluated at its different phases.

Phase One: Intake and Application:

The Program Coordinator, after developing marketing materials and undertaking the marketing and outreach campaign will track the number of inquiries regarding the undertaking of developing an accessory apartment. She/he will then track the number of applications distributed compared to the number of applications submitted. This will enable us to evaluate clarity and ease of the outreach and application process.

Phase Two: Technical assistance and individual case management:

A main component of this program is the provision of technical assistance to assist applicants complete the application process, both for funding and permitting processes. The Coordinator will track the number of applications submitted compared to the number of accessory apartment permits and loans/grants approved. This will help identify where, if any, obstacles in the process may be.

Phase Three: Apartment completion and rent-up:

The Coordinator will track the number of apartments completed compared to the number of applications submitted as well as the number of apartments successfully rented to low-or-moderate income tenants.

In addition to the compilation of data on the above identified tasks, qualitative questionnaires will be distributed and collected at the end of each phase with as many participants as possible to assess the individual's opinion of their experience with the program and the impact it had on the successful completion of an accessory apartment under this program.

7. Budget

Attached is the budget for the Accessory Apartment Incentive Program (Attachment B).

ATTACHMENT A: TIMELINE

**Accessory Apartment Incentive Program
Program Implementation and Administration**

TASK	RESPONSIBLE	TIME PERIOD
Finalize Program design, develop operating budget, meet with principle stakeholders, e.g., Aldermen, IDS staff, Planning/CD/CPA staff, Mayor, CLN, etc.	Housing Dev. Staff, NHRF staff, work to develop and draft program design and budget. CLN assists with outreach and provides feedback on program design and delivery.	Spring 2004-November 2005
Apply for Community Preservation Funds and work with CPA on CPA review process.	Housing Development staff with review of CLN and Accessory Apartment Incentive Program Committee	November, 2005
City Approves Funding		3 – 6 months
Once funded develop final program guidelines.	Housing Development staff, CLN and Accessory Apartment Incentive Program Committee	30 days from final funding approval
Hire Program Coordinator	CLN with Housing Dev. staff	45 days from final funding approval
Develop loan/grant agreement, mortgage, note (for deferred loans), deed restriction (for grants in perpetuity). Clarify and resolve all legal issues.	Housing development/community development staff with assistance from Law Dept.	45 days from final funding approval
Develop application and explanatory material, e.g. handouts for potential applicants or other interested parties. Develop marketing materials and outreach strategy.	Program Coordinator and Housing Dev. staff	30 days from hiring Program Coordinator
Publicize program including printed and e-mail announcements, press releases, press conference, work with Mayor’s office, etc. Work collaboratively with Jeremy Solomon on communications. Provide group education to targeted audiences.	Program Coordinator	3 months from final approval marketing begins: is on-going process
Provide technical assistance to potential applicants. Ensure that all applicants meet with the Chief Zoning Code Official for a preliminary zoning review.	Program Coordinator, with back-up from Housing Dev. and NHRF staff	6 months from final approval: first applicants identified, intake done. 30 days for project’s preliminary zoning review

TASK	RESPONSIBLE	TIME PERIOD
Process Accessory Apartment Incentive Program applicants: <ul style="list-style-type: none"> - (underwrite loans/grants) - review income information from existing tenants, if applicable, etc. - review design specs. 	Housing Dept. staff lead this process Program Coordinator helps applicant secure resources and complete their applications including assistance obtaining architectural and other professional services	30 days (concurrently with preliminary zoning review)
Facilitate the approval/permitting process, (by-right through an administrative process: Review of Accessory Apartment Petitions (RAAP) – or by a special permit from the Board of Aldermen)	Planning Inspectional Services Staff Program Coordinator works with applicant as advocate throughout the process	60 days
Obtain Contractor Secure Funds	NHRF staff	30 days from approval/permit final
Oversee and monitor construction and process construction payments	NHRF staff	dependent on level on construction
Verify unit occupancy by a low-moderate-income tenant	Housing Dev. staff completes income verification of prospective tenants Program Coordinator provides information on identifying tenants	upon tenant selection
Manage loan servicing	NHRF staff	ongoing after apartment completion
Monitor and manage compliance process	Housing Dev. staff	ongoing after apartment completion
Create report to CPC on status of applications and the status of the process	Program Coordinator	One year after final funding
Evaluate efficacy of the initiative. <ul style="list-style-type: none"> - has the program been successful - status of further funding - - identify criteria for future successful programming 	Program Coordinator develops evaluation criteria and conducts evaluation with input from all other stakeholders	Two years from final funding approval: <ul style="list-style-type: none"> - all marketing materials and marketing program complete and on-going - 3 applications in process

ATTACHMENT B

Accessory Apartment Incentive Program Budget

CLN

Program Coordinator	\$28,000
Program start-up costs (advertising, computer, etc.)	2,000
Overhead/Administration	5,600
Marketing Materials printing, postage	2,500
Subtotal	\$38,100

Newton Housing Office

Program start-up costs (Develop guidelines, legal docs., etc.)	\$ 2,100
Per Case Costs (\$2,480) for 3 cases (Application processing, underwriting, Const. Supervision, loan servicing, monitoring)	\$ 7,440
Subtotal	\$ 9540

Total Administration \$47,640

Loan/Grants \$270,000
(up to \$90,000 per applicant)

TOTAL \$317,640

ATTACHMENT C – SUMMARY OF ACCESSORY APARTMENT PROCEDURES

Authorizing accessory apartments

The Newton Zoning Ordinance (Ordinance) provides for three ways to legalize or create accessory apartments:

- **Pre-existing units:** Verification of pre-existing unit status combined with administrative review per the Review of Accessory Apartment Petitions (RAAP) process.
- **New units:**
 - ◇ Review of Accessory Apartment Petitions (RAAP) administrative process; or
 - ◇ Special Permit procedures, as applicable.

Building Code issues pertaining to accessory apartments

The main issues when considering whether to legalize or create accessory apartments are life safety issues. A dwelling unit must meet all code requirements necessary to allow for a quick and safe exit in the case of an emergency (e.g., fire) and provide a sufficient number of smoke detectors to provide adequate warning in case of fire. In addition, the accessory unit must meet the dimensional and other requirements of our local ordinance.

- **Pre-existing units:** If documentation supports the unit being pre-existing, an inspection would be performed by ISD to assess life safety issues (primarily, there must be 2 independent means of egress from both units, and battery operated smokes). Since the unit is "pre-existing", it does not have to comply with all of today's building code requirements.
- **New units:** Units to be created per the RAAP process or Special Permit must comply with the current edition of the building code. Inspections would be performed by ISD to ensure code compliance of interior and exterior alterations. Major considerations would include:
 - hard wired (or a wireless, whole house system also complies) smoke detectors top and bottom of all stairs, and in every sleeping room (the entire house).
 - 2 independent separated means of egress from both units.
 - every sleeping room in the new unit must have an emergency egress window with a clear sash opening of 20"x 24", in either direction, with maximum sill height above the floor of 44".
 - average ceiling heights for stairways to and creating new habitable space must meet minimum (7¹-4²) requirements, a consideration in particular for conversion of basement and attic spaces.

Zoning Ordinance issues pertaining to accessory apartments

- **Pre-existing units:** In order for a unit to be legalized, the applicant must *first* submit documentation to the Commissioner of ISD that the unit has been continually in existence since at least 12/31/79. Types of evidence that can be considered are described in Sec 30-8(d)(4) for single residence districts, and Section 30-9(h)(2) for multi residence districts. Once this requirement has been satisfied, the applicant then follows the RAAP process, filing with the Planning Dept. In addition, a "pre-existing" unit need not meet the requirements of Table 30-8 of the Zoning Ordinance.
- **New units:** To create a new accessory apartment which meets the requirements of Section 30-8(d)(1), an applicant should use the administrative *RAAP process*, and would file an application concurrently with the Commissioner of ISD and with the Planning Department. For an accessory apartment needing various exceptions or triggering the special permit criteria in Section 30-8(d)(2) or 30-9(h)(1), the applicant would need to obtain a *special permit* and file a petition in accordance with the rules of the Board of Aldermen and the procedures of the Planning Department.