City of Newton

City of Newton, Massachusetts

Community Preservation Committee

David B. Cohen
Mayor

MEMORANDUM

TO: Honorable Board of Aldermen
FROM: Community Preservation Committee
DATE: January 31, 2006
RE: **CPC Recommendation for CPA Funding - REVISED**

PROJECT TITLE: Accessory Apartment Incentive Program (AAIP)
CPA PROJECT ID: CPA-FY05-11
CPA CATEGORY: Community Housing
RECOMMENDED CPA FUNDING: $320,550

PROJECT DESCRIPTION

The applicants, Community Living Network (CLN) and the City's Housing Office, are requesting $320,550 of CPA funds to create an accessory apartment incentive pilot program that would be administered jointly by CLN and the Housing Office. The request includes $270,000 for accessory apartment grants/loans, $47,640 for administration and $3,000 for legal costs. The program would provide financial incentives and technical assistance to create code compliant accessory apartments. This is the second iteration of a proposal that was first submitted in October 2004 for $515,000. Since then, the project request was reduced and some program terms were changed. The applicants worked with members of the CPC and Alderman Baker to resolve issues with the program and reached some compromises. The principal changes are the inclusion of a declining pre-payment penalty if a loan is paid off prior to term and a 125% area median income restriction for loan recipients in the first year of the program. The 125% area median income restriction would be lifted in AAIP's second year if CPA funds remain.

The program is proposed in order to create new, small, affordable apartments in Newton. Per the Newton Housing Authority there is a greater demand for smaller rental units (2 bedrooms and less) than larger units. This program will increase the diversity of housing options in the City of Newton and may have the ancillary benefit of providing additional resources to homeowners to enable them to stay in their homes and in the community, particularly Newton's older residents and those on fixed incomes.

There are two main components of the AAIP:
1) Technical Assistance – Homeowners who wish to create a new accessory apartment or legalize an existing one will receive guidance on the administrative and special permit process.
2) Financial Assistance – Eligible homeowners may apply for loans or grants of up to $90,000 to defray the costs of obtaining required approvals and/or the cost of construction.

A grant would trigger a permanent deed restriction for the accessory apartment, requiring that the unit be rented to a household with an income less than 80% of the area median income. The loan option would require that the borrower earn less than 125% of the area median income, if funded during the program's first year and assume a mortgage and deed restriction with 30-year terms. Interest will accrue on the loan at the average 30-year mortgage rate for residential properties. If the loan is prepaid within the initial five years of the loan, the deed restriction would stay on the property for a minimum five-year period (provided that the Director of Planning and Development may waive this requirement in the event of a serious hardship). Any prepayment of principal

would trigger a prepayment fee that is designed to reimburse the City for the loan administrative costs. After the initial five years, the deed restriction would terminate when the loan is paid off in full (including principal, interest and the prepayment fee, if applicable. Sale of the property would trigger prepayment. Rents for accessory apartment units would be restricted to 30% of the monthly-adjusted income of a household whose gross income equals 70% of the area median income. No employees of the owner may occupy the accessory apartment and there will be restrictions on rentals to students (following the requirements of the federal Low-Income Housing Tax Credit Program). The owner must maintain their primary residence within the assisted property.

FINDINGS/PROJECT EVALUATION
Community Preservation Act (MGL c.44B)
Community Housing
MGL c.44B defines **community housing** as "low and moderate income housing for individuals and families." This program complies with this definition because it would create deed-restricted units of new housing for low-income households earning 80% of area median income.

The program would also comply with §5(b)(2), which allows the CPA to fund the **creation** of community housing. This program would provide incentives to create new units of low-income housing in existing houses or outbuildings (e.g., carriage house).

Newton Community Preservation Plan
Overarching Goals

1. Contribute to the preservation of Newton's unique character, boost the vitality of the community and enhance the quality of life for its residents.	Yes
2. Serve more than one CPA category.	No
3. Demonstrate the highest cost/benefit value relative to other proposals.	Yes, see below
4. Leverage other public and/or private funds.	No, see below
5. Preserve a resource or opportunity that would otherwise be lost.	Yes, see below
6. Show that a project is the most reasonable available option to achieve the objective.	Yes, see below
7. Demonstrate strong community support.	See below
8. Serve to equitably distribute CPA funds throughout the City.	Yes

Additional comments on selected goals:

Goal 3: The relative benefit for this project is creating at least three new units that are affordable to low income households. The AAIP provides a lower cost method to create new units of affordable housing than do development projects. In terms of CPA cost per affordable housing unit, this project, at up to $106K per unit (including administrative costs), demonstrates a high cost/benefit value relative to other affordable/community housing proposals. The following table represents CPA costs per affordable/community-housing unit for funded CPA projects (note: dollar amounts have been rounded, where appropriate and other non-CPA subsidy sources are not included):

Project Name	Fiscal Year	Total Project Cost	Total CPA Funds (for housing portion only)	# of aff./ comm. housing units	CPA Cost per Unit
1093 Chestnut St/ Millhouse Commons	05	$3,192,066	$525,000	3	$175,000
248 Elliot St/Linden Green	05	$2,261,394	$512,000	3	$171,000
11-13 Cambria Rd	06	$816,129	$320,000	2	$160,000
20-22 Falmouth Rd/					

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163 Jackson Rd	05	$2,905,775	$550,000	4	$138,000
19 West Street	04	$750,000	$263,000	2	$132,000
Forte Property/76 Webster Park	04	$1,110,000	$377,000	3	$126,000
Accessory Apartment Incentive Program	**05**	**$320,000**	**$320,550**	**3**	**$105,850**
Newton Homebuyer Assistance Program	04	$500,000	$500,000	5	$100,000
Wyman St	05	$3,555,000	$1,000,000	10	$100,000
18-20 Cambria Rd	03	$841,000	$200,000	2	$100,000
45 Pelham St/Pelham House	04	$2,850,000	$312,000	10	$31,000
Nonantum Village Place	03	$6,200,000	$850,000	34	$25,000

Goal 4: Though some private funds will likely be used in the creation of accessory apartments, no other funding is committed or under consideration at this time.

Goal 5: There is potentially an unmet demand for accessory apartments in the City. The AAIP would take advantage of an opportunity to create new, low-cost affordable housing, satisfying the needs of large homeowners, the elderly and low-income tenants.

Goal 6: The AAIP is a relatively low-cost pilot program that would create some new housing options for low-moderate income people in the City. The cost per unit of creating new apartments is far more expensive.

Goal 7: The Newton Housing Partnership, the League of Women Voters, the Newton Council on Aging and the Uniting Citizens for Housing Affordability in Newton organization support the pilot AAIP program. However, the Chestnut Hill Association expressed concern about how accessory apartments will change single-family home districts. Alderman Baker raised issues regarding the loan terms, deed restrictions and how accessory apartments could affect Comprehensive Plan objectives.

Goal 8: Accessory apartments could be constructed in any City neighborhood.

Community Housing Goals

1. Create community housing that is well-designed, of decent quality and based on sound planning principles, including development located near public transportation and in village districts.	Yes, see below
2. Address one or more of the City's priority housing needs, such as those articulated in the City's *Consolidated Plan* and *A Framework for Newton's Planning*.	Yes, see below
3. Keep new units affordable for the long term and in perpetuity where possible.	Yes, see below
4. Demonstrate that the amount of requested CPA funding, as well as the total public subsidy requested, is reasonable and is the minimum amount needed for feasibility for the affordable housing. For example, it may be reasonable to support a higher public subsidy to enable the creation of housing serving lower income groups.	Yes, see below
5. Show that the proposal is supported by housing agencies, such as the Newton Housing Partnership, leverages (or is not otherwise eligible for) other public funds and could not otherwise be economically feasible without CPA funds.	See below
6. Avoid displacement of current residents.	Yes
7. Work in conjunction with other City funding mechanisms and build on existing programs, such as the First Time Homebuyer Program.	No
8. Reuse previously developed sites (including remediated brownfields) for community housing to expand existing resources.	Yes, see below

Additional comments on selected goals:

Goal 1: All accessory apartments would be code-compliant and will meet the City's standards. Accessory apartments would be created in existing buildings, having little additional visual impact on their sites.

Goal 2: The creation of affordable housing for low-income households is a priority need supported by the *Consolidated Plan*. This project would reinforce general goals related to smart growth planning. The AAIP also meets some of the Community Housing Goals, including providing inducements to create accessory apartments, as discussed on page 36 of *A Framework for Newton's Planning*. New housing unit creation will help the City reach the state mandate of 10% affordable housing stock under MGL c. 40B, keeping units affordable in the long term through deed restrictions, leveraging private funds and using previously developed sites.

Goal 3: Grant-assisted units will be restricted in perpetuity. Loan-assisted units will be restricted for up to 30 years and for a minimum of 5 years. However, upon termination of the five-year affordability restriction the City will be repaid in full including interest and a prepayment fee. This structure is thought to be needed to provide flexibility to homeowners who may be hesitant to agree to a permanent restriction and will be evaluated as part of the overall evaluation of this pilot program.

Goal 4: The City's Housing Office did an analysis of how much it would cost to file permits, draft architectural and construction documents and undertake the construction necessary to get an accessory apartment up to code standards. $90,000 was found to be a typical figure. Administrative costs were estimated by the amount of staff time needed to work through the permitting process, marketing the program, counseling prospective owners and overall program setup. Despite the administrative costs, the AAIP is a low-cost way to create new affordable housing.

Goal 5: The AAIP is supported by the City's Planning Department, CLN and the Newton Housing Partnership. However, at this time, only CPA funds have been requested to fund this pilot program.

Goal 6: The AAIP could fund a project to make an existing illegal accessory apartment code-compliant.

Goal 8: Accessory apartments would be created within existing structures and would expand the City's housing stock.

Community Housing Needs[1]

a) Affordable rental and homeownership opportunities for low-income families (serving families below 80% of the area median income)	Yes
b) Moderate income rental or homeownership housing units (serving families at 80% to 100% of area median income)	No
c) Community housing opportunities for individuals who live or work in Newton, have children in a Newton school or have an immediate family member living in Newton, in accordance with the City's local preference policy, fair housing laws and requirements of other funding sources	Yes
d) Help Newton reach the state mandate of having 10% of its housing stock as affordable to those at or below 80% of median income under MGL Chapter 40B	Yes

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[1] From the FY06 Community Preservation Plan, pp. 23-24.

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CPC RECOMMENDATION

The proposal is consistent with the CPA criteria and many of the Plan's goals, as outlined above. Therefore, the Community Preservation Committee voted 5-1, with Stern dissenting[2], to recommend funding this application. The AAIP program would support the creation of three new accessory apartments as affordable housing units by appropriating and transferring the requested $320,550 to be expended under the direction and control of the Director of Planning and Development for the purposes of funding the Accessory Apartment Incentive Program as detailed in the application dated November 30, 2005, subject to the following conditions:

1. The City's Housing Office or designee shall submit to the CPC an initial project timeline and a status report on a quarterly basis that describes work that is complete, work remaining, expenditures and target completion date.
2. The AAIP project managers shall report to the CPC their overall experiences and lessons from the pilot AAIP, twelve months after the program receives funding.
3. The AAIP will be in accordance with the application submitted to the CPC dated "Revised 11/30/05" including, without limitation, the following provisions:
   - Any units constructed with grant assistance from the AAIP shall be affordable to eligible households with incomes at or below 80% of the area median in perpetuity or to the maximum extent permitted by law and be bound by a deed restriction. Any units constructed with loan assistance from the AAIP shall be affordable to eligible households with incomes at or below 80% of the area median for the duration of the loan, or a minimum of five years if a property is sold and the loan is paid off, and be bound by a deed restriction. All deed restrictions shall be reviewed and approved by the Law Department.
   - The rent on new accessory apartment units should be restricted to 30% of the monthly-adjusted income of a household whose gross income equals 70% of the area median income, for a household size equal to the number of bedrooms in the unit plus one person.
   - In order to receive loan monies for purposes of creating a code-compliant accessory apartment, the owner's income can be no greater than 125% of the area median income during the first year of the program. If CPA funds remain in the second year, there will be no limit to the owner's income in order to qualify for the loan option
4. A formal grant agreement shall be executed between the City and CLN related to the funding CLN would receive for their administration of the program.
5. The AAIP pilot program shall commence no later than December 31, 2006 and all funding herein appropriated shall be awarded no later than December 31, 2007 or such other date(s) as may be approved in writing by the Director of Planning and Development. In the event of failure to meet these dates, as stated herein or as approved by the Director of Planning and Development, any remaining funds in the project account shall be returned to the Newton Community Preservation Fund.
6. Promptly after substantial completion of the project, the applicant shall submit to the Community Preservation Committee a final project development cost statement. Any portion of the grant not used for the purposes stated herein shall be returned to the Newton Community Preservation Fund.

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[2] Stern stated that his recommendation would be to fund an appropriate amount of administrative costs to test the market and advise potentially interested owners about the creation of accessory apartments. His belief is that the AAIP is primarily a building code enforcement/home-upgrade program that would provide minimal affordable housing.

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