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Ruthanne Fuller
Mayor

ZONING BOARD OF APPEALS

To: Zoning Board of Appeals Members
From: Adrianna Henriquez, Clerk
Date: January 31, 2020
Subject: Materials for **February 5, 2020** Public Hearing

Hello,

Please see the following supplemental materials for the upcoming hearing on February 5, 2020 Public Hearing. The following board members are scheduled to sit: ***Brooke Lipsitt (Chair), William McLaughlin, Barbara Huggins Carboni, Michael Rossi, Stuart Snyder and Treff LaFleche (Alternate)***

1. January 31, 2020 15 Riverdale Avenue Public Hearing Memorandum
2. January 28, 2020 Letter from Green Newton

Thank you,

Adrianna Henriquez

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Ruthanne Fuller
Mayor

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: January 31, 2020
MEETING DATES: February 5, 2020
TO: Zoning Board of Appeals
FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Katie Whewell, Planning Associate
COPIED: Mayor Ruthanne Fuller
City Council
SUBJECT: **Application #01-20** CPC Land Acquisition Company, LLC applying to the Zoning Board of Appeals, pursuant to Massachusetts General Laws Chapter 40B, for the issuance of a Comprehensive Permit authorizing the applicant to construct a 204-unit residential development, which will include 51 affordable dwelling units and approximately 22,382 square feet of commercial, office and retail space, all on approximately 3.4 acres of land located in a Manufacturing Zoning District at 15 Riverdale Avenue in Newton, Massachusetts "Residences on the Charles". Fifty-One of the units (25%) will be deed restricted to remain permanently affordable to households earning up to 80 percent of Area Median Income.

The purpose of this memorandum is to provide the Zoning Board of Appeals and the public with technical information and planning analysis which may be useful in the comprehensive permit decision-making process. 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 Zoning Board of Appeals will want to consider in its discussion at a subsequent Public Hearing/Working Session.



15 Riverdale Ave.

EXECUTIVE SUMMARY

The Applicant, CPC Land Acquisition Company, LLC, is seeking a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Sections 20 through 23, for the construction of a mixed use project consisting of two buildings along the northern and southern sides of Riverdale Avenue in Nonantum. The subject property comprises approximately 128,887 square feet on one lot in a Manufacturing (MAN) zoning district: 15 Riverdale Avenue in Newton, Massachusetts (“Residences on the Charles”).

Together, the two proposed buildings, which range from four to five stories in height, would contain 204 dwelling units (including two live/work spaces, a mix of studios and one-, two- and three- bedroom units), approximately 17,782 square feet of office space, 4,600 square feet of retail space, and 227 parking stalls. The total area of the project, excluding parking, would be approximately 245,420 square feet. Fifty-one (51) of the units (25%) will be deed restricted to remain permanently affordable to households at up to 80 percent of Area Median Income (AMI).

The Applicant has submitted a list of waivers requested for this project that is attached hereto as **Attachment A**. The Chief Zoning Code Official has completed a memorandum which identifies the required relief that the Zoning Board of Appeals (the “ZBA”) must grant in order to approve the project as proposed (**Attachment B**).

I. ZONING BOARD OF APPEALS

The ZBA is required to render a decision, based on a majority vote, within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the ZBA and the applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the ZBA has been submitted.

The ZBA may dispose of the application in one of the following ways:

- approve a comprehensive permit on the terms and conditions set forth in the application;
- deny a comprehensive permit; or
- approve a comprehensive permit with conditions.

II. REVIEW CRITERIA

Pursuant to Massachusetts General Laws, Chapter 40B, Section 20, the comprehensive permit process is designed to increase the supply and improve regional distribution of affordable housing by allowing a limited suspension of existing local regulations and expediting the local approval process for the construction of such housing. The general

principle governing consideration of a comprehensive permit application is that the ZBA's decision must be "consistent with local needs."

Statutory Safe Harbors

If the City has created its fair share of affordable housing by meeting one of the statutory safe harbors, the ZBA's decision will be unassailable as a matter of law. As a result, the decision to deny a comprehensive permit or to impose conditions will automatically qualify as "consistent with local needs," and must be upheld on appeal, if the City has achieved one of the following criteria as of the date of the project's application: (1) more than 10% of housing units are utilized for affordable housing; (2) 1.5% or more of the land area zoned for residential, commercial or industrial use contains affordable housing; or (3) the proposed project would lead to construction of affordable housing on sites comprising more than .03% of the total land area zoned for residential, commercial or industrial use or ten acres, whichever is larger, in one calendar year.

At the time of filing of this application the City had not met any of the safe harbor criteria.

Standard of Review

If one of the statutory safe harbors described above has not been met, the ZBA must engage in a balancing test that weighs the regional need for affordable housing against local health, safety, open space, and site and building concerns. The denial of a comprehensive permit will be "consistent with local needs" only when a valid local concern outweighs the regional need for affordable housing. Such local concerns should be verifiable concerns about the health and safety of residents of the proposed housing, surrounding neighborhood or community as a whole, or serious building and site design deficiencies that cannot be rectified with conditions of approval.

In the case of conditional approval of a comprehensive permit, the conditions or requirements imposed should not make the building or operation of the project uneconomic. However, conditions that do make the project uneconomic may still be imposed if they are reasonable and necessary to protect valid health, safety, design, environmental or open space concerns.

III. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is divided by Midland Avenue, a private way, and has frontage on Midland Ave. which connects to Riverdale Ave and Los Angeles Street. Los Angeles Street terminates at the site and runs perpendicular to California Street. The property abuts the Charles River and the Charles River Greenway, a 22-mile paved bikeway that runs from

Boston to Newton and passes through Watertown and Waltham on each side of the Charles River. Directly to the west of the site is Forte Park, which consists of six acres of open space that is currently separated from the subject property via chain link fence.

The subject property is located in close proximity to the Newton/Watertown border. The site is less than a mile to both Watertown Square, and Watertown Yard, where several of the MBTA's key bus routes operate from and provides service to Boston and surrounding communities.

Aside from the Forte Park to the west, the subject property is largely surrounded by commercial and industrial uses with two multifamily residential uses on Riverdale Avenue, perpendicular to California Street. Much of the surrounding structures contain one to two stories and the area's industrial history is evidenced by shorter and wider commercial structures with vast parking facilities.

The site and surrounding area to the south and east are within a Manufacturing (MAN) district. There are multi-residence districts farther west down California Street, as well as on Los Angeles, Allison, and Jasset Street, north of California Street (**Attachments C and D**).

B. Site

The Property is comprised of 128,887 square feet of land on one lot bisected by Midland Ave. The site is currently improved with a multistory brick and concrete structure and surface parking facility. The site is relatively flat and hardscaped with the exception of the rear of the property that abuts the Charles River Greenway, and at the western property line abutting Forte Park, there is grassed area and landscaping.

The existing structure was constructed in 1968, which qualifies the property for the City's demolition delay ordinance. The Applicant is seeking a waiver from the Demolition Delay Ordinance under the Comprehensive Permit.

IV. ANALYSIS

A. The Health and Safety of the Residents of the Proposed Housing and the Current Residents of the City

1. Structural soundness of the proposed buildings

The Planning Department has no concerns with the structural soundness of the proposed building at this time. Prior to the issuance of any building permits, the applicant will be required to file final construction drawings and details, for review and approval by the Fire Department, Inspectional Services Department and the Engineering Division of Public Works.

2. Adequacy of sewage disposal

The applicant has submitted a Utility Plan prepared by Allen & Major Associates, Inc. This document will be reviewed by the City's Engineering Division, and the Planning Department recommends that a consultant peer reviewer consultant be engaged to fully and appropriately assist the ZBA in its review of the proposed project's utilities, including the adequacy of its sewerage disposal system.

3. Adequacy of handling water runoff

The applicant has submitted a Stormwater report prepared by Allen & Major Associates, Inc. This document will be reviewed by the City's Engineering Division, and the Planning Department recommends that a consultant peer reviewer be engaged to fully and appropriately assist the ZBA in its review of the proposed project. At this time, the applicant is anticipating filing for the February 20, 2020 Conservation Commission meeting.

4. Adequacy of fire protection

The Project is being reviewed by the City's Fire Department at the time of the writing of this memorandum. Should the Board choose to approve this project, final plans will need to be reviewed and approved by the Fire Department prior to the issuance of any building permits.

5. Adequacy of handling traffic generated by the project on adjacent streets

The applicant has submitted a Transportation Impact and Access Study prepared by MDM Transportation Consultants, Inc. Based upon its initial review of this document, the Planning Department recommends that a consultant peer reviewer be engaged to fully and appropriately review this aspect, along with the parking, circulation, loading, and transportation demand management aspects of the proposal so as to assist the ZBA in its review of the proposed project. The Project is also currently under review by City Transportation staff.

6. Proximity of the site to industrial activities which might affect the health of the proposed residents

The site is not proximate to any known industrial activities that may affect the health of future residents to the Planning Department's knowledge at this time.

The proposed site plans show a transformer at the southeast corner of the site in which Building 2 is located. The Planning Department would like more information on this transformer relating to its purpose, and potential health or noise impacts as a result of this transformer.

B. Site and Building Design

1. Height, bulk and placement of the proposed buildings, accessory structures and

improvements

As detailed in the attached Zoning Review, the Project would considerably exceed many applicable zoning controls and regulations in its MAN zoning district.

There are two proposed mixed-use structures on site. Building 1, to be used for 182 residential units and ground floor parking, retail, bike storage, as well as two live/work units. The Planning Department would like more information on the live/work units. Building 1 contains five stories with a height of 56.2 feet and 182 parking stalls at the ground level.

Building 2 contains four stories with a height of 44.5 feet and will have 22 residential units on the upper floors. The Planning Department would like to understand more about the future tenant and clarification regarding the uses in the ground floor and second floor of Building 2. Building 2 will include 22 apartments at the upper levels of the building. There will be 45 surface parking stalls located behind Building 2.

Based on the Project Eligibility Letter submitted by the Applicant, (**Attachment E**) the proposed affordable units consists of ten studios, 21 one-bedroom units, 14 two-bedroom units, and 6-three bedroom units. The remaining 153 units will be market rate. Of the market rate units, there will be 32 studios, 64 one-bedroom units, 42 two-bedrooms, and 15 three-bedrooms. In total, the project will consist of 42 studios, 85 one-bedrooms, 56 two-bedrooms, and 21 three-bedrooms.

The applicant appeared before the Urban Design Commission (the "UDC") at its January 8, 2020 meeting to review the Project. The UDC's comments can be found in its attached memorandum (**Attachment F**). The Planning Department recommends that the applicant appear before the UDC again before the next public hearing, respond to the UDC's comments and return to UDC with a revised design.

2. Physical characteristics of the surrounding land

A key feature of the site is its proximity to the Charles River and to Forte Park to the west and Charles River Greenway to the north. The site provides a unique transition from the Charles River and nearby green space to a characteristically industrial area, with structures lower in height and wide streets with no sidewalks, and little landscaping. Los Angeles Street and Riverdale Avenue provide a connection from the site to California Street. This section of California Street is largely a mix of residential and commercial uses which is reflected in the structures that line the street. The Newton section of California Street starts at 150 California Street and continues west. 150 California Street is perhaps the largest site in the area, and the building straddles the municipal boundary between Newton and Watertown. 150 California Street is improved with commercial uses. Building heights on California Street range from one to three and a half stories, with commercial structures having approximately three stories, a brick façade and larger footprint than the residential structures. The

residential structures are predominantly multifamily residential uses with single-family residential uses on the side streets off California Street.

3. Adequacy of access to the site and adequacy of parking arrangements

Vehicular access to the Project would be provided via Los Angeles Street and Midland Ave. Sidewalks would be provided along the streets around and within the project site, and a total of 227 parking stalls would be provided. "Building 1" which houses most (182) of the residential units, provides parking at the ground level. At the ground level, the parking appears to be separated between two buildings, however, there is a connection at the higher levels. 102 of the stalls are located in the western half of the Building 1, and 80 stalls are located in the eastern half of Building 1. Building 2, which houses the innovation/office space provides 45 parking stalls at surface level. There are an additional eight stalls being provided on Riverdale Ave.

The Planning Department noted the absence of an elevator in the eastern half of the parking area for Building 1. This presents a hardship to those who park in that half of the structure, leaving residents and/or visitors to take the stairs, travel to the western half of Building 1 via the Courtyard between the two sections of the building to access the elevator provided in the western half of the building, next to the lobby.

Additionally, the Planning Department questions whether the rear access to the parking facility in the western portion of Building 1 is necessary. The Planning Department supports the access to allow for emergency vehicles and programming, such as food trucks, but not to access the garage. The Planning Department would like additional information as to the purpose of this access and information on the circulation and maneuverability for all parking stalls.

The Transportation Impact and Access Study submitted by the applicant includes Site Access, Circulation and Site Parking analyses of the project. Based upon its initial review of this document, and given the size and scale of the project and range of zoning relief it requires, the Planning Department recommends that a consultant peer reviewer be engaged to fully and appropriately review these aspects of the proposal so as to assist the ZBA in its review of the proposed project. The Planning Department would also like additional information regarding the shared parking proposed and recommends a peer reviewer also provide an analysis of the proposal. As noted above, the Project is also currently under review by City Transportation staff.

4. Adequacy of open areas

The applicant has submitted a Landscape Plan. Based upon its initial review of these documents, the Planning Department recommends that a consultant peer reviewer be engaged to fully and appropriately review the adequacy of the extent and usefulness of the proposed open spaces and related aspects of the proposal so as to assist the ZBA in its review of the proposed project.

The Planning Department questions whether the Courtyard will be a true public space due being visually screened from Midland Ave. by the bridge that connects the two structures. At the second story, the bridge is a corridor for travel between the two sections. At the upper floors the bridge is connected by the hallway and residential units. The Planning Department would like to see that space provide more of a visual connection, so the Courtyard is visually accessible to make the connection to the Charles River for visitors and the public. The green space at the rear of the site also represents an important opportunity to link the project to the Charles River Greenway and provide a robust and lively public space.

C. Economic Need for Housing Units

1. General feasibility of the project

The Massachusetts Housing Finance Agency (“MassHousing”) provided a preliminary determination of project eligibility, dated October 29, 2019, that qualifies this proposal for comprehensive permit consideration (**Attachment G**). The preliminary determination is based, in part, on MassHousing’s analysis at that point in time and that the project is eligible under the NEF housing subsidy program. In addition, the preliminary determination indicated that the “Site is suitable for residential use and development and that such use would be compatible with surrounding uses.”

2. Limitations imposed by the financing agency with respect to size or character of the development, amount or nature of the subsidy, and permissible rentals and tenant limits

MassHousing’s preliminary determination of Project Eligibility/Site Approval does not appear to impose any such limits on the proposed Project. It does state that its preliminary determination is limited to a project of no more than 204 units, no fewer than 51 of which must be affordable under applicable guidelines.

3. Changes in rents and units’ sizes of the development which would be necessary to accommodate the requirements and regulations sought to be imposed

MassHousing’s preliminary determination of Project Eligibility/Site Approval does not appear to impose any such requirement(s) regarding rents and unit sizes limits on the project.

In the initial Project Eligibility stage, as part of the municipal comments, city staff encouraged the applicant to consider incorporating deeper levels of affordability. Specifically, offering dwellings units set at or below 50% AMI and 65% AMI, in addition to the 80% AMI units. The Planning Department continues to encourage the applicant to provide additional units at deeper affordability levels.

D. Landscaping, Lighting, and Fencing

Based upon its initial review of these documents, the Planning Department has identified specific items that the applicant should address and provide additional information on. As the site provides a unique transition from the Charles River to the neighborhood, it is recommended that the amount of landscaping be increased in areas such as, the front elevation of Building 1 as viewed from Midland Ave, at the eastern and southern property lines of Building 2 to buffer the structure from abutting uses, at the eastern property line that abuts 30 Riverdale Ave, and wherever else possible to provide the connection to the Charles River and Charles River Greenway.

Additionally, the height of the lamp posts in the Courtyard at fourteen feet may result in potential light pollution and impact on second floor units. Lighting at the parking facility for Building 2 is shown at a level of zero and will not be lit under the proposed lighting plan. Planning Staff would like to see that area have some level of lighting due to safety concerns. Lighting levels and types adjacent to the Greenway and the Charles River must also be carefully considered and coordinated with Conservation staff.

The Planning Department also requests that the Applicant provide a calculation of the caliper inches to be removed and to be replaced. To the extent possible, the Planning Department would discourage the applicant from waiving the provisions of the City's Tree Preservation Ordinance.

V. ADDITIONAL INFORMATION AND MATERIALS

The Planning Department notes that, based on its initial review of the applicant's submissions, additional material and documentation should be submitted by the applicant. This additional material includes:

- a) a shadow study for the project;
- b) a sign plan for the project;
- c) information regarding the transformer at the southeastern portion of the site;
- d) Indication of the location of proposed loading facilities;
- e) Locations of dumpsters and trash facilities;
- f) Calculation of caliper inches removed and replaced.

In addition to the above items, MassHousing Determination and Recommendations (**Attachment G**) include a number of items to be addressed throughout the process. These include:

- a) Compliance with all state and federal environmental laws, regulations, and standards relating to building construction, stormwater management, wastewater collection and treatment, and hazardous waste safety;

- b) Impacts on water flow and floodwater storage capacity;
- c) Pursue sustainability initiatives with their design team;
- d) Potential traffic impacts and parking needs;
- e) Provide information related to light, noise, and construction impacts;
- f) Affordability component must conform to requirements outlined in the 40B Guidelines and to those of the NEF Program of the FHLBank Boston, administered by MassHousing as Subsidizing Agency.

The Planning Department notes that based on its initial assessment of the project and the supporting submission materials, it is expected that as review of the proposal proceeds additional material and documentation might be required and requested of the applicant to facilitate the ZBA's review.

VI. CONCLUSION AND NEXT STEPS

The Planning Department will continue to review the proposal and as, where appropriate and authorized, coordinate reviews of the project by City agencies and consultant peer reviewers and provide updated and expanded memoranda in advance of future ZBA hearings.

ATTACHMENTS

- Attachment A:** List of Exceptions/Waiver Requests
- Attachment B:** Zoning Review Memorandum, dated January 2, 2020
- Attachment C:** Land Use Map
- Attachment D:** Zoning Map
- Attachment E:** City of Newton Project Eligibility Comment Letter, dated September 27, 2019
- Attachment F:** Urban Design Commission Memorandum, dated January 28, 2020
- Attachment G:** Massachusetts Housing Finance Agency Determination of Project Eligibility/Site Approval, dated October 29, 2019

**LIST OF RELIEF/EXCEPTIONS/WAIVERS REQUESTED
RESIDENCES ON THE CHARLES**

The Applicant requests that the Zoning Board of Appeals grant a comprehensive permit in lieu of the following special permits, variances, licenses, and/or approvals without which the Project could not be constructed as proposed, and the denial of which in many instances would render the Project uneconomic, in accordance with the provisions of M.G.L. Chapter 40B, §20 et seq. References herein are to the Revised Ordinances of Newton 2017, as amended, of which Chapter 30 is the Zoning Ordinance.

ZONING ORDINANCE

1. Use

The Applicant seeks a comprehensive permit in lieu of special permits, licenses, variances, and/or approvals to allow the property to be used for the Project, including without limitation:

- (a) Special Permit under Section 4.3.2.B.1 to permit a development of over 20,000 square feet.
- (b) Variance to waive requirements of Section 5.11 to conform the provisions for affordable housing to the terms of the application, if and to the extent necessary.
- (c) Waiver of the procedural requirement of a model as provided in Section 7.3.1.B and for the obligation to provide plans prepared as provided in Section 7.4.3 in connection with the application for a special permit under Section 7.3.1.
- (d) Variance to allow residential, retail, personal services, fast food, dry cleaners, and restaurant uses under Section 4.4.1.
- (e) Waiver of the requirement for a finding of conservation and energy efficiency under Section 7.3.3.C.5 and Section 7.4.5.B.8.
- (f) Special Permit under Section 4.4.1 and Section 6.4.29 for restaurant having over 50 seats.
- (g) Special Permit under Section 4.4.1 for school or other educational purposes, for-profit.
- (h) Special Permit under Section 4.4.1 for ATM, standalone.

2. Density and Dimensional Controls

The Applicant seeks a comprehensive permit in lieu of such special permits, variances, and/or approvals as may be required from or under Section 4.3 for construction of the project in a Manufacturing District, including without limitation the following waivers from the dimensional requirements of Section 4.3.3 as follows:

Zoning Category	Required/Allowed	Existing	Proposed	Waiver (Y/N)
Minimum Lot Area	0.23 acres (10,000 square feet)	3.41 acres (148,563 square feet)	3.48 acres (151,944 square feet)	N
Lot Frontage (Los Angeles Street)	N/A	225.0'	225.0'	N
Lot Coverage	N/A	0.36	.50	N
Front Setback	Greater of 15 feet or ½ building height (28.09')	109.7' (Bldg 1 Riverdale) 29.8' (Bldg 1 Midland) 91.3' (Bldg 2 LA Street) 0.4' (Bldg 2 Midland)	26.5' (Bldg 1 Riverdale) 5' (Bldg 1 Midland) 6.9' (Bldg 2 LA Street) 4.1' (Bldg 2 Midland)	Y
Side Yard Building Setback	Greater of 20 feet or ½ building height (28.09')	19.5' (Bldg 1) 6.9' (Bldg 2)	15.1' (Bldg 1) 5.0' (Bldg 2)	Y
Side Yard Parking Setback	5.0'	230+/-' (Bldg 1) 1.0' (Bldg 2)	18.8' (Bldg 1) 2.0' (Bldg 2)	Y
Rear Yard Building Setback	Greater of 20 feet or ½ building height (28.09')	1.0' (Bldg 1) 3.6' (Bldg 2)	14.3' (Bldg 1) 12.6" (Bldg 2)	Y
Rear Yard Parking Setback	5.0'	1.0' (Bldg 1) 3.6' (Bldg 2)	20.6' (Bldg 1) 7.2' (Bldg 2)	N
Building Height	36'	21.5'	56.2'	Y
Maximum Number of Stories	3 stories	2 stories	5 stories	Y
Floor Area Ratio	1.50	0.37	2.18	Y
Minimum Open Space	N/A	15.4%	30.6%	N
Lot Area Per Unit	N/A	N/A	704 square feet/unit	N

- (k) To the extent necessary, a waiver from the off-street loading requirements contained in Section 5.1.12.C.
- (l) Under Section 5.1.12.D.3 a waiver is sought in lieu of any consent of the City Engineer as to drainage of the parking facility.
- (m) Any other relief which may be necessary or appropriate and may be granted by the City Council under Section 5.1.13 in order to conform the waivers sought to the plans submitted.

4. Other

- (a) To the extent necessary, a waiver of the sustainable design requirements under Section 5.12.
- (b) To the extent necessary, a waiver of the requirement that the building(s) will contribute significantly to the efficient use and conservation of natural resources and energy under Section 7.3.3.C.5.
- (c) The Applicant seeks a waiver of all provisions relating to I and I.
- (d) The Applicant requests a comprehensive permit in lieu of site plan approval required under Section 7.4 in connection with special permits granted under Section 7.3.
- (e) The Applicant seeks a waiver of the requirements for the number, size, location, and types of signs allowed pursuant to Section 5.2, the sign permit procedures under Section 5.2.4, and, insofar as applicable, any hearing or procedure before the Urban Design and Beautification Commission.

NON-ZONING ORDINANCES

1. Public Tree Ordinance (Revised Ordinances Chapter 21 and M.G.L. c. 87)

Chapter 21, §21-72, §§21-80 through 21-90 and G.L. Chapter 87 require a permit and payment of fees for the removal of certain trees, and in some instances, a contribution to the tree replacement fund. To the extent that any permit, fee payment or contribution would otherwise be required under §21-72, §§21-80 through 21-90, or G.L. Chapter 87, the Applicant requests a comprehensive permit in lieu of such permit, fee payment or contribution.

2. Demolition Delay (Revised Ordinances Chapter 22)

§22-50 et seq. provides for a review by the Newton Historical Commission and the possible imposition of a demolition delay for demolition of historically significant buildings. To the extent any elements of the property are deemed to fall within the jurisdiction of the Newton Historical Commission under §22-50 and such elements will be demolished, the Applicant seeks a comprehensive permit in lieu of demolition review or a determination that such structures are preferably preserved.

3. Outdoor Lighting (Revised Ordinances Chapter 20)

Revised Ordinances Chapter 20 §20-23 – 20-28 provide limitations on installation of light sources which do not conform to the criteria stated. §20-26 provides for waivers to be granted by the Planning and Development Board. To the extent that any light source may not conform to the requirements of §20-24 or that the requirements of that section may be inconsistent with § 30-19, the Applicant seeks a comprehensive permit in lieu of any waiver requested under §20-26.

4. Floodplain, Watershed Protection Ordinance (Revised Ordinances Chapter 22)

A portion of the property is located within the City of Newton Floodplain/Watershed Protection District governed by § 22-22 et seq. To the extent that any relief is necessary for the project from the Conservation Commission under the Floodplain/Watershed Protection Ordinance, the Applicant seeks a comprehensive permit in lieu of such approvals.

5. Consent of the Planning Board

To the extent any consent or review of the Planning Board is required under Planning Board rules, a comprehensive permit in lieu of such approval is sought.

6. Curb Cut Permit (Revised Ordinances Chapter 26)

The applicant requests a comprehensive permit in lieu of any sidewalk crossing permits or consent of the Commissioner of Public Works to the extent necessary to comply with the requirements of Revised Ordinances §26-65.

7. Utility Connection Permits (Revised Ordinances Chapters 23, 26, and 29)

The applicant seeks a comprehensive permit in lieu of such local approvals as are required under Revised Ordinances §§23, 26, and 29 or otherwise to (i) open streets, (ii) make utility connections for water, sewer, stormwater, gas, electric, cable, or other utilities or (iii) cross sidewalks from time to time.

8. Fences (Revised Ordinances Chapter 5)

To the extent needed, the Applicant seeks a comprehensive permit in lieu of obtaining a fence permit from the Commissioner of Inspectional Services under §5-30.

9. Amended Relief

The Applicant seeks a comprehensive permit for such amendments to the relief sought herein as may be required to conform the relief sought to the plans as filed or to any amendments thereof filed in connection with the actions of the Zoning Board of Appeals or the Housing Appeals Committee.

10. Additional Relief

The Applicant seeks a comprehensive permit in lieu of all other permits, licenses, variances, and approvals as may be issued by the City of Newton as necessary to conform the relief sought to the plans filed with this Application, as the same may be amended from time to time. Included within the relief sought are all ancillary, subsidiary, usual, customary, or necessary local permits, licenses, variances, or approvals in lieu of which the Board may grant a comprehensive permit to the extent necessary to conform the relief granted to the plans submitted herewith as amended from time to time.

RESIDENCES ON THE CHARLES PARKING CALCULATION

RESIDENTIAL

Section 5.1.4.A requires 2 parking stalls per residential unit

204 proposed units

204 units x 2 parking stalls/unit = 408 parking stalls

Total Residential Parking Requirement: 408 parking stalls

Total Residential Parking Stalls Provided: 204 parking stalls

Total Residential Parking Waiver Requested: 204 parking stalls¹

NOTE: The exact mix of commercial tenants and the space which each would occupy is not established at this time. Consequently, the parking calculation for the commercial uses at the site is based on a projected mix of uses and associated space. This projection assumes a mix of uses with higher parking requirements, such as restaurants and retail uses. In so doing, the projection is aimed at determining the highest parking requirements which might possibly come into play. In determining the projected number of seats for restaurants and the number of employees for restaurant and retail uses, the development team has made inquiries of design professionals and operators of similar businesses.

COMMERCIAL

(including retail sales, restaurant, and office uses)

1. Retail Uses (2,100 SF):

Section 5.1.4.A requires 1 parking stall per 300 square feet plus 1 stall per 3 employees

2,100 SF = 7 parking stalls (1/300 SF)

Employees: 6 Employees = 2 parking stalls (1/3 employees)

Total: 9 parking stalls

Total Retail Parking Requirement: 9 parking stalls

2. Restaurant Uses:

Section 5.1.4.A requires 1 parking stall per 3 seats plus 1 parking stall per 3 employees

¹ Pursuant to Section 5.1.4.A of the Zoning Ordinance, the City Council could grant a special permit to allow 1.25 parking stalls per unit. If this relief were granted, the residential parking requirement would be 255 stalls and the waiver would be for 51 stalls.

Projected 24 Seat Cafe: 24 Seats = 8 parking stalls (1/3 seats)
Employees: 3 = 1 parking stall (1/3 employees)
Total: 9 parking stalls

Total Restaurant Parking Requirement: 9 parking stalls

3. Office Use

Section 5.1.4.A requires 1 parking stall per 250 square feet

17,782 SF = 72 parking stalls (1/250 SF)
Total: 72 parking stalls

Total Office Use Parking Requirement: 72 parking stalls*

Total Commercial Parking Requirement: 9+9+72 = 90 parking stalls

Total Commercial Parking Stalls Provided: 23 parking stalls

Total Commercial Parking Waiver Requested (pursuant to Section 5.1.13): 67 parking stalls²

**Total Residential and Commercial Parking Requirement:
408+90 = 498**

Total Parking Provided: 227 stalls

Total Residential and Commercial Parking Waiver Requested: 271 parking stalls

(Total Residential and Commercial Parking Waiver Requested if Section 5.1.4.A special permit reduction to residential parking requirement and Section 5.1.4.C reduction in commercial parking are factored in: 51+37= 88 parking stalls)

² Pursuant to Section 5.1.4.C of the Zoning Ordinance, the City Council could grant a special permit for up to a 1/3 reduction in the parking requirement for the proposed commercial uses. Reduced by a third, the parking requirement would be 60 stalls and the waiver would be for 37 stalls. This methodology has been used in previous special permit projects in the city, including at Washington Place.



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 2, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Legacy the River, LLC
Stephen Buchbinder, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: **Request for a Comprehensive Permit to construct a mixed-use development with 204 residential units, 22,382 square feet of commercial space and 227 on-site parking stalls**

Petitioner: Legacy the River, LLC	
Site: 15 Riverdale Avenue	SBL: 11002 0007
Zoning: MAN	Lot Area: 128,887 square feet
Current use: Vacant office space and distribution	Proposed use: Residential and mixed commercial

BACKGROUND:

A Comprehensive Permit under MGL Chapter 40B is requested for a development of a 2.96-acre parcel along the Charles River. The parcel is divided by Midland Avenue, a private way. The proposed development consists of two buildings with a total of 204 residential dwelling units, 22,382 square feet of retail and innovation space and 227 parking stalls. The site was used for the manufacture of computer parts until 2002, when it was converted into office space and a distribution center for the Boston Globe. The office space is now vacant but the newspaper distribution center is still operational. The petitioner intends to raze the existing structures and construct two mixed use buildings and surface parking. The section of Midland Ave from the western property boundary with 8 Midland Ave to the westernmost property boundary will be abandoned and will operate as an internal driveway.

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

- Comprehensive Permit Application, prepared by Stephen J. Buchbinder, attorney, dated 9/12/2019
- Zoning Analysis, submitted 8/21/2019

- Existing Conditions plan, prepared by Allen & Major Associates, Inc, dated 8/15/2019
- Schematic Layout and Materials Plan, prepared by Allen & Major Associates, Inc, dated 8/15/2019
- Schematic Drainage Plan, prepared by Allen & Major Associates, Inc, dated 8/15/2019
- Layout Plan Building A, prepared by Icon Architecture, submitted 11/21/2019
- Layout Plan Building B, prepared by Icon Architecture, submitted 11/21/2019
- Materials Plan Building A, prepared by Icon Architecture, submitted 11/21/2019
- Materials Plan Building B, prepared by Icon Architecture, submitted 11/21/2019
- Grading and Drainage Plan, prepared by Icon Architecture, submitted 11/21/2019
- Spot Grade Plans, Buildings A and B, prepared by Icon Architecture, submitted 11/21/2019

ADMINISTRATIVE DETERMINATIONS:

1. The subject site is located in the Manufacturing zoning district. The petitioner proposes to construct two buildings (to be known as Buildings "1" and "2") to be used for 204 residential dwellings, 17,782 square feet of office space and 4,600 square feet of retail. While the office use is allowed per section 4.4.1, residential and retail uses are prohibited in the Manufacturing district. The petitioner seeks relief from the requirement of a use variance through a Comprehensive Permit.
2. The petitioner proposes to construct a 245,770 square foot (gross floor area) mixed use development. Per section 4.3.2.B.1, a special permit is required for any development in the Manufacturing district of 20,000 square feet or more of new gross floor area. The petitioner seeks relief from the special permit requirements through a Comprehensive Permit.
3. The required front setback in the Manufacturing district is the greater of 15 feet or half the building height, or the average of the buildings on either side per section 4.3.3. Building 1 has no abutting structures from which to pull an average, and is proposed at 56.2 feet in height, creating a front setback requirement of 28.1 feet. The building is proposed with a front setback of 5 feet from Midland Avenue and 26.5 feet from Riverdale Avenue, requiring a Comprehensive Permit in lieu of a variance.

Building 2 is across Midland Avenue from Building 1, and is proposed with a height of 44.5 feet, creating a 22.25-foot front setback requirement. The building is proposed at 6.9 feet from Los Angeles Street, and 4.1 feet from Midland Avenue, requiring a Comprehensive Permit in lieu of a variance.
4. Per section 4.3.3, the side setback requirement is the greater of one-half the building height or 20 feet when abutting a residential or public use district. Building 1 is bordered on each side and the rear by land owned by the City of Newton or the State of Massachusetts, thus zoned Public Use. Building 1 is proposed at 56.2 feet in height, and therefore has a required side yard setback minimum of 28.1 feet. The building is proposed at 26.5 feet from the western property line, requiring relief from section 4.3.3 through the Comprehensive Permit in lieu of a variance.

Building 2 is abutted by properties zoned Manufacturing and is required to have a side setback of half the building height. Building 2 is proposed at 44.5 feet in height resulting in a side setback of 22.25 feet. The building is proposed with a side setback of 5 feet, requiring relief through the Comprehensive Permit.

5. Per section 4.3.3 the required rear setback in the Manufacturing district is the greater of half the building height or 20 feet when abutting a residential or Public Use district. Building one is proposed with a rear setback of 14.3 feet where 22.25 feet is required. The portion of the property with the proposed Building 2 is abutted at the rear by a parcel zoned Manufacturing, resulting in a rear setback requirement of 22.25 feet. The proposed rear setback is 12.6 feet, requiring relief through the Comprehensive Permit in lieu of a variance.
6. The maximum height allowed in the Manufacturing district is 24 feet by right and 36 feet by special permit per section 4.3.3. The proposed height of Building 1 is 56.2 feet, and the proposed height of Building 2 is 44.5 feet. Both buildings require relief from the height requirements of section 4.3.3 through the Comprehensive Permit in lieu of a variance.
7. Building 1 is proposed with five stories, and Building 2 is proposed with four. Per sections 4.3.2.B.3 and 4.3.3, the maximum number of stories allowed in the Manufacturing district is two by right, and three by special permit. The petitioner's requested five stories in Building 1 and four stories in Building 2 require relief from the maximum number of stories through a Comprehensive Permit in lieu of a variance.
8. The maximum allowed FAR in the Manufacturing district per section 4.3.3 is 1.50 for a building with three stories. The petitioner proposes an FAR of 2.09. To exceed the allowable FAR of 1.50 requires relief from section 4.3.3 through the Comprehensive Permit in lieu of a variance.
9. Section 4.3.3 requires that no parking locate within 5 feet of a rear or side lot line. The petitioner proposes parking as close as 2 feet from the side lot line at Building 2, requiring a Comprehensive Permit in lieu of a variance.
10. The petitioner proposes 4,600 square feet of commercial (non-office) space on the ground floor. The proposed uses may include retail, personal services, fast food, restaurant, and dry-cleaning uses. Per section 4.4.1, these uses are prohibited in the Manufacturing district, requiring relief through the Comprehensive Permit in lieu of a variance.
11. Per sections 4.4.1 and 6.4.29, a special permit is required to allow restaurants with more than 50 seats. The petitioner requests relief through the Comprehensive Permit to allow for restaurants with more than 50 seats in lieu of a special permit.
12. Per section 4.4.1 a special permit is required for a for profit school or other educational purpose. The petitioner requests relief through the Comprehensive Permit to allow for a for-profit school and other for-profit educational uses in lieu of a special permit.
13. Per section 4.4.1 a special permit is required for a stand-alone ATM. The petitioner requests relief through the Comprehensive Permit to allow for stand-alone ATMs in lieu of a special permit.
14. Section 5.1.3.E requires a special permit to allow for assigned parking stalls. To the extent that parking stalls will be assigned to individual unit owners, a waiver through the Comprehensive Permit is required in lieu of a special permit.

15. The petitioner proposes to construct 227 parking stalls, with 182 located under Building 1 and 46 under Building 2. The stalls will be available for use between the two lots. Parking areas are located at ground level, in facilities that are open at the sides or completely uncovered. There are 204 residential units proposed, as well as 22,382 square feet of commercial space. While no commercial tenants have been confirmed, based on the available information included in the application, the following parking calculation is presumed.

Use	Parking Regulation	Parking Required
204 Residential units	2 stall per unit	408 stalls
Office 17,782 square feet	1 stall per 250 square feet	72 stalls
Restaurant 24 seats 3 employees	1 stall per 3 seats 1 stall per 3 employees	9 stalls
Retail/Personal Service 2,100 square feet 6 employees	1 stall per 300 square feet 1 stall per 3 employees	9 stalls
TOTAL		498 stalls

There are 227 parking stalls proposed for the site. The petitioner anticipates a requirement of 498 parking stalls based on the calculation above without any special permit exceptions allowing for reductions. Per section 5.1.4, a waiver of 271 stalls is required through the Comprehensive Permit in lieu of a special permit.

Section 5.4.1.A allows for a reduction in the residential requirement to 1.25 stalls per unit from two per unit, which would reduce the requirement from 408 to 255 stalls. Section 5.1.4.C allows the Council to grant a special permit to reduce the total stalls required in a development with three or more uses by up to 1/3, which would reduce the commercial requirement from 90 to 60 stalls. By special permit, the total parking requirement could be reduced from a total of 498 to 315 stalls, which would require a reduced waiver of 88 stalls.

16. Section 5.1.5 requires that parking facilities with more than five stalls and any loading facility provide to the Commissioner of Inspectional Services an off-street parking and loading plan for review. The petitioner seeks to waive the provisions of this section through the Comprehensive Permit in lieu of a special permit.
17. Per section 5.1.8.B.1 and 2 require that parking stalls measure 9 feet in width by 19 feet in depth for angle parking and 21 feet for parallel parking. The petitioner proposes several reduced angled parking stalls with the smallest measuring 8 feet wide by 16 feet deep, and parallel stalls with 18 feet in depth. To reduce the parking stall dimensions requires relief through the Comprehensive Permit in lieu of a special permit.
18. Section 5.1.8.B.4 requires a minimum depth of 19 feet for a handicapped parking stall. This requirement is particular to the Newton Zoning Ordinance and not a requirement of Massachusetts Architectural

Access Board. To the extent that any of the proposed handicapped parking stalls are deficient in depth, a waiver per section 5.1.13 is required through the Comprehensive Permit in lieu of a special permit.

19. Section 5.1.8.B.6 end stalls restricted on one or both sides by curbs, walls, fences or other obstructions must have maneuvering space at the aisle end of the at least 5 feet in depth and 9 feet in width. To the extent that the end stalls proposed in the parking facilities do not meet the requirements of this provision, relief through the Comprehensive Permit is required in lieu of a special permit.
20. Section 5.1.8.C.1 requires 24-foot wide two-way access aisles in parking facilities. The petitioner proposes aisles as narrow as 20 feet at Building 2, requiring relief through the Comprehensive Permit in lieu of a special permit.
21. Section 5.1.9.A requires screening of outdoor parking facilities containing more than five stalls. While the bulk of the parking stalls are covered by the buildings, 38 parking stalls are partially or completely exposed. No screening for these parking stalls from abutting properties is shown on any plan, requiring relief through the Comprehensive Permit in lieu of a special permit.
22. Section 5.1.10.A requires that outdoor parking facilities provide security lighting that maintains a minimum of one-foot candle on the entire surface of the facility and does not spill onto other properties. Where appropriate, the petitioner seeks relief from this section through the Comprehensive Permit in lieu of a special permit.
23. Section 5.1.12 requires that off-street loading facilities be provided. With the proposed commercial space of 22,382 square feet, one off-street loading bay is required. To the extent necessary, the petitioner seeks a waiver from the off-street loading requirements through the Comprehensive Permit in lieu of a special permit.
24. The petitioner seeks a waiver of sign permit procedures and dimensional requirements under section 5.2 through the exceptions provided in special permit provisions of section 5.2.13 through the Comprehensive Permit in lieu of a special permit.
25. Section 5.11 of the Zoning Ordinance provides requirements for providing affordable units for private residential developments. To the extent that Section 5.11 of the Zoning Ordinance is applicable to the project, a comprehensive permit is requested from Section 5.11 to conform to the affordability elements of the proposed development to the requirements of the Zoning Ordinance.
26. Section 5.12 requires that any development in excess of 20,000 square feet must meet green building standards. To the extent necessary, the petitioner seeks a Comprehensive Permit in lieu of a special permit waiving this requirement.
27. Section 7.3.1.B requires that a petitioner submit a 3D computer-generated model of a proposed multi-family project with more than 20,000 square feet. The petitioner requests a waiver from this provision through the Comprehensive Permit.

28. The petitioner requests a Comprehensive Permit in lieu of site plan approval required under section 7.4 in connection with special permits granted under section 7.3.
29. Revised Ordinances Sections 20-23 to 20-28 provide limitations on installation of light sources which do not conform to the criteria of the Ordinances. Section 20-26 provides for waivers to be granted by the Planning Board to the extent that any light source does not conform to the requirements of Section 20-24. To the extent that any light source may not conform to these requirements, or that these requirements may be inconsistent with Section 5.1.10.A, the Petitioner seeks a waiver.
30. Sections 21-72 and 21-80 through 21-90 and G.L. Chapter 87 require a permit and payment of fees for the removal of certain trees and in some instances, a contribution to the tree replacement fund. To the extent that any permit, fee payment or contribution would otherwise be required under section 21-72 and 21-80 through 21-90, or G.L. Chapter 87, the petitioner requests a Comprehensive Permit in lieu of such permit, payment or contribution.
31. The rear portion of the property is located within the City of Newton Floodplain/Watershed Protection District governed by section 22-22 in its entirety. To the extent that any relief is necessary for the project from the Conservation Commission under the Floodplain/Watershed Protection Ordinance, the petitioner seeks a Comprehensive Permit in lieu of such approvals.
32. To the extent that any consent or review by the Planning Board is required under Planning Board rules, a Comprehensive Permit in lieu of such approval is required.
33. The Petitioner seeks a permit to cross the sidewalk under the provisions of Section 26-65 Construction of Sidewalks, Driveways and Driveway Entrances.
34. The Petitioner seeks a permit to connect to the public water supply, per Section 29, Article II of the Newton City Ordinances.
35. Per Section 29, Article III, the Petitioner seeks a permit for connection to the public sewer system.
36. The Petitioner seeks a permit for the storm sewer connection under Section 29, Article IV, or otherwise for the project's overflow discharge of storm water to the City's storm drain system.
37. To the extent necessary, the petitioner seeks a Comprehensive Permit in lieu of meeting the provisions of section 5-30, Article III pertaining to fences.
38. The Petitioner seeks any relief from local rules and regulations, and any additional required local approvals as may be necessary for approval for the Comprehensive Permit plans as may be amended prior to the termination of the public hearing.
39. The petitioner seeks a Comprehensive Permit in lieu of all other permits, licenses, variances and approvals as may be issued by the City of Newton as necessary to conform the relief sought to the plans filed with this application.

Zone: MAN	Required	Existing	Proposed
Lot Size	10,000 square feet	128,887 square feet	No change
Setbacks – Building 1 <ul style="list-style-type: none"> • Front (Midland) • Front (Riverdale) • Side • Rear 	<ul style="list-style-type: none"> • ½ building height (28.1 feet) • ½ building height (28.1 feet) • ½ building height (28.1 feet) • ½ building height (28.1 feet) 	<ul style="list-style-type: none"> • 29.8 feet • 19.5 feet • 89.6 feet 	<ul style="list-style-type: none"> • 5 feet • 26.5 feet • 15.1 feet • 14.3 feet
Setbacks – Building 2 <ul style="list-style-type: none"> • Front (Los Angeles) • Front (Midland Ave) • Side • Rear 	<ul style="list-style-type: none"> • ½ building height (22.25 feet) • ½ building height (22.25 feet) • ½ building height (22.25 feet) • ½ building height (22.25 feet) 	<ul style="list-style-type: none"> • 0.4 feet • 7 feet • 132 feet 	<ul style="list-style-type: none"> • 6.9 feet • 4.1 feet • 5 feet • 12.6 feet
Building Height <ul style="list-style-type: none"> • Building 1 • Building 2 	24 feet	<ul style="list-style-type: none"> • 21.5 feet • 9 feet 	<ul style="list-style-type: none"> • 56.2 feet • 44.5 feet
Max number of stories <ul style="list-style-type: none"> • Building 1 • Building 2 	2	<ul style="list-style-type: none"> • 2 • 1 	<ul style="list-style-type: none"> • 5 • 4
Parking stalls	498		227

40. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§4.3.2.B.1 §7.3	Waive the special permit requirement for a development with more than 20,000 square feet	C.P. per MGL c 40B
§7.3.1.B §7.6	Waive requirement for a 3D model	C.P. per MGL c 40B
§4.3.3 §7.6	Waive required front setback	C.P. per MGL c 40B
§4.3.3 §7.6	Waive required side setback	C.P. per MGL c 40B
§4.3.3 §7.6	Waive required rear setback	C.P. per MGL c 40B
§4.3.2.B.3 4.3.3 §7.6	Waive maximum height	C.P. per MGL c 40B
§4.3.2.B.3	Waive maximum number of stories	C.P. per MGL c 40B

§4.3.3 §7.6		
§4.3.3 §7.6	Waive maximum FAR	C.P. per MGL c 40B
§4.3.3 §5.1.13 §7.3	To allow parking within 5 feet of a setback	C.P. per MGL c 40B
§4.4.1 §7.6	To allow residential, retail, personal services, fast food, dry cleaners and restaurant uses	C.P. per MGL c 40B
§4.4.1 §7.3	To allow a standalone ATM	C.P. per MGL c 40B
§4.4.1 §6.4.29 §7.6	To allow a restaurant with more than 50 seats	C.P. per MGL c 40B
§4.4.1 §7.3	To allow for profit educational uses	C.P. per MGL c 40B
§5.1.3.E §5.1.13 §7.3	To allow assigned parking	C.P. per MGL c 40B
§5.1.4.A §5.1.13 §7.3	To allow a waiver of 271 parking stalls	C.P. per MGL c 40B
§5.1.5 §5.1.13 §7.3	Waive the requirement to provide an off-street parking and loading plan	C.P. per MGL c 40B
§5.1.8.B.1 and 2 §5.1.13 §7.3	Waive minimum parking stall dimensions	C.P. per MGL c 40B
§5.1.8.C.1 and 2 §5.1.13 §7.3	Waive minimum maneuvering aisle dimensions	C.P. per MGL c 40B
§5.1.8.D §5.1.13 §7.3	Waive minimum/maximum driveway width	C.P. per MGL c 40B
§5.1.9.A §5.1.13 §7.3	Waive perimeter landscaping requirements	C.P. per MGL c 40B
§5.1.10.A.1 §5.1.13 §7.3	Waive lighting requirements for outdoor parking	C.P. per MGL c 40B
§5.1.10.A.2 §5.1.13 §7.3 §20-26	Waive lighting requirements for outdoor parking regarding light spill onto neighboring properties	C.P. per MGL c 40B

§5.1.12 §5.1.13 §7.3	Waive off-street loading requirements	C.P. per MGL c 40B
§5.1.11 §5.1.13 §7.3	Waive bicycle parking requirements	C.P. per MGL c 40B
§5.2 §7.3	Waive all sign regulations and procedures	C.P. per MGL c 40B
§5.11 §7.6	Waive inclusionary zoning	C.P. per MGL c 40B
§5.12 §7.6	Waive sustainable development design standards	C.P. per MGL c 40B
§7.4 §7.3 §7.6	Waive site plan approval procedures	C.P. per MGL c 40B
§20-23 §20-28	Waive Light Trespass provisions	C.P. per MGL c 40B
§21-72 §21-80 §21-90 G.L. Chapter 87	Waive requirement for a permit or fee for tree removal, or contribution to a tree replacement fund	C.P. per MGL c 40B
§22-22	Waive relief from Conservation Commission under the Floodplain/Watershed Protection Ordinance	C.P. per MGL c 40B
	Waive requirement for Planning Board review	C.P. per MGL c 40B
§26-65	Permit to cross the sidewalk and connect to the street	C.P. per MGL c 40B
§29, Article II	Permit to connect to public water supply	C.P. per MGL c 40B
§29, Article III	Sewer connection permit	C.P. per MGL c 40B
§29, Article IV	Storm drain connection permit	C.P. per MGL c 40B
§5-30 Article III	Waive fence provisions	

ATTACHMENT C

Land Use

15 Riverdale Ave.

City of Newton,
Massachusetts

Land Use

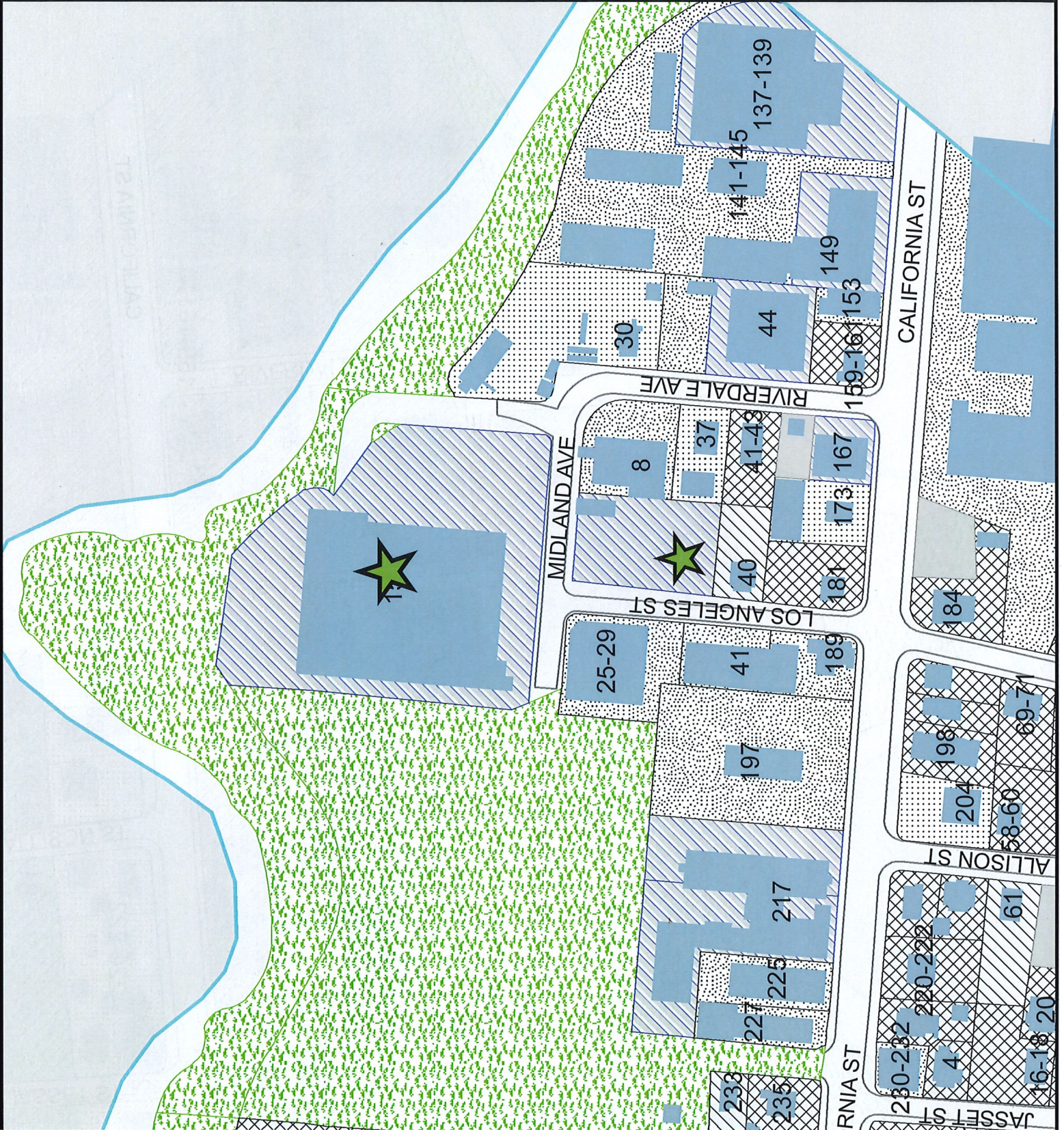
Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Industrial
- Mixed Use
- Open Space
- Vacant Land



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield
012.85 50 75 100 125 150 175 200 225 Feet



ATTACHMENT D

Zoning

15 Riverdale Ave.

City of Newton,
Massachusetts

Legend

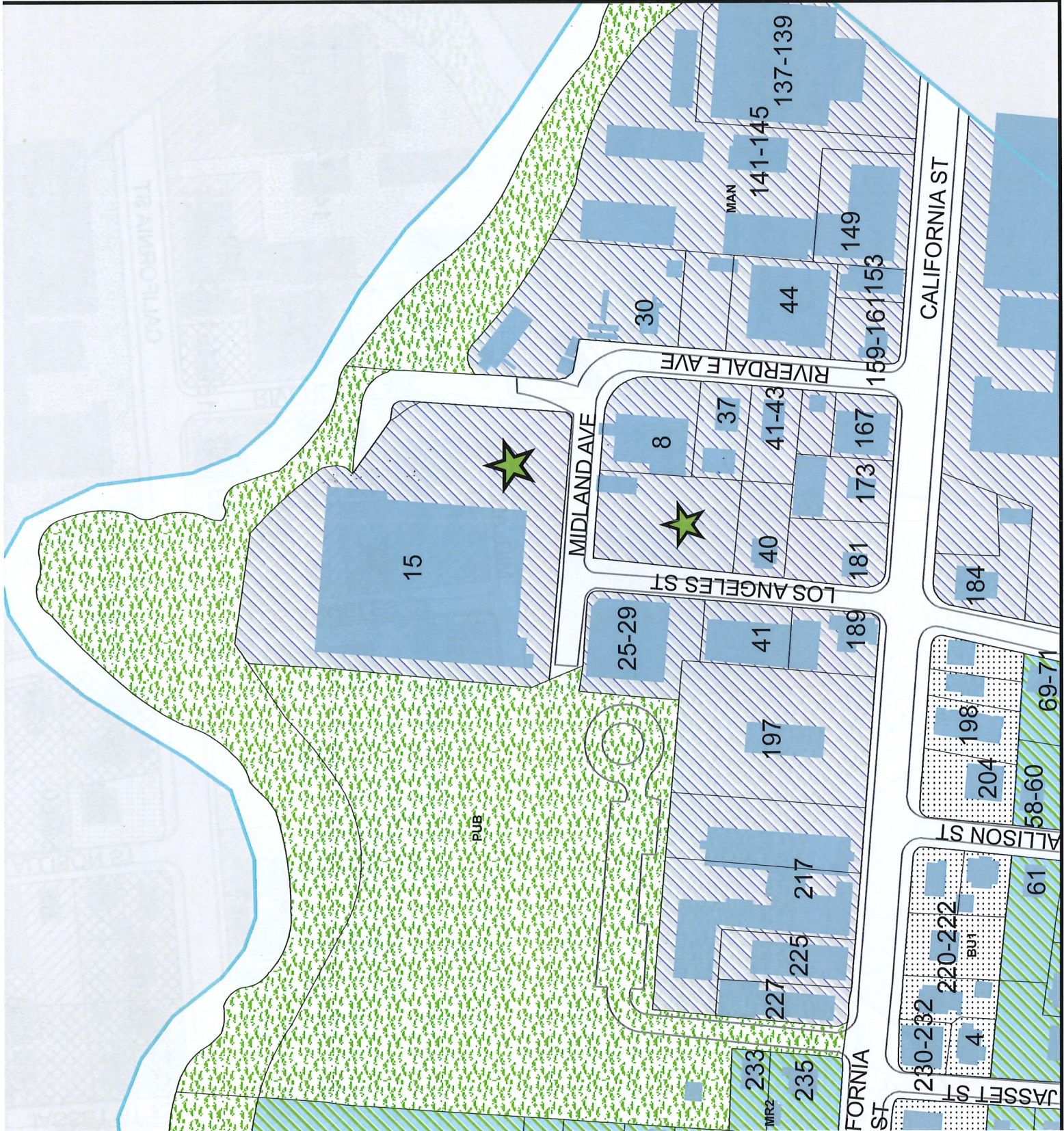
- Multi-Residence 2
- Business 1
- Manufacturing
- Public Use



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Seth D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150 175 200 225 Feet





Ruthanne Fuller
Mayor

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Barney S. Heath
Director

September 27, 2019

[By Electronic Mail and Regular Mail]

Katherine Miller
Planning and Programs
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

RE: Chapter 40B Comprehensive Permit Project Eligibility Application/Site Approval

Project Name:	The Residences on the Charles
Location:	15 Riverdale Avenue
Number of Proposed Units:	204
Subsidizing Agency:	Massachusetts Housing Finance Agency (MassHousing)
Applicant:	Mark Development, LLC

Dear Ms. Miller:

The Planning and Development Department, on behalf of the City of Newton, appreciates the opportunity to comment on the Project Eligibility/Site Approval application recently submitted by CDP Land Acquisition Company LLC (the "Applicant") for The Residences on the Charles at 15 Riverdale Avenue (the "Project"). This letter constitutes the City's response to your letter addressed to Mayor Fuller, dated August 29, 2019, seeking comments regarding the Project.

The Planning and Development Department (the "Department") solicited written comments from abutters to the proposed project as well as from City staff, and members of the City Council and Boards and Commissions. Comments received can be found in Attachments A.

Comments in Response to the Project Proposal

The Planning and Development Department offers the following comments in response to the information provided by the Applicant, CDP Land Acquisition Company, LLC, to help MassHousing evaluate this request for Project Eligibility/Site Approval:

A. Affordable Housing

- **Affordable Housing Need.** The need for affordable housing in Newton is vast, impacting extremely low-income individuals and families to those earning upwards of 120% of the area median income. These needs continue to persist as evidenced by the latest Comprehensive Housing Affordability Strategy data published by HUD. Of the total 30,900 households in the City, 27% are low-to-moderate with incomes at or below 80% of the area median income (AMI). More startling is the percentage of housing cost burdened families in the City – close to 30% of *all* households in Newton, regardless of income level. Housing cost burden pertains to those individuals or families that spend over 30% of their monthly gross income on housing costs. As a result, these households are likely to struggle to afford other basic needs such as food, clothing, transportation, medical care, and childcare, which force difficult trade-offs. An even more shocking statistic is that over 44% of low-to-moderate families (at or below 80% AMI) in Newton are considered severely housing cost burdened, paying greater than 50% of their annual incomes on housing costs.¹

In Newton, the lowest income families experience the greatest challenges related to housing. Close to 19% of all households in the city, or over 5,700 households, earn at or below 50% of AMI, yet there are only 2,145 rental units and 106 ownership units affordable to families at these low-income levels.² This affordability gap amongst Newton's vulnerable populations is also highlighted by the over 1,300 families and seniors on the Newton Housing Authority waitlist. Many of these households spend close to ten years on the Housing Authority's waitlist before receiving notification of an available unit in Newton.

While there are a handful of pending and approved developments in the City with SHI-eligible units, as of August 2019 only 7.5%, or 2,425 units, of the City's housing units are listed on Newton's Subsidized Housing Inventory (SHI). These additional units will not meet the overwhelming demand for affordable rental housing throughout Newton.

- **Newton's Housing Strategy and Priorities.** Newton's housing priorities stem from the urgent need for affordable housing. According to the City's *Newton Leads 2040 Housing Strategy*, published in 2016, since 2003 the average sale price of a single-family home in Newton has doubled from approximately \$600,000 to \$1.2 million. The rental market in

¹ 2012-2016 CHAS.

² 2011-2015 CHAS.

Newton also corresponds to this widening price trend as most rentals in the City are only affordable to households earning 100% of the area median income (AMI) or higher. In addition, the number of households earning less than \$125,000 declined by 22.2% between 2000 and 2013. The combination of escalating housing prices and the City's significant loss of low- and middle-income households over the past 15 years means that without action, Newton will become predominantly a city affordable to only the wealthy, with limited diverse housing options for younger and older Newtonians and those of more limited means.³

The dearth of housing options affordable to a variety of populations at a range of incomes threatens the vibrancy of our village centers, our schools, and community life. The City, therefore, has consulted with stakeholders and residents to create public plans with clear goals to guide Newton in combatting this challenge. These documents, the City's Comprehensive Plan, the *2040 Housing Leads Strategy*, the Economic Development Strategic Plan, and the Needham and Riverside Vision Plans all identify the protection and broadening of Newton's housing diversity as major priorities. The plans emphasize that the creation of affordable housing could assist in maintaining the diversity of Newton by providing housing opportunities of varying types to different populations at mixed incomes. Doing so creates the opportunity for greater economic and social diversity, as families and individuals of varying ages, ethnicities, occupations, and income levels can find a home in Newton.

The enactment of these overarching goals and others (e.g., walkable village centers, lowering greenhouse gas emissions, co-locating housing and public transit to address congestion) requires the implementation of key strategies, which are also outlined in the City's public planning documents. One strategy is the purposeful placement of new housing. For instance, housing development near transit centers with comfortable pedestrian access to Newton's important village centers may attract young professionals and seniors with a walkable environment with adjacent amenities. In addition to new development in these locations, the City recognizes the value in utilizing existing housing. Reversing the decline in housing permitted on the upper floors of existing commercial buildings offers increased housing opportunities while creating desired foot traffic to the below commercial retailers. Thus, the development of mixed-use housing is another key strategy to meet the City's housing goals.

In addition to the desirability of mixed-use development, Newton also recognizes mixed-income development as an integral strategy. Mixed-income projects that offer equitable housing units and amenities for both low- and middle-income and higher income individuals and families are crucial for encouraging newcomers to Newton and helping residents stay in community. The creation of a greater number of mixed-income

³ Newton Leads 2040 Housing Strategy, p. 28

developments may help to reverse the trend of Newton's shrinking low- and middle-income populations. Finally, leveraging a mix of local, state, federal, and private dollars to create affordable ownership and rental housing is crucial for Newton to meet its housing goals and create the diverse and welcoming city it desires.

- **Project Unit Mix and Affordability.** The Project will add 51 units affordable to households at 80% of the Area Median Income (AMI): 10 studios, 21 one-bedrooms, 14 two-bedrooms, and 6 three-bedrooms. By producing affordable units at these sizes, the Project allows individuals and families with a range of social and economic diversity to find a home in Newton. The remaining 153 units will be rented at market-rate.

The affordability of The Residences responds to the City's diverse housing goals as articulated earlier in this document. However, while the Department supports this variety of unit sizes at an income-restricted affordable rent, we would like to see a deeper level of affordability represented throughout the 51 affordable units, including units set at or below 50% AMI and 65% AMI, in addition to the 80% AMI units.

B. Land Use, Site Plan Design and Sustainability

The regulation for a Comprehensive Permit under M.G.L. Chapter 40B states that the Subsidizing Agency determines whether *"the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns."*⁴

- **Land Use and Density.** The subject site is located along Riverdale Avenue in West Newton. The site consists of two parcels, one on the north side of Riverdale Avenue at the intersection with Los Angeles Street, and one on the south side of Riverdale Avenue, just east of Los Angeles Street. The property and surrounding properties to the south and east are zoned Manufacturing. To the north is the Charles River and Forte Park is to the west of the site. The surrounding buildings are primarily a mix of industrial and office uses with a few residential uses. On the north side of the Charles River, in Watertown, there are multi-family residential buildings and Howe Park. While the site is located in a Manufacturing zone, which does not permit housing of any type, the site is conveniently located next to a park and along the Charles River Greenway and is proximate to the Watertown Yard transit hub and amenities in Watertown Square and along California Street.

The Applicant proposes a five-story residential building with 182 units on the north parcel and a four-story building with 17,782 square feet of innovation space and 22 residential

⁴ (760 CMR 56.04(4)(c))

units on the south parcel. The northern building would also contain a small café on the ground level, along with live/work units, bike storage, a lobby, and additional small spaces, to be defined. There would be a total of 204 apartments ranging from studios to three bedrooms, of which 51 (25%) would be affordable at 80% of area median income (AMI). The ground level of both buildings will contain a total of 229 parking stalls.

As the manufacturing district does not permit the proposed use, the project requires relief from numerous zoning regulations. Despite the necessary relief, the project will provide needed housing in an area with access to transit, recreation, and other amenities.

- **Building Massing, Design and Architecture.** The proposed project would locate the 204-unit mixed-use development with over 17,000 square feet of innovation space in a manufacturing area along the Charles River. The surrounding area contains a mix of open space, office, industrial uses, and residences, without a consistent building typology. The building proposed on the northern side of Riverdale Avenue takes advantage of the terminus of Los Angeles Street, creating a break in the building at the ground level with a wide courtyard extending the length of the building and connecting to the open space and river beyond. The existing building at this location cuts off views and access to the river. The proposed building will be located further from the river and flood zone and will provide a much-improved public connection to this amenity. Building 1, on the north side of Riverdale Avenue, is five stories at the front and steps down to four stories at the rear. Building 2, on the south side of Riverdale Avenue, is four stories at the corner and steps down to three stories. Each building includes articulated facades and varied materials.

The Planning Department is supportive of the site plan and massing of the buildings and the efforts to make the building permeable and connect to the river. Further study of the materials and architectural style will be necessary to ensure compatibility with the semi-industrial location however, and the Planning Department recommends review by the City's Urban Design Commission if the project is deemed eligible for the Comprehensive Permit process by MassHousing.

- **Open Space, Landscaping and Tree Removal.** The existing site includes a warehouse building and surface parking lots. The site includes riverfront area, buffer zones, and flood zones. The proposed project locates the building further from the river than the existing building. The open space at the rear of the site, adjacent to the Charles River provides a great opportunity to provide community education with educational signage. The site also provides an opportunity for improved connections to Forte Park. The proposed site plan shows improved landscaping and seating at the rear of the site. Flood storage as well as landscaping plans will require careful review and the applicant should coordinate with the Conservation Commission, the Department of Parks and Recreation, and the Department of Conservation and Recreation.

- **Noise, Lighting, and Construction Management.** The applicant should submit a detailed site lighting plan to ensure the lighting does not negatively impact neighboring properties. HVAC and other equipment and their locations should be selected carefully in order to minimize sound. A construction management plan should be prepared to give assurance to the neighborhood that the contractor will mitigate the impacts of construction, including noise and vibration. The construction management plan should include a designated contact person for the construction along with 24-hour contact information.
- **Access to Public Transit and Walkability.** The Department believes the Project's location fulfills thoughtful growth principles, as it will add housing and innovation space in a walkable location with access to transportation, amenities and services.
- **Traffic, Parking and Transportation Impacts.** The Planning Department will undertake a peer review process to analyze the Applicant's traffic study and potential impacts and mitigations. The Project proposes to add 229 parking stalls for the project with 204 apartments and approximately 17,000 square feet of innovation space. More information is necessary to fully analyze traffic impacts, parking needs, infrastructure improvements, loading, and circulation within the site. The Department supports minimizing parking to the extent feasible and incentivizing alternative modes of transportation. The applicant should submit a traffic study, parking analysis, and transportation demand management plan as part of their Comprehensive Permit application.

C. Conclusion

As detailed above, the Planning Department is supportive of The Residences on the Charles due to its alignment with Newton's goals of creating diverse housing opportunities. The Project's creation of 51 income-restricted housing units for individuals and families at 80% of AMI in a mixed-use development with easy access to public transportation responds to an identified goal for broadening the City's diversity of housing options. However, we urge the Applicant to provide a deeper level of affordability below 80% of AMI for the project. In addition to its support, the Department will still provide planning analysis of the Project, both internally and through the peer-reviews, as the Comprehensive Permit process continues pending an announcement of 40B project eligibility from MassHousing.

Please do not hesitate to contact me if you have any questions about the contents of this letter.

Sincerely,



Barney Heath
Director, Planning and Development Department

cc: Mayor Ruthanne Fuller
Alissa O. Giuliani, City Solicitor
Newton City Council
Applicant

Attachments:

Attachment A: Comments Received

Jennifer Caira

From: Carol Todreas <carolt@todreashanley.com>
Sent: Sunday, September 22, 2019 11:37 AM
To: Jennifer Caira
Subject: 15 Riverdale Ave. 40B (Residences on the Charles) - Notice of Project Eligibility

Follow Up Flag: Flag for follow up
Flag Status: Flagged

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Hi Jennifer,

Here are my thoughts about the project proposed for 15 Riverdale Ave.:

15 Riverdale Ave in Newton,MA, at this moment in time is less than ideal for residential living. There are no other nearby houses and little to give the street the feeling of neighborhood. On the other hand, the demand for residential units in Newton continues to be unmet and certainly if there are plans to add more residential units to the area then this type of development could be important in the transformation of the street. Concerning the retail proposed, there certainly is need for basic retail operations , such as a convenience store, self-service laundry(laundromat) if machines are not within the units, and informal eatery, such as a coffee shop/bakery/sandwich cafe.

Best regards,
Carol

Carol Todreas
carolt@todreashanley.com
www.todreashanley.com

Todreas Hanley Associates
[2000 Mass Ave](#)
[Cambridge, MA 02468](#)

617 482 7008 O
617 413 1534 C

On Sep 9, 2019, at 5:16 PM, Shubee Sikka <ssikka@newtonma.gov> wrote:

Good morning,

Please see email below regarding 15 Riverdale Avenue 40B project (Residences on the Charles). Please send your comments either to me or Jennifer Caira by September 23rd.

Thanks,
Shubee

Shubee Sikka
Urban Designer
Planning and Development Department
City of Newton, Massachusetts
ssikka@newtonma.gov | 617.796.1139

From: Amanda Berman <aberman@newtonma.gov>
Sent: Wednesday, September 04, 2019 12:39 PM
To: Jonathan Yeo <jyeo@newtonma.gov>; Louis M. Taverna <ltaverna@newtonma.gov>; John Daghlian <jdaghlian@newtonma.gov>; Jason Sobel <jsobel@newtonma.gov>; David Koses <dkoses@newtonma.gov>; Isaac Prizant <iprizant@newtonma.gov>; Nicole Freedman <nfreedman@newtonma.gov>; Israel Jimenez <ijimenez@newtonma.gov>; Rachel Powers <rpowers@newtonma.gov>; Malcolm Lucas <mlucas@newtonma.gov>; Jini Fairley <jfairley@newtonma.gov>; Shubee Sikka <ssikka@newtonma.gov>; Alice Ingerson <aingerson@newtonma.gov>; Jennifer Steel <jsteel@newtonma.gov>; Claire Rundelli <crundelli@newtonma.gov>; Adrianna Henriquez <ahenriquez@newtonma.gov>; Katy Hax Holmes <kholmes@newtonma.gov>; Norine Silton <nsilton@newtonma.gov>
Cc: Jonah Temple <jtemple@newtonma.gov>; Barney Heath <bheath@newtonma.gov>; Jennifer Caira <jcaira@newtonma.gov>; Eamon Bencivengo <ebencivengo@newtonma.gov>
Subject: 15 Riverdale Ave. 40B (Residences on the Charles) - Notice of Project Eligibility

Good Afternoon,

Attached is a notice regarding a Project Eligibility application that has been submitted to MassHousing for the Residences on the Charles, a development project proposed by CDP Land Acquisition Company, LLC on 3.4 acres of land at [15 Riverdale Avenue](#) in Newton. As proposed, the project will consist of two separate buildings with a total of 204 units of rental housing, 4,600 square feet of retail, and 17,782 square feet of office / innovation space. Fifty-one (51) units will be made affordable to households earning 80% of the area median income (AMI), and 153 units will not have any income restrictions.

The Project Eligibility application is a prerequisite to filing with the Zoning Board of Appeals for a Comprehensive Permit/40B and as part of the Project Eligibility process we will be submitting a comment to MassHousing. If you have any comments regarding the Project Eligibility application for this project, please send them to **Jennifer Caira** by **5pm on Monday, September 23rd**. **In addition to your comments, please also forward this to any boards or commissions that you staff.** Any comments received will be considered and included in our comment letter to MassHousing. The City Council and neighbors within a 300 foot radius have also been notified.

Once the project has received a Project Eligibility letter from MassHousing, the applicant may file for a Comprehensive Permit/40B with the ZBA, at which time there will be additional opportunity for public comment. More information about the project, including the full application, can be found here: http://www.newtonma.gov/gov/planning/current/15_riverdale_avenue.asp

Please direct any questions or comments to Jennifer Caira, Chief Current Planner, at jcaira@newtonma.gov or 617-796-1121.

Thank you,

Amanda Berman
Director of Housing & Community Development
Department of Planning & Development
City of Newton
617-796-1147 (Direct)
617-796-1120 (Dept)
aberman@newtonma.gov
www.newtonma.gov/gov/planning

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.

<Project Eligibility findings.pdf><City Notice - Residences on the Charles.pdf><15 Riverdale Ave. 40B PEL_Abutter notice_FINAL_9.4.19.pdf>



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
Urban Design Commission

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

DATE: January 29, 2020
TO: Zoning Board of Appeals
FROM: Urban Design Commission
RE: 15 Riverdale Avenue – Residences on the Charles
CC: Jennifer Caira, Deputy Director
Neil Cronin, Senior Planner
Katie Whewell, Planning Associate
Petitioner

Section 22-80 of the Newton City Ordinances authorizes the Urban Design Commission to act in an advisory capacity on matters of urban design and beautification.

At their regular meeting on January 8, 2020, the Newton Urban Design Commission reviewed the proposed Residences on the Charles at 15 Riverdale Avenue. The Urban Design Commission had the following recommendations:

- There was discussion about Midland Avenue. The UDC questioned the reason for parking on only on one side of the street and if there was any proposed parking along the perimeter of the project. The applicant pointed out that there is parking on western and eastern perimeter of building 1. The UDC recommended to provide parking on both sides of the street.
- The UDC commented that the project's physical presence along the river is limited to the river side of the buildings. The courtyard space is a difficult one to make inclusive and inviting. Courtyards are generally considered private. The UDC questioned the need to attract non-residents. If the goal is to create a public space, the UDC recommended to consider a public river side park. The UDC recommended that maybe the courtyard becomes more of a private space than public space. Non-residents will be allowed in that space. It is the green space close to the river that becomes a public space, with seasonal kayak rental, coffee shop, and an art gallery in winter.
- The UDC commented that Los Angeles Street appears that it is landscaped only on one side. The applicant clarified that they only own property on one side of the street and hence, cannot do improvements on the other side of the street.
- The applicant mentioned that they would like to draw people from the neighborhood to the river. The UDC commented that the small opening under the bridge between the buildings will

visually inhibit / not attract people to the river. It will help to propose two separate buildings with may be 40-50 feet in between the buildings. The UDC asked if there was any thought given to propose 2 separate residential buildings instead of a "C" shape building. The applicant mentioned that the main reason to connect the 2 buildings was to provide an interior connection for the amenities, like the gym. The UDC recommended to move a single-story bridge to a higher level, maybe the third level. The UDC commented that the bridge has units and is a double loaded corridor with units on both sides. The UDC commented that the precedent images of the bridge that the applicant has shown are setback from the street, unlike this project. The UDC recommended that it will be more inviting if the bridge is more setback from the street and it is 1 story only, at a higher level than currently proposed. It will be helpful to have the bridge look different from rest of the building, so there is a contrast. It could be achieved with a different material. It will create a lot of visual interest. The UDC also commented that the bridge has a lot more mass than it needs. The UDC also recommended to maybe not have any units on the bridge and let it be all glass for transparency. It will also help to provide light in the long interior corridors. The UDC also recommended to break up the length of the buildings which are over 200 feet long. It is not desirable to have straight long corridors and also provide a break in the mass / elevation. Another option is to relocate the three units on three levels above the entry to the courtyard on the street side to elsewhere in the project. That would allow the corridor above the courtyard entry to be open to the south. That would allow the façade to have a very different element at the court entry while introducing natural light to the residential corridors on all levels above the first.

- The courtyard is very interesting and exciting because of its layers and one-story base whereas the front of the building is very flat and lacks detail and as a result looks more like a corporate office. It would help to provide some depth to the exterior façade and add elements that make it look like the residential use that it is. Because some of the ground floor is screening parking behind, this is also an area of opportunity for different / more interesting treatments.
- There was discussion about the architecture of the project. The front does not have an appearance of a residential building. The plan, elevations, and the renderings only show two trees in the front and there will be no landscaping under the bridge since it wouldn't receive any sunlight. The UDC recommended to enlarge the setback of the building and provide more trees. The element of scale in the front is lost. It was suggested that the ground floor be differentiated in the architecture and where the lobby and any retail / public use was located be specially expressed. There was also discussion about providing balconies or bump-out bays on the front façade along Midland Avenue.
- The area between California Street and the entry of the project is not a pleasant place to be or to walk. It feels uncomfortable and somewhat dangerous. In fact, the project is isolated and because the contrast to its immediate environment is so great, the project seems like an island amidst the remnants of the bygone light industrial era. It is a place waiting for improvements.
- Regarding a sense of place for the community, the Riverdale project has the appearance of a generic type found in the Boston region. The overall appearance has the look of a building with thin veneer rather than one of solid sustainable materials. The look is reminiscent of the older garden apartments on Beacon Street around Four Corners.

- The UDC recommended that the kayaks should be closer to the river and not in the middle of the courtyard. The UDC commented that the location of café is good, close to the path and the river. However, it may only work for the summer season.
- There was discussion about the retail program. The applicant mentioned that it will be a recreation amenity. The UDC commented that rent-paying merchants even seasonal river/bike related operations are not sustainable. The UDC commented that the retail will need to be geared towards the residents and to the river. However, it will not be pleasant for those spaces to be closed in the winter. The numbers of users are small, however, if the developer is willing to subsidize these uses then that is an option that may work. The UDC recommended that maybe a very special art gallery with coffee at the leasing office may be viable. There has been something similar in Lincoln at the commuter rail station; however, the one in Lincoln is within a small retail center anchored by a grocer so conditions are quite different. The developer commented that they have not included any significant revenue from the retail spaces. UDC suggested civic or community uses, perhaps associated with activities at Forte Park, should then be considered to activate the spaces.
- There was also discussion about the live/work units which were supported by UDC. The UDC recommended to provide more than just 2 live/work units. The applicant mentioned they were not sure about its viability. Maybe, artists can be in the live/work units and can display art in the art gallery.
- There was discussion about the innovation space in the second building. The UDC recommended to the applicant that they research and identify the type of innovation space and its users might be since there are a variety of innovation spaces in the region, many of which are at very expensive lease terms for tenants which is unlikely to occur here. Most innovation space / maker space in the region and elsewhere is in old warehouses at lower lease rates and attracts similar users, like chefs, sculptors / artists, small scale makers, and some types of R&D science/tech labs. Innovators of a specific kind cluster and work together. Rarely do they desire to share space with a different industry since markets and needs vary from industry to industry, and innovators want to be in close contact with others working on similar projects.
- The UDC commented that the leasing office is located in the prime corner space of the building which should be a prime retail use. It could conceivably be an art gallery and/or café or a combination of both. It might even work as multiple uses to include the leasing office. The leasing office eventually can be smaller and moved to a less important space when leasing is well underway.
- The UDC would like to know if the developer has done any market research on innovation spaces or various kinds of retail. Most desired innovation space in the region has very different locational characteristics and conditions than what is proposed in this project.
- The UDC would like to review the project further.



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000
FAX: 617.854.1091 | www.masshousing.com

Videophone: 857.366.4157 or Relay: 711

October 29, 2019

CPC Land Acquisition Company, LLC
1601 Trapelo Road, Suite 174
Waltham, MA 02451
Attention: John J. Englert

**RE: The Residences on the Charles
Project Eligibility/Site Approval
MH ID No. 1047**

Dear Mr. Englert:

This letter is in response to your application as “Applicant” for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (“DHCD”) (the “Guidelines”) and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the New England Fund (“NEF”) Program (“the Program”) of the Federal Home Loan Bank of Boston (“FHLBank Boston”).

CPC Land Acquisition Company, LLC has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build 204 units of rental housing and approximately 18,600 square feet of commercial and retail space in two mixed-use buildings (the “Project”) on approximately 3.4 acres of land located at 15 Riverdale Avenue (the “Site”) in Newton (the “Municipality”).

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility (“Site Approval”) by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, “Housing Programs In Which Funding Is Provided By Other Than A State Agency.”

MassHousing has performed an on-site inspection of the Site, which local boards and officials were invited to attend, and has reviewed the pertinent information for the Project submitted by the Applicant, the Municipality and others in accordance with the Comprehensive Permit Rules.

Municipal Comments

The Municipality was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. Newton’s Department of Planning and

Development submitted a letter regarding the Application dated September 27, 2019. Newton's Parks and Recreation Department submitted a letter regarding the Application dated October 3, 2019. The letters expressed support for the Project and summarized comments from municipal staff and officials.

In summary, the Municipality acknowledged that the need for affordable housing in Newton is vast and that the proposed Project aligns with many of Newton's housing goals and strategies, such as providing mixed-use, mixed-income developments, preferably near transit centers, which aim to increase the diversity of housing opportunities in Newton. The Municipality looks forward to continuing to review and refine the Project with the Applicant within the context of a Comprehensive Permit public hearing process, particularly in connection with the following areas of concern:

- The Municipality expressed concerns regarding potential light and noise impacts on neighboring properties and requests that a detailed lighting plan and information relative to HVAC equipment, its locations, and measures taken to minimize sound be provided as part of their Comprehensive Permit application.
- The Municipality expressed concerns regarding potential impacts of Project construction and requests that a construction management plan be prepared to provide additional information regarding strategies for mitigation.
- The Municipality would like more information relative to traffic impacts, parking needs, infrastructure improvements, loading, and circulation within the Site and requests that the Applicant submit a traffic study, parking analysis, and transportation demand management plan as part of their Comprehensive Permit application. The Municipality noted support for minimizing parking to the extent feasible and incentivizing alternative modes of transportation.
- The Municipality agrees with the pedestrian connections between the Site and the abutting Forte Park as they are shown on the proposed Project's site plan and noted that connections with the park should be limited to pedestrians only.
- The Municipality encourages the Applicant to consider incorporating deeper levels of affordability. In particular, the Municipality suggested a need for units set at or below 50% AMI and 65% AMI, in addition to the 80% AMI units.

Community Comments

In addition to the comments from town staff and officials, MassHousing received one (1) letter from a local retail development consultant. The letter expressed concern that current land uses in the neighborhood are not compatible for residential living, however noted that if there were plans to add more residential uses, the proposed Project could be important in the neighborhood's transformation. The letter also suggested a need for basic retail operations such as a convenience store, laundromat, and informal eateries.

MassHousing Determination and Recommendations

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval under the Comprehensive Permit Rules. As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail on Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings in order to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Developer may apply to the Zoning Board of Appeals of the Municipality for a Comprehensive Permit. At that time, local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing's consideration of comments received from the Municipality, and its site and design review, the following issues should be addressed in your application to the ZBA for a Comprehensive Permit and fully explored in the public hearing process prior to submission of your application for final approval under the Program:

- Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, stormwater management, wastewater collection and treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.
- Given the Site's location within a floodplain, impacts on water flow and floodwater storage capacity should be studied. Elevations for lowest level of dwelling units and/or mechanical spaces should be confirmed and the Applicant is encouraged to review the proposed design and elevations of building systems for resiliency planning.
- The Applicant should continue to work with its design team to pursue sustainability initiatives that may improve occupant comfort and reduce operating expenses and is encouraged to explore options for renewable energy and electric vehicle charging stations.
- The Applicant should be prepared to provide sufficient data to assess potential traffic impacts and parking needs and respond to reasonable requests for mitigation. In particular, traffic patterns should be reviewed for the Site access and egress, particularly during peak travel times; the provision of space for bike storage, car-sharing, and electric vehicle charging stations is encouraged; and consideration should be given to providing bus shelters as well as bike lanes to allow safe access to nearby transportation nodes.
- The Applicant should be prepared to provide detailed information relative to light, noise, and construction impacts and respond to reasonable requests for mitigation.
- The affordability component of the Project must conform to the requirements outlined in the 40B Guidelines and to those of the NEF Program of the FHLBank Boston, administered by MassHousing as Subsidizing Agency.

MassHousing has also reviewed the application for compliance within the requirements of 760 CMR 56.04(2) relative to Application requirements and has determined that the material provided by the Applicant is sufficient to show compliance.

This Site Approval is expressly limited to the development of no more than two hundred and four (204) rental units under the terms of the Program, of which not less than fifty-one (51) of such units shall be restricted as affordable for low or moderate-income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a Comprehensive Permit, the use of any other housing subsidy program, the construction of additional units or a reduction in the size of the Site, you may be required to submit a new Site Approval application for review by MassHousing. Should you consider a change in tenure type or a change in building type or height, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the Comprehensive Permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

This approval will be effective for a period of two (2) years from the date of this letter. Should the Applicant not apply for a Comprehensive Permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing at the following times throughout the two-year period: (1) when the Applicant applies to the local ZBA for a Comprehensive Permit, (2) when the ZBA issues a decision and (3) if applicable, when any appeals are filed.

Should a Comprehensive Permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBank Boston, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and in order to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Katherine Miller at (617) 854-1116.

Sincerely,



Chrystal Kornegay
Executive Director

cc: Janelle Chan, Undersecretary, DHCD
The Honorable Cynthia Stone Creem
The Honorable John J. Lawn, Jr.
The Honorable Ruthanne Fuller, Mayor, City of Newton
Marc Laredo, President, City Council
Brooke Lipsitt, Chair, Zoning Board of Appeals
Barney Heath, Director of Planning & Development

Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency
Section (4) Findings and Determinations

The Residences on the Charles, Newton, MA #1047

MassHousing hereby makes the following findings, based upon its review of the application, and taking into account information received during the site visit and from written comments:

(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);

The Project is eligible under the NEF housing subsidy program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income, adjusted for household size, as published by the U.S. Department of Housing and Urban Development ("HUD"). The most recent HUD income limits indicate that 80% of the current median income for a four-person household in Newton is \$89,200.

The 51 affordable units will have rent levels of \$1,521 for the 10 studios, \$1,673 for the 21 one-bedroom units, \$2,007 for the 14 two-bedroom units, and \$2,319 for the 6 three-bedroom units, less assumed utility costs of \$104, \$154, \$243, and \$333, respectively. MassHousing's Appraisal and Marketing Division (A&M) has reviewed proposed affordable rents and report that they are within current affordable rent levels for the Boston-Cambridge-Quincy HMFA under the NEF Program.

The Applicant submitted a letter of financial interest from Eastern Bank, a member bank of the FHLBank Boston under the NEF Program.

(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);

Based on MassHousing staff's site inspection, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses.

Comments provided by the City of Newton outline recent municipal actions taken to meet affordable housing needs, including the Newton Leads 2040 Housing Strategy, published in 2016, and Newton's Economic Development Strategic Plan, published in 2019. While the Municipality acknowledged that there are currently several pending and approved developments with SHI eligible units, they also recognized that these additional units will not fully meet the overwhelming demand for affordable rental housing throughout Newton. As of August 2019, Newton has 2,492 Subsidized Housing Inventory (SHI) units (7.70% of its housing inventory),

which is 743 units short of the statutory minima requirement of 10%. Given that the proposed Project aligns with many of the objectives of Newton's housing and planning initiatives, MassHousing encourages the Applicant and the Municipality to continue to engage on a mutually beneficial project.

The need for additional affordable housing is further supported by U.S. Census data from the 2013-2017 American Community Survey (ACS), which indicates that of the 30,952 households in the city of Newton approximately 47.6% earned less than the HUD published 2019 AMI (\$113,300), approximately 21.5% earned less than 50% of the 2019 AMI, approximately 24.8% earned less than 60% of the 2019 AMI and approximately 33.9% earned less than 80% of the 2018 AMI.

(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);

Relationship to Adjacent Building Typology (including building massing, site arrangement, and architectural details):

The Site and surrounding neighborhood are comprised of a mix of uses. In the immediate vicinity of the Site along Riverdale Avenue and Los Angeles Street there are a mix of single-story manufacturing uses and surface parking lots. Several single-family homes are also located in this area. One block south of the Site along California Street, there are several multi-story masonry commercial buildings in addition to a mix of single-story industrial, commercial and retail uses, small multi-family structures, and single-family homes. The Site also directly abuts approximately 6 acres of open space at Forte Park to the west and the Charles River and Charles River Greenway to the north.

The proposed Project consists of two mixed-use structures with varying heights and setbacks that range from one- to five- stories. One larger building is located on the north side of Riverdale Avenue and Los Angeles Street, and includes 182 units and approximately 1600 square feet of retail space. A separate smaller building is located on the southern side of Riverdale Avenue includes approximately 17,000 square feet of commercial "innovation" space with 22 units above. The smaller building is 4-stories at its tallest elevation, stepping down to three-stories along the edge closest to California Street. Varying heights ranging from one-, to three-, to five-stories allow the larger building to integrate into the neighborhood, creating a transition with its edge along the Charles River, and using setbacks to define open spaces within the Site including both a public courtyard and private terraces. Material choices attempt to balance the new multi-family residential use with existing industrial uses, and include brick, stone, metal/cementitious siding. Due to these proposed design features, the height and architectural style of the proposed Project are able to successfully integrate with the surrounding context.

Relationship to adjacent streets/Integration into existing development patterns

The Project is located on two parcels of land that are located at the intersection of Riverdale Avenue and Los Angeles Street. Existing street patterns on Riverdale Avenue and Los Angeles Street will be maintained and provide pedestrian and vehicular access to the two buildings. An

access road around the outside of the larger building provides access to covered parking areas as well as access for emergency vehicles. Vehicle access and egress to covered parking in the smaller building is provided through curb cuts on Riverdale Avenue and Los Angeles Street. The proposed Project encourages pedestrian circulation within the Site by building sidewalks along Riverdale Avenue and Los Angeles Street. Pedestrian amenities and connections throughout the Site are also enhanced by a proposed interior courtyard.

California Street is a major two-lane roadway, which intersects with both Riverdale Avenue and Los Angeles Street to create a vehicular access loop to and from the Site and a fluid connection with neighborhood roadways and commercial corridors. The Site is approximately one-half mile west of the Watertown Yard transit hub and amenities in Watertown Square. Additional retail and commercial uses along California Street include a Stop and Shop shopping plaza and a series of other small businesses. Given its transit-oriented, mixed-use location, the proposed Project is able to successfully integrate into existing development patterns.

Density

The Developer intends to build 204 homes on approximately 3.4 acres, 2.6 of which are buildable. The resulting density is approximately 80 units per buildable acre, which is acceptable given the proposed housing type and the Project's location within an existing mixed-use neighborhood.

Conceptual Site Plan

The site plan consists of two mixed-use structures that are configured in a manner that breaks down the Site into a series of smaller blocks. The larger building to the north of Riverdale Avenue and Los Angeles Street is U-shaped, with a break in the middle of the building at ground level that creates views through the Site to Charles River beyond. The building's two wings extend towards the riverfront to frame a wide courtyard that facilitates this view. The second smaller building is L-shaped and is oriented so that its edges define the Riverdale Avenue and Los Angeles Street street-fronts and screens a small area of surface parking from view. Most of the Project's parking is tucked under each building, at grade with residential uses above. In total, 237 parking spaces are proposed for the Project, resulting in a parking ratio of 1.16 spaces per unit. The smaller building locates 17,000 square feet of commercial "innovation" space at the corner of Riverdale Avenue and Los Angeles to activate the street and bring a mix of uses to the ground level. The proposed Project further enhances pedestrian interaction and the public realm with its public courtyard area and recreational open space, which proposes additional retail uses, recreational amenities, thoughtful landscape design along the Charles River's edge, and connections with the adjacent Forte Park.

Environmental Resources

The Site is bounded on the northerly side by the Charles River and is located within the 100-foot Wetland Buffer and the 200-foot Riverfront Buffer. While the proposed Project locates its buildings further from the River than the existing structure, further review will be required from Newton's Conservation Commission and the Massachusetts Department of Conservation and Recreation. The northerly portion of the Site is also located within a floodplain Zone AE. Together, these natural resource areas amount to approximately 0.83 acres. The conceptual

design for the Project proposes recreational open space along the Charles River's edge which includes stormwater management area.

Topography

The majority of the Site is generally level and at grade. The topography is not an impediment to the proposed development.

(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);

The Applicant proposes 204 rental apartments to be financed under the NEF Program. There will be 153 market-rate units with proposed average rent levels of \$2,350 for the studios; \$2,700 for the one-bedroom units; \$3,450 for the two-bedroom units; and \$4,250 for the three-bedroom units. MassHousing's Appraisal and Marketing team (A&M) performed a Competitive Market Analysis and found that proposed market rents fall within the range of adjusted and unadjusted rents for the studio, one-, two-, and three-bedroom market rents. They note further that based on the proposed amenities, the Project reflects a Class A property type.

(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;

MassHousing commissioned an as "As-Is" appraisal which indicates a land valuation of \$10,150,000. Based on a proposed investment of \$28,500,262 in equity the development pro forma appears to be financially feasible and within the limitations on profits and distributions.

(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and

CPC Land Acquisition Company, LLC is a Limited Dividend Organization. The Applicant meets the general eligibility standards of the NEF housing subsidy program and has executed an Acknowledgment of Obligations to restrict their profits in accordance with the applicable limited dividend provisions.

(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.

The Applicant controls the Site through a Purchase and Sale Agreement (P&S) between Legacy The River, LLC (Seller) and CPC Land Acquisition Company (Buyer), originally dated February 6, 2019 and amended as of July 29, 2019. The P+S has an expiration date which is 30 days after receipt of all permits and approvals necessary to entitle the Buyer to obtain building permits.

Celebrating 30 Years of Environmental Leadership



Green Newton

January 28, 2020

Dear ZBA,

The Building Standards Committee of Green Newton wishes to provide these comments regarding the Application for 40B approval for the Riverdale project, dated January 6, 2020.

Board of Directors

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Eric Olson

Matt Pawa

Heather Tausig

Jay Walter

Overall, we support the project's benefits to Newton in its provisions of new market and affordable housing. However we strongly recommend the ZBA **attach conditions** to its approval that direct the developer to define sustainability elements that align with Newton's commitment to Climate Action, as expressed in the recently adopted Newton Climate Action plan. Importantly, if implemented, our recommendations will reduce operating costs, and improve both the safety of the project and its indoor air quality.

Our recommendations align with the recommendation from MassHousing that "The Applicant should continue to work with its design team to pursue sustainability initiatives that may improve occupant comfort and reduce operating expenses and is encouraged to explore options for renewable energy and electric vehicle charging stations."

We emphasize that buildings constructed now will have useful lives well beyond 2050, a time when human activity must reach zero carbon emissions to avoid the worst consequences of climate change. Because retrofitting buildings is so much more difficult than doing it correctly in the first place, we urge all new construction to be as consistent as possible with the 2050 goal of zero carbon emissions.

Recommendation 1: Construct the entire project to comply with Passive House (PH) standards. Using these standards will, for example, assure that the heating and cooling energy requirements will be minimized for the building's life. They also assure that occupants will receive consistent, filtered ventilation, which improves indoor air quality, and occupant health and comfort. The current proposal does not develop the construction details to tell if Passive House standards will be used. Before moving to greater design detail we recommend that the developer analyze the impact of adopting Passive House standards, taking advantage of new, generous MassSave incentives to pay for the analysis.¹ The owner doesn't have to make a commitment to building to Passive House criteria. However, undergoing a free feasibility study will likely identify benefits that the owner might not have previously considered. We know that already 37 owners developing buildings in MA have taken advantage of the free feasibility study within the past four months. Clearly considering PH standards is on the rise for many owners in the state. We note that other developers are finding that adopting PH standards *early* in the design process has a modest impact, if any, on project cost.

¹ A new MassSave program will provide two incentives for an owner to analyze a 4+ story building, without the owner committing to building a PH-certified project:

1. 100% of costs up to \$5k to perform a feasibility study;
2. 75% of costs up to \$20k to perform energy modeling.

In addition, if the building achieves PH certification, there is a \$3k incentive per unit. If the building does not achieve certification, but surpasses the building code, there is a uniquely-calculated per unit incentive.

Recommendation 2: Use electricity for heating, cooling, and residential cooking.

The alternative of providing separate gas lines to each apartment would require an expensive and unsightly array of gas meters for each unit. And recent Merrimack Valley experience with gas explosions has highlighted that electricity is safer for the public. Electric cooking improves indoor air quality, therefore occupant health.

If gas is used for water heating, we'd recommend providing sufficient space and an electric circuit for a future heat pump water heater if/when the technology improves.

Fundamentally, electricity can be carbon neutral, whereas gas cannot.

Recommendation 3: Require the developer to compare the embodied carbon options for construction materials. "Embodied carbon" refers to the carbon released in the production of materials used for construction.² This is important because embodied carbon in the materials of a well-built building is comparable to the released carbon from the first 10 years of operation. The level of analysis of embodied carbon in materials is on the rise today as the industry realizes how important its impact is on carbon emissions. Therefore, effort spent in the design phase to reduce embodied carbon in chosen construction materials will better align Riverdale with Newton's Climate Action goals.

Recommendation 4: As MassHousing recommended, require the developer to provide electric charging stations for a significant number of the parking spots. We'd suggest 23 spots, corresponding to 10% of the total, and empty conduits for an additional 22 spots, which aligns with Newton's Special Permit requirements.

We urge you to incorporate our recommendations into Local Concern Conditions that will allow the project to proceed with the best public benefits in mind.

Thank you.

Sincerely,
Green Newton Building Standards Committee

Dan Ruben, Chair
Peter Barrer
Bev Craig
Paul Eldrenkamp
Betsy Harper
Jonathan Kantar
Lois Levin
Jim Purdy
Peter Smith
Jay Walter

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² For example, some types of foam insulation require much less energy to manufacture than others. The same is true of concretes and other structural materials.