

City of Newton



David B. Cohen
Mayor

City of Newton, Massachusetts
Community Preservation Committee

MEMORANDUM
REVISED 7/8/04

TO: Honorable Board of Aldermen
FROM: Community Preservation Committee (CPC)
DATE: June 30, 2004
RE: **CPC Recommendation for Amendment to Project**

PROJECT TITLE: FORTE PROPERTY (76 WEBSTER PARK)

CPA CATEGORY: Open Space & Community Housing (with some elements of Historic Preservation)

PROJECT DESCRIPTION

The applicants, Newton Conservators, Newton Housing Authority, and Newton Conservation Commission, are requesting \$1,110,000 for the acquisition (and related costs) of a 49,974 s.f. (1.15 acres) parcel adjacent to the Dolan Pond Conservation Area in West Newton. The purpose of the proposed acquisition is twofold: a substantial portion of the property (approximately 70%, 35,000 s.f.) would be deeded to the Newton Conservation Commission to expand the Dolan Pond Conservation Area; the remainder of the property would be deeded to the Newton Housing Authority for the creation of up to three units of community housing for low-income households. In addition to utilizing the existing house, built in 1925, two new units will be constructed on a rear lot subdivision, located behind the existing house, consistent with the amended general site plan (dated June 9, 2004).

In order to comport with MGL c.40 §14, which limits the City's purchase price for acquisition as described in more detail below, the acquisition would be accomplished by purchasing a Conservation Restriction with an option to purchase for nominal consideration (as was done for the recent Elgin Street CPA project).

FINDINGS

Community Preservation Act

This proposal meets some of the criteria established under MGL c.44B because:

1. The subject parcel meets the definition of open space since much of the parcel is undeveloped forest land, provides scenic vistas of Dolan Pond, and provides land for wildlife.
2. The proposal meets the definition of community housing since it will create up to three units of low-income rental housing for households with incomes below 80% of the area median.
3. The project will protect existing open space from development encroachment through acquisition for open space and will create new community housing.
4. In accordance with §12(a) of the Act, which states that real property interests purchased with monies from the CPA Fund shall be bound by a permanent deed restriction, the proposal includes a conservation restriction that would be held by the Newton Conservators, subsequent to conveyance of fee ownership to the City, for the open space element of the proposal. In addition, the applicant has stated that the housing units would be affordable in perpetuity and bound by a permanent deed restriction.

- §12(b) of the Act requires that real property interests acquired with CPA funds be owned by the City. The conservation land would be deeded to the City, however it is not clear whether the Housing Authority or the City would own the remainder of the land. According to the Law Department, the Housing Authority may not be considered “the City” under MGL c.44B. Thus, if the funding request is approved, the ownership structure will need to be reviewed to ensure compliance with MGL c.44B.

Other Applicable General Laws

- MGL c.40 §14 limits city acquisition of land to a purchase price of not more than 25% in excess of its average assessed valuation during the previous three years. This parcel’s average assessed valuation over the past three years is \$439,533, which limits purchase price of this parcel to only \$549,416. Therefore, in accordance with the General Laws, the City cannot purchase this property for more than \$549,416. However, as in the Elgin Street project, the City can purchase a Conservation Restriction with an option to purchase for nominal consideration.

Newton Community Preservation Plan

Overarching Goals

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| 1. Contribute to the preservation of Newton’s unique character, boost the vitality of the community and enhance the quality of life for its residents. | Yes |
| 2. Serve more than one CPA category. | Yes |
| 3. Demonstrate the highest cost/benefit value relative to other proposals. | See below |
| 4. Leverage other public and/or private funds. | Yes, see below |
| 5. Preserve a resource or opportunity that would otherwise be lost. | Yes |
| 6. Create incentives for other private projects to occur. | No |
| 7. Show that a project is the most reasonable available option to achieve the objective. | See below |
| 8. Demonstrate strong community support. | See below |
| 9. Serve to equitably distribute CPA funds throughout the City. | See below |

Additional comments on selected goals:

Goal #3: Projects received during the November funding round included a high CPA cost of \$850,000 and a low CPA cost of \$24,780. The CPA cost for this project is \$1,110,000. The relative benefit for this project includes the following factors: approximately 70% of the site would be permanently preserved as open space and would be added to the existing Dolan Pond Conservation Area; and up to three units of community housing would be created. However, the recent appraisal of the land (done on behalf of the CPC by Shepherd Associates, see attached Executive Summary) estimates as-is market value of the Fee Simple interest as only \$900,000, which is approximately \$200,000 less than the proposed sale price. According to the applicant, the seller is not able or willing to reduce the sale price below \$1.1M.

Goal #4: The project is leveraging \$500,000 of so-called “10% Ordinance Funds” from the Newton Housing Authority for rehabilitation of the existing house and creation of up to two additional new units.

Goal #7: Since the City is limited to spending a maximum of \$549,416 for this land, based on the requirements of MGL c.40 §14 (as described above), purchase of a Conservation Restriction with an option to purchase is a reasonable option for CPA funding.

Goal #8: The project is supported by the co-applicants, the Newton Conservators, which has over 300 members, the City’s Conservation Commission, and the Newton Housing Authority. The application

includes letters of support for the project, including some letters that support the open space portion of the project, but would only support a total of two housing units on the property. Opposition has been voiced by neighbors who submitted a petition and spoke at the June 5 public hearing opposing the community housing aspect of the proposal. In particular, the petition objected to the target incomes of less than 80% area median (preferring moderate incomes of up to 100%), rental housing (preferring owner-occupied housing), and the number of units (preferring one unit in the existing house rather than three total units).

Goal #9: As presented at a recent CPC meeting, this November round of applications is geographically distributed throughout the City; this project is located in West Newton.

Open Space Goals

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| 1. Provide protection for land listed in the <i>Recreation & Open Space Plan</i> . | Yes, see below |
| 2. Expand existing open space. | Yes |
| 3. Enhance biodiversity or wildlife habitat and reclaim natural resources. | Yes |
| 4. Protect wetlands, mitigate flooding and improve groundwater recharge. | Yes |
| 5. Create small pocket parks. | No |
| 6. Enable the development of passive recreation opportunities. | Yes |
| 7. Serve as suitable sites for nature-related education, scientific study, or observation and enjoyment of nature. | Yes |
| 8. Protect a natural feature of special interest. | No |
| 9. Enhance public access (where access does not seriously threaten habitat). | Yes |
| 10. Provide linkages and wildlife corridors between open spaces. | Yes, see below |

Additional comments on selected goals:

Goal #1: The *Recreation & Open Space Plan* identifies 76 Webster Park as a priority parcel for purchase of a Conservation Restriction on the top of the hill overlooking the Dolan Pond Conservation Area.

Goal #10: This project would both expand the existing Dolan Pond Conservation Area and would preserve the open space linkage between Dolan Pond and Webster Park, the small urban park in the center of this neighborhood.

Community Housing Goals

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| 1. Create community housing that is well designed, is of high quality, and is based on sound planning principles. | Not known |
| 2. Address one or more of the City's priority housing needs, such as those articulated in the City's Consolidated Housing Strategy Plan 2001-2005 and A Framework for Newton's Planning. | Yes |
| 3. Help Newton reach the state mandate of having 10% of its housing stock as affordable to those at or below 80% of median income under MGL c.40B. | Yes |
| 4. Create new moderate housing units (80% to 100% of median income) that promote housing for City employees, such as teachers, firefighters, and police officers. | No |
| 5. Keep new units affordable for the long term, and in perpetuity where possible. | Yes |
| 6. Use deed restrictions to acquire, update, and resell existing market rate housing as affordable units, following the small house program model. | No |
| 7. Show that the proposal leverages or is not otherwise eligible for other public funds and could not otherwise be economically feasible without CPA funds, such as proposals for | Yes, see below |

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| community housing targeted at households earning between 80% and 100% of area median income. | |
| 8. Demonstrate that the proposal works in conjunction with other funding mechanisms already available in Newton such as the First Time Homebuyer Program, which currently cannot adequately assist families in purchasing homes in Newton. | Yes, see below |
| 9. Provide community housing opportunities for individuals whose residency in Newton would promote community services, such as Newton teachers and public safety workers and other city employees. | See below |
| 10. Create affordable and moderate homeownership opportunities for families who currently rent or work in Newton. | No |
| 11. Help disperse community housing throughout the City by siting housing in neighborhoods that currently lack affordable housing. | Yes |
| 12. Reuse previously developed sites (including, potentially, remediated brownfield sites) for community housing with minimal effect on existing housing resources. | Yes, see below |
| 13. Avoid displacement of current residents. | Yes, see below |

Additional comments on selected goals:

Goal #7 & 8: As mentioned above, the project is leveraging \$500,000 of so-called “10% Ordinance Funds” from the Newton Housing Authority for rehabilitation of the existing house and creation of up to two additional new units.

Goal #9: While the proposed rental housing would not be limited solely to community service employees, these employees may be eligible for the housing along with many others with incomes of less than 80% of the area median.

Goal #12: This project would rehabilitate the existing single-family house, adding two new units on a rear lot subdivision. The remainder of the site would be permanently protected open space.

Goal #13: The house is currently vacant, therefore no residents will be displaced.

CPC RECOMMENDATION

Based on consistency with the CPA criteria and many of the Plan's goals as described above, the Community Preservation Committee recommends funding this request to acquire 76 Webster Park (parcel #330220036) by appropriating and transferring the requested \$1,110,000 to be expended under the direction and control of the Director of Planning and Development for purposes of funding the purchase of a conservation restriction on 76 Webster Street (parcel #330220036) with an option to purchase for nominal consideration to preserve open space and create up to three units of community housing, or to purchase outright¹, as described in the application (dated 14 May 2003) subject to the following conditions:

1. Not less than 2/3rds of the parcel shall be permanently protected open space.
2. On the remainder of the parcel, three units of community housing shall be created. In conjunction with Habitat for Humanity, the petitioner will seek to construct two additional units (approximately 1,200 sq. ft. per units) on a rear lot subdivision to be located behind the existing house. The petitioner will seek all necessary permits for two additional units on the site, consistent with the amended general site plan (dated June 9, 2004) submitted to the Community Preservation Committee and the Board of Aldermen committees as part of its application, and will seek the design review of the Newton Historic Commission.
3. It is understood that the two new units will be owner-occupied units, subject to permanent deed restriction, restricting ownership to those eligible in the 80% or less median income bracket. It is also understood that the existing dwelling is to be rehabilitated by the Newton Housing Authority and will remain a rental unit in perpetuity to those eligible in the 80% or less median income bracket.
4. The applicant shall make good faith efforts to seek neighborhood input and consensus on the design and density of the proposed housing units.
5. Upon conveyance of title to the City, the Newton Conservators will receive a permanent Conservation Restriction for the open space in accordance with the requirements of MGL c.184.
6. The housing units shall be used for community housing in perpetuity and bound with a permanent deed restriction.
7. Any portion of the grant not used for the purposes stated herein shall be returned to the Newton Community Preservation Fund.

¹ The phrase "or to purchase outright" has been added to this revised CPC Recommendation to correct a scrivener's error. This revision more accurately reflects the CPC's vote at the June 5 Public Hearing. This will enable a purchase outright should the limitations as set out in MGL c.40 §14 (described above) be amended.