

DEPARTMENT OF PLANNING AND DEVELOPMENT

CITY OF NEWTON

Massachusetts

INTER-OFFICE CORRESPONDENCE

DATE: January 7, 2010

TO: Alice Ingerson, Community Preservation Program Manager

FROM: Benjamin Solomon-Schwartz, Sr. Planner

SUBJECT: Kessler Woods

In early 2003, Boston Edison announced that it would sell its surplus property known as Kessler Woods, pursuant to the requirements of deregulation, in a sealed auction to the highest bidder. For many years, the City has identified Kessler Woods as a conservation priority in the City's Recreation and Open Space Plan. It was determined that acquisition of the property would meet the goals of the Community Preservation Act (CPA) and that CPA funds could be used as a source of financing. Mayor David B. Cohen established a working group to help guide the City's strategy in responding to Boston Edison's request for bids.

Through an extensive design and selection process, the City sought to find a co-bidder with whom the City could purchase the land. The City issued a Request for Proposals and, once received, nine proposals were evaluated by a working group. A public hearing was held to provide an opportunity for community input. The community response to the proposals favored townhouse-style structures that mimicked large single-family homes and which were nestled into the existing topography. Cornerstone Corporation was selected as the City's development partner, with plans for a proposed single-family subdivision on the northernmost portion of the site off Brookline Street and attached dwellings on the southernmost portion of the site off LaGrange Street, which would resemble large single-family homes in appearance.

A cooperative bid was submitted to Boston Edison. After the first round of sealed bidding, the City of Newton and Cornerstone Corporation were invited to submit a second and higher bid. That bid of \$15.1M, with Cornerstone providing \$10.1M and the City contributing \$5M, funded through the Community Preservation Fund, proved to be the successful bid.

Per the terms of the agreement, Cornerstone Corporation acquired Lot J and Lot H (now officially recorded as Lot J, Lot 11, and Lot H-1) of the Kessler Woods site from Boston Edison. Lot J has been developed for single-family residences through an Approval Not Required (ANR) Plan for the lots with frontage on Brookline Street, approved by the City Engineer on May 14, 2004 and a Subdivision Plan, reviewed and approved by the Conservation Commission on August 3, 2004, and the Board of Survey on August 11, 2004.

In 2006, the development of Lot H-1 as a 62-unit condominium complex was approved by the Board of Aldermen; the approved site plan consists of one 52-unit building and two groups of attached townhouses. A one-year extension of the special permit was granted in 2007. Because the special permit was not exercised by the conclusion of this extension and no more extensions are available, the petitioner re-submitted the application as approved in 2006 for a new special permit 2008. The application was approved, and the new special permit was extended 2009. If the developer does not exercise the special permit by fall 2010, the special permit will expire, and this project would require special permit review again.

CONSERVATION

As required by the Cooperative Bidding Agreement, the City of Newton received a Conservation Restriction and easement from Kessler Development over a portion of Lot H-1), consisting of an area of approximately 483,657 square feet. The Conservation Restriction and easement gives the City the right to access land owned by Cornerstone Corporation, for the purposes of pedestrian and recreational access, footpaths and trails. The Cooperative Bidding Agreement also requires that upon the substantial completion of construction, or sale, of ninety percent (90%) of the dwelling units, Cornerstone Corporation will transfer to the City \$75,000 for the trail system and creation of a maintenance fund. Additionally, and in accordance with the City's Cooperative Bidding Agreement with Cornerstone Corporation, undeveloped land within Lot H-1, Lot 11 and Lot J that is not required by Cornerstone to meet its dimensional requirements for zoning and permitting ("Residual Areas") will be transferred to the City of Newton for one dollar. According to the proposed design, the area subject to the conservation easement, approximately nine acres, would be deeded to the City of Newton as additional public conservation land. With the 12+/- acres of land that the City currently owns (Lots C, D, and G, located to the north and south of Vine Street), this would potentially bring the City's total ownership of Kessler Woods to approximately 21 acres.

AFFORDABLE HOUSING

Eighteen percent of the units (11 units) in the proposal are designated as "Inclusionary Units" as was required by the City's Zoning Ordinance at the time the special permit was granted, as an initial proposal for 20 percent affordable units proved financially infeasible. Six of these units will be available to households earning up to 80 percent of the area median income, and five of these units will be available to households earning up to 120% of the area median income.

ZONING

While single-family attached dwellings are permitted by special permit in the SR3 District (minimum lot size of one acre), multi-family developments are not permitted, either by right or by special permit. As such, the petitioner is seeking approval for a change in zone to Multi-Residence 3 (MR3). Under the proposed MR3 zoning, the petitioner is seeking approval of a special permit for the proposed 52 unit multi-family dwelling and ten single-family attached dwellings. The proposed building height of 3½ stories and 46.75 feet also requires the approval of a special permit. In addition, the petitioner is seeking waivers to allow for some of the parking spaces to be narrower than the minimum required width, lighting levels below 1.0 foot candles, and the required bicycle racks to be located within the lower level garage of the multi-family structure instead of near the main entrance. In addition, the petitioner is seeking a special permit to alter the grade by more than three feet. A special permit is also necessary to allow for a directional sign to be over three sq. ft. in area.

The prior approval of the proposed zoning map amendment was contingent on the exercise of the special permit and thus requires a repeated review. Once again in 2008, a zoning map amendment was approved contingent on the implementation of the special permit. If the special permit expires in 2010, the zoning map amendment will expire then as well.

The initial Cooperative Bidding Agreement between the City and the developer has been amended six times. The most recent amendment would allow the developer to construct an assisted living facility with up to 130 units as an alternative to a multi-family dwelling. Despite the flexibility offered by the City as a bidding partner, an assisted living facility could not be constructed without a rezoning and a special permit.