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Candace Havens  
Director

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**MEMORANDUM**

Date: March 2, 2012

To: Land Use Committee of the Board of Aldermen

From: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning <sup>ET</sup>  
Derek Valentine, Senior Planner

Re: March 6, 2012 Working Session

cc: Petitioner

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*In response to questions raised at the Land Use Committee public hearings, previous working session meetings and/or staff technical reviews, the Planning Department is providing the following materials. This information is supplemental to staff analysis previously provided for the public hearings on February 14, 2012.*

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#10-12

37 Elm Street

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This petitioner is proposing to relocate an existing two-family dwelling and construct a new structure containing two additional attached dwelling units for a total of four attached dwellings in two structures.

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**Lot Coverage:** The petitioner was asked to reduce the lot coverage from 28.4% so that it is closer to the 25% maximum coverage. The petitioner has reduced the lot coverage to 25.5%. This is a substantial improvement.

**By-Right Development Potential for the Site:** The subject property is in the MR-1 Zone, which has a minimum lot area of 10,000 square feet. Single- and two-family houses can be built at the rate of one unit per 5,000 square feet of lot area. While there is enough lot area to subdivide the existing parcel into two lots, satisfying the 80 foot frontage requirement for each new lot would be impossible. In addition, the developer is currently proposing to save the existing historic house. This would likely not be possible if the lot were subdivided.

**Construction Management Plan (CMP):** The petitioner should submit a CMP prior to the issuance of a building permit.

**Development Potential in the Immediate Neighborhood:** Committee members asked about the potential for future attached dwelling units in the neighborhood. Attached dwellings are

allowed in the MR1 zone by special permit only; therefore any future development would require review by this Committee. A parcel must have at least 15,000 square feet of land with 80' feet of frontage to be considered for attached dwellings. There are only three parcels on Elm Street (between Washington Street and River Street) that meet these criteria. These parcels are 13, 21, and 62-66 Elm Street. In particular, the lot at 13 Elm Street is quite large (30,948 square feet) and a special permit was approved for this site in 2007 through Board Order #40-07 for five attached dwelling units. That special permit was never exercised and has since expired.

**Contextual Unit Size:** The petitioner has submitted data on a number of comparable two-unit residential buildings, many in the West Newton Neighborhood. The units range in size from 2,783 to 3,415 square feet with an average size of 3,041 square feet of living space (Figure #1). The proposed square footage has been reduced for all units at 37 Elm Street. Three of the four units have been reduced to less than 3,000 square feet (Figure #2). Units #1 and #2 were reduced by 2.7% and 14.7%, respectively. Units #3 and #4 were reduced by 8.9%.

**Fig. 1**

37 ELM STREET COMPARABLE UNIT SIZE*			
Neighborhood	Property Address	Year Built/Rehabbed	Living Area (sq ft)
W. Newton	147 Webster St.	2002	2,927
W. Newton	149 Webster St.	2002	2,906
W. Newton	151 Webster St.	2002	2,862
W. Newton	375 Cherry St.	2006	2,874
W. Newton	377 Cherry St.	2006	2,783
W. Newton	389 Cherry St.	2009	3,309
W. Newton	391 Cherry St.	2009	3,054
Newtonville	4 Gay St.	2006	3,415
Newtonville	371 Lowell Ave.	2008	3,147
Newtonville	373 Lowell Ave.	2009	3,136

\*Compiled with data provided by the petitioner, from the Assessor's Database

**Fig. 2**

37 ELM STREET NET DECREASE IN UNIT SIZES (sq ft)		
Unit #	As of 2/14/12	Currently Proposed
1	3,259	3,168
2	3,507	2,989
3	3,130	2,863
4	3,130	2,868

**Rear Setback:** In response to neighborhood concerns, the petitioner was asked to increase the rear setback. The rear setback is now 25' and therefore zoning relief is no longer required for this dimension.

**Shadow Study:** The study has been submitted and indicates that there will be very minor, if any shadows cast upon neighboring properties.

**RECOMMENDATION:** Approval with the findings and conditions listed in the attached Draft Board Order.

**ATTACHMENT A:** Draft Board Order

CITY OF NEWTONIN BOARD OF ALDERMEN

March 19, 2012

## ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to relocate an existing two-family dwelling and construct a new structure containing two additional attached dwelling units for a total of four attached dwellings in two structures as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. Four single-family attached dwelling units in two buildings are appropriate for the following reasons
  - a. The site is located in a neighborhood of predominantly multi-family residential uses;
  - b. There will be no nuisance to vehicles or pedestrians as a result of this petition since parking will be provided with off-street accommodations and the sidewalk along Elm Street will be upgraded by the petitioner from its deteriorating condition.
2. A waiver for side setbacks is appropriate for this site because literal compliance with side setbacks is impractical due to the long and narrow shape of the lot.
3. Lot coverage of 25.5% is appropriate because the petitioner has incorporated an existing historic structure into the site design, thereby saving and rehabilitating this building.
4. A driveway closer than ten feet from the side lot line is appropriate since this condition is pre-existing and allowing the driveway to remain in this location will preserve the open front lawn area and a mature Japanese maple tree.
5. A dormer greater than 50% of the exterior wall next below, without a continuous roof-line overhang, closer than three feet to the building end wall nearest the dormer, and projecting above the main ridgeline is appropriate because it is part of an articulated plan to compliment the Queen Anne architecture of the historic structure on the site.

PETITION NUMBER:

#10-12

PETITIONER: DT-ARCO, LLC/IERACI REALTY TRUST

LOCATION: 37 Elm Street, Section 33, Block 23, Lot 20 containing approximately 25,000 square feet of land

OWNER: IERACI FRANK TR  
C/O MARIA ARMSTRONG

ADDRESS OF OWNER: 34 Lyme Road, West Newton, MA 02456

TO BE USED FOR: Four attached dwellings in two two-unit buildings

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §30-9(b)(5) to allow four attached dwellings in two buildings; §30-15, Table 1 and 30-9(b)(5)(a) and (b) to allow side setbacks of 17.1 and 17.4 feet where 25 feet is required, for lot coverage of 25.5% where 25% is allowed, and for a driveway closer than 10 feet from the side lot line; § 30-15(t)(1-4) to allow a dormer greater than 50% of the exterior wall next below, without a continuous roof-line overhang, closer than three feet to the building end wall nearest the dormer, and projecting above the main ridgeline.

ZONING: Multi-Residence 1 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with the plans listed below:
  - a. "Topographic Site Plan Showing Proposed Conditions at 37 Elm Street, Newton, MA," by VTP Associates, dated February 27, 2012, signed and stamped by Joseph R. Porter, Professional Land Surveyor
  - b. "Planting Plan, 37 Elm Street, Newton, MA", by Rico Associates, dated February 7, 2012
  - c. "Elm Street Residences-Design Concept," consisting of 11 sheets including:
    - i. East Elevation of Front Building, dated 2/27/2012
    - ii. North Elevation of Front Building, dated 2/27/2012
    - iii. West Elevation of Front Building, dated 2/27/2012
    - iv. South Elevation of Front Building, dated 2/27/2012
    - v. Floor Plans Units #1 and #2 Main Floor and Upper Floor, dated 2/23/2012

- vi. Floor Plans Units #1 and #2 Attic, dated 2/23/2012
  - vii. Front Elevation, Rear Building, dated 12/13/2011
  - viii. South Elevation, Rear Building, dated 12/13/2011
  - ix. West Elevation, Rear Building, dated 12/22/2011
  - x. Floor Plans Main Floor Plan, Units #3 and #4, dated 2/23/2012
  - xi. Floor Plans Upper Floor Plan, Units #3 and #4, dated 2/23/2012
  - xii. Floor Plans Attic Floor Plan, Units #3 and #4, dated 2/23/2012
2. The petitioner shall underground all utilities serving the subject property.
  3. The petitioner and future condominium association shall maintain the fence along the southern property line in good condition in perpetuity.
  4. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
    - a. submitted a Construction Management Plan for review and approval by the Director of Planning and Development and the Engineering Division of the Department of Public Works.
    - b. submitted final engineering plans for review and approval by the City Engineer, and the Director of Planning and Development which show the closing of one curb cut and the replacement of the bituminous sidewalk and concrete curbing.
    - c. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
    - d. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
    - e. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
  5. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
    - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect and registered engineer certifying compliance with Condition #1.
    - b. submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
    - c. filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division certifying that the final site construction details have been constructed to the standards of the City of Newton Engineering Division.

6. Notwithstanding the provisions of Condition #1 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of final landscaping provide that the petitioner shall first have filed a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining landscaping to secure installation of such landscaping.