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Barney S. Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: July 7, 2017
MEETING DATE: July 11, 2017
TO: Land Use Committee of the City Council
FROM: Barney S. Heath, Director of Planning and Development
 Neil Cronin, Senior Planner
CC: Petitioner

In response to issues raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis previously provided at the public hearing.

PETITION #132-17 **Lagrange Street/Kessler Woods**

Request for Special Permit/Site Plan Approval to amend Board Order #102-06(15) to locate the inclusionary units off site at 219 Commonwealth Avenue.

The Land Use Committee opened the public hearing on this petition on Tuesday, June 13, 2017 and held the hearing open. At that hearing, the petitioner submitted a revised affordability program for the units to be created at 219 Commonwealth Avenue (**Attachment A**). The major differences in the revised schedule are that all two-bedroom units will be available to households earning up to 65% of the Area Median Income (AMI), and that the unit sizes for the two-bedroom units have been increased to be more comparable with the two-bedroom units required at Kessler Woods (now known as Hancock Estates). As a result, the total number of units at 219 Commonwealth Avenue has decreased from 29 to 28.

Table 1: Hancock Estates Unit Mix

Unit Type	Total Number of Units in Development	Number of Affordable Units	Average Sq. Ft.
One-Bedroom	34	5	893 sq. ft.
Two Bedroom	54	8	1,000 sq. ft.
Total Units	88	13	NA

Table 2: Revised Commonwealth Avenue Mix

Unit Type	Total Number of Units in Development	Number of Affordable Units	Average Sq. Ft. (Affordable Units)
One-Bedroom	20	11	507 sq. ft.
Two Bedroom	8	8	864 sq. ft.
Total Units	29	19	NA

The Planning Department notes that the revised schedule still does not create units available to households earning up to 50% of AMI. For comparison, Board Order #102-06(15) requires the creation of six units (two one-bedroom units and four two-bedroom units) at this affordability level at Hancock Estates. The petitioner’s attorney states that this project is incumbent upon financing via the State’s Workforce Housing Program (**Attachment B**). This program aims to subsidize housing for families earning between 61% and 120% of AMI; a population not typically targeted by housing programs. The Planning Department has asked the petitioner to consider whether units at the 50% level can be created via an exception within the Workforce Housing Program or created outright by the petitioner.

Additionally, staff notes that 5.11.7.A of the NZO states that, ‘Inclusionary Units have habitable space of not less than 650 square feet for a 1-bedroom unit and an additional 300 square feet for each additional bedroom’. Staff notes four of the proposed five one-bedroom units, and seven of the proposed eight two-bedroom units at the 65% level do not meet this threshold. Of the units proposed at the 80% affordability level, five of the six units do not meet this threshold, and five of the nine proposed units at the 100% affordability do not meet this threshold. The Planning Department recognizes the difficulties involved in remodeling the historic structure, but encourages the petitioner to meet the square footage requirements for the inclusionary units. Please note, staff treated studios as 1-bedroom apartments for the criterion outlined above.

The petitioner has asked the Planning Department to consider engaging an independent consultant capable of both reviewing the petitioner’s balance sheet regarding the expected financial gain from locating the inclusionary units at 219 Commonwealth Avenue and providing an evaluation of the pros and cons of the options before the City in light of best practices in affordable housing development in Massachusetts and throughout the nation. The Department has agreed to this approach and is working with the petitioner to select an appropriate consultant. Staff is expecting to provide the Committee with an update during the next scheduled hearing on Tuesday, July 11th. The petitioner has also provided a written response to questions asked at the public hearing (**Attachment C**).

Additionally, the Committee asked staff to examine whether this section of the Inclusionary Zoning Ordinance has been utilized in the past, and if so, in what capacity. Staff consulted the Deputy City Solicitor and a prior staff member of the City’s Law Department. Those discussions revealed that locating units off site was common practice established by the City’s first Inclusionary Housing

Ordinance in 1979. This practice was in effect until 1987 when the Inclusionary Housing Ordinance was amended and the offsite option was removed because developers often located the inclusionary units in certain areas of the City and the created units did not have to be provided in perpetuity. For an example, please see Condition #7.d Of Board Order #808-76(2) (**Attachment D**). The Inclusionary Housing Ordinance was amended again in 2003 and the offsite option was reintroduced. However, staff has not found an approved project which utilized the offsite option under the ordinance.

Lastly, staff noted that the structure at 219 Commonwealth Avenue is on the National Register of Historic Places, which limits modifications to existing historical buildings. Since the petitioner is proposing to finance the project with funds from Mass Housing, Newton Historical Commission review was required for the proposed Accessible entrance and repairs to the stucco and brick cladding. At its June 22, 2017 meeting, the NHC approved the improvements based on the proposed plans.

ATTACHMENTS:

- Attachment A:** Revised 219 Commonwealth Avenue Affordability Mix
- Attachment B:** Massachusetts State Workforce Housing Program Brochure
- Attachment C:** Petitioner's Response to Public Hearing Comments
- Attachment D:** Board Order #808-76(2)

“In addition to the need for housing for households earning less than 80% (AMI) there is growing need across the greater Boston region and in Newton to create “Middle Income” housing. Middle-income households are those earning between 80% - 120% AMI, which traditional housing programs do not serve.”

219 Commonwealth Avenue - 28 Unit Scenario - OPTION 2

6/5/2017

Unit	Unit Type	# BR	SF	Level of Aff.	Affordable Rent
5	1	1	661	65%	\$1,261
25	1	1	554	65%	\$1,261
35	1	1	572	65%	\$1,261
41	1	1	454	65%	\$1,261
45	1	1	444	65%	\$1,261
1	2	2	753	65%	\$1,513
4	2	2	743	65%	\$1,513
16	2	2	1,050	65%	\$1,513
12	2	2	915	65%	\$1,513
20	2	2	806	65%	\$1,513
24	2	2	795	65%	\$1,513
30	2	2	926	65%	\$1,513
34	2	2	926	65%	\$1,513
Subtotal 65%	13	21	9,599	65%	\$1,416 AVG
11	studio	1	308	80%	\$1,448
15	studio	1	311	80%	\$1,448
3	1	1	698	80%	\$1,552
21	1	1	538	80%	\$1,552
22	1	1	520	80%	\$1,552
26	1	1	523	80%	\$1,552
Subtotal 80%	6	6	2,898	80%	\$1,517 AVG
Subtotal 80% or less	19	27	12,497	70% AVG	\$1,448 AVG
10	1	1	523	100%	\$1,939
14	1	1	522	100%	\$1,939
32	1	1	516	100%	\$1,939
36	1	1	524	100%	\$1,939
31	1	1	574	100%	\$1,939
40	1	1	789	100%	\$1,939
42	1	1	652	100%	\$1,939
44	1	1	784	100%	\$1,939
46	1	1	682	100%	\$1,939
Subtotal 100%	9	9	5,566	100%	\$1,939 AVG
TOTAL	28	36	18,063	79% AVG	\$1,606 AVG

Note: Unit 1 combines Unit 1 (current 1BR) and Unit 2 (current STU) to form a new 2BR, thus reducing the building from 28 units.

Hancock Estates has 13 units at or below 80% AMI (overall average of 65% AMI), with 12,242 SF.

Workforce Housing Initiative

MassHousing's Workforce Housing Initiative provides multifamily developers across Massachusetts with a new pool of resources that will help support the construction of new rental housing where some of the units are reserved for middle-income residents. Why? Because Massachusetts needs new housing supply; because MassHousing has always been committed to mixed-income rental housing and because the region's high housing costs put excessive economic pressures on working people who earn too much to qualify for traditional subsidized housing. Together we can ease that burden.

By stimulating the construction of middle-income units, in addition to lower-income units, MassHousing hopes to aid in the effort to keep middle-income residents from leaving high-cost areas like metro Boston, and also to attract and retain working, middle-income residents in Gateway Cities and other emerging markets.

MassHousing is pleased to be able to leverage its balance sheet and commit \$100 million of its own resources for this mixed-income program that supports Governor Baker's housing and economic development agenda and will help to support the burgeoning Massachusetts innovation economy.



The Challenge: Housing for the Middle

Middle-income households needed to fuel our growing economy— young professionals, teachers, healthcare workers, office and construction workers, firefighters and police officers among others— are often priced out of Massachusetts housing markets.

Middle-income housing represents 25% of the new housing needed over the coming 15 years to serve the workforce needed to grow our economy (source: *ULI Boston/New England*)

One in five working households in Massachusetts is housing cost burdened— defined as households that pay more than 30 percent of their income for housing. (source: *National Housing Conference*)

In our largest high-cost area (Boston) rents have increased 13.2% annually between 2010 and 2016 while incomes have increased 2.4% (source: *Wall Street Journal*)

Key Program Components

- Promotes new construction of rental housing.
- Provides soft debt to support units for renters with households earning above income limits for traditional affordable housing programs—between 61% and 120% of Area Median Income (AMI).
- Workforce Housing Funds are provided in conjunction with MassHousing permanent financing.
- Suitable for income-mixing in both market rate deals and traditional affordable housing deals.
- \$25 million is set aside for transformative projects, such as state-owned land and/or, transit-oriented development.

Learn More

For more information about the Workforce Housing Initiative and MassHousing multifamily financing programs, visit www.masshousing.com. Or, contact Deborah Morse by phone at 617.854.1133 or by email at dmorse@masshousing.com or Meaghan McCarthy by phone at 617.854.1399 or by email at mmccarthy@masshousing.com.

About MassHousing

MassHousing is an independent, self-sustaining public Agency created in 1966 to promote affordable homeownership and rental housing opportunities throughout Massachusetts. Since inception, MassHousing has provided more than \$20 billion in financing, all without the use of taxpayer dollars. In addition to its innovative, affordable lending products, MassHousing invests its own net profits to preserve affordability (in particular, we have made it a priority to preserve the extremely low-income housing created under the Massachusetts 13A program), stimulate housing production and confront the Commonwealth's housing challenges.

Select Terms and Conditions

(see program guidelines on www.masshousing.com for all terms and conditions)

Eligible Borrowers: Single-asset, sole-purpose entities. Both for-profit and not-for-profit borrowers are eligible.

Affordability Term: Workforce Housing units will be restricted as affordable to households with incomes generally between 61 - 120% of AMI for the longer of 30 years or the loan term, subject to ongoing monitoring.

Loan Amount: Generally, \$100,000 per workforce unit, with a limit of \$5,000,000 per development.

Interest Rate: 0% or up to the Applicable Federal Rate (AFR), non-amortizing deferred loan.

Maturity: Up to 40 years

Repayment: Due upon maturity, sale or refinancing of the property, or upon foreclosure or default under the regulatory restrictions. Loan repayment prior to the stated maturity date will not terminate the workforce housing affordability term referenced above.

Required Affordability: Based on the target market and desired affordability. At least 20% of the units at the development must be affordable to those earning up to 80% of AMI. Additional affordability restrictions may apply based on financing sources.

First mortgage financing: Generally, first mortgage financing will be provided by MassHousing or through an approved lending platform offered by one of the Agency's lending partners.

Frank G. Stearns
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July 5, 2017

Barney Heath
Director of Planning
City of Newton
Newton City Hall
1000 Commonwealth Avenue
Newton MA 02459

And

Nadia Khan
Land Use Committee Clerk
City Council
City of Newton
Newton City Hall
1000 Commonwealth Avenue
Newton MA 02459

Re: Kessler Woods Special Permit Amendment (# 132-17) and
219 Commonwealth Avenue

Dear Land Use Committee Members and Director Heath:

This letter outlines the steps being taken by the Petitioner in response to the comments and feedback provided by the Land Use Committee, the Planning Department and those members of the public who participated in and wrote communications for the public hearing held on June 13, 2017.

Background

Chestnut Hill Realty is offering to make a significant financial investment to make a material contribution to the affordable housing inventory of the city of Newton. When the state of Massachusetts (through Mass Housing) created the Workforce Housing Program in 2016, Chestnut Hill Realty identified a unique opportunity to leverage the city's Inclusionary Zoning off site development option to create more affordable housing units to serve more affordable households in a better location. At the time-constrained public hearing on June 13, 2017 there

was important feedback and comments from the Committee and members of the public. The petitioner has also presented a more advantageous proposal with deeper affordability and all two bedroom units at 65% AMI; and greater comparability to Kessler Woods in terms of unit mix and square footage. The new program has 19 apartments at or below 80% AMI at 219 Commonwealth Ave. vs. the 13 units at Kessler Woods. More importantly, the plan also adds an additional 5 affordable units as well as an additional 10 units of workforce housing, as compared to Kessler Woods.

Summary of Comments and Petitioner's Response to Comments

COMMENT: That the Land Use Committee should consider the proposal in the context of what the Zoning Ordinance and city of Newton housing policy favors in terms of where affordable housing should be located.

RESPONSE: *To help with this analysis, we have discussed with the Planning Department that independent peer review analysis ought to be conducted to evaluate the pros and cons of the alternative options before the Committee. The Petitioner and the Planning Department are collaborating to identify a qualified, independent professional to perform this evaluation for the city.*

COMMENT: That the Land Use Committee should make a threshold determination that it is appropriate to consider an alternative to providing the affordable housing units at Kessler Woods as approved in Board Order # 102-06 (12) and (15). If the Committee makes that determination, then it should assess the comparative benefits of the proposal at 219 Commonwealth Avenue.

RESPONSE: *The Newton Inclusionary Zoning Ordinance already allows for an option for off-site affordable units. Chestnut Hill Realty proposed this option because it strongly believes it offers more units and better located affordable housing for Newton residents and eligible households. This proposal would not have been possible in 2014 when Chestnut Hill Realty took over the property because the Workforce Housing Program did not exist then.*

Furthermore, the Inclusionary Zoning Ordinance favors development of units over cash contribution, but it does not favor on-site development of units over off-site development of units. It is not necessary to show "unusual net benefit" for an off-site development option. And, certain criteria that apply to on-site inclusionary units (equivalency of construction quality and minimum unit size) do not apply to off-site inclusionary units. NZO sec. 5.11.6 and 5.11.7.

The second part of this threshold determination relates to the factors that the city believes are important pursuant to the city's Housing Goals. The independent peer review consultant would do its analysis informed by the city's current Housing Strategy and affordable housing goals.

COMMENT: That the Planning Department and the Land Use Committee should evaluate the Petitioner's revised 28-unit proposal at 219 Commonwealth Avenue from the standpoint of meeting the city of Newton's affordable housing goals and from the standpoint of comparison to the affordable housing units remaining at Kessler Woods as approved in Board Order # 102-06 (12) and (15).

RESPONSE: *The issues raised pertaining to comparing the Kessler Woods building, amenities and its location to the 219 Commonwealth Avenue building, amenities and location would also be reviewed and analyzed by the independent peer review consultant.*

COMMENT: Neighbors to the 219 property expressed concerns about the new tenants and former operations of the buildings.

RESPONSE: *Chestnut Hill Realty has met with the Trustees of the adjacent condominium and is committed to improvements in property management of the building compared to prior ownership to address concerns. The interior renovation of the building will be done in a way to have as little impact as possible for the neighborhood.*

Goals for Continuation of Public Hearing

As noted in the Response to Comments above, Chestnut Hill Realty is eager to work with the Planning Department so that the independent analysis described above is initiated to help the Land Use Committee make an informed decision on the special permit amendment petition.

We would intend at the July 11, 2017 public hearing continuation to accomplish the following: (i) complete the oral presentation that was begun on June 13, 2017, focused on the improved proposal, including remarks by B'nai B'rith Housing; (ii) inform the Committee of the undertakings of professional independent peer review for the city regarding the comparison of the affordable housing options presented by the Proposal and addressing the questions about how the options have different projected financial outcomes for Chestnut Hill Realty; and (iii) allow any new public comment. The goal would be to take 20-25 minutes for the presentation and following any new public comment and any additional comments from city councilors, continue the hearing to August 8, 2017. Our goal would be for the professional independent peer review reports to be completed in time to be thoughtfully considered at the August 8 continuation.

Offer to City of Newton regarding Ownership of 219 Commonwealth Avenue

One of the dominant themes that has been expressed during this process is that it would be great for the city of Newton if the 13 affordable housing units currently approved at Kessler Woods could remain **and** if the 28 units at 219 Commonwealth Avenue could be renovated, modernized and added to the permanently deed and income restricted affordable and workforce housing stock of the city. This asks the question if it is feasible for both buildings to have the proposed affordable components (13 units at Kessler Woods and 28 units at 219 Commonwealth Avenue).

Chestnut Hill Realty purchased 219 Commonwealth Avenue in November, 2016 for its market price of \$9.2 million reflecting the assumption that the building would be renovated and leased as improved, market rate housing. If the special permit amendment is approved, Chestnut Hill Realty is offering to subsidize the creation of all 28 units at 219 Commonwealth Avenue as income-restricted units. Subject to verification in the financial analysis described above, the subsidy is in the range of \$5 to \$6.5 million. At the continued public hearing B'nai B'rith Housing will speak to how this amount of subsidy is necessary to achieve the affordability levels and number of units at 219 Commonwealth Avenue.

If the special permit amendment is not going to be approved, we ask the city to consider that the only viable scenario to achieve the goal of 13 affordable units at Kessler Woods **and** 28 affordable/workforce units at 219 Commonwealth is for the city to purchase the 219 Commonwealth Avenue building from Chestnut Hill Realty and replicate the \$5 to \$6.5 million subsidy which Chestnut Hill Realty is offering. To make this possible, Chestnut Hill Realty would sell the building to the city (or perhaps to B'nai B'rith Housing in a development partnership with the city) at its cost. Chestnut Hill Realty would recognize no gain and would not attempt to recoup the costs to date including the architectural and engineering plans and other costs to get the project queued up at Mass Housing for the Workforce Housing loan to make the building an affordable/workforce building. The city could use its available resources (CPA, Affordable Housing Trust Funds, state and federal sources) to do the 219 project either by itself

or in some form of partnership with B'nai B'rith Housing, who has successfully done 33 Comm and who has been working on 219 Commonwealth Avenue, or others.

We look forward to further dialogue about this proposal. We think the independent analysis will help with informed decision-making in the best interest of the city.

Sincerely yours,



Frank G. Stearns

FGS:dhb

cc: Marc Levin, Chestnut Hill Realty
Margaret Murphy, Chestnut Hill Realty
Susan Gittelman, B'nai B'rith Housing
Max Glikman, B'nai B'rith Housing

CITY OF NEWTON
IN BOARD OF ALDERMEN

July 25, 1977

1977

ORDERED:

That the Board finding that the public convenience and welfare will be substantially served by its action 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, the following PERMISSIVE USE and SITE PLAN APPROVAL is hereby granted, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor through its Chairman, Alderman Eliot K. Cohen.

Petition number: 808-76(2)

Petitioner: Michael F. Iodice, Trustee of Twenty-three Hundred Trust.

Location: 2350 Commonwealth Avenue, Ward 4, Section 41, Block 9, Lot 1, containing approximately 154,981 sq. ft.

Owner: Michael F. Iodice

Address of owner: 186 Lexington Street, Watertown, MA 02172

To be used for: 56 Garden Apartment dwelling units consisting of 24 one-bedroom and 32 two-bedroom units.

Construction: Concrete block, brick veneer, wood

Explanatory note: Section 24-6(c) and Section 24-24 of the Zoning Ordinance require the petitioner to obtain PERMISSIVE USE and SITE PLAN APPROVAL of the Board of Aldermen. Section 24-29(b)(1)(2) requires the petitioner to provide 6 dwelling units for low-income occupancy.

Land referred to is in Residence D District.

Approved, subject to the following conditions:

1. That the Garden Apartment buildings, dumpsters, site grading and utility connections and other site features shall be located in accordance with a plan entitled "Site Plan, 2350 Commonwealth Avenue, dated February 22, 1977, revised May 27, 1977, by Barnes Engineering Co., Joseph A. Bodio, P.E., John P. Hurney, P.E.", submitted by the petitioner and filed herewith.

2. That the driveways, parking stalls, maneuvering aisles, walkways, and bicycle racks shall be located in accordance with a plan entitled "Revised Parking Lot Layout, 2350 Commonwealth (Revision to Site Plan, dated 5/31/77, by Barnes Engineering Company, John P. Hurney, P.E.)" submitted by the petitioner and filed herewith.
3. That the number, size and type of landscape plant materials and other landscape features shall be located consistent with the plan approved in accordance with Condition 6c. below.
4. That all utilities, including telephone and electric service shall be installed underground from the street line.
5. That, except to the extent modified in accordance with Condition 6.f. below, the buildings' elevations and facade treatments shall be consistent with plans entitled, "Proposed Apartment Building for Mike Iodice, Commonwealth Avenue, and Auburn Street, Newton, Units "A" and "B", dated June 17, 1977, by Fred Lenox, A.I.A., "submitted by the petitioner and filed herewith, and a plan entitled "Proposed Apartment Buildings for Mike Iodice, Commonwealth Avenue, Auburn Street, Newton, Unit "C", dated May 25, 1977", submitted by the petitioner and filed herewith.
6. That no building permit shall be issued in pursuance to the PERMISSIVE USE until:
 - a. The City Engineer shall have approved final plans for site grading, storm drainage and utility connections.
 - b. The Public Works Commissioner shall have approved the size and type of dumpsters to be located on the site, as shown on the submitted plans. Screening of said dumpsters shall have been approved by the Director of Planning and Development.
 - c. The Director of Planning and Development shall have reviewed and approved a plan for the location of plant materials and other landscape features and a letter certifying such approval shall have been filed with the City Clerk and the Building Commissioner.
 - d. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a certified copy of this Board Order granting this PERMISSIVE USE and SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the petitioner's title deed or notice of lease endorsed thereon.
 - e. A certified copy of such recorded notice shall have been filed with the City Clerk, the Building Department and the Department of Planning and Development.
 - f. The Director of Planning and Development shall have reviewed and approved the type, color, and other similar features of the facade materials to be utilized in construction of the buildings and a letter certifying such approval shall have been filed with the City Clerk and the Building Department.

7. That no building, structure or part thereof shall be occupied until:
 - a. The petitioner shall have filed with the City Clerk, Building Commissioner and the Director of Planning and Development a statement by a registered architect or registered engineer certifying that Conditions 1 - 5 herein have been complied with.
 - b. There shall be filed with the City Clerk and the Building Commissioner a statement by the Director of Planning and Development approving the final location, number and type of plant materials, final landscape features, and lighting installation.
 - c. There shall be filed with the City Clerk, the Building Commissioner and the Director of Planning and Development a statement by the City Engineer certifying that the finished grade and final construction details of driveways, walks, parking areas, drainage systems, and utility installations have been constructed to the standards of the City of Newton Engineering Department.
 - d. There shall have been filed with the City Clerk and the Registry of Deeds for the Southern District of Middlesex County an executed agreement between the petitioner and the Newton Department of Housing Services for the reservation of three one-bedroom units and three two-bedroom units for low-income occupancy for the subsidized lease program of the Newton Department of Housing Services as required by Section 24-29(b) of the Newton Zoning Ordinance. Four of the dwelling units are to be located on the site and the remaining two at 265-290 Grove Street, Auburndale, as follows: 2350 Commonwealth Avenue, two two-bedrooms and two one-bedroom; 264-290 Grove Street, one two-bedroom and one one-bedroom. Said units shall be reserved for five (5) years with two(2) five(5) year options for renewal and shall be identical in every respect to other one- and two-bedroom apartments within the Commonwealth Avenue buildings for the four units and within the Grove Street buildings for the two units.

Said agreement shall provide that, should the Newton Department of Housing Services, at any time during the reservation period, be unable to utilize the reserved units, said units shall be made available to the Department of Housing Services, should it again be able to utilize said units for its subsidized lease program, as vacancies occur within this development. The petitioner or his successors shall notify the Department of apartment vacancies as they occur until the requirements of said agreement are complied with.

Under Suspension of Rules
Readings Waived & Adopted
22 Yeas 1 Nay (White)
1 Absent (Jefferson)

EXECUTIVE DEPARTMENT

Approved July 27, 1977

(Sgd) JOSEPH H. KARLIN City Clerk (Sgd) THEODORE D. MANN Mayor

Copies of the Board Order and all plans referred to within this Board Order have been filed with the Planning and Development Board and the City Clerk.

Twenty days have elapsed since the date of filing of the Board Order with the City Clerk and no appeal thereto has been filed.

City Clerk