

CITY OF NEWTON

IN BOARD OF ALDERMEN

COMMITTEE ON COMMUNITY PRESERVATION REPORT

TUESDAY, JUNE 23, 2009

Present: Ald. Lappin (Chairman), Ciccone, Hess-Mahan, Linsky and Yates

Absent: Ald. Parker, Sangiolo and Vance

Also Present: Ald. Harney

Others Present: Geoff Engler, Bob Engler, Alice Ingerson (Program Manager, Community Preservation), Joyce Moss, Nancy Grissom, Judy Jacobson, Thomas Turner (Community Preservation Committee members), Bob Waddick (Assistant City Solicitor), Karyn Dean (Committee Clerk)

REFERRED TO CMTE. ON COMM. PRES. & FINANCE COMMITTEE

#151-09 THE COMMUNITY PRESERVATION COMMITTEE recommending that two million forty-six thousand dollars (\$2,046,000) be appropriated and expended from the Community Preservation Fund's community housing and general reserves to create ten permanently affordable homeownership units of community housing at 192 Lexington Street. [05-11-09 @ 2:04 PM]

ACTION: **APPROVED 3-0-2 (Ald. Ciccone and Yates abstaining)**

NOTE: Ald. Lappin explained that at the last discussion of this item, further information was requested from the petitioners. That information was provided and was attached to the agenda for this meeting. Geoff Engler, from SEB, an affordable housing developer and consultant, presented this item. He said he believed they had addressed all the questions that were asked at the last meeting and he and Bob Engler were there to answer any further questions or revisit any elements of the proposed development.

Ownership

Ald. Linsky asked about the ownership of the property. He referred to a memo from the City's Law Department that explained that 50% of the ownership fell to Emily Avila, and the other 50% was held by a named trustee for John Avila. Bob Waddick, Assistant City Solicitor, explained that the named trustee is Lawrence Ardito. The lawyer for the Avila Estate, Peter Caruso, represented that Mr. Ardito is agreeable to the sale of the property at 192 Lexington St. Mr. Caruso said that he will provide a letter from Mr. Ardito to verify that and the letter will be provided in time for the Finance Committee meeting. Mr. Waddick said that he reviewed the documents of the estate and his opinion is that John Avila is entitled to a 50% share of the income of the sale that will be held in trust by Lawrence Ardito. John Avila has no authority as to the disposition of the property. He only has a right to 50% of the income of the sale, through his trustee. Ald. Lappin pointed out that if they approve the project, and for some reason there is a problem with the title

and the property cannot be purchased, obviously the project will not happen and no money will be spent.

Costs for 8 Unit Development

Ald. Ciccone referred to a plan that brought the project from 10 units to 8 units. As requested, Geoff and Bob Engler provided a budget for such a project. Ald. Ciccone wondered why the cost wasn't reduced by reducing the number of units. Mr. Engler explained that much of the costs were fixed regardless of the number of units. Money would be eliminated by not having to build the actual structures, however, all the soft costs such as engineering, architects, site work and other fixed costs such as grading, storm water management, etc., all remain the same. He said they need the amount of money shown in the 8 unit budget to make the project viable. Mr. Engler also pointed out that they may save money on the materials and labor to build two structures, but they also lose the sale revenue of those two structures.

CPC Support

Joyce Moss said she felt this project was exemplary and the Community Preservation Committee was impressed with the plan. She looked at the site and felt this development would fit in very well with the feel of the present neighborhood. She also pointed out that the developers were known for doing high quality work.

Geotechnical Studies

Ald. Harney said that the reports of the geotechnical studies from McPhail raised some issues. He wondered why there was not a report from the City on this. Ms. Ingerson explained that the Engineering Dept. said they have to do a thorough site review during the permitting process, and they cannot do it until they have fully engineered site plans. Ald. Harney thought the reports indicated some serious problems and they needed to have a better understanding of them before they approved funding. Bob Engler said that McPhail did raise some concerns and the seller is obligated to do the clean-up under the terms of the Purchase and Sale agreement. The seller has hired a consulting engineer and that engineer has to approve McPhail's work. It is taking time to get that approval. Once they approve the work and decide on the scope of the work, a price tag can be put on the clean up. They can then determine who will be paying for it. SEB cannot buy the site or touch any HOME or CDBG money until the work has been identified and approved.

Ald. Harney said this property is an old dump site and he remains concerned. Mr. Engler said they have done Phase 1 testing and they know enough to put parameters around the issue. He said it was not totally unknown what was under there. The issue is more specific. They know where some of the ash is under the building foundation and they need to remove an oil tank, for example. There is nothing running off the site, but they will be doing monitoring wells to be sure of that. Mr. Engler said that all the information will ultimately be shared, the city will be reviewing it, and the Zoning Board of Appeals will also be reviewing it. It was a process.

Ground Water

Ald. Yates wondered if there was a problem with ground water. Geoff Engler said McPhail did a thorough soil evaluation and wetlands or bogs were not identified as an issue. There were some unsuitable soils in the ground from old construction materials that were buried there, but no problem with water. The water table is very low at about 38 feet.

Ald. Hess-Mahan moved approval of this item and the committee voted approval 3-0-2.

Respectfully Submitted,

Cheryl Lappin, Chairman