

PLANNING AND DEVELOPMENT BOARD MINUTES

May 4, 2009 City Hall, Planning and Development Department Rm 209, 7:30 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Tabetha McCartney, Chair
Leslie Burg
David Banash
Doug Sweet
Scott Wolf

Alternate Members Present:

Felix Zemel

Staff Present:

Mike Kruse, Director of Planning and Development
Steve Gartrell, Associate Director of Community Development and Housing
Kathleen Cahill, Community Development Senior Planner

Public:

Charles Prioria, St Mary of Carmen Society
Ed Dailey, Resident of 67 Maplewood Avenue, Newton
Geoff Engler, SEB
Bob Engler, SEB
Phil Herr, Chair of the Newton Housing Partnership

T. McCartney, Chair, called the meeting to order at 7:30 p.m.

Community Development Board [7:30]

- 1. **Action Item:** Approve the minutes of the April 6, 2009, meeting of the Planning and Development Board acting as the Community Development Board and the Planning Board.

T. McCartney noted that Roberta Rosenberg was not present at the April 6 meeting as indicated in the minutes, and that Jacqueline Badeau came in place of Roberta. On request of T. McCartney for a motion to approve the minutes as amended, D. Sweet so moved. D. Banash seconded the motion. The Board voted 5-0-0 to approve the minutes.

- 2. **Public Hearing and Action Item:** Request to transfer \$173,000 in FY09 CDBG funds from the FY09 Housing Development Funding Pool and Purchase/Rehabilitation Programs and \$742,866 in FY07, FY08, and FY09 HOME funds, NHRF Grants, Housing Development Pools, Purchase Rehabilitation Programs, and Homebuyer Assistance Programs, and if needed from the FY10 Housing Development Pool, for acquisition, pre-development costs and site work associated with 192 Lexington Street.

S. Gartrell explained that SEB LLC is proposing an affordable housing development on Lexington Street, which is the reason for the requested transfers. Geoff Engler presented a PowerPoint presentation describing the site plan, which includes 10 affordable deed restricted units. The proposed development includes 6 units affordable at 75% of the Area Median Income (sale price \$169,000) and 4 units affordable at 95% of the Area Median Income (sale price \$223,000). Each unit includes about 1,450 square feet of space with 3 bedrooms and 2 bathrooms. SEB owns about one-third of the walkway that connects Albert Street to Burr Playground. This walkway has fallen into disrepair and will undergo renovation as part of this development.

Environmental review for the project is underway and SEB completed a preliminary foundation plan. During the completion of this plan it was discovered that some of soil on the site is not suitable to provide adequate support for foundations. A Geopier system will be implemented to enable each unit to include a basement. The development will also feature green elements which will lower the monthly utility costs of homeowners.

SEB has worked closely with local Aldermen and notified 450 abutters about plans for the development. A public meeting for the project, attended by 50 people, was held on March 26, 2009. A revised development budget, reflecting the soil stabilization issues, was presented to the Newton Housing Partnership and the Planning Department's Development Review Team. SEB went before the Community Preservation Committee in late April.

The cost of the total development is 4.86 million. Due to the fact that the entire development is affordable, sales revenue will effectively create a loss of 2.96 million. Funds were requested in this amount from the City in order to offset the loss. A total of \$2 million (\$200,000/unit) in CPA funds, \$742,000 in HOME funds and \$173,000 in CDBG funds was requested.

Bob Engler summarized the primary comments made by abutters during the public meeting in March. One of the largest issues was access into the neighborhood connected to the development by Albert Street. SEB solved this issue by restricting access on Albert Street to emergency vehicles. Another issue voiced by neighbors was the density of the project. Bob Engler stated that the proposed development is 9 units per acre, while the development across the street from the site is 25 units per acre of rental housing. The site plan includes a side yard for each unit with side yard windows. Some neighbors are concerned that the ground is unsuitable for development because it may have been contaminated due to its close proximity to Auburndale Yard (which was contaminated in the past with methane gas). An environmental assessment is being completed on the site and SEB has been in communication with David Naparstek, Commission of Health and Human Services. Traffic studies have revealed a minimal impact on traffic. The development is expected to produce 5 cars per 60 minutes.

T. McCartney asked how the occupants of the units would be chosen. Bob Engler responded that an affordable housing lottery would be held to select homeowners. Lottery applicants with a Newton Connection will be given preference for 7 of the 10 units. Real estate taxes will be based on the sale price instead of market value. Since the units will be

deed restricted in perpetuity they can only be sold to an income eligible household. Although unlikely, the units could go to an open market if, after 120 days, the seller proves that wide ranging advertising has not yielded any income eligible buyers.

F. Zemel voiced the concern that the units priced for 75% of the Area Median Income would become comparable to the price of market rate units, as the housing market continues to suffer in the current economy. Bob Engler responded that this was unlikely, and even if the market was to sink, the current gap of \$200,000 between the price of market rate and these affordable units would be enough to maintain the units' affordability. S. Gartrell stated that housing prices in Newton have been relatively stable throughout the economic downturn.

D. Banash asked why a portion of the units were 95% of the Area Median Income (AMI) instead of 80% of the AMI. Bob Engler responded that the standard 40B requires a total of 25% of the units to be affordable to households making 80% of the AMI, however the involvement of CPA funds caps the price at 100% of the AMI. The development more than meets the 40B threshold. D. Banash asked why SEB was including more than the required 25% affordable units. Bob Engler explained that SEB was taking a minimum profit (6-7%) compared with the usual 15% profit. The decreased profit is balanced out by the increased risk that SEB would have taken on by marketing 7 market rate units.

L. Burg voiced her enthusiastic support of the project. T. McCartney requested that Bob and Geoff Engler expand on the green component of the project. Geoff Engler provided an outline of the green specifications, which include: energy star appliances, high density insulation, low VOC paint, and bamboo floors. The development is located less than 1 mile to the commuter rail in Auburndale, which is one of the tenets of Smart Growth development.

D. Sweet asked about SEB's plans to assuage the public opposition. Bob Engler stated that there is no easy solution and negotiations are tight because the project is small. One possible change in the density would be decreasing the amount of units from 10 to 8 units. This decrease in units would increase side yards by 10 feet. SEB does not consider this an ideal solution because the funding request would remain the same, increasing the price per unit. D. Banash asked if abutters were notified of this hearing. S. Gartrell responded that notifying the abutters was not required for this meeting. Notice was posted on the City's website, in City Hall, and within the Friday Report which is distributed to all the Aldermen.

Phil Herr, Chair of the Newton Housing Partnership, stated that the Partnership enthusiastically recommended approval of the transfer of funds to enable the 192 Lexington project to proceed. The Partnership supports the affordable housing and the green building components in the project. Although there is a large amount of funding involved in the project, the Partnership is satisfied that the request is reasonable. The total cost per unit is \$460,000 per unit.

On request of T. McCartney for a motion to recommend approval of the transfer of HOME and CDBG funds, D. Banash so moved. L. Burg seconded the motion. The Board voted 6-0-0 to recommend approval of the transfer of HOME and CDBG funds.

3. Public Hearing and Action Item: Request to waive the interest on a rehabilitation loan and forgiveness of an acquisition loan for 39 School Street.

Attorney Ed Dailey, Bromfield & Sunstein, represented the two residents with developmental disabilities that currently live at 39 School Street. Both men have lived independently in the home for thirteen and a half years but they will be moving to a retirement facility in Wellesley that can better accommodate their increasing physical needs and their limited income.

The City originally provided the men with a CDBG loan of \$30,000 to help with the acquisition of the property and subsequently provided CDBG rehabilitation assistance loans to make the unit habitable. Over the past thirteen and a half years the men were able to live and work independently with assistance from the Newton Wellesley Weston Committee for Community Living. The City attempted to find a non-profit organization or an income eligible homebuyer for the house but the major work required (\$250,000) to bring the house up to code was prohibitive. The house has been put on the open market and there is one pending offer. The proceeds of the sale, after paying off the first mortgage and the principal on the two rehabilitation loans, will go towards supporting the two men's living expenses. The \$30,000 acquisition loan was forgivable after 15 years, so there is only a year and a half left in the term. If the interest on the two rehabilitation loans is waived the City will lose \$7,164 in program income. However, given the situation and the success of the funds in creating affordable housing for these two homeowners, the City is recommending waiving the interest on the rehabilitation loan and forgiving the acquisition loan.

On request of T. McCartney for a motion to recommend approval of the transfer of HOME and CDBG funds, L. Burg so moved. F.Zemel seconded the motion. The Board voted 6-0-0 to recommend approval of the transfer of HOME and CDBG funds.

4. Other Business: Planning and Development Board membership.

The Board discussed the lack of consistent attendance by some members. The Board was reminded that the Planning and Development Rules and Regulations state: Article 2, Section 3 "Failure to attend three (3) consecutive meetings of the Board without sufficient excuse shall be grounds for removal pending a majority vote by the members and consent of the Mayor." It is unclear whether or not this applies to alternate members.

M. Kruse suggested that he could make contact with members who have not attended a meeting recently to gauge their interest in continuing as a Board member.

Article 5, Section 1 states that "Board members shall consider nominations for Chair and Vice-Chair each year in May." Members shall elect a Chair and a Vice-Chair each year in September. Nominations should be submitted to K. Cahill before the May meeting.

Planning Board [8:00]

- 1. Action Item:** Request for a waiver of the light ordinance from Societa Maschile Di Maria Santissima Del Carmine Festival Committee.

The Board heard a request by Charles Prioria of St Mary of Carmen Society to issue a light waiver for the St. Mary of Carmen Festival to be held July 15 through July 19. The Festival operates lights until 11 p.m., about 1.5 hours longer than is allowed by the City's Light Trespass Ordinance. The Festival has been receiving these waivers for the past 40 years. The Board discussed whether or not the festival fell under Article IV. Section 20-24 (b) (7) festive or holiday light sources which are illuminated on a seasonal basis. If the Festival qualified under this category a waiver would not need to be granted each year by the Planning and Development Board.

On request of T. McCartney for a motion to recommend the waiver of the light ordinance for the St. Mary Carmen Society with clarification about the classification of Article IV. Section 20-24 (b) (7), F. Zemel so moved. S. Wolf seconded the motion. The Board voted 6-0-0 to approve the waiver.

2. Discussion Item: Home Business Ordinance.

D. Banash provided the Board with a summary of the progression of the Home Business Ordinance. The Zoning and Planning Committee met April 13 to discuss the current proposed changes to the Ordinance made by the sub-committee of the Planning and Development Board. These changes included: elimination of trip ends, inclusion of language specifying that the home business can be located anywhere in the dwelling, a decrease in the amount of gross floor area the business can occupy which will be measured by gross floor footprint, clarification that shared space will be included in the "business" area count, and language changes to parking requirements in the proposed ordinance. The Committee approved the proposed home business ordinance as amended by the Planning and Development Board. The item went before the Board of Aldermen on April 21 and was denied. A motion to reconsider was filed by Alderman Vance on April 22. This motion failed at the Board of Aldermen's May 4 meeting.

The meeting adjourned at 8:45 pm.

Respectfully submitted,

Stephen D. Gartrell
Secretary