



Zoning & Planning Committee Report

Part 1

City of Newton In City Council

Monday, September 27, 2021

Present: Councilors Crossley (Chair), Albright, Leary, Wright, Baker, Krintzman, Danberg and Ryan

Also Present: Councilors Downs, Kelley, Greenberg, Bowman and Lucas

City Staff: Deputy Director of Planning and Development Jen Caira, Planning Associate Cat Kemmett, Director of Planning and Development Barney Heath, Assistant City Solicitor Andrew Lee, CPA Program Manager Lara Kritzer, Housing Development Planner Eamon Bencivengo, Director of Housing and Community Development Amanda Berman

Planning and Development Board: Peter Doeringer, Barney Heath and Jennifer Molinsky

Community Preservation Committee: Vice Chair, Jennifer Molinsky

Newton Housing Partnership and Community Preservation Committee: Eliza Datta

Newton Housing Authority: Amy Zarechian

Cascap, Inc.: Marcia Hannon, Project Management Consultant

Others Present: NewTV

Referred to Zoning & Planning and Finance Committees

#320-21

CPC Recommendation to appropriate \$500,000 in CPA funding

COMMUNITY PRESERVATION COMMITTEE recommending appropriation of five hundred thousand dollars (\$500,000) in Community Preservation Act funds, with \$478,877 to come from the FY22 Community Housing Reserve Fund (Account #58C10498-57900C) and \$21,123 to come the Prior Year Undesignated Fund (Account #5800-3599), to the control of the Planning & Development Department to provide funding to replace roofs, repair and restore damaged siding, and replaced the HVAC systems as part of the Nonantum Village Place Senior Housing Preservation Project.

ACTION:

Zoning & Planning Approved 7-0, Councilor Baker not voting

NOTE: Cascap, Inc. Project Consultant Marcia Hannon and Community Preservation Committee Vice Chair Jennifer Molinsky joined the Committee for discussion on this item.

Ms. Molinsky presented a PowerPoint (attached). Ms. Molinsky stated that the Nonantum Village Place (NVP) was built by Cascap, Inc., a regional non-profit that has over 220 units of 100% affordable housing in the Boston area. NVP received Newton CPA, CDBG and NHA IZ funding for its construction in 2003. NVP was completed in 2005. The building houses thirty-four units of 100% affordable senior housing, including seven fully accessible units and community space. Units are available to seniors with incomes below 50% AMI, but a large percentage of residents have incomes below 30% AMI, generally from \$9,000 to \$21,000.

The \$500,000 funding request will be used to maintain the existing facility by replacing roofs, repairing/replacing and repainting siding and replacing thirty-five HVAC systems with new, more energy efficient systems. The Community Preservation Committee voted to approve this appropriation entirely from within the community housing funding reserve.

Total project costs and funding sources

CPA Recommended Funding	\$500,000
Newton CDBG Program Funding	\$100,000
LEAN Grant Funding	\$102,338
NVP Replacement Reserve	\$140,000
Charlesbank Founding Funds	\$50,000
Total CPA Project Funds	\$892,338

Committee members comments, questions and answers:

How much of the total project cost of \$892,338 is in hand? Ms. Hannon answered that although an official letter of commitment has not yet been received, that they are in close communication with the LEAN grant funding organization, who have agreed to the amount of \$102,338. All other sources of funding have been received. The work is to commence in spring 2022.

Has Cascap, Inc. completed other projects in Newton? Ms. Hannon answered no, but they have completed projects in Watertown, Cambridge, Somerville and Lowell.

Are the units market rate? Ms. Hannon answered 100% of Cascap properties are affordable housing.

It would be nice to see more emergency efficiency grants in the future.

Please explain the annual caps on renovations. Ms. Hannon answered that this project is a HUD 202 project. Under HUD 202, HUD sets both the amount that can be charged for rents and the amounts allowed to put into a replacement reserve. For example, a recent city request for an annual

contribution of \$115,000. Toward the reserve was made, but HUD allowed only \$94,000. The funding varies by program.

Is there a maximum per unit annual expenditure for maintenance? Ms. Hannon answered that it is based on a capital needs assessment and a formula HUD uses to review each case.

Without further discussion, Councilor Leary made a motion to approve this appropriation. Committee members agreed 7-0, Councilor Baker not voting.

Referred to Zoning & Planning and Finance Committees

#346-21 Appropriation of \$643,215 for the Newton Housing Authority

HER HONOR THE MAYOR requesting the appropriation of six hundred forty-three thousand two hundred and fifteen dollars (\$643,215) of Inclusionary Zoning Fund monies to the Newton Housing Authority (NHA), in accordance with Section 5.11.5 (E) of the City's Zoning Ordinance, to be used for ongoing affordable housing development activities.

ACTION: **Zoning & Planning Approved 7-0, Councilor Baker not voting**

NOTE: Chair Crossley stated that in July 2021, this Committee approved this appropriation, but with the understanding that it would be used 100% for the Haywood House project exclusively. in good part due to pandemic related construction cost increases. This is no longer the case as some flexibility is desired.

Newton Housing Authority member Amy Zarechian and Director of Planning and Development Barney Heath joined the Committee for discussion on this item.

Ms. Zarechian reminded that the appropriation amounts to the balance of Inclusionary Zoning funds (IZF) that are earmarked for the Newton Housing Authority (NHA) per the IZ ordinance. The IZF Ordinance language is broad. Cash payments are made to the City's IZF and are to be equally distributed to the NHA and the City. The funds can be used for restoration, creation, preservation, associated support services and monitoring of deed restricted units affordable to annual incomes at or below 80% AMI. Since Council amended the ordinance, this is the third funding request. Although NHA is seeking some flexibility, most of the funding would go towards the Haywood House project.

Committee members questions and answers:

Does the City Council have control over these funds? Mr. Heath answered that the IZ ordinance is straight forward requiring half of the funding go to the NHA and half of the funding comes to the City. The ordinance describes the process by which the appropriations of funds must take place, which requires approval of the annual distribution by City Council.

Is the funding account being monitored including how funding is spent? Mr. Heath answered yes, the ordinance requires an ongoing record of payments and use of proceeds for purposes stated.

Without further discussion, Councilor Leary made a motion to approve this appropriation. Committee members agreed 7-0, Councilor Baker not voting.

#240-21 Requesting Ordinance Amendments to Chapter 30

DIRECTOR OF PLANNING AND DEVELOPMENT requesting ordinance amendments to the Newton Zoning Ordinance, Chapter 30 (1) in order to clarify definitions, edit missing or incorrectly transcribed provisions and revise inconsistencies in the ordinance.

Zoning & Planning Held 6-0 on 07/08/21

On 08/16/21 Zoning & Planning Split Item #240-21 into (1) to clarify definitions, edit missing or incorrectly transcribed provisions and revise inconsistencies in the ordinance; and (2) to amend the definition in Section 1.5.1.B Two Family Detached.

Public Hearing Closed 6-0 (Councilor Leary not voting) on 08/16/21

Zoning & Planning Approved (1) 6-0 (Councilor Leary not voting) on 08/16/21

Zoning & Planning Held (2) 6-0 (Councilor Leary not voting) on 08/16/21

ACTION: Zoning & Planning Approved #240-21(2) 7-1-0, Councilor Baker opposed. To amend the definition in Section 1.5.1.B Two Family Detached approved definition #2 as recommended by the Planning Department.

NOTE: Chair Crossley stated that on August 16, 2021, the Committee approved parens (1), a series of clarifications and corrections to Ch30, and the public hearing was closed. (2) which seeks to clarify the definition of “Two-Family Detached”, was the one item held for further information on the record of deliberation and issue with the language.

Planning Associate Cat Kemmett and Deputy Director of Planning and Development Jen Caira joined the Committee for discussion on this item.

Ms. Kemmett used a PowerPoint (attached) to present the item, including the pre-2015 definition, intent, current definition, issues raised and observed issues in creation of the current definition and proposed two-family detached definition.

Ms. Kemmett stated that that item was held in August, for staff to provide additional details on history and context. Based on analysis, in August staff recommended option 2, which simplifies the definition, and allows design flexibility. Subsequent to this further research, the Planning Department is recommending option 2, as follows:

Proposed Two-Family, Detached Definition:

Proposed Edits- Option 2

Two-Family, Detached. A building that contains 2 dwelling units ~~and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire maximum height of one or both units, and/or is divided horizontally so that one dwelling unit is above another.~~

Accessory apartments shall not be considered a separate dwelling unit for the purposes of this section.

Option 2 definition allows for garages to touch, allows for flexibility in how the massing and units are arranged, allows for fewer curb cuts and less paving. The overall mass will be controlled by FAR and other zoning dimensional controls such as setbacks and lot coverage.

Committee members comments, suggestions, questions and answers:

Does option 2 allow homeowners to have four large garage doors in a row if the door widths do not exceed 40-45% façade of home, per the garage ordinance recently passed? Ms. Kemmett answered yes, a two-family is constrained by the Garage Ordinance. According to the Garage Ordinance, two-family buildings are limited to having one garage per residential unit, and space for two automobiles. Front Facing Garages are limited to 45% of the total width of the Front Elevation if they only have single garage doors, or 40% of the total width if they include a double garage door. This can be reevaluated if necessary.

I am concerned with option 2 that four large garage doors may present large walls of garage. Perhaps, option 1 should be reevaluated. Ms. Kemmett answered that option 1 would allow a building that contains two dwelling units and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire maximum height of one or both units, including garages, and/or is divided horizontally so that one dwelling unit is above another.

Can the word “detached” be removed from the definition of ‘two-family, detached’? The ordinance does not have a single-family detached definition? Ms. Caira answered that this can be done but if we change this definition, it must be changed in many places throughout Chapter 30, and the attempt here was to make a simple correction to address the concern that the current definition limits design options that are not bad.

Did building professionals request this change? Ms. Caira answered that the change was proposed because the issue continues to be brought up at the ISD counter because option 1 is not flexible. Building professionals (should this be builders and/or developers) prefer option 2. This had already been on our list to address, and a member of the building pros group also raised it during the garage ordinance discussion.

Is there a reason why two-family detached homes have a single car garage? Ms. Caira answered that it may be a combination of property constraints determining a single car garage may be more feasible.

If it is desired to have garages touching each other, could we limit the garages for a two family house to a one car garage per unit? Ms. Kemmett answered that this is not included in this proposal. The garage ordinance could be reviewed. Ms. Caira suggested monitoring the proposal.

Option 1 requires living space above the garage. Option 2 does not.

It is concerning that large garage doors may dominate home fronts.

It was noted that for a two-family in a multi residence district to have two, two-bay garages, that the lot would need to be extra wide in order to accommodate this as 40% of the total façade width as well as the required setbacks. It would be rare that this could occur because very few lots in MR districts have sufficient frontage to accommodate this, now that the garage ordinance limits the total garage width.

The building professional group has consistently unanimously advised the City towards option 2, the simpler definition.

Without further discussion, Councilor Danberg made a motion to approve parens (2) to amend the definition in Section 1.5.1.B Two Family Detached to be definition #2 as recommended by the Planning Department. Committee members agreed 7-1-0, Councilor Baker opposed.

#438-20 **Request for creation of Trust in Newton to support affordable housing development**
COUNCILORS ALBRIGHT, CROSSLEY, HUMPHREY, DANBERG, MALAKIE, KELLEY, BOWMAN, KALIS, GREENBERG, DOWNS, WRIGHT, RYAN, NOEL, LEARY, LIPOF AND NORTON requesting the Planning Department analyze mechanisms already in use in other cities and towns, identify funding sources, and create a Housing Trust in Newton to facilitate and foster the development of affordable housing in Newton.

Zoning & Planning Held 11/09/20, 03/22/21, 07/26/21

ACTION: **Zoning & Planning Held 8-0**

NOTE: CPA Program Manager Lara Kritzer, Assistant City Solicitor Andrew Lee, Director of Planning and Development Barney Heath, Director of Housing and Community Development Amanda Berman and Newton Housing Partnership and Community Preservation Committee members Eliza Datta and Jennifer Molinsky joined the Committee for discussion on this item.

Ms. Kritzer presented using a PowerPoint (attached), explaining Massachusetts' affordable housing Trust legislation, questions raised during the prior discussion, the purpose statement from draft ordinance, and the proposed operations, next steps, funding source and powers.

Ms. Kritzer stated that the purpose statement from the draft ordinance is to provide for the creation and preservation of affordable housing for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B, the Community Preservation Act (Acquire, Create, Support, Preserve, Restore and Rehabilitate). The preservation and creation of affordable housing shall include but not be limited to programs designed to further housing rehabilitation and/or development opportunities and those that are designed to directly assist low and moderate homeowners and renters.

Ms. Datta stated that the Newton Housing Partnership (NHP) and Community Preservation Committee (CPC) both voted in support of the program. In addition, the CPC has stated that if a Trust is created, they would recommend that the CPA funding target percentage for community housing, which is currently 35% of annual revenue be allocated to the Trust on an annual basis. There is an interest in

creating a Trust to help facilitate affordable housing projects. Funding and permitting affordable housing projects are challenging due to long decision making time frames. A Trust can also become a policy advocate and work on behalf of the City to identify opportunities, sites and RFPs for affordable housing opportunities.

Committee members comments, suggestions, questions and answers:

Is current data available on the percentage of funds that has been spent on developing affordable housing units? Ms. Kritzer said that the goal is to spend 35% on affordable housing. In the last five years, 78% of our revenue has gone to Community Housing. Over ten years, it is 50% and over life of the program, we have spent just over 40% of all our CPA funding on housing projects.

Please explain the remedy if funds were misallocated? Ms. Kritzer answered that they would request being repaid. Ms. Berman added that they would work closely with the Law Department with grant agreements to ensure that they are in line with the required CPC provisions and what is expected. The Trust is received annually which is reported. The CPC is required to report their project to the state.

In the draft model ordinance, there is a requirement for a grant audit. Will there be an audit requirement in our City Ordinance? Assistant City Solicitor Lee answered that it is a statutory requirement to have the books audited annually, regardless of what the ordinance specifies.

Tonight, we approved a CPC Recommendation to appropriate \$500,000 in CPA funding for the Nonantum Village Place Senior Housing Preservation Project. This is 1/3 of the allocation that CPC would be providing but would not create new housing only stabilize existing housing. If there is such a project and not much funding remaining, would the Housing Trust be allowed to return requesting additional funds in general or for a particular project? Ms. Kritzer answered yes, the Trust could come back before the CPC for additional funding at any time during the year either for a specific project or general Trust funds.

In the Newton Housing Partnership memo, it was mentioned that we could combine all housing committees and give the roles to the Trust. Will Trust members have the time to review the tasks suggested by the Newton Housing Partnership? Mr. Heath answered that at this time, it is envisioned that the Trust would be consumed with only the funding piece and will not take on other roles.

It may be beneficial to invite other communities to discuss their housing Trusts and completed projects.

Is it possible to change the CPA legislation to allow an increase in the local surcharge to go directly to the Housing Trust? Ms. Kritzer answered that it would be necessary to change the statute at the state level.

If Newton were to add .5% to the surcharge, it cannot be automatically dedicated to the Trust, but the CPC can reconsider its total percentage allocation, correct? Ms. Kritzer answered yes, that if

Newton votes to increase the CPA surcharge, the CPC may then revisit what percentage to dedicate to housing versus the other required categories, each of which must retain at least the 10% required by statute.

Mass General Law references that a Trust would manage or improve real property and to abandon any property which the board would determine if the property would be worth retaining. It is surprising to hear that a Trust would manage property. Ms. Kritzer answered that a Trust may oversee a property until its plan is ready for development. Ms. Kritzer said we do not envision the Trust as a landlord. There may be times when the Trust will need to hold on to a property for a period of time. The Trust is authorized to receive property that is given to the City and might find after evaluating such a property that it is not suitable for affordable housing development. In these cases, the Trust may want to dispose of the property in order to move on to other affordable housing initiatives.

A housing Trust is beneficial and a sufficient way of allocating funds for housing best uses. Dedicated specialists working on the housing Trust is beneficial.

A grant agreement is necessary, and the City must be very specific on the use of funds.

It may be frustrating for some stakeholders to see such relatively small amounts spent on athletic fields. A discussion with the CPC would be beneficial to understand how CPC funds will be spent equitably. Ms. Kritzer answered that the CPC has recently approved several parks and recreation projects. More projects are slated to be approved as designs are created.

We should understand the legal issues, if any, of combining or offering CPC funds, for example, on a special permit project to achieve additional and deeper affordability.

Planning Board member comments, questions for consideration:

The Ordinance does not explicitly address relative priorities regarding low versus modestly affordable housing. Can guidelines be included in the Ordinance such as giving priorities to households with incomes less than 50% and 80% AMI?

Can the City expand the list of funding sources named in the ordinance to include other funds from the City, state and federal government as well as funds from 40B subsidies as mentioned by the NHP memorandum endorsing the Trust?

The Newton Housing Partnership report supports the Trust. The NHP has made it very clear on what they would like the Trust to accomplish. Would it be appropriate to amend the Ordinance to include that a NHP representative serve on the Trust?

Council members comments, questions and answers:

Could the housing Trust be used to add affordability to units that are being constructed as part of the Inclusionary Zoning Ordinance by meeting a wider range of needs and affordable housing in a development?

Without further discussion, Councilor Danberg made a motion to hold. Committee members agreed 8-0.

#528-20 Requesting review and possible amendment to Local Preference in Chapter 30
COUNCILORS ALBIRGHT, NORTON, CROSSLEY, BOWMAN, NOEL, HUMPHREY, WRIGHT,
LAREDO, KALIS, RYAN, LIPOF AND DANBERG requesting a review and possible amendment to the Local Preference Ordinance in Chapter 30 sections 5.11.8. This section requires an Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP) for all Inclusionary Units which provides for a local preference for up to 70% of the Inclusionary Units. Various groups including The Fair Housing Committee and the Newton Housing Partnership have questioned whether the percent of local preference to current Newton residents should be lowered with the goal of increasing racial diversity in Newton.

Zoning & Planning Held 04/12/21, 07/26/21

ACTION: Zoning & Planning Held 8-0; Public Hearing scheduled for 10/25/21

NOTE: This report will be available at a later date.

Referred to Zoning & Planning and Finance Committees

#252-21 Appropriation of \$643,215 for the Newton Housing Authority
DIRECTOR OF PLANNING & DEVELOPMENT requesting the appropriation of six hundred forty-three thousand two hundred and fifteen dollars (\$643,215) of Inclusionary Zoning funds to the Newton Housing Authority (NHA) to support the creation of 55 new units of affordable senior housing at the NHA's new Haywood House development.

Zoning & Planning Approved 7-0 (Councilor Baker not voting) on 07/26/21

Finance Held on 08/02/2021

ACTION: Zoning & Planning No Action Necessary 8-0

NOTE: Without discussion, Councilor Krintzman made a motion for no action necessary. Committee members agreed 8-0.

The Committee adjourned at 9:35 p.m.

Respectfully submitted,

Deborah J. Crossley, Chair