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City of Newton, Massachusetts
Department of Planning and Development
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Setti D. Warren
Mayor


Barney Heath
Director

**ZONING BOARD OF APPEALS COMPREHENSIVE PERMIT PUBLIC HEARING
MEMORANDUM**

DATE: November 10, 2016

MEETING DATE: November 17, 2016

TO: Zoning Board of Appeals

FROM: Barney Heath, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Michael Gleba, Senior Planner 

COPIED: Mayor Setti D. Warren
Newton Housing Partnership
Councilors from Ward 5

SUBJECT: **Application #08-16**, 1615 Beacon, LLC applying to the Zoning Board of Appeals of the City of Newton, Massachusetts, pursuant to General Laws, Chapter 40B, Section 20 through 23, as amended, for the issuance of a Comprehensive Permit authorizing the applicant to construct 23 apartment-style units and to renovate an existing 4-bedroom house, on land located at **1615 Beacon Street** in Newton, Massachusetts. The project would provide six units which will serve households earning at or below 80% of area median income. The property is located in a Single Residence 2 District.

The purpose of this memorandum is to provide the Zoning Board of Appeals, the City Council and the public with technical information and planning analysis which may be useful in the comprehensive permit decision-making process. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearings that the Zoning Board of Appeals will want to consider in its discussion at a subsequent public hearing.



1615 Beacon Street

EXECUTIVE SUMMARY

The Applicant, 1615 Beacon LLC, is requesting a comprehensive permit pursuant to Massachusetts General Laws Chapter 40B, Sections 20 through 23, to redevelop the Staples-Craft-Wiswall Farmhouse property, located at 1615 Beacon Street in Waban Center, a site that is individually listed on the National Register of Historic Places and is also a Local Landmark. The site was listed on the National Register in 1986 and was landmarked in 2015 in an effort to protect the farmhouse and immediate historic context from development that may be deemed incompatible to this important visual link to Waban's early 18th-century agricultural past. The site is an approximately 31,240 square foot parcel improved with a farmhouse-style residence that has existed on site since approximately 1750. Alterations to the farmhouse have occurred over time including an addition for professional office space that was added in approximately 1983. Although the lot has been reduced in size over time there is enough land to provide an appropriate setting to preserve the historic context/setting of the property.

The site is a corner lot and has frontage on Beacon Street and Windsor Road in Waban, with vehicular access from both roads. The site is located in the heart of Waban Village Center, a mixed-use commercial and residential neighborhood, and is within a two minute walking distance to the Waban MBTA Green Line Station. The proposed project consists of the construction of a detached three-story 23-unit apartment building behind the existing farmhouse. The proposed L-shaped apartment building is to be constructed along the northwest and northeast bounds of the property adjacent to the Waban Neighborhood Club. The proposed project also includes the rehabilitation of the farmhouse and demolition of the farmhouse's more recent addition, and the restoration of exterior siding and replacement of existing windows. Vehicular access would remain via Beacon Street and Windsor Road and consists of a 31 stall garage located below the proposed new residential structure, as well as 6 surface parking stalls. The Application states that 25% of the units (6 units) will be deed restricted units that will be available to households earning up to 80% of Area Median Income (AMI). The project is proposed as a rental development.

In 2015 the Zoning Board of Appeals asserted that it had met the 1.5% general land area minimum safe harbor pursuant to Chapter 40B. Although Newton continues to believe we have met the general land area minimum, we continue to welcome additional housing opportunities that are the right fit for the right place. Newton has a longstanding commitment to the creation of diverse, affordable and equitable housing opportunities in our City and completed a Housing Needs Analysis and Strategic Recommendations in June 2016 to assist the City with addressing current and projected housing needs. The Study notes Newton's aging population, lack of workforce housing, and limited diversity of recent residential development which is focused on the high-end single-family market. The Study notes that residential development should be focused in walkable, transit-accessible locations such as the proposed site, but that new housing should contribute to Newton's sense of place by respecting the context of the place where it is located and preserving open space. The Study notes that Waban village center offers opportunities for densification that would be best served by small-scale multi-family projects or high-density single family products such as townhouses. The

proposed project appears out of scale with the Study's recommendations as well as the historic setting of the site which contributes to the larger National Register Strong Block Historic District which this site contributes to.

Considering the site's proximity to transportation and services, the Department believes that the site is an appropriate location for multi-family use and overall the Planning Department is very supportive of the concept of multi-family housing on this site if respectful to the historic nature of the site. However, the Department has several concerns about the project, which have to do with the massing and siting of the proposed structure as it relates to the existing structure and abutting properties. The proposed structure is significantly taller and appears to loom over the historic farmhouse thus diminishing its importance and taking away the open feel of the site which is part of the historic context of the property. The proposed structure is also sited hard up against the property line with its only direct abutter suggesting that the proposed new structure is too big for the site.

These concerns and others were expressed in the City's letter to Massachusetts Housing Partnership (MHP) during the Project Eligibility comment period (**Attachment A**) and the Planning Department requested that MHP condition any project eligibility on the filing of a Project Notification Form (PNF) with the Massachusetts Historical Commission (MHC). The Applicant eventually filed a PNF with MHC who determined in a letter dated October 6, 2016 (**Attachment B**) that the

"proposed residential apartment building would constitute an "adverse effect" on the Staples-Craft-Wiswall Farmhouse through the introduction of visual elements that are out of character with and would alter the setting of this State Register property. The proposed new construction size and massing is overwhelming in relation to the historic farmhouse and its setting. The new construction encroaches on the historic farmhouse and detracts from its historical landscape and setting."

The letter from MHC also states that as the site is a Local Landmark the proponent must seek the **approval** of the Newton Historical Commission (NHC) for the proposed project. Page 3 of MHP's Project Eligibility Letter (**Attachment C**) states "No MHP funding or Chapter 40B Final Approval will be provided until the MHC process is completed." The Planning Department encouraged the Applicant to work with MHC and NHC prior to filing with the Zoning Board of Appeals but the Applicant appears to have chosen not to heed our advice. It is the Planning Department's opinion that the application to the Zoning Board of Appeals is therefore premature and that the Applicant must work with NHC and MHC on a site plan that eliminates, minimizes, or mitigates the adverse effect of the proposed project prior to filing with the ZBA. The Planning Department also notes that the applicant did appear before the NHC in August 2016 and the NHC voted that the ZBA not move forward with the project as currently designed (**Attachment D**).

The Planning Department believes that the site plan would benefit from additional open space left in its current natural state, which would help to conserve the character of this prominent

lot and help mitigate the impacts of this project on the site and neighborhood. A reduction in the footprint and height of the multi-family structure to be more in keeping with the massing of the existing farmhouse on site would preserve the site's integrity, and would lead to a project with an appropriate scale and density.

Although the Planning Department has concerns with the proposed massing, density, and lack of open space given the existing neighborhoods single-family context, we acknowledge that the Applicant's proposal would create at least six units of affordable housing at the 80% AMI threshold for a minimum of 30 years. The Director of Transportation is expected to submit a supplemental memorandum to the ZBA next week which will determine if a peer review of the traffic impacts of the project should be requested.

I. ISSUES FOR CONSIDERATION

Pursuant to Massachusetts General Laws, Chapter 40B, the comprehensive permit process is designed to enable the development of affordable housing at the local level under flexible rules and streamlined administrative review procedures.

As part of its application to the ZBA, the applicant submitted a list of exceptions to and waivers of various zoning regulations and requirements (**Attachment E**). Based on the proposed project, the ZBA should consider whether the approvals and waivers requested by the Applicant are reasonable.

Other regulations required by the laws of the Commonwealth of Massachusetts still apply, and it will be the responsibility of the Applicant to ensure compliance with those applicable regulations.

II. ANALYSIS AND REVIEW CRITERIA

A. General Law c. 40B, §§ 20-23– Assessment of Housing Needs

M.G.L. c.40B, §§20-23 establishes three criteria by which the need for affordable housing in a particular community is measured. These three criteria are: 1) more than 10% of housing units in a community are utilized for affordable housing; 2) 1.5% or more of the land area zoned for residential, commercial or industrial use (excluding statutory exempt land) contains affordable housing; and 3) the land area developed for affordable housing in any one calendar year does not exceed 3/10 of one percent of total land area (as determined by #2 above) or 10 acres, whichever is larger.

The State-mandated goal for affordable housing is 10% of a community's housing stock. The most recent DHCD Subsidized Housing Inventory (SHI) list (as of December 5, 2014) states that Newton has a total of 2,438 affordable housing units, or 7.5% of the total year-round housing stock (32,346 units according to the 2010 U.S. Census), and does not yet meet the first of the three above-mentioned criteria. Since December 2014 the City has added or permitted 151 units of affordable housing that should be eligible to be added to the SHI. As proposed, this project

would increase the supply of deed-restricted, affordable units in the City by six (6) units, and because this project is proposed as a rental project, all 24 (proposed) units would be eligible to be included on the SHI, putting Newton at approximately 8.0%.

Recent Projects Eligible for Inclusion on the SHI

Address / Project Name	No. of Units	Units Eligible for SHI	Project Type	Permit Date	Status
152 Adams Street	9	1	SP	2/19/2013	Recently completed
Riverside Station	290	44	SP	10/7/2013	Permitted but not under construction
429 Cherry Street	13	3	SP	12/2/2013	Permitted but not under construction
75 & 83 Court Street	36	9	CP	10/2/2014	Under construction
12 and 18-20 Curve Street**	7	7	CP	12/4/2014	Under construction
Kessler Woods @ Lagrange Street	88	13	SP	4/21/2015	Under construction
54 Taft Avenue	2	2	CP	9/29/2015	Under construction
28 Austin Street	68	68	SP	12/8/2015	Under appeal
1521 Beacon Street	8	2	CP	11/7/2016	Permitted but not under construction
283 Melrose Street	16	2	SP	3/21/2016	Permitted but not under construction
TOTAL	537	151			

SP = Special Permit, CP = Comprehensive Permit

Pursuant to M.G.L. c. 40B, § 20 and 760 CMR 56.03(3) if 1.5% of a municipality's land area zoned for residential, commercial or industrial use is dedicated to affordable housing eligible for inclusion on that municipality's subsidized housing inventory (SHI), the Zoning Board of Appeals may deny a comprehensive permit, or it may grant the comprehensive permit with conditions that are consistent with local needs.

In 2015, during its review of the Dinosaur Rowe, LLC (70 Rowe Street), Marcus Lang, LLC (47 Goddard Street), and Waban AMA Realty Ventures LLC (1521 Beacon Street) comprehensive permit applications, the Zoning Board of Appeals found and determined that 1.5% of Newton's land area was dedicated to subsidized housing.

The calculation of the land area minimum is based on a formula that divides the total land area of affordable housing sites by the total amount of developable land.

$$\text{Numerator} = \frac{\text{Affordable housing sites}}{\text{Total land area of affordable housing sites}} = 1.5\% \text{ or } >$$

Denominator (Land zoned for commercial industrial or residential use)

Recently, the City has approved affordable housing projects at five sites totaling 3.07 acres. These sites include 12-20 Curve Street, 54 Taft Avenue, 28 Austin Street, Turtle Lane (283 Melrose Street) and 1521 Beacon Street. However, one property has fallen off the SHI with a land area of .02 acres.

Considering the above, the City's most recent calculation of the 1.5 % land area minimum is as follows:

City's numerator:	107.47	
Plus:	3.07	(Recently approved projects)
Minus:	.02	(Property removed from the SHI)
Equals:	110.52	

With a denominator of 6,635.07, and a numerator of 110.52, the City has 1.67% of its land area dedicated to affordable housing.

Even excluding the golf courses, with a denominator of 7,174.9, and a numerator of 110.52, the City has 1.54% of the land area dedicated to affordable housing.

Bearing all of this in mind, the ZBA will have to decide whether or not to invoke the 1.5% land area minimum or decide to proceed with the project.

The proposal would not result in development of affordable housing on sites that constitute more than 3/10 of one percent of the total land area in one year, and thus does not meet the third criteria.

B. The Health and Safety of the Residents of the Proposed Housing and the Current Residents of the City

a. Structural soundness of the proposed buildings

The Planning Department has no concerns with the structural soundness of the proposed building at this time. Prior to the issuance of any building permits, the Applicant will be required to file final construction drawings and details, for review and approval by the Fire Department, Inspectional Services Department and the Engineering Division of Public Works.

b. Adequacy of sewage disposal

The Engineering Division has not reviewed this project as of this date. Should the Board choose to approve this project, final plans will need to be reviewed and approved by the Engineering Division of Public Works prior to the issuance of any building permits.

c. Adequacy of handling water runoff

Should the Board choose to approve this project the Applicant will need to

accommodate all runoff on-site for a 100-year storm event, and the Engineering Division of Public Works will review plans for compliance prior to the issuance of any building permits. There do not appear to be any constraints that would hinder the Applicant from being able to meet this performance standard.

d. Adequacy of fire protection

The project has not been reviewed by the City’s Fire Department as of this date.

e. Adequacy of handling traffic generated by the project on adjacent streets

The Applicant submitted a Transportation Impact Assessment Study (TIAS). The Director of Transportation is expected to submit a supplemental memorandum to the ZBA which will determine if a peer review of the traffic impacts of the project should be requested.

f. Proximity of the site to industrial activities which might affect the health of the proposed residents

The site is not proximate to any known industrial activities that may affect the health of future residents.

C. Site and Building Design

a. Height, bulk and placement of the proposed buildings, accessory structures and improvements

The development proposal includes the demolition of portions of an existing home on the site (with the historic original portion of the house being rehabilitated and included in the development as one unit) and the construction of a new three story multi-family building containing 23 units.

The following table illustrates how the project compares with the dimensional requirements, as per information submitted with the application:

SR2 Zone	Required	Proposed
Lot Size (lots created after 12/7/53)	15,000 square feet	31,240 square feet
Frontage (Beacon St.)	100 feet	195.91 feet
Frontage (Windsor St.)	100 feet	211.11 feet
Lot area per unit	15,000 square feet	1,301.66 square feet
Setbacks		
<ul style="list-style-type: none"> • Front (Beacon St.) 		
<ul style="list-style-type: none"> Existing house- 	30 feet	36.4 feet (29.7 to porch)
<ul style="list-style-type: none"> New Building- 	30 feet	31.1 feet
<ul style="list-style-type: none"> • Side 	15 feet	5.1 feet

• Rear (Windsor Rd.)	15 feet	5.1 feet
Building Height	36 feet	40.83 feet (new building)
Max Number of Stories	2.5	3
FAR	.33	1.249
Max Lot Coverage	20%	45.3%
Min. Open Space	65%	56.2%

The Planning Department notes that the Newton Zoning Ordinance does not allow for attached or multi-family structures in the single residence zone but, in the Multi-Residence zone where attached dwellings are allowed, all setbacks are required to be 25 feet. The proposed multi-unit structure would have rear/side setbacks as little as 5.1 feet where at least 15 feet is required. While the Planning Department recognizes that the provision of such narrow setbacks is likely the product of retaining the historic house in its current location, it recommends the Applicant explore options to increase these setbacks. Strategies may include moving the existing farmhouse and reducing the size of the proposed new structure.

The Planning Department is supportive of the concept of retaining the existing historic home on the site for residential use and recommends the applicant follow the Secretary of Interior’s Standards for Rehabilitation as a baseline for rehabilitation of the historic farmhouse.

The Planning Department strongly believes the height and overall mass of the proposed new building is not in keeping with, and significantly detracts from, the existing farmhouse and site. This concern is the most prominent issue raised by the more than 350 residents that submitted comments to the Planning Department in advance of the City’s comment letter to MHP (Attachment A).

As proposed, the 23-unit apartment building wraps around the historic structure on two sides with as little as 10 feet between the two buildings. The existing structure is further diminished by the height of the proposed new building which is almost ten feet taller than the existing structure.

Although the lot has been reduced in size over the years there is currently enough open land on the site to provide an appropriate setting to preserve the historic context of the property. Farmhouses by nature are surrounded by open space and there is no open space left on the lot as proposed under the conceptual project design, therefore derogating from the historic nature of this site.

The bedroom mix is currently proposed as follows:

Residential Unit Breakdown

Unit Type	Number of Units*	Percentage of total	Number of Affordable Units	Percentage of Affordable Units
One-Bedroom	7	~29%	2	~33%
Two-Bedroom	12	50%	3	50%
Three-Bedroom	4	~17%	1	~17%
Four-Bedroom	1	~4%	0	0%
Total	24	100%	6	100%

*Market rate and affordable

The Planning Department believes that the unit sizes in the multi-family structure are too large and are not in keeping with the diversity of housing the City is seeking. Unit sizes are as follows: one-bedrooms – 982 square feet; two bedrooms – 1,172 square feet; three-bedrooms – 1,624 square feet; the four bedroom historic house measures 2,990 square feet.

The applicant has not indicated on plans which units in the multi-family structure are affordable. This should be clarified so that the Planning Department can insure the correct distribution of affordable units and unit sizes. The applicant should also clarify how many units will be universally accessible. Two parking stalls in the garage and one surface stall appear to be handicap accessible.

No accessory structures or other improvements to the subject property appear to be proposed. The Applicant should note any mechanical equipment not shown on the site plan at the public hearing.

b. Physical characteristics of the surrounding land

The site and adjoining properties are generally level. The surrounding neighborhood can be characterized as residential in nature, and largely consists of a mix of 1- 2½-story single-family homes. There is an actively used City playground near the site (Lincoln Playground). The Windsor Club, which offers social and athletic facilities, abuts the property on two sides. The commercial village of Waban, including an MBTA Green Line Station, the Waban Library, the new Angier Elementary School and a small grocery store are within easy walking distance of the site.

c. Adequacy of access to the site and adequacy of parking arrangements

Access to the site, appears appropriate for the number and types of vehicles

involved as it would be provided by three driveways- (a) an existing one on Beacon Street that would be converted from two- to one- way operation, (b) a new exit only driveway on Windsor Road, and (c) a new two-way driveway also on Windsor Road that would serve the 31 parking spaces below the proposed new residential structure.

The Applicant is proposing 37 parking stalls (31 on the lowest level of the proposed new building and six surface spaces) for the 24 units, representing 1.54 spaces per unit. This ratio is significantly higher than recently approved multi-family projects where the ratio has been closer to 1.25. The Planning Department recommends the Applicant consider reducing the number of stalls to a maximum of 34 (perhaps by eliminating the three tandem spaces shown in the Parking Plan), if it is the desire of the Board. The Planning Department also notes that maneuvering out of some of the tandem stalls may be challenging and the petitioner should submit a turning template for these stalls if they are to remain.

As mentioned earlier, the Director of Transportation is expected to determine if a peer review of the TIAS should be requested to help analyze the traffic impacts and to assess proposed mitigation.

d. Adequacy of open areas

The proposed site plan increases the amount of lot coverage significantly as the footprint of the proposed structure greatly exceeds the footprint of the addition to the existing historic house that would be removed. However, the amount of open space does not appear to change as dramatically as much of the site is currently occupied by existing pavement and those portions of the existing dwelling slated for removal. Regardless, the Planning Department sees little usable open space on site for the residents to enjoy and urges the Applicant to consider increasing the amount of open space on site as an amenity to residents, to help soften the massing of the proposed new structure, and to retain some of the historic context and setting of the original farmhouse and Waban's agricultural beginnings.

D. Economic Need for Housing Units

a. General feasibility of the project

The Massachusetts Housing Partnership (MHP) is the Subsidizing Agency agency that provided the preliminary determination of Project Eligibility that qualifies this proposal for comprehensive permit consideration (Attachment C). The preliminary determination is based, in part, on MassHousing's analysis that the proposal appears "generally eligible under the requirements of the MHP's Permanent Rental Financing Program- Fannie Mae MBS Affordable", "subject to final review of eligibility and final approval by MHP" and the proposal also "appears financially feasible" on the basis of comparable rentals

and potential competition from other projects” in the Newton market as well as estimated development and operating costs and a land value determination.

- b. Limitations imposed by the financing agency with respect to size or character of the development, amount or nature of the subsidy, and permissible rentals and tenant limits

MHP limited its preliminary determination of eligibility subject to minimum affordability requirements including that six of the 24 units (25%) be affordable to households earning up to 80% of AMI (area median income), that said units shall include two one-bedroom units, three two –bedroom units and one three-bedroom unit, and that these requirements be documented and recorded prior to the mortgage and run for at least 30 years. The project owner must also comply with MHP’s limited dividend policy.

As this is a rental project all of the units (and the entire site) will be eligible for inclusion in Newton’s Subsidized Housing Inventory. The Planning Department recommends that the Zoning Board of Appeals condition any approval on requiring that the affordable units remain affordable in perpetuity.

- c. Changes in rents and units sizes of the development which would be necessary to accommodate the requirements and regulations sought to be imposed

The project as currently proposed appears to meet all of the requirements of the Subsidizing Agency as evidenced in MHP’s preliminary Determination of Project Eligibility.

- E. Local Supply of Affordable Housing and Current Projects to Add to Supply

According to DHCD, as shown on the Subsidized Housing Inventory of December 5, 2014, 2,438 of the City’s 32,346 housing units, or 7.5%, were included on the Subsidized Housing Inventory. Currently, an additional 177 SHI eligible units are under review (Washington Place), have been permitted, are currently under construction, have been recently completed, or are under appeal.

Newton's Pipeline of Affordable Units

Address / Project Name	No. of Units	Units Eligible for SHI	Project Type	Permit Date	Status
152 Adams Street	9	1	SP	2/19/2013	Recently completed
Riverside Station	290	44	SP	10/7/2013	Permitted but not under construction
429 Cherry Street	13	3	SP	12/2/2013	Permitted but not under construction
75 & 83 Court Street	36	9	CP	10/2/2014	Under construction
12 and 18-20 Curve Street**	7	7	CP	12/4/2014	Under construction
Kessler Woods @ Lagrange Street	88	13	SP	4/21/2015	Under construction
54 Taft Avenue	2	2	CP	9/29/2015	Under construction
28 Austin Street	68	68	SP	12/8/2015	Under appeal
1521 Beacon Street	8	2	CP	11/7/2016	Permitted but not under construction
283 Melrose Street	16	2	SP	3/21/2016	Permitted but not under construction
Washington Place	171	26	SP	Under review	Under review
TOTAL	708	177			

The Planning Department notes there are other projects in the pipeline that we are aware of, however until an application is filed with the City or a Subsidizing Agency it is difficult to put them on a list with any certainty. Northland Investment Corporation recently presented a vision for redevelopment of 28 acres on Needham Street which may contain up to 900 additional housing units.

As currently designed, the 1615 Beacon Street proposal would add diversity to the city's housing stock by expanding rental options available to household's earning up to 80% of area median income (AMI). Data from the Newton Leads 2040 Housing Strategy suggests that approximately 16% of units in the city are affordable to households earning between 50% and 80% AMI and approximately 5% of units in the city are affordable to households earning between 30% and 50% AMI. The project has the opportunity to serve households in both income groups and will contribute to the city's socioeconomic diversity.

F. Fair Housing

The proposed bedroom mix will provide affordable housing opportunities to various household types, including single-person households and couples, as well

as families. This is consistent with the *Housing Strategy* principle to “pursue diverse housing choices to meet changing housing needs of a diverse population,” and the project has the potential to provide additional housing options to seniors who are looking to downsize. The inclusion of three-bedroom units in the project is consistent with the January 2014 *Interagency Agreement: Regarding Housing Opportunities for Families and Children* that was entered into by state-level housing finance agencies. The interagency agreement requires that projects funded, assisted, or approved by a housing finance agency include at least 10% of the units as three-bedroom units. The bedroom mix-policy expands housing choices to families with children, which are a protected class under Fair Housing Law.

The project will be subject to an Affirmative Fair Housing Marketing Plan approved by the subsidizing agency to ensure that the leasing of the units will be done in accordance with Fair Housing law and will not have a discriminatory effect on protected classes.

G. Landscaping, Lighting, and Fencing

The proposed site plan indicates that four or five mature trees will be retained on the site (one is subject to an arborist’s determination) as well as some existing vegetation along the Beacon Street frontage. The Applicant is proposing to install approximately 12 new unidentified trees. The Planning Department notes that the plan does not identify the type(s) of trees to be planted or size at install. We note that many are immediately around the existing house, and especially in the area between it and the proposed new building.

The Applicant submitted a photometric site plan showing proposed lighting conditions as well as information about proposed fixtures. The plan indicates that the surface parking areas and driveways that would be lit by two lampposts which would illuminate the parking spaces at levels below the one foot candle lighting requirement for parking areas. In general lighting should be kept low and with shields that direct light away from abutting properties. In general the Planning Department supports waivers from the one foot candle lighting requirement for parking areas.

The Planning Department notes that as the proposed new residential structure would be built a mere 5.1 feet from the site’s two lot lines shared with the abutting Windsor Club, it would prevent any light from the parking area lighting from reaching adjoining property. That said, the building’s location in such close proximity would likely create some light impacts on that properties. Although there is a row of arborvitae trees on the abutter’s side of the subject property’s northern boundary that current serves to screen views of that property’s parking area from the subject property, that vegetation is not under the applicant’s control. Furthermore, the site plan indicates that an 8 foot high cedar fence is

proposed for the parcel's northeast property line shared with that same abutter. As such, the Planning Department recommends that the Applicant work with abutters to determine adequate screening and fencing.

III. PLAN CONSISTENCY

A. Comprehensive Plan

Newton is deeply committed to the creation of affordable housing opportunities and welcomes well-planned comprehensive permits at appropriate locations that are fittingly designed for the existing neighborhood context. Over 1,300 households are on affordable housing waitlists in Newton and the Planning Department supports providing housing opportunities for households at all earning levels.

B. 2016 – 2020 Consolidated Plan and Newton Leads 2040 Housing Strategy

The objectives of the City's Consolidated Plan, including fair housing, have been considered in this review. The proposed project would provide 24 rental units in a mixed-income development that is well-served public transportation and has proximity to area amenities. Its proposed creation of more affordable housing suitable for families, which this project provides with six deed restricted units, meets many of the high priority needs of *the 2016 -2020 Consolidated Plan*, including:

- Affordable housing near amenities (village centers and public transportation);
- Provide affordable housing in mixed-income developments;
- Increase production of new affordable housing units;
- Aging in place.

The project is consistent with the *Newton Leads 2040 Housing Strategy* principles to locate housing in areas that are well served by transit ("Locate housing to promote access and choice) and to promote diverse housing options for the city's growing senior population "Pursue diverse housing choices to meet changing housing needs of a diverse population"). However, as evidenced, by the Adverse Impact notification from the Massachusetts Historical Commission, the project is not consistent with the Housing Strategy principle to "seek high-quality design that is responsive to context."

IV. CONCLUSION AND NEXT STEPS

A. Staff Recommendations

Overall the Planning Department is supportive of the concept of multi-family housing at 1615 Beacon Street and agrees that the site is generally appropriate for

residential development. The site is well located with respect to transportation, schools, and commercial services. We also applaud the Applicant for preserving and restoring the existing historic portion of the residence on the site.

However, the Planning Department does have several concerns, as discussed above, including the massing of the proposed new structure as it relates to the surrounding neighborhood, a lack of open space, and that some level of traffic mitigation might be needed before the proposed development can occur. The Planning Department also believes that the site plan would benefit from additional open space left in its current natural state, which would help to conserve the character of this prominent lot and help mitigate the impacts of this project on the site and neighborhood. A reduction in the footprint and height of the multi-family structure to be more in keeping with the massing of the existing farmhouse on site would preserve the site's integrity, and would lead to a project with an appropriate scale and density.

Prior to the being scheduled for a continued public hearing the Applicant should:

- Work with NHC, MHC and the Planning Department to explore alternatives that would eliminate, minimize, or mitigate the adverse effect of the proposed project such as significantly decreasing the massing and increasing the setbacks of the proposed new multi-family building
- Indicate which units in the multi-family structure are would be affordable
- Consider reducing the size of the new units
- Clarify how many units will be accessible
- Consider reducing the number of parking stalls
- Provide a turning template for the tandem stalls
- Increase the amount of usable open space on site
- Identify the types of trees and size at install to be included in the landscape plan
- Work with the Planning Department and abutters to determine adequate screening and fencing

Zoning Board of Appeals

The ZBA is required to render a decision, based on a majority vote within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the ZBA and the Applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the ZBA has been submitted.

The ZBA may dispose of the application in one of the following ways:

- approve a comprehensive permit on the terms and conditions set forth in the application; or
- deny a comprehensive permit as not consistent with local needs; or
- approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that address matters of local concern, and:
 - a. in the aggregate do not make the building or operation of such project uneconomic; and
 - b. are consistent with local needs.

ATTACHMENTS

- Attachment A: City's Letter to MassHousing Regarding Project Eligibility**
- Attachment B: Letter from Massachusetts Historical Commission**
- Attachment C: Massachusetts Housing Partnership's Determination of Project Eligibility**
- Attachment D: Newton Historical Commission Record of Action**
- Attachment E: Applicant's List of Exceptions Waiver Requests**



Setti D. Warren
Mayor

City of Newton, Massachusetts
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Attachment A

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(617) 796-1089
www.newtonma.gov

James Freas
Acting Director

April 18, 2016

[By Electronic Mail and Regular Mail]

David Hanifin
Senior Loan Officer
Massachusetts Housing Partnership
160 Federal Street
Boston, MA 02110

RE: Chapter 40B Comprehensive Permit Project Eligibility Application/Site Approval

Location: 1615 Beacon Street, Newton, MA 02468
Number of Proposed Units: 24
Subsidizing Agency: Massachusetts Housing Partnership (MHP)
Applicant: 1615 Beacon, LLC

Dear Mr. Hanifin:

The Department of Planning and Development, on behalf of the City of Newton, appreciates the opportunity to comment on the Project Eligibility/Site Approval application recently submitted by 1615 Beacon, LLC (the "Applicant") for 1615 Beacon Street, Newton, MA 02468 (the "Project"). The Applicant is seeking Massachusetts Housing Partnership's ("MHP") permanent rental financing for the Project. This letter constitutes the City's response to your letter addressed to Mayor Warren, dated April 19, 2016, seeking comments regarding the Project.

Written comments received by the Planning and Development Department (the "Department") from interested parties are attached (**Attachment A**); these comments have informed the City's response. As you will note, there has been an overwhelming response from the neighborhood on this project, with over 350 emails and letters received. The Applicant has been encouraged

to engage the neighborhood directly by holding a community meeting to solicit feedback on the proposed project but so far has declined.

Newton has a longstanding commitment to the creation of fair, affordable and equitable housing opportunities in our City and announced a goal to add at least 800 more affordable units by 2021, so that ten percent of our housing stock is affordable. In an effort to meet this goal the City is about to complete a City-wide Housing Strategy. The Housing Strategy will identify housing development goals and provide Newton with a clear set of actions that will allow us to advance those goals. It is anticipated that action items will include policy and financing recommendations as well as specific locations for new development. Newton has also partnered with the Dukakis Center to understand the demographic trends and projections for the City. We want to ensure that the housing stock meets the needs of the community both now and well into the future.

Nevertheless, Newton has recently asserted that it has met the 1.5% general land area minimum pursuant to Chapter 40B. However, although we believe we have met the general land area minimum, we continue to welcome additional infill housing opportunities that are the right fit for the right place. To ensure such projects represent a good fit for the City and the respective neighborhood in which they are looking to develop, the City strongly encourages careful siting, design, and project programming. Overall, Newton supports increasing the diversity and supply of housing, especially affordable housing, and through the *Newton Comprehensive Plan*, adopted in 2007, has a goal of encouraging “Residential development that is well located in relationship to transportation, schools, commercial services, large employers, and existing patterns of residential type and character.”¹ Additionally, the objectives of the City’s *Consolidated Plan*, including fair housing, have been considered in this review.

Site Plan Review

The regulation for a Comprehensive Permit under M.G.L. Chapter 40B states that the Subsidizing Agency determine whether “*the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns.*”²

¹ *Newton Comprehensive Plan*, 2007. Page 5-14

² (760 CMR 56.04(4)(c))



Overall the Planning Department is supportive of the concept of multi-family housing at 1615 Beacon Street and agrees that the site is generally appropriate for residential development. The site is well located with respect to transportation, schools, and commercial services. We also applaud the Applicant for preserving and restoring the existing historic portion of the residence on the site.

However, the Department has several concerns about the Project and believes that the conceptual project design is not appropriate for the site. The site is the remaining parcel of what was once a 93-acre farmstead that was divided over time to make up much of the current village of Waban, and is associated with a number of the area's early establishing families. Today, the remainder of the site includes the original farmstead house which is an important landmark located in the center of this village, across from the village library and other historically significant buildings that make up the commercial core of Waban. The site is listed on the National Register of Historic Places and has been designated a Newton Local Landmark. Due to the significant impact that a new multi-family building will have on this relatively small site (31,000 square feet) the City feels that it is imperative that the project be reviewed by the Massachusetts Historical Commission ("MHC") prior to filing with the Newton Zoning Board of Appeals (the "ZBA"). The Planning Department is concerned that the project as currently proposed will have an overwhelming and adverse impact on the existing historic structure and site and does not believe that the project will be approved by either the MHC or the City's ZBA due to this concern. **We therefore request that MHP make it a condition of the PEL that the Applicant file a Project Notification Form with MHC prior to filing with the ZBA** so that the ZBA does not waste time reviewing a project with a fundamentally flawed site plan. Early consultation with MHC and/or further consultation with the Newton Historical Commission and city staff would likely result in a request to move the existing farmhouse closer to the intersection of Beacon and Windsor Road so that this structure is more prominently featured on the site and allows for more breathing room between the two buildings. Placing the driveway and parking behind the historic structure rather than in front of the building will also help to minimize negative impacts on this site.

We also strongly believe the height and overall mass of the proposed new building is not in keeping with and significantly detracts from the existing farmhouse and site. This concern is the most prominent issue raised by the more than 350 residents that have submitted comments regarding the proposed project. As proposed, the 23 unit apartment building wraps around the historic structure on two sides with as little as 10 feet between the two buildings. The existing structure is further diminished by the height of the proposed new building which is almost ten feet taller than the existing structure. Although the lot has been reduced in size over the years there is currently enough open land on the site to provide an appropriate setting to preserve the historic context of the property. Farmhouses by nature are surrounded by

open space and there is no open space left on the lot as proposed under the conceptual project design, therefore derogating from the historic nature of this site.

Another concern is that the proposed new driveways exiting onto Windsor Road will eliminate at least three to four parking stalls, which are vital to the commercial village. Site lines for pedestrians and cars exiting the garage as well as the proposed setbacks are also a concern. The proposed new structure is less than 10 feet off of Windsor Road and presents as four stories (including the garage level) across the street from the closest residential abutter at 24 Windsor Road, where current dimensional controls would require a front setback of at least 25 feet and no more than 2.5 stories. The building is also hard up against the property line shared with the Windsor Club, a neighborhood social club with extensive outdoor recreational space, with a proposed setback of only 5 feet where at least 15 feet would be more appropriate.

The Planning Department notes that the proposed sizes of the units are very large for the market and that the Applicant is targeting rents at the highest end of the market place.

Finally, the Planning Department requests that should this project move forward, the Applicant submit a traffic study that addresses the impact of additional vehicle trips on pedestrian and vehicular safety at the site and at the intersection of Beacon and Windsor Road.

Summary

The Planning Department believes that changes to the site plan that result in a reduction to the mass of the proposed new structure, increases in setbacks, a reduction in the height, as well as increased distance between the two structures and the elimination of parking in front of the existing historic building would result in a site plan that would be approvable by both MHC and the Newton ZBA. The Planning Department is readily willing to work with the Applicant on a project at the proposed location that is both respectful of the history of the site and diversifies the City's housing stock. We look forward to partnering with Mass Housing and the Applicant to shape a project that is economically feasible for the development team and whose project design is appropriate for the site.

Please do not to hesitate to contact me if you have any questions about the contents of this letter.

Sincerely,

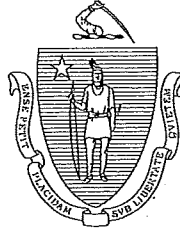
A handwritten signature in black ink, appearing to read "James Freas", with a long horizontal flourish extending to the right.

James Freas
Acting Director, Planning and Development Department

Cc: Mayor Setti D. Warren
Applicant
City Councilor John Rice
City Councilor Brian E. Yates
City Councilor Deborah Crossley
City Councilor Richard Blazar

Attachments:

ATTACHMENT A: Comment Letters Received to Date



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

October 6, 2016

1615 Beacon LLC
P.O. Box 620757
Needham, MA 02492

RE: Waban Development, 1615 Beacon Street, Newton, MA; MHC# RC. 60314

Dear Sir or Madam:

Staff of the Massachusetts Historical Commission (MHC) have reviewed the Project Notification Form (PNF) submitted by Epsilon Associates, which was received at this office on September 13, 2016. The staff of the have the following comments.

The proposed project consists of the construction of a 24-unit apartment building behind the existing property at 1615 Beacon Street in Newton. The proposed L-shaped apartment building is to be constructed at the rear of the lot along the northwest and northeast bounds of the lot. The proposed project also includes the rehabilitation of Staples-Craft-Wiswall Farmhouse, located at 1615 Beacon Street, including the demolition of the farmhouse's ca. 1983 addition. The proposed rehabilitation includes the restoration of the exterior siding and the replacement of existing windows. The information provided indicates that the project will use funding from the Massachusetts Housing Partnership (MHP).

Review of the MHC's *Inventory of Historic and Archaeological Assets of the Commonwealth* indicates that the Staples-Craft-Wiswall Farmhouse (NWT.3740) is individually listed on the State Register of Historic Places. The Staples-Craft-Wiswall Farmhouse is a Local Landmark, and as such the proponent must seek the approval of the Newton Historical Commission for the proposed work.


The Staples-Craft-Wiswall Farmhouse is significant as an important visual link to Waban's 18th-century agricultural past. The Farmhouse was originally constructed on a 93-acre plot by the Deacon John Staples in the 18th century. In 1822 it was passed to William Wiswall II as a house and associated 76 acres. In 1875, William Strong purchased the property, and it was under his ownership that the property was broken up into individual house lots. It follows that the Staples-Craft-Wiswall Farmhouse has been on its current sized lot since 1875. Lots in the area are of similar size and contain houses of similar massing.

The project proposes construction of a three-story residential building consisting of 24 units directly behind the Staples-Craft-Wiswall Farmhouse. This proposed residential apartment building would constitute an "adverse effect" (950 CMR 71.05(c)) on the Staples-Craft-Wiswall Farmhouse through the introduction of visual elements that are out of character with and would alter the setting of this State Register property. The proposed new construction size and massing is overwhelming in relation to the historic farmhouse. The new construction encroaches on the historic farmhouse and detracts from its historic landscape and setting.

Pursuant to 950 CMR 71.07(3), the MHC looks forward to consulting with 1615 Beacon LLC, the Newton Historical Commission, and other interested parties to explore alternatives that would eliminate, minimize, or mitigate the adverse effect of the proposed project. The MHC hereby initiates its consultation process (950 CMR71.07(3)).

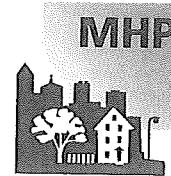
These comments are offered to assist in compliance with M.G.L. Chapter 9, sections 26-27C, (950 CMR 71.00). Please do not hesitate to contact Elizabeth Sherva or Linda Santoro of my staff if you have any questions.

Sincerely,



Brona Simon
State Historic Preservation Officer
Executive Director
Massachusetts Historical Commission

xc: David Hanifin, Massachusetts Housing Partnership (MHP)
Newton Historical Commission
Newton Planning Department
Newton Urban Design Commission
Newton Zoning Board of Appeals
Dennis Murphy, Hill Law
Brian Lever, Epsilon Associates



**Massachusetts
Housing
Partnership**

September 28, 2016

Mr. Michael Moskowitz
Mr. Charles Aggouras
Mr. Amos Eisenberg
1615 Beacon, LLC
P.O. Box 920757
Needham, MA 02492

160 Federal Street
Boston, Massachusetts 02110
Tel: 617-330-9955
Fax: 617-330-1919

Re: 1615 Beacon Street, Newton (the "Project") - Determination of Project Eligibility under MHP's Permanent Rental Financing Program - Fannie Mae MBS Affordable

462 Main Street
Amherst, Massachusetts 01002
Tel: 413-253-7379
Fax: 413-253-3002

www.mhp.net

Dear Messrs. Moskowitz, Aggouras and Eisenberg:

This letter is in response to your request for a determination of Project Eligibility under the provisions of the Commonwealth of Massachusetts comprehensive permit process (M.G.L. Chapter 40B, 760 C.M.R. 56, and the Massachusetts Department of Housing and Community Development's Comprehensive Permit Guidelines) (collectively, the "Comprehensive Permit Rules") for the above-referenced Project. The Project, as proposed in your application dated April 13, 2016 and as amended on September 16, 2016 shall consist of twenty-four (24) rental housing units, consisting of seven (7) one-bedroom units, twelve (12) two-bedroom units and four (4) three-bedroom units located in one newly constructed building and one (1) four-bedroom unit located in the existing historic home at 1615 Beacon Street, Newton, Massachusetts on a 31,242 square foot parcel. A total of thirty-one (37) parking spaces will be developed, thirty-one (31) spaces within the newly constructed building along with six (6) surface parking spaces. The project will include ground floor fitness/community space for the residents. The land is currently occupied by a historic structure, the Staples-Craft-Wiswall Farmstead, which is currently occupied as a residential rental property and which will contain one of the project's residential units following historic restoration renovations.

In connection with your request, and in accordance with the Comprehensive Permit Rules, MHP has performed an on-site inspection of the Project, and has reviewed initial pro forma and other pertinent information submitted by 1615 Beacon, LLC ("Applicant"), and has considered comments received from the City of Newton and Newton residents.

Based upon our review, we find the following:

- (i) The Project, as proposed, appears generally eligible under the requirements of MHP's Permanent Rental Financing Program - Fannie Mae MBS Affordable (the "Program"), certain terms of which are set forth on Exhibit A, attached hereto, subject to final approval.
- (ii) The site of the proposed Project is generally appropriate for multi-family residential development with a current use of multifamily rental units. The location is in Waban Village Center, a mixed-use commercial/residential neighborhood in the western part of the City of Newton area within two minutes walking distance of the Waban MBTA Green Line Station. Access to Interstate 95 and Route 9 are within 1.25 and 1.0 mile of the site respectively. The location is highly walkable with many retail and service needs accessible on foot.

The City of Newton's Subsidized Housing Inventory (SHI) is 7.48%. Approximately 46% of the City's SHI units are reserved for elderly/disabled persons. The City does not have a Housing Production Plan, however, the City released a Housing Needs Analysis and Strategic Recommendations in June of 2016. Newton has four zoning districts that allow multifamily housing at various densities by Special Permit, as well as four Mixed-Use districts that allow for both residential and business use, mostly by Special Permit. Multifamily housing is also allowed in most of Newton's Business districts by Special Permit. While the Housing Needs Analysis and Strategic Recommendations (the "Housing Strategy") specifically identifies Beacon Street in and around Waban Village center, as a "housing opportunity corridor" appropriate for small scale multifamily projects, the Housing Strategy also states "the current special permitting process is inefficient and too unpredictable, creating undue risk on residential development."

The City's 2015-2020 Consolidated Plan lists as its highest priority the creation of "affordable housing near amenities, village centers, and public transportation options." After a lengthy public process, Newton recently approved a mixed-use development on an existing 74,800 square foot public parking lot on Austin Street, in the Newtonville village center, that preserves 120 existing public parking spaces, while providing 68 units of housing in a four-story building. The project is not a 40B, but 33% of the units are affordable at various levels. The site was rezoned Mixed-Use (MU-4) to accommodate the Austin Street project. The project is currently under appeal.

Newton's Zoning Ordinance has detailed Inclusionary Zoning provisions (Sec. 5.11) requiring that 15% of the units in any development of more than 6 units be affordable. Developments of 6 or less units may make a cash payment in lieu of the creation of units. The Board of Aldermen may allow a cash payment for larger projects if they find that a specific benefit may be achieved.

These municipal actions to meet housing needs are positive but, given the need for affordable housing, including as documented by the Metropolitan Area Planning Council (MAPC) (<http://www.housing.ma/newton/report>) and two demographic reports prepared for the City of Newton by Barry Bluestone of the Dukakis Center at Northeastern University and the Housing Strategy, these actions do not warrant a conclusion that the site is not generally appropriate for residential development.

- (iii) The proposed conceptual Project design is generally appropriate for the site. Residential units are acceptable and compatible in an area of mixed used development and adjacent uses typical of a mixed use/residential district. The proposed design of the project seeks to mitigate bulk with the placement of the new building behind the existing structure and through the articulation of the building façade and reduced height of the building as it extends towards Beacon Street to coincide with the clubhouse on the adjoining social club property. The building's design, with its roofline, façade treatments, windows and materials, is compatible with the historic building while being distinctive with its mansard roof and offset and setback main entrance. The project design locates the tallest face of the new building on the lowest point of the property on the Windsor Street side. In response to comments provided by the

Newton Historical Commission, the original proposed conceptual project design was changed by pulling back the third story from the west end of the proposed building in order to assist in breaking up the building's mass and reduce perceived height along Windsor Road. In addition, the main entry porch on the Beacon Street elevation has been reduced in height along with the addition of a porch and six light windows to the east end of the Beacon Street elevation to give the proposed building a more residential character. As a fully developed site, there are no sensitive environmental resources, wetland or floodplain issues to address. There are no grading issues associated with the site.

Further design details should address the following during the comprehensive permit process:

- The ten Standards for Rehabilitation, codified in the Department of the Interior regulations found at 36 CFR 67, are regulatory for the review of rehabilitation work under the Historic Preservation Tax Incentives program. Non-mandatory guidelines should also be consulted in addition to these Standards.
- The side of the building with the garage entrance on Windsor Street should include details to improve the street level view, including glazing in the upper section of the garage door, landscape plantings along the foundation wall on either side of the garage entrance, and additional or varied trim elements and materials, while keeping with the architectural era concept.
- The largest tree, which is proposed to be preserved could be impacted by construction of the proposed building foundation. An arborist should make recommendations on its protection during construction.
- The significant vegetation on the boundary between the site and adjacent property should be preserved as much as possible as a visual buffer.

A Project Notification Form was filed with the Massachusetts Historical Commission (MHC) on September 16, 2016. No MHP funding or Chapter 40B Final Approval will be provided until the MHC process is completed. MHP expects that the City of Newton's concerns regarding parking, traffic, and public safety, including pedestrian safety, will be addressed through the comprehensive permit process.

- (iv) Based upon comparable rentals and potential competition from other projects, the proposed Project appears financially feasible within the Newton market.
- (v) The Project appears financially feasible on the basis of estimated development and operating costs set forth in the initial pro forma provided by the Applicant and a land value determination consistent with the Comprehensive Permit Rules. In addition, the Project budgets are consistent with the Comprehensive Permit Rules relative to cost examination and limitations on profit and distributions.
- (vi) The Project will be owned by the Applicant and will be subject to MHP's limited dividend requirements. The Applicant meets the general eligibility standards of the Program; and
- (vii) The Applicant controls the site through ownership.

This letter is intended to be a written preliminary determination of Project Eligibility under the Comprehensive Permit Rules, establishing fundability by a subsidizing agency under a low and moderate income housing subsidy program, which qualifies the Project for consideration for a Comprehensive Permit under M.G.L. Chapter 40B.

This preliminary determination of eligibility is subject to final review of eligibility and final approval by MHP, and is expressly limited to the specific Project proposed in the request for determination of Project Eligibility submitted to MHP and subject to the minimum affordability and additional requirements set forth in Exhibit A hereto. The requirements of the Comprehensive Permit must not result in a loan to value ratio exceeding MHP requirements. Changes to the proposed Project, including without limitation, alterations in unit mix, proposed rents, development team, unit design, development costs and/or income restrictions may affect eligibility and final approval. Accordingly, you are encouraged to keep MHP informed of the status and progress of your application for a Comprehensive Permit and any changes to the Project that may affect program eligibility and/or financial projections. In addition, MHP requires that it be notified (1) when the applicant applies to the local ZBA for a comprehensive permit; (2) when the ZBA issues a decision; and (3) when any appeals are filed.

Please note that this preliminary determination of Project Eligibility is not a commitment or guarantee of or by MHP for financing, either expressed or implied, and, in the event that you determine not to apply to MHP for permanent financing and/or in the event that your application for permanent financing with MHP is denied, this letter shall be of no further force and effect. Also, please note that this letter shall be of no force or effect if the applicant has not filed for a Comprehensive Permit within two years of the date of this letter.

Final review and approval under the Comprehensive Permit Rules will be undertaken by MHP only in conjunction with an application to MHP for permanent mortgage financing for the Project. After the issuance of a Comprehensive Permit for the Project, MHP would be pleased to entertain a request for permanent mortgage financing pursuant to and in accordance with MHP's standard underwriting process. At that time, MHP shall require a complete loan application, a copy of the decision of the ZBA and any amendments thereto, a copy of the decision, if any, by the Housing Appeals Committee and revised preliminary plans and designs, if applicable, as well as such additional documents and information as is required as part of the loan underwriting process. Should you have any comments or questions concerning this letter, please do not hesitate to call me at 857-317-8552.

Sincerely,



David Hanifin
Senior Loan Officer

cc: Roberta Rubin, Chief Counsel, Department of Housing and Community Development
Setti Warren, Mayor, City of Newton
Brooke K. Lipsitt, Chair, Zoning Board of Appeals, City of Newton
Barney Heath, Director, Planning and Development Department, City of Newton

EXHIBIT A

**Affordability
Requirements:**

At least six (6) of the units must be affordable to households earning up to eighty percent (80%) of the median area income. Such units shall include two (2) one-bedroom units, three (3) two-bedroom units and one (1) three-bedroom unit. The affordability requirements will be documented through an affordable housing agreement that will be recorded prior to the mortgage and shall create covenants running with the Property for a minimum period of thirty (30) years. Comprehensive permit requirements may extend the affordability requirements beyond the initial 30-year term.

**Limited
Dividend
Policy:**

The owner must comply with MHP's limited dividend policy.



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

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Barney S. Heath
Director

RECORD OF ACTION:

DATE: August 3, 2016

SUBJECT: 1615 Beacon Street, Local Landmark

At a scheduled meeting and public hearing on July 28, 2016 the Newton Historical Commission, by a vote of 7-0:

RESOLVED to recommend to the Massachusetts Historical Commission and the Zoning Board of Appeals that this project **not move forward** as currently designed.

Voting in the Affirmative: Voting in the Negative: Abstained:

Nancy Grissom, Member
Mark Armstrong, Member
Laura Fitzmaurice, Member
Peter Dimond, Member
Jeff Templer, Member
Jean Fulkerson, Member
Len Sherman, Alternate

MEETING MINUTES

Jeff Engler, who represented the owner, and Brian Lever, Epsilon Associates, presented the proposed plan for approximately 24 additional housing units to be built on this site as part of a Comprehensive Permit application. They came to the NHC hearing in order to obtain input on the proposed project in preparation for reviews of the project by the Massachusetts Historical Commission and the Zoning Board of Appeals.

Staff reported that an affordable housing project was proposed for this site, and public funding was being sought by the developer. This item appeared on this agenda in order for the NHC to provide comments on the design, which will be provided to the Massachusetts Historical Commission (MHC) and the Zoning Board of Appeals to assist it in its review of the project. Staff reported that the MHC had jurisdiction over this property due to the fact that public funding was being sought. The project consisted of a 3 story structure on top of a partially underground parking level, resulting in a 3 and a half story structure.

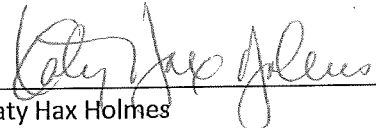
The existing dental offices behind the historic house, a local landmark, would be removed, as would the aluminum siding on the house. Historic windows were to be restored, and more modern windows to be replaced with more historically accurate 2/2 pattern windows. A site visit for members of the Newton Historical Commission was hosted at the site on July 25th. This house was designated a local landmark by the NHC on April 23, 2015.

Prior to the hearing, staff received at least 31 letters in opposition to the proposed project and two letters of support. As of this writing, staff has received 44 letters in opposition. All public comment at the hearing was

critical of the massing, scale, design, density and appearance of the proposed new building on the Local Landmark site. Comments provided by members of the Commission emphasized that the proposed new building on the site would have an overwhelming impact; that the proposed architectural design was not in keeping with that of the historic house; and that the proposed new building was too tall for the site. Commission members offered that an addition off the existing house, as well as barn-like structures that would better mimic the history of the site, might be a design more in keeping. A member also cited comments made in the Planning Department memo pertaining to the proposed density and height as ill-suited to this site.

Abutters who spoke against the project were from: 47 Windsor Road, 25 Radcliffe Road, 1756 Beacon Street, 63 Windsor Road, 163 Dorset Road, 55 Windsor Road, as well as residents of Waban, Auburndale, Newtonville, and Councilors Brian Yates and John Rice.

Fitzmaurice made a motion to recommend to the Massachusetts Historical Commission and the Zoning Board of Appeals that this project **not move forward** as currently designed. Sherman seconded the motion.



Katy Hax Holmes
Staff

Title Reference: **Owner of Property:** __1615 Beacon LLC_____

Deed recorded at: Middlesex (South) Registry of Deeds
Book __65540_____, Page __426____
Date __6/15/2015_____

LIST OF WAIVERS AND EXEMPTIONS – 1615 BEACON STREET

The Applicant requests that the Zoning Board of Appeals grant a comprehensive permit in lieu of the following permits, licenses and approvals without which the Project could not be constructed as proposed, and the denial of which in many instances would render the Project uneconomic within the meaning of M.G.L. c. 40B, §20. References herein are to the Revised Ordinances of Newton 2014, as amended, of which Chapter 30 is the City of Newton Zoning Ordinance dated November 1, 2015 (the “Zoning Ordinance”).

ZONING ORDINANCE

1. Use
The Applicant seeks a comprehensive permit in lieu of a variance and/or special permit from the provisions of Sec. 3.4.1 to permit the premises to be used for twenty-three apartment units in one larger building and one apartment unit in the existing residential dwelling at 1615 Beacon Street, with accessory parking and associated amenities in a Single Residence 2 District.

2. Affordable Housing
Sec. 5.11 of the Zoning Ordinance, provides requirements for participation in affordable housing programs for private developments granted by special permits involving increases in density. The Applicant’s program of affordability will provide that 25% of the dwelling units in the project will be available for rent to persons or families of moderate income as defined by the regulations of MassHousing from time to time. To the extent that Sec. 5.11 might be applicable to the project, a comprehensive permit is requested in lieu of a special permit under Sec. 5.11 in order to conform the affordability elements of the Applicant’s program to the requirements of the Zoning Ordinance.

3. Density and Dimensional Controls
The Applicant seeks a comprehensive permit in lieu of such variances or special permits as may be required from or under Sections 3.1.2 and 3.1.3 for construction of the project in a Single Residence 2 District including without limitation the following waivers from the dimensional requirements of Sections 3.1.2 and 3.1.3 for single dwelling units:

Zoning Category	Required	Proposed	Need Waiver (Y/N)
Minimum Lot Area	15,000 square feet	31,240 square feet	N
Lot Area Per Unit	15,000 square feet	1,301.66 square feet	Y (Sec. 3.1.3)
Frontage (Beacon St)	100 feet	195.91 feet	N
Frontage (Windsor Road)	100 feet	211.11 feet	N
Front Setback Boston Street (Existing House) (New Building)	30 feet	36.4 feet building/29.7 feet to porch 31.1 feet	N
Side Setback (Apartment Bldg)	15 feet	5.1 feet	Y(Sec.3.1.3)

Rear Setback (Windsor Road)	15 feet	No rear yard just side yards N/A	N
Floor Area Ratio	.33	1.24	Y (Sections 3.1.3 and 3.1.9)
Building Height (1) (Apartment Bldg)	36	40' 10"	Y(Sec.3.1.3)
Maximum Number of Stories (2)	2.5	3	Y(Sec.3.1.3)
Maximum Building Lot Coverage	20%	45.3%	Y(Sec.3.1.3)
Minimum Open Space	65%	56.2%	Y(Sec.3.1.3)

(1) Building Height: The measured height reflects the height from average grade (Section 1.4.5-A). The average grade was calculated at 142.76'. The measured height is 40'10" above that elevation.

(2) Stories: Newton's zoning bylaws stipulates basements are excluded as a story; basements are defined as spaces that have 2/3 of their floor-to-ceiling measurement below average grade (1.5.4-B). Our calculation based on an 8'2" floor-to-ceiling in the garage is below the average grade as defined by the City's bylaws.

4. Parking Requirements

The Applicant seeks a comprehensive permit in lieu of a special permit pursuant to Sec. 5.1.13 in order to permit a parking facility in accordance with the submitted plans and to deviate from *inter alia* the following requirements under Sec. 5.1:

- (a) To the extent Sec. 5.1.3.E prevents assignment of parking spaces to unit owners, a waiver is sought from that provision.
- (b) Requirement that two parking units be provided for each dwelling unit in an apartment house, garden apartment, or attached dwellings under Sec. 5.1.4.A.
- (c) Application for parking and loading facility permit under Sec. 5.1.5.
- (d) Requirement that parking stalls may not be located within the front or side setback from any building containing dwelling units under Sec. 5.1.8.A.
(There are three spaces within the front yard setback but the closest one is more than 5 feet from the property line. We don't believe we need a waiver but have included this in case the City has a different interpretation)
- (e) Requirement that parking stall widths shall be at least nine feet under Sec. 5.1.8.B
- (f) Requirement that end stalls restricted on one side by curbs, walls, fences or other obstructions shall have maneuvering space at the aisle end of at least five (5) feet in depth and nine (9) feet in width under Sec. 5.1.8.B.6.
(We believe this requirement relates only to exterior parking spaces, as such this waiver would not be necessary. However, we have included this waiver in case the City was to apply this provision to garage parking spaces, in which case a waiver would be required.)
- (g) Requirement under Sec. 5.1.8.E.1 that parking spaces are designed so that each motor vehicle may proceed to and from the parking space provided for it without

requiring the moving of any other motor vehicle. *(A waiver is required to allow for some tandem parking spaces)*

- (h) Lighting requirements under Sec. 5.1.10.A as appropriate.
- (i) To the extent necessary, a waiver from the off-street loading requirements contained in Sec. 5.1.12.
- (j) Under Sec. 5.1.10.B.1 a waiver is sought in lieu of any consent of the City Engineer as to drainage of the parking facility.
- (k) Any other relief which may be necessary or appropriate and may be granted by the Board of Aldermen under Sec. 5.1.13 in order to conform the waivers sought to the plan submitted.

5. Site Plan Approval

The Applicant requests a comprehensive permit in lieu of site plan approval required under Sec. 7.5 in connection with special permits granted under Sec. 7.3.

NON-ZONING ORDINANCES

1. Tree Ordinance – Revised Ordinances §21-80 et seq.

Revised Ordinances §21-80 et seq. provide a requirement for a permit and the payment of fees for removal of trees from the property under certain circumstances. To the extent that any permit or fee payment would otherwise be required under Revised Ordinances §21-80 et seq., the Applicant requests a waiver of such permit and fees.

2. Light Ordinance

Revised Ordinances §20-23 – 20-28 provide limitations on installation of light sources which do not conform to the criteria stated. §20-26 provides for waivers to be granted by the Planning and Development Board. To the extent that any light source may not conform to the requirements of §20-24 or that the requirements of that section may be inconsistent with Sec. 5.1.10.A of the Zoning Ordinance, the Applicant seeks a comprehensive permit in lieu of any waiver requested under §20-26.

4. Consent of the Planning Board

To the extent any consent or review of the Planning Board is required under Planning Board rules, a comprehensive permit in lieu of such approval is sought.

5. Curb Cut Permit

The applicant requests a comprehensive permit in lieu of any sidewalk crossing permits or consent of the Commissioner of Public Works to the extent necessary to comply with the requirements of Revised Ordinances §26-65.

6. Utility Connection Permits

The applicant seeks a comprehensive permit in lieu of such local approvals as are required to (i) open streets, (ii) make utility connections for water, sewer, gas, electric, cable or other utilities from time to time.

7. Additional Relief

The Applicant seeks a comprehensive permit in lieu of all other permits, licenses or approvals as may be issued by the City of Newton as necessary to conform the relief sought to the plans filed with this Application as the same may be amended from time to time. Included within the relief sought are all ancillary, subsidiary, usual, customary or necessary local permits, approvals or licenses in lieu of which the Board may grant a comprehensive permit to the extent necessary to conform the relief granted to the plans submitted herewith as amended from time to time.