



Setti D. Warren
Mayor

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

#s 60-17 & 61

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

PUBLIC HEARING/WORKING SESSION MEMORANDUM

DATE: May 19, 2017
MEETING DATE: May 23, 2017
TO: Land Use Committee of the City Council
FROM: Barney Heath, Director of Planning and Development
Michael Gleba, Senior Planner
CC: Petitioner

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

PETITIONS #s 60-17 & 61-17 431 Washington Street, 29 Hovey Street, and the adjacent unnumbered lot to the north on Hovey Street

Petition #60-17- for a change of zone to Business Use 2 for land located at 29 Hovey Street, also identified as Section 12, Block 006, Lot 004, and an unnumbered lot on Hovey Street and

Petition #61-17- for special permit/site plan approval to construct elderly housing with services in excess of 20,000 sq. ft. of gross floor area, consisting of 85 living units in a four-story structure not to exceed 48' in height and Floor Area Ratio not to exceed 2.0, extending the existing nonconforming front setback and constructing a retaining wall greater than 4' in a setback.

The Land Use Committee (the "Committee") held a public hearing on April 4, 2017 on these petitions. This memo reflects revised plans and additional information submitted by the petitioner as of May 18, 2017, as addressed to the Planning Department.

This project, which would require the above-referenced rezoning of two of the three subject parcels as well as the requested special permit, involves the proposed construction of a four-story, 85-unit elderly housing with services facility that would extend an existing nonconforming front setback and include a retaining wall greater than 4' in a setback

Inclusionary Zoning Requirements

As the noted in the Public Hearing Memorandum for these petitions, Section 5.11.11 of the Newton Zoning Ordinance provides that an applicant seeking a special permit for a rental “elderly housing with services” development shall make an inclusionary zoning contribution of “2½ percent of annual gross revenue from fees or charges for housing and all services” (a non-rental development would be required to contribute an “equivalent economic value”). The stated purpose of this provision is “to provide affordable elder housing with services on-site.” The section provides that the amount of the annual contribution shall be determined by Director of Planning and Development “based on analysis of verified financial statements and associated data provided by the applicant” along with other relevant data (including financial information) requested by the Director. There is no “sunset” provision included in the ordinance regarding the number of years the applicant is required to make annual payments.

While the Director of Planning and Development so determines the amount of the contribution, Sec. 5.11.11.B vests in the City Council the authority to, upon review of the Director’s recommendation, “determine, in its discretion, whether the contribution shall be residential units or beds or a cash payment.” If the City Council determines that the contribution should be in the form of cash, it shall (in accordance with Sec. 5.11.5) be “distributed equally to the Newton Housing Authority and the Planning and Development Department and shall be used exclusively for construction, purchase, or rehabilitation of housing for eligible households.”

If, in the alternative, the Council determines that the contribution should be in the form of residential units or beds, the number of such may be based upon the Director’s recommendation which may take into consideration the “level of services, government and private funding or support for housing and services, and the ability of low and moderate income individuals to contribute fees.” (If in any given year there is a cash balance remaining after calculation of the number of contributed units or beds, that amount shall be contributed in the manner required for cash contributions discussed above; such contribution shall not reduce required future years’ contributions.)

Contributed units/beds shall be made available to individuals and households whose incomes are 80 percent or below of the “applicable median income for elders in the Boston Municipal Statistical Area, adjusted for household size,” with the benefitted residents to be selected by the facility “from a listing of eligible persons and households developed, advertised, and maintained by the Newton Housing Authority” (the reasonable costs of the development, advertising, and maintenance of the listing is to be paid by the applicant/manager). Also, the ordinance states that to the extent permitted by law Newton residents should have the “first opportunity to participate in the elder housing with services program set out here.” In the event the NHA-listing is insufficient to identify a sufficient number of individuals to use the contributed beds/units, the facility would be required to implement an outreach program (approved by the Director) to recruit additional eligible persons and households. The facility would be required to certify compliance with “this Sec. 5.11.10” (*sic*) annually to the Director.

A review of similar elderly housing developments indicates that in the past the City has apparently taken varying approaches to meeting inclusionary zoning requirements. For example, at one facility the operator has submitted reports to the Planning Department indicating annual gross revenues (fees from housing and all services) and corresponding rent and service subsidies provided to on-site,

low income residents on an annual basis. These subsidies are provided annually under the terms of the development's 1994 special permit and a 2007 memorandum of understanding.

Another approach the City has taken was to agree to accept a one-time, upfront payment in satisfaction of inclusionary zoning obligations, as was done for the 51-unit Benchmark Senior Living facility proposed for 157 Herrick Road (on the Andover Newton Theological Seminary property). In that instance, the applicant proposed, and the City agreed to accept a single payment of \$1,250,000, payable upon the opening of the facility. This payment was a calculation (and rounding up) of the net present value, at a 7% discount rate, of ten annual payments of \$175,000.00, which, in turn, represented 2.5% of the facility's projected first ten years' *pro forma* stabilized annual income of approx. \$7,000,000. The requirement to make this payment was made a condition of the special permit.

The Planning Department is continuing to develop its analysis of this issue in coordination with other city departments as well as with the petitioner.

Shadow Study

As requested, the petitioner has provided a shadow study indicating the extent of the shadows that would be created by the proposed structure. The study shows the expected shadow impacts on four days of the year, namely, the spring and fall equinoxes (around March 20 and September 22, respectively), and the winter and summer solstices (around December 21 and June 21, respectively). It also compares the impacts with those currently created by the existing auto dealership.

The study indicates that the proposed structure's shadow impacts on nearby residential properties would occur, in varying degrees, during the morning on Jewett Street, especially in the weeks leading up to and after the winter solstice as well as on about two Hovey Street residential properties during late afternoons around the winter solstice.

When compared to existing conditions, the proposed structure would also "redistribute" some of the current dealership's morning shadow impacts northward along Jewett Street around December 20, with some homes on Jewett Street being affected more, others less than with current conditions. Another impact would involve increased shadows falling on two Hovey Street residential properties during the same time frame.

Photometric Plan

Also as requested, the petitioner has provided a photometric plan showing the on-site light levels. It shows no light "spillage" on adjacent properties from the 32 exterior light fixtures proposed for the property.

SUMMARY

The Planning Department is continuing to work with other city departments, as well as the petitioner to clarify issues related to the projects inclusionary zoning requirement. As stated in its Public Hearing Memorandum, the Planning Department is generally supportive of this project, as it is thoughtfully designed, provides publically accessible open space amenities and, consistent with Newton's adopted Comprehensive Plan, can help address the some of the needs of the City's large and growing elderly population.