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CITY OF NEWTON, MASSACHUSETTS
Newton Fair and Affordable Housing Partnership
MEMO

DATE: **November 25, 2025**

TO: **Chairperson Andrea Kelley, Land Use Committee**
Members of the Land Use Committee
Chairperson Kevin McCormick, Planning and Development Board
Members of the Planning and Development Board

FROM: **Newton Fair and Affordable Housing Partnership**

CC: **Barney Heath, Director of Planning and Development**
Lara Kritzer, Director of Housing and Community Development
Katie Whewell, Chief Planner
Shaylyn Davis-Iannaco, Housing Program Manager

SUBJECT: **85 Dudley Road – Comment on Affordable Housing Aspects of the Proposed Development**

We are writing to the Planning and Development Board and to the Land Use Committee of the City Council with this Comment on the affordability aspects of the proposal by C. Stumpo Development for a 71-unit mixed income homeownership development at 85 Dudley Road in Newton.

We have been asked by the developer to comment on the affordable housing aspects of their proposed project in time for the Board and Committee's respective meetings on December 1 and December 2. This memorandum is offered in response to that request. It is intended only for that purpose and is not intended as an endorsement of the project, about which we recognize the City Council and other City decision-makers have many questions and concerns.

This memo first provides background on the Partnership's involvement with the proposal to date. Following that background is our requested Comment.

Process to Date:

The development attorney for the proposed 71-unit mixed-income homeownership development at 85 Dudley Road, Laurance Lee of Rosenberg, Freedman and Lee LLP, has appeared before Newton Fair and Affordable Housing Partnership three times over the last three months – September 16, October 28, and November 18 -- to request our opinion on the housing affordability aspects of the development. At the November 18 meeting the attorney, accompanied at this meeting by the project's principal Cindy Stumpo of C. Stumpo Development, specifically requested that the Partnership provide an advisory comment prior to the developer's upcoming appearances before the Planning and Development Board on December 1 and the Land Use Committee on December 2. In response to that request, since our deliberations on November 18 were incomplete, the Partnership agreed to hold a special interim

meeting at 5pm on November 24 to continue its deliberations, which special meeting was advertised as a public meeting as required under state open meeting laws.

We want to note that the developer's proposal for compliance with the City's Inclusionary Zoning Ordinance has changed over the three meetings. Mr. Lee indicated at the Partnership's September 16 meeting that they intended to seek a waiver of the onsite affordability requirements under the Inclusionary Zoning Ordinance, in favor of a payment-in-lieu to the City's Affordable Housing Trust and Housing Authority. Subsequently, at the October 28 meeting, he indicated they had revised their proposal such that they would provide the required affordable units on site. And finally, at the third meeting, they indicated they had decided to keep both options open and, while indicating their preference for the payment-in-lieu approach, told the Partnership in writing that they would "defer to the City in determining which option best meets its needs."

We completed our deliberations on November 24 and write this memorandum to the Planning Board and Land Use Committee to offer our comments on the affordable housing aspects of the project as proposed.

Project Characteristics:

The features of the project relevant to our consideration, as presented to the Partnership by the developer, are as follows:

- The project is to consist of 70 three- and four-bedroom townhouse condominium homes, with garages, in 26 attached 2-, 3- and 4-unit buildings of a mix of two and three stories, plus one single-family home which currently exists on the site and will be rehabilitated and sold as part of the development.
- The unit sizes for the homes range between 3,500 and 4,500 square feet.
- The homes will be owned under a condominium structure that requires monthly condominium fees that will be calculated to cover the common operating costs for the condominium community, with the condominium fee for each home reflecting the purchase price of that home. The voting rights of each homeowner will reflect the amount of the condominium fee.

Affordability Requirements under the Newton Inclusionary Zoning Ordinance:

The applicable affordable housing requirement for this development under the City's Inclusionary Zoning Ordinance (Article 5.11.4.B.5.) requires this development to include 12 affordable units on site (seven affordable to households at 80% of Area Median Income (AMI) and five affordable to households at 110% of AMI), plus a fractional cash payment of $276,250. Alternatively, under Article 5.11.5.A.2, the developer may elect to make a cash payment in lieu of providing affordable units on site by obtaining a special permit from the City Council with a specific finding that such a payment-in-lieu will provide "an unusual net benefit to achieving the City's housing objectives…"

Limitation to Partnership Comment

The Partnership is aware that the City Council, the Planning Department, the Newton Conservation Commission and others have expressed substantial concerns about the physical, infrastructure and environmental characteristics of the 85 Dudley Road project as proposed, and that these concerns have not been satisfied by the developer's responses to date. We fully respect these concerns and want to emphasize that nothing in this Comment should be construed as indicating that the Partnership is endorsing the project as proposed. Our purpose here is limited solely to providing advice to City decision-makers on the affordable housing aspects of the project that is before us.

Partnership Comment on Affordable Housing Issues

The developer has requested comment from the Partnership on two key affordability questions:

1. our preference between the on-site affordability approach and the payment-in-lieu approach;
2. for the payment-in-lieu approach, what the amount of the payment should be.

On the first question, the Partnership has major concerns about the onsite affordability approach, due to our questions about operating cost affordability to the moderate-income homebuyers and the overwhelming majority in decision-making authority to be held by the market-rate homeowners, as compared with the moderate-income homeowners, under the developer's proposal. The voting rights for the moderate-income homeowners, under the developer's proposal to size the condominium fees according to purchase price, and to set the voting rights as a function of the fees, will amount in aggregate to a de minimis amount – probably less than 3% of the total voting rights in our estimation. This will expose the moderate-income homeowners over time to increases in condo fees and/or special assessments, likely to be supported by a high majority of the voting rights, that they cannot afford. Combined with the carrying costs for these very large units which the homeowners must also cover individually for operating costs not paid for by condo fees – debt service, real estate taxes, maintenance, utilities, homeowners insurance – we believe the risk for the moderate-income homeowners of defaulting on their condo fee obligations or their mortgage payments, or of failing to keep other essential operating payments current, is unacceptably high, leading to forced sales, possible foreclosures, and returns by the homebuyers to the rental market for their housing.

And, in terms of the objective of promoting the buildup of wealth for the moderate-income homeowners, we note that the resale value of inclusionary units is limited in two ways – the new buyer must be income-eligible, limiting the unit's available market and purchase price, and the price margin over the initial price may not exceed the increase over time in the government-published area median incomes at the target income levels.

These aspects of the economics of this homeownership opportunity leave us concerned that 85 Dudley Road, as currently proposed, will not provide these homebuyers with a path to the desired outcomes of long-term homeownership or generational wealth.

These problems are inherent in any mixed-income homeownership development. We do know that many mixed-income ownership developments have succeeded, with lower-income households retaining their properties over time and selling without duress for a small profit margin for some gain in household equity. But those that have achieved these points of success do not have such wide price and condo fee disparities as are proposed here, where the market prices are estimated at between $2,500,000 and $3,000,000 and the inclusionary units can most likely be priced no more than $250,000 to $300,000. It is the breadth of the price and income disparities that drives our concern with regard to 85 Dudley Road.

In addition, we point out that a payment-in-lieu approach for 85 Dudley, given its unusual scale at 71 units, will provide a uniquely high level of resources for the City's affordable and public housing programs. These resources can leverage other state and federal housing dollars to yield affordable housing production at as much as six or seven times the volume of onsite inclusionary units required under the IZ ordinance.

In conclusion on the first question: The Partnership believes that the encouragement of affordable homeownership is an essential goal for Newton. But we do not feel this project, as proposed, will

result in successful homeownership outcomes for the twelve moderate-income households that would be targeted for this housing. Within the short timeframe in which the developer has sought our feedback, and the narrow set of two choices offered by the developer for our consideration, it is not practical to explore other ways of accomplishing meaningful affordable homeownership outcomes from the 85 Dudley Road project. Given these constrained choices, therefore, we believe the better outcome for the City's affordable housing goals is the payment-in-lieu approach.

On the second question, the Partnership notes that, if the payment-in-lieu approach is to be approved, it must be found by the Council to meet the "unusual net benefit" test that is required in the IZ Ordinance for all projects of 10 units or more [(1)]. While we recognize that the Ordinance provides no definition of what constitutes an "unusual net benefit", we believe the wording that describes the test mandates that the standard IZ formula should not be interpreted to allow the standard payment-in-lieu formula to be used.

In conclusion on the second question, if the City decides to accept a payment-in-lieu approach, we recommend a payment-in-lieu of an amount not less than $9.5 million. We believe this figure would satisfy the "unusual net benefit" test because it is greater than the $8,076,250 figure calculated under the standard formula by a substantial margin -- nearly $1.5 million, 19% above the formula's result. Furthermore, we believe this amount can be found acceptable by both the developer and the City Council. Should the City determine that payment-in-lieu of onsite units is an appropriate outcome, we believe it is important to identify a mutually agreeable figure that both meets the unusual net benefit test and is acceptable to the developer. In such a scenario, failure to reach an agreement on this figure would in our view be an unacceptable lost opportunity to gain significant financial resources for affordable housing in Newton.

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We hope this comment is helpful. As mentioned above, neither this comment, nor either of the two points discussed above, should be interpreted as an endorsement of the project as proposed. Many aspects of the project have generated understandable and unresolved concerns still under discussion, but the Partnership does have enough information to comment on the affordable housing issues that are within our assigned purview and so are responding to these issues in connection to the project as it has been proposed to us.

The policy issues raised by mixed-income homeownership developments like 85 Dudley Road are important and complex and suggest that, beyond the context of the current proposal, further research and analysis may be appropriate on effective policy alternatives for encouragement of affordable and lasting homeownership opportunities for moderate-income households. The Partnership will happily make itself available in the future for such an investigation.

We would be happy to answer any questions you may have.

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(1) This provision of the IZ Ordinance allowing a by-right payment-in-lieu opportunity for projects of 7 to 9 units, is currently before the City Council, as one of several proposed pending revisions to the IZ Ordinance, that would increase the by-right opportunity to projects of between seven and 19 units.