



Setti D. Warren
Mayor

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

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

Candace Havens
Director

February 28, 2014

[By Electronic Mail and Regular Mail]

Catherine Racer, Associate Director
Division of Housing Development
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, Massachusetts 02114

RE: M.G.L. Chapter 40B Comprehensive Permit Site Eligibility Application

Project Name: 75-83 Court Street
Location: 75-83 Court Street, Newton, MA 02458
Number of Proposed Units: 36
Subsidizing Agency: Massachusetts Housing Partnership
Applicant: SEB, LLC.
Development Company: SEB, LLC

Dear Ms. Racer:

Thank you for the opportunity to comment on the Site Eligibility application recently submitted by SEB, LLC (the "Applicant") for 75-83 Court Street, Newton MA 02458 (the "Project"). This letter constitutes the City's response to your letter addressed to Mayor Warren, dated January 16, 2014, seeking comments regarding the Project as part of Massachusetts Department of Housing and Community Development's consideration of the Applicant's request for Site Eligibility. Written comments received by the Newton Planning and Development Department (the "Department") from other interested parties are being sent to you under separate cover though these comments have informed the City's response.

Our City has a history of deep commitment to the creation of affordable housing opportunities in Newton and we welcome well planned Comprehensive Permits at appropriate locations that are fittingly designed for the existing neighborhood context, and where access to the site is suitable for the numbers of vehicles involved. Overall, Newton supports increasing the housing supply close to Newtonville’s Village Center, which is a densely developed mixed-use neighborhood with access to amenities, multiple transportation options, and jobs.

The Department has several concerns about the Project which are heightened by the Site’s location on a mostly residential street, with limited open space and parking. In contrast, many larger 40B projects recently developed in Newton are located on major thoroughfares, not on already dense residential streets. The Department’s concerns include the density of the project in terms of the number of units, the mass of the proposed building, and the impact on traffic flow and parking on Court Street and Beach Street during weekdays, particularly after the existing parking area at 75-77 Court Street is removed.

Despite these concerns, the City wishes to acknowledge that the Applicant has had numerous meetings with key City Departments and Committees over the past year and has held at least two community meetings to discuss the project with the neighborhood. These meetings resulted in a substantial reduction to the number of bedrooms proposed, changes to the bedroom mix and size of units, a significant modification to the architectural design of the building, and the addition of on-site guest parking. Nevertheless, the Planning Department expects the Applicant to continue to address our concerns should this project move forward.

The Department offers the following comments in response to the information provided in order to help Massachusetts Department of Housing and Community Development evaluate the request for site eligibility:

A. Land Use, Site Plan Design and Sustainability

The regulations for Comprehensive Permits under Chapter 40B direct that the Subsidizing Agency determine that *“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.”*¹

- **Smart Growth.** The Massachusetts Department of Housing and Community Development encourages housing development that is consistent with smart growth,

¹ (760 CMR 56.04(4)(c))

sustainable design, and green building practices. Goals that are encouraged include concentrating development in village centers, integrating housing where a mix of uses are available, and locating housing where residents have a variety of transportation choices other than dependence on cars for every trip they make. The Department believes that the Project is consistent with smart growth principles, as it is proximate to Newtonville’s village center, is very well served by multi-modal public transportation options, and is close to major transportation corridors. The Department encourages the Applicant to continue to detail how they will market public transportation options to prospective residents of this site so as to mitigate the impacts of the development on traffic in the immediate neighborhood.

- Land Use.** The surrounding neighborhood includes a mixture of residential, business and light industrial zoning districts, and the site itself is zoned as Multi-Residence 1 (“MR-1”). Court Street is comprised of single- and two-family homes, attached dwellings, and also provides access to commercial uses located between Court Street and Crafts Street. There are two existing structures on the site with a total of seven residential rental units (although there is a history of additional units that were not legal), as well as a parking area in the rear used by local businesses and some residents. Considering the surrounding uses in the neighborhood and its proximity to amenities, transportation options, and jobs, the Department believes that the Site is an appropriate location for a multi-residence use, although the proposed number of units seems excessive. The following table provides a preliminary zoning comparison of the Project to the zoning requirements for pre-1953 single- and two-family dwellings in an MR-1 district.

Multi-Residence 1	Allowed (Single/Two-family)	Proposed
Max Stories/Building Height	2.5 stories /36 feet	3.5 - 4 stories/ 36-50 feet
Setbacks		
<ul style="list-style-type: none"> • Front (South) 	25 feet	15 feet
<ul style="list-style-type: none"> • Side (West) 	7.5 feet	20 feet
<ul style="list-style-type: none"> • Side (East) 	7.5 feet	30 feet
<ul style="list-style-type: none"> • Rear (North) 	15 feet	60 feet (approx. to building)
Max. Lot Coverage	30% (Max)	42.3%
Open Space	50% (Min)	25.7%

Based on the dimensional controls established for this location, the Project will exceed the maximum permitted height, number of stories, open space percentage, maximum lot coverage, and will encroach into the front yard setback. The Planning Department is concerned with the extent of waiver required including the front setback, height and open space.

- **Density.** The minimum lot area per unit in a Multi-Residence 1 zone for pre-1953 lots is 3,500 square feet per unit. The Applicant is proposing a density of 1,444 square feet of lot area per unit, which is very similar to the average lot area per unit of some recently approved Comprehensive Permits in Newton of 1,439 square feet, including both Avalons, Arbor Point, and 35 Commonwealth Avenue. The Project is proposing 36 dwelling units where approximately 13 dwelling units would be allowed by special permit. Although the density appears appropriate when compared to other large 40B projects in Newton, these projects are located on major thoroughfares and not within existing residential neighborhoods. The Planning Department therefore feels that the project is overly dense for the existing residential neighborhood and urges the developer to consider reducing the number of units.
- **Building Massing, Design and Architecture.** The Department encourages massing that fits into the existing character of the neighborhood to preserve the character of Newton's neighborhoods. The Department also encourages underground parking to remove the view of cars from the street.

The Project is proposing a four-story building with varying roof heights of 36 to 50 feet that incorporates architectural elements from residential structures on Court Street, and is designed to appear as three smaller buildings from the street. Parking is proposed beneath the building footprint, above ground on the east side of the building, and in carports in the rear of the building. The site plan for the project includes landscaping along the property lines and a terraced garden on the west side of the property.

The Department is concerned about the mass of the proposed building, particularly in regards to its length, as well as the location of the driveway on the east side of the site, which will expose the mass of the building to the side of the property with residential abutters. The Department recommends that the Applicant continue to explore mechanisms to break up and screen the mass of the building, and to consider the traffic and aesthetic benefits of relocating the driveway to the western side of the site, which is abutting a parking lot currently owned by Verizon. Other suggestions include

reducing the number of proposed units which would help the Applicant to reduce the height and mass of the building, and increasing the front setback which would allow the building to be set back farther from the street than the buildings on adjacent properties.

- **Green Building.** The application states that the Project will apply green building principles but does not indicate that it will pursue any specific certification. The Department believes the Applicant should commit to achieving LEED certification at a Silver level or better for the core and shell of the building. This effort would align with the City's policy that the site planning, building design, construction, maintenance or long-term operation of the premises would contribute significantly to the efficient use and conservation of natural resources and energy.
- **Environmental Impact.** The site is not located in a resource sensitive area; however, due to a history of automobile uses on the site and its location adjacent to industrial properties, the City recommends that the Applicant complete Phase I and Phase 2 (if necessary) Environmental Site Assessments to determine whether remediation is required.

The Project will substantially increase the amount of impervious surface on the site, which has raised concerns from neighbors of potential water runoff from the site to adjacent properties. The application identifies ground water recharge and rainwater recovery irrigation as priorities, but does not address storm water management directly. The Department strongly encourages the Applicant to direct all water runoff to underground infiltration chambers, and to the extent possible, to reuse water on site and utilize pervious surfaces for the driveway and parking areas. The Project's drainage systems will be required to meet the City's 100-year stormwater event.

- **Open Space.** The Project's open space consists of a terraced garden on the west side of the site, and landscaping along the property lines. Reducing the number of units and mass of the building may allow for additional open space on the site, particularly on the east side adjacent to the residential abutter. There are several parks within a mile of the site, including Hawthorne Playground, Albemarle Field and the Carr School.
- **Tree Removal.** The Applicant did not submit a tree removal plan; however, it is clear that mature trees located in the middle and northwest corner of the site will be removed in order to accommodate the proposed structure and parking area. There are also mature trees along all of the property lines, which the Department believes is imperative to protect. The Applicant should submit a landscape plan showing all trees

to be removed and planted prior to filing with the Zoning Board of Appeals. The Department strongly encourages the planting of additional trees, including evergreen trees, along the front and side property lines, in order to screen the mass of this structure and to enhance the character of the street.

- **Removal of Historic Resources.** The Project will necessitate the demolition of the two existing houses on the site. The existing house at 83 Court Street was built in 1895 and its architectural character and significance should be documented prior to demolition.
- **Noise and Lighting.** Careful selection of the HVAC and other equipment and their location should be taken, in order to eliminate sound heard by residential abutters. The Applicant should detail site lighting, including a photometric plan to ensure that there is no light spillover onto adjacent properties and that the building and site lighting does not negatively impact abutters.
- **Construction Management.** The Applicant should be expected to submit a detailed construction management plan as area residents will be concerned about the impact of truck traffic, noise, and dust on the streets and in the neighborhood, contractor parking during construction, and wear and tear on City streets and adjacent houses. Plans should include a designated contract person for the construction along with 24-hour contact phone numbers, as well as monthly construction updates for distribution to neighbors.

B. Affordable Housing Need

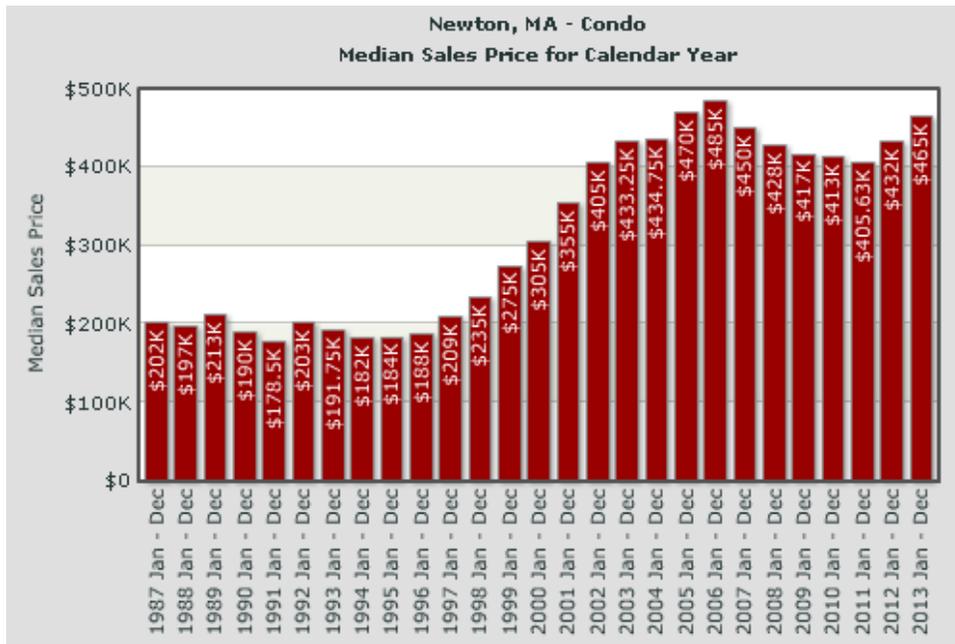
- **Existing Housing Stock and Household Income.** Newton's housing stock is diverse in age, size, design and type. Approximately 54 percent of Newton's housing units are detached single-family homes. 18 percent are two-family homes and 22 percent are multi-family buildings. Although the Newton median household income is \$107,696, approximately 25 percent of Newton households earn less than 80 percent of the area median income (AMI), which is the maximum household income to qualify for most affordable housing programs.

Newton has a longstanding commitment to affordable housing, having made measurable progress in creating and preserving opportunities for affordable housing that address the goals of Chapter 40B. As of April, 2013, 2,436 of the City's 32,346 housing units, or 7.5 percent, were included on the Subsidized Housing Inventory. Currently, an additional 65 eligible units are in the pipeline. The City also has an

additional 29 occupied affordable units serving households with incomes between 80 and 100 percent of Area Median Income (AMI).

Deed-restricted affordable ownership units make up only three percent of the City’s inventory. Nonetheless, there is a clear demand for affordable homeownership housing. Approximately 50 income-eligible households entered lotteries for 13 affordable homeownership units sold since 2012. The Department receives dozens of inquiries per month for affordable housing opportunities. A lottery agent hired to market the resale of an affordable one-bedroom unit received over 500 inquiries in less than four months.

While the recent economic downturn reduced Newton home values, the sale price of condominiums are now almost at pre-recession levels. The 2013 median sale price of a condominium in Newton is \$465,000.² Based on federal and state guidelines, which suggest that households spend no more than 1/3 of their income on housing, a household of four would need to earn \$135,000 to afford the median priced condominium. The proposed project will provide nine ownership opportunities to households with incomes ranging from \$47,000 to \$59,000.



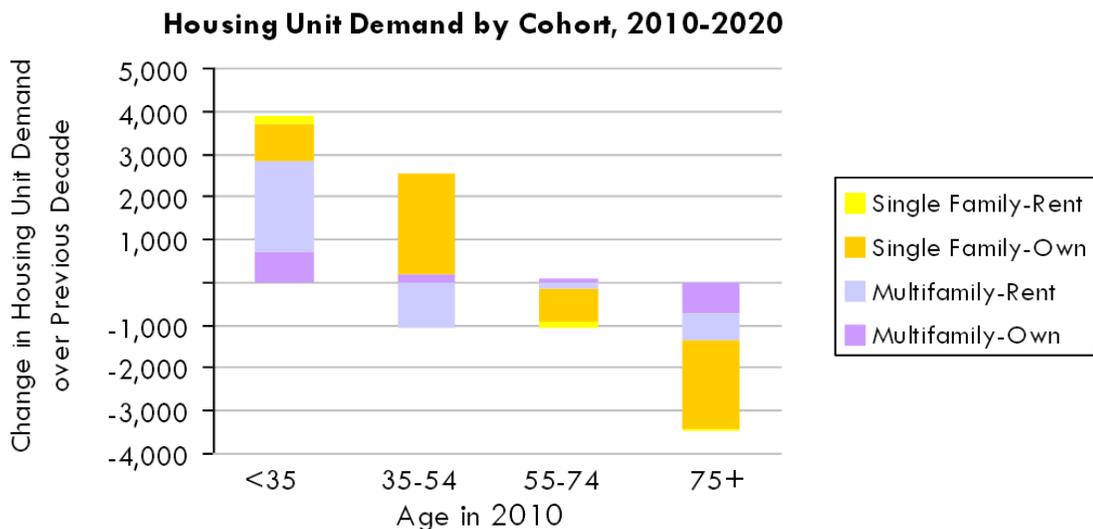
The proposed project responds to the *Comprehensive Plan’s* goal of seeking housing stock that matches the social and economic diversity of Newton’s population, which ***“requires increasing both rental and home ownership opportunities for the entire***

² The Warren Group, 2014 <http://rers.thewarrengroup.com/sor/tssearch.asp>

range of low, moderate, and middle income families, for starter households as well as for senior citizens.”³

Housing demand for these household types is increasing throughout the region. A recent study from the Metropolitan Area Planning Council⁴ that projects population and housing demand through 2030 noted that the regional “baby boomer” population will likely be downsizing; essentially swapping single-family homes for smaller units with the 35-54 age range absorbing existing much of the single-family stock. The same study also notes that the under-35 households critical to growing the economy overwhelmingly prefer condominiums in vibrant urban areas proximate to jobs, transit access and cultural assets, but more supply of this housing type is needed. These demographic projections, as illustrated in the graphs below, make the need for diverse affordable housing options ever more pressing.

The “Status Quo” Scenario for Newton is based on the continuation of existing rates of births, deaths, migration, and housing occupancy.⁵



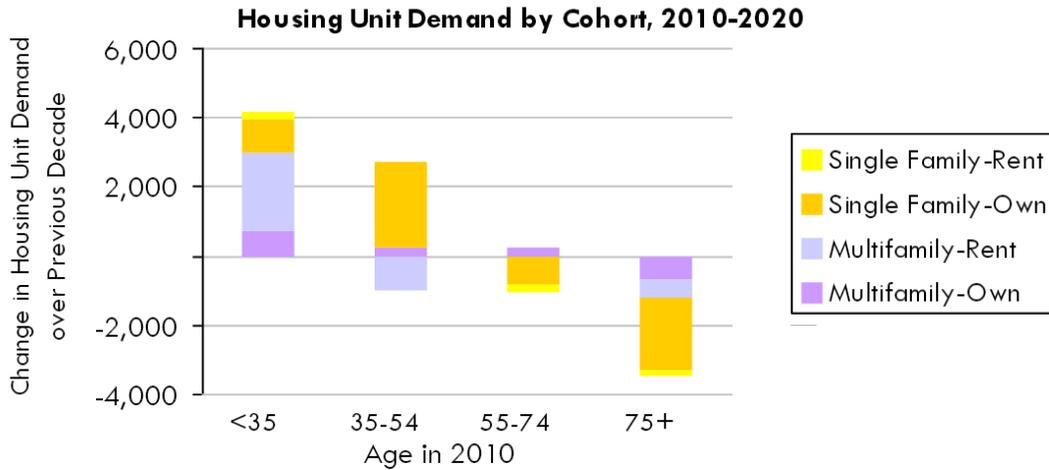
³ City of Newton Comprehensive Plan, 2007 (page 5-12)

⁴ Population and Housing Demand Projections for Metro Boston, Metropolitan Area Planning Council, 2014

⁵ Metro Boston 2030 Population and Housing Demand Projections, Municipal Report: Newton

<ftp://ftp.mapc.org/projections/Municipal%20PDF%20Reports/NEWTON.pdf>

The “Stronger Region” Scenario for Newton, assumes that the region will attract and retain more young adults than it does today, younger households will be more inclined to live in urban areas and an increasing share of senior households choose to downsize:⁶



It is clear that both growth projections include a demand for ownership housing.

- **Unit Mix and Affordability.** The unit mix is provided in the chart below.

Unit Type	Total Units	Market Rate	Affordable	Percent Affordable	Total Unit Type
1-BR	4	2	2	50%	11%
2-BR	27	21	6	22%	75%
3-BR	5	4	1	20%	14%
Total	36	27	9	25%	100%

The proposal provides five 3-Bedroom units, which is consistent with the State’s policy of providing at least ten percent 3-bedroom units in a project. This policy ensures that new development provides some housing opportunities for families with children, which is a protected class under Massachusetts anti-discrimination law.⁷ The Department is supportive of the single-level living layout with the master bedroom located on the main floor of the loft-style units. This layout creates more housing opportunities for people with mobility impairments and may also be more appealing for the empty-nester demographic.

⁶ Metro Boston 2030 Population and Housing Demand Projections, Municipal Report: Newton <ftp://ftp.mapc.org/projections/Municipal%20PDF%20Reports/NEWTON.pdf>

⁷ M.G.L. Chapter 151B

Providing single-level living that can accommodate households with different physical abilities (i.e., instead of townhouses, which are generally exempt from accessibility requirements) and a diversity of bedroom mixes relates directly to a housing goal in the *Comprehensive Plan*:

“Supporting Newton’s cherished diversity is a fundamental goal. To accomplish that, we need to undertake a program of positive actions that will assure fair and equal housing opportunities for a population that is at least as diverse as at present in age, race, household type, life-style, cultural heritage and economic status. That diversity should not only be welcomed but should also be actively sought.”⁸

The Department has received numerous comments regarding the distribution, size and location of the affordable units in comparison to the market rate units. The proposed affordable units meet the LIP Program’s minimum square footage and bathroom requirements and there is no indication that the exterior appearance of the affordable units will be distinguishable from market rate units; however, the average square footage of the affordable units (1,101 sq/ft) is considerably smaller than the market rate units (1,682 sq/ft).

While the Department supports the Applicant’s proposal to assign beneficial interest by square footage, the Applicant should consider reducing the size disparity to the extent feasible. The Department also encourages the Applicant to re-designate an affordable one-bedroom unit to a two-bedroom unit to better apportion the affordable units across bedroom types. As proposed, each deeded parking stall for the affordable units are located in the carports. The Department encourages the Applicant to designate some of these stalls as covered parking.

C. Previous Municipal Actions

A recent letter submitted to the Massachusetts Housing Partnership regarding a site eligibility application for 135 Wells Avenue comprehensively detailed affordable housing initiatives in Newton over the past five years.

D. Traffic, Parking and Transportation Impacts

- **Traffic and Neighborhood Parking.** Court Street is a minor arterial that intersects with Central Ave, Beach Street and Washington Street, and is one-way from Central Street to 22 Court Street, and then two-ways to Washington Street. The Applicant’s

⁸ City of Newton Comprehensive Plan, 2007 (page 5-12)

transportation consultant collected data on the number of vehicles trips per day on Court Street using an automated traffic recorder (ATR). The data showed an average of 335 vehicles per day during the week and 30 cars per hour during peak commuting hours. Applying industry standards for residential condominiums, the consultant's report estimated that the Project would generate approximately 26 vehicle trips per hour during peak times, while also noting that the proximity to public transportation options would likely reduce the number of vehicle trips.

Court Street does not serve as a pass-through street for general traffic. Most vehicle trips on Court Street are generated by residents, by employees accessing businesses and parking areas on Court Street and between Court Street and Crafts street, and by customers and employees of businesses located on Washington Street. In general there is a feeling in the neighborhood that existing businesses in the surrounding area put pressure on parking and traffic on adjacent residential streets, and that this will only be exacerbated by this project.

The Project will require the removal of the existing parking area on the site, which is currently used by the employees of surrounding businesses and some residents of Court Street, and parks approximately 25-40 vehicles during weekdays and including some overnight parking. City staff spoke with the owner of the car dealership at 677 Washington Street, which has a number of employees that use the parking lot, and as of yet, the dealership has not arranged for alternate parking for their employees should this Comprehensive Permit be approved. The neighborhood and the Planning Department are concerned that former users of the parking lot will park on surrounding residential streets, which would only add to parking congestion in the neighborhood.

Overall, the Department believes that Court Street and surrounding streets will be able to accommodate any net increase in the number of vehicles trips generated by the Project, but we are concerned about the cumulative impacts of expanding existing businesses and new projects on this neighborhood, particularly in terms of parking. The Department recognizes the need to evaluate the adequacy and efficiency of the neighborhood's existing parking supply, in order to create a comprehensive plan that addresses the needs of both residents and businesses. To help inform these efforts, we suggest that the Applicant perform a parking study to assess the impact of the project on surrounding streets, and to determine whether comprehensive changes to the on-street parking regulations on surrounding streets are necessary to better accommodate the parking needs of residents and local businesses and to ensure safe travel patterns on these streets.

- **Site Access.** The parking garage and outdoor parking areas will be accessed by a driveway running along the eastern property line from the front to rear of the site. The location of the driveway will allow access from Beach Street. As currently proposed the driveway will be located approximately seven feet from the property line and the back out parking spaces at 69 Court Street. The Planning Department is very concerned with this condition and has requested that the Applicant shift the proposed driveway to the other side of the site, adjacent to the Verizon parking lot, or at a minimum, shift the driveway away from this abutter by a few feet in order to minimize conflicts with 69 Court Street.

The Planning Department also notes that the proposed location of the driveway puts an undue burden on Beach Street with almost all trips to and from the site utilizing this street. The Applicant should evaluate whether or not additional traffic control measures will be needed at the intersection of Beach Street and Washington Street as a result of this project.

- **On-Site Residential Parking.** The Project is proposing 78 parking stalls, including two parking stalls per unit, three handicapped stalls, and four guest parking stalls. The second parking stall is proposed to be for purchase only. The Department believes that the majority of buyers that own two cars will purchase the second parking stall, as Newton does not allow for overnight parking on the streets during the winter months, and parking on Court is two-hour parking from 7:00 am to 7:00 pm. City staff is therefore not concerned about buyers forgoing the purchase option to park on Court Street. The Department believes that the proposed number of parking stalls will be sufficient when considering the unit sizes, likely demographic of potential buyers, and access to public transportation. If anything, it is expected that the proposal contains a surplus of parking at the detriment of open space on site. The Planning Department asks that the Applicant shift exterior parking stalls to the west side of the site, away from the immediate residential abutter.
- **Access to Public Transportation.** The site has excellent access to public transportation, including the Commuter Rail service, and multiple bus lines, which also provide access to the Green Line. Based on 2000 Census data for the Census Tract, it appears that many of the residents will be using public transportation options for commuting. The Planning Department requests the applicant update the traffic and parking study to respond to concerns raised and to include more recent Census data as commuting patterns may have changed over the past 14 years.

E. Summary of Concerns

The goals established in Newton’s Comprehensive Plan are consistent with State agency efforts to encourage smart growth, livable communities, and sustainable development. Newton agrees that such principles should guide our priorities for the locations of all development, but particularly for development of housing and affordable housing opportunities, and that we should grow where it makes the most sense: near village centers, transit stations, and with pedestrian access to school, amenities, employment centers and other destinations. The Department believes that the Project is compatible with smart growth principles, as the site is proximate to amenities, jobs, and transportation options other than vehicle trips.

However, the Department is concerned about the impact of the Project on the surrounding neighborhood, particularly in terms of exacerbating existing traffic and parking issues, and adding significant density and mass to an already dense residential street. The Department recognizes the need to analyze the neighborhood’s existing and future parking demands in a comprehensive manner, and recommends that the Applicant agree to perform a parking study to assess the impact of the project on the neighborhood. The Department also encourages the developer to decrease the density of the Project in response to neighborhood concerns and decrease the mass and height of the structure to be more contextual with the surrounding neighborhood. Finally, the Planning Department notes its concern that the Applicant perform an environmental assessment of the site and address any potential runoff of stormwater onto adjacent sites if the Project moves forward.

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

Sincerely,



Candace Havens
Director, Planning and Development Department

- Cc Mayor Setti D. Warren
- Donnalyn B. Lynch Kahn, City Solicitor
- Robert Engler, SEB LLC
- Geoff Engler, SEB LLC
- Alderman Susan Albright
- Alderman Marcia T. Johnson
- Alderman Emily Norton