

## MEMORANDUM

Date: June 28, 2022

To: Josh Morse, Public Buildings Commissioner, City of Newton

From: Doug Kelleher, Epsilon Associates, Inc.

**Subject: NewCAL Project, Massachusetts Historical Commission Regulatory Review**

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This memorandum has been prepared to summarize the applicability of the Massachusetts Historical Commission's (MHC) regulatory review related to the City of Newton's proposed Newton Center for Active Living (NewCAL) project. As proposed, the NewCAL project will include the demolition of the Newtonville Branch Library building located at 345 Walnut Street in Newton, Massachusetts.

Constructed between 1938 and 1939, the Newtonville Branch Library a well-preserved Colonial Revival style institutional building. Originally built as a public library, the building was converted for use as a senior community center in 1993. Despite this adaptation and the construction of a small rear addition, the building retains a high degree of architectural integrity. The building is located within the National Register-listed Newtonville Historic District (designated in 1986; expanded in 1988), a turn-of-the-century village center consisting of well-preserved commercial blocks, institutional buildings, and residences representative of Newton's growth into the mid-20th century. The Newtonville Library building was recently considered for potential landmark designation by the Newton Historical Commission (NHC); however, the NHC voted not to designate the building a landmark.

### **State Register Review**

Projects that utilize state funding, or require state licenses, permits, and/or approvals, are subject to review by the MHC in accordance with Massachusetts General Laws Chapter 9, subsection 26-27C, as amended by the Chapter 254 of the Acts of 1988 (950 CMR 71.00); commonly known as State Register review.

State Register review requires state agencies that fund, license, permit and/or approve projects to take into consideration the effects the undertaking many have on historic and archaeological resources. The MHC's review is typically initiated through the filing of an MHC Project Notification Form (PNF). The PNF is intended to provide MHC with an understanding of the proposed project; identify required licenses, permits, approvals and funding sources; and identify historic and archaeological resources that potentially may be impacted by the proposed project.

If all or a portion of a property to be affected by a project is listed in the State Register of Historic Places (a condition that applies to the Newtonville Branch Library building), the proponent must consider alternatives to avoid, minimize and/or mitigate the adverse effect to the resource in consultation with the MHC and the state agency. The state agency may not issue funds, licenses, permits and/or approvals until the State Register Review process is complete.

As a city funded project, with no anticipated state funding and no known state licenses, permits or approvals required, the proposed NewCAL project would not be subject to MHC's State Register review.

### **Section 106 of the National Historic Preservation Act**

Projects that utilize federal funding, or require federal licenses, permits, and/or approvals, are subject to review by the State Historic Preservation Office (SHPO) under Section 106 of the National Historic Preservation Act (36 CFR 800). The MHC serves as the SHPO for Massachusetts.

Section 106 requires all federal agencies that fund, license, permit, and/or approve projects take into consideration the effects the project may have on historic and archaeological resources. Section 106 review requires federal agencies to identify and evaluate historic properties that may be affected by their undertakings, assess adverse effects to those properties, and take prudent and feasible measures to avoid, minimize, or mitigate those effects. In addition to the federal agency and the SHPO, the Section 106 review process involves other interested parties such as the Tribal Historic Preservation Officer (THPO) and local historical commissions; specifically, the NHC.

Similar to State Register review, Section 106 review is typically initiated through the filing of a PNF with the MHC by the proponent or the federal agency. If all or a portion of the property to be affected by a project is listed in, or eligible for listing in the National Register of Historic Places (a condition that applies to the Newtonville Branch Library building), the proponent must consider alternatives to avoid, minimize and/or mitigate the adverse effect to those resources in consultation with the lead federal agency and the MHC. The federal agency may not issue funds, licenses, permits and/or approvals until the Section 106 review process is complete.

As a City funded project, with no anticipated federal funding and no known federal licenses, permits or approvals required, the NewCAL project would not be subject to Section 106 review.

### ***American Rescue Plan Act (ARPA) Funding***

Cities and towns across Massachusetts and other states received federal funding through the American Rescue Plan Act (ARPA). The Advisory Council on Historic Preservation (ACHP) has determined that because the United States Congress mandated that these funds be given directly to states, and no federal agencies were involved in the decision in providing the funds, no Section 106 review is required for projects receiving ARPA funds. In a recent conversation with the staff of the

MHC, it was confirmed that ARPA funding is not considered a federal action under Section 106. Therefore, if the NewCAL project were to receive ARPA funding, no Section 106 review would be required.

If you have any questions regarding any of the above information, please do not hesitate to contact me at (978) 897-7100.