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Barney Heath
Director

MEMORANDUM

TO: Councilor R. Lisle Baker, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director Department of Planning and Development
Katie Whewell, Chief Planner, Department of Planning and Development
Alyssa Sandoval, Deputy Chief Planner, Department of Planning and Development

DATE: February 23, 2024

RE: **#87-24 Update Project Review Fees**
HER HONOR THE MAYOR requesting discussion and possible ordinance amendments to update fees related to special permit, zone change and site plan review fees requested by the Planning Department, City Clerk's Office, and Law Department.

MEETING: February 26, 2024

CC: City Council
Planning Board
Jonathan Yeo, Chief Operating Officer
Alissa Giuliani, City Solicitor

The Planning and Law Departments and City Clerk's Office have been conducting a review of internal expenditures related to special permits, such as public noticing requirements as well as a review of neighboring communities' fees. The analysis indicates that planning permit fees should be raised commensurate to the expenses incurred and review necessary.

The following changes to the planning permitting fees are proposed.

City of Newton Planning Permit Fee Schedule Summary of Proposed Changes

Type of Filing	Current	Proposed
Special Permit and/or Site Plan approval in Residential District (except accessory apartments)	\$350; plus \$100 for each new unit to a max of \$2,500;	\$1,000; plus \$50 per 1,000 sq. ft. of gross floor area (GFA) in Residential/VCOD/Business/Mixed Use/Manufacturing Districts
Special Permit and/or Site Plan approval in Business/Mixed Use/Manufacturing Districts	\$750	\$1,000; plus \$50 per 1,000 sq. ft. of GFA in Residential/VCOD/Business/Mixed Use/Manufacturing Districts
Change of Zone Petitions	\$350	\$1,000
Administrative Site Plan Review	\$350	\$500
Signs Special Permit	\$350	\$500
Accessory Apartments Special Permit	\$250	\$500
(New) Site Plan Review fee for Village Center Overlay District	None	\$1,000; plus \$50 per 1,000 sq. ft. of GFA in VCOD District
(New) Parking waiver of 10 or fewer spaces	Does not exist as separate special permit criteria	\$500
(New) Special Permit in Residential districts for extension of non-conforming only or FAR only	Does not exist as separate special permit criteria	\$500
(New) Project Revision Fee (Requiring Renoticing)	None	\$500

The following analysis has been prepared for further review as part of consideration for this request.

Background

The City of Newton regulates the fees for special permits and planning review fees for development projects that require additional Planning review and/or public hearing and noticing before a building permit can be issued. While the exact year is unknown, city staff estimates the City of Newton has not reviewed or raised its permitting fees in over a decade. This memo outlines the standard process for planning review for special permits and site plans including staff time and public noticing costs as a basis for considering raising the fees for projects depending on the type of project. In addition, a new process which has been implemented as a result of the new Village Center Overlay Zoning (VCOD) will require a

separate site plan review through the Planning Board.¹ The VCOD also requires a special permit for sites over 30,000 square feet.

Planning Review for Special Permits

Planning may include a variety of reviews depending on the size and scale of the project. Typically, the City of Newton regulates projects through the issuance of special permits for a project that requires relief from the Newton Zoning Ordinance (NZO). Special permits can be issued for projects of any size, from a single-family dwelling with an addition that may have a non-conforming setback to a very large residential and/or commercial project involving many residential units, commercial square footage, site development, and/or other transportation-related changes. Special permit applications are reviewed by the Land Use Committee of the Newton City Council and review is managed by the Planning and Development Department's Current Planning staff, who see special permits through from application to building permit to occupancy ensuring they are consistent and compliant with approved plans. Special permits involve several different planning reviews as outlined below.

Project of any size typically undergo:

- development review team includes a pre-application meeting with the applicant and the Current Planning staff prior to the special permit application.
- specialized zoning review by the Chief Zoning Code Official to determine the zoning relief required for all special permits, comprehensive permits, and variances. This analysis is summarized in a Zoning Memorandum to the applicant which informs their application.
- an analysis of the project by Current Planning staff including site, zoning, access, transportation, and neighborhood impacts summarized in a Planning memorandum with a subsequent draft Council Order.

Projects that are larger in size undergo further planning review including:

- affordable housing review for residential projects that are over a certain size to determine affordable housing plans, compliance, and regulatory agreements.
- transportation impact review including analysis of traffic studies, and Transportation demand management measures.
- sustainability analysis including review of sustainability features such as electric vehicle charging, solar, and other green technologies.
- peer reviews for special subject areas including stormwater infrastructure/engineering and transportation. Peer reviews are paid for by the applicant but are managed by the Current Planning staff.
- additional special permit conditions and legal review.

¹ For any construction or substantial reconstruction of one or more buildings in the VC2 or VC3 zones on a lot fifteen-thousand (15,000) square feet or larger but less than thirty-thousand (30,000) square feet.

- additional public hearings.

Should a special permit project be approved, Current Planning staff remain involved and review the building permit plans against the special permit plans. Once the project is complete, staff review occupancy prior to Inspectional Service's final inspection and are responsible for ensuring compliance with unique conditions of the special permit.

Public Noticing

In addition to the varying levels of planning review required for projects of different scales, projects that require special permits have public noticing requirements for abutters and the public. The noticing requirements are managed by the City Clerk's Office and typically involve:

- Public notice in a local newspaper (Boston Herald) two weeks before the public hearing
- Mailing of public hearing notice to abutters within 300 feet of a project

According to the City Clerk's office, the printing, mailing, and advertising costs of each special permit project regardless of size average over \$400 per special permit.

Estimated Staff Time on Projects

Planning has consulted with Law and the City Clerk's Office. Based on a review of projects and typical staff timing on project review, Planning has provided a rough estimate of hours of staff time (combined) on projects of various scales before a building permit is issued. As seen from the range below, there is a wide range depending on the type of project as larger projects often require further departmental and staff coordination with further consultants, additional legal review, coordination with applicants, answering questions from the public, and public hearings. The types of projects are listed below according to increasing levels of effort.

- Small projects, such as house additions, extension of non-conformities, FAR, and individual signs typically require about 16 hours of Planning and Legal Staff time and 2 hours of City Clerk's time
- Medium-sized projects, such as four to 50-unit housing projects, typically require over 50 hours of Planning and Legal Staff time and 4 hours of City Clerk's time
- Large projects that also require a rezoning and multiple hearings, such as new senior living facilities or over 100-unit housing/mixed use developments typically require over 150 hours of Planning and Legal Staff time and 5 hours of City Clerk's time
- Very large projects, such as the Northland Project (over 1+M square foot mixed use development) are less frequent projects but involve a significant amount of staff time including legal reviews, peer reviews, and public hearings, which are difficult to estimate in terms of time spent. Some projects at this scale include planners and law staff that work almost full-time on these projects for extended periods of time.

New Site Plan Review Standards

A new process for site plan review has been adopted by the City Council through the Village Center Overlay Zoning (VCOD) district, which was adopted in December 2023. Site plan review

is required for mixed use and multifamily projects on lots that are between 15,000 square feet and 30,000 square feet and for small adaptive reuse residential projects with multiple buildings. The Planning Board is the decision-making body and Planning staff will also be responsible for the public noticing requirements for site plan review for a project under the VCOD. At this time, there has been no mechanism for the collection of permit fees for site plan review under VCOD as it will require an ordinance amendment to Chapter 17 to include a fee. The level of staff time devoted to VCOD site plan review is anticipated to be the same level of effort for special permits depending on the size of the project. Like special permits, these projects will require a zoning review, analysis and Planning Memorandum by Planning staff, and at least one hearing by the Planning Board. Projects may also require Affordable Housing Review for residential projects over a certain size.

It is important to note that these are just estimates, however, and sometimes seemingly minor projects, such as a new commercial sign or a retaining wall, may result in more effort if there are complicated underlying issues, and/or concerns from members of the public.

Comparison Communities

Staff researched other nearby communities to review existing permit fee structures and whether the City of Newton’s are in line with these. In many instances, the permit fees for other communities are higher than the City of Newton’s because many communities differentiate fees based on the size of the project (in the case of Cambridge, Somerville, Brookline, and Watertown). The table below provides a summary of planning permit fees in Cambridge, Brookline, Burlington, Somerville, Watertown, and Newton.

City	Special Permit - Type Fees
Cambridge	<p><u>Special Permit through Planning Board:</u></p> <p>Largest fee of any of these calculations:</p> <p>(a) The fee is ten cents (\$0.10) per square foot of total proposed Gross Floor Area noted in the Dimensional Form.</p> <p>(b) The fee is one thousand dollars (\$1,000.00) if Flood Plain Special Permit is sought as part of the Application and the amount determined above is less than \$1000.</p> <p>(c) The fee is one hundred fifty dollars (\$150.00) if the above amounts are less than \$150.</p> <p><u>Zoning Relief through ZBA:</u></p> <p>Parking: \$200.00 per space for which relief is requested</p> <p>Sign: \$200.00 per sign plus \$5.00 per square foot of signage requiring relief</p> <p>Additions, Structural Alterations, Dimensional Violations, Alteration of Non-Conforming Structure for Variance/Special Permits: \$200.00 plus \$50.00 per 100 square feet of construction requiring relief</p> <p>Subdivision: \$500.00 plus \$200.00 per new lot proposed.</p>

City	Special Permit - Type Fees
	<p>Use Variance or Use Special Permit for non-conforming uses: \$200 plus an additional fee of \$.50 per square foot of new construction.</p> <p>Ongoing Conditions fee: certification for compliance with those conditions on an annual or other appropriated basis. The fee for such certification shall be \$100.00 per year.</p>
Brookline	<p><u>Special Permit:</u> Residential, Commercial or Institutional Project: \$350.00, plus \$50.00 per 1,000 s.f. of additional GFA</p> <p><u>Variance:</u> \$350.00, plus \$50.00 per 1,000 sq.ft. of additional GFA</p>
Burlington	<p><u>Site Plan Review:</u> \$500 Major change: \$500 Minor change: \$250 Rezoning fee: \$500/acre Change in Non-Conforming Commercial Use: \$500</p> <p><u>Special Permits:</u> Residential: \$300 R2 Districts: \$800 Commercial (differs by type) \$800 to \$1,800</p>
Somerville	<p>ISD Plan Review: \$250 Special Permit: \$250 Site Plan Approval: \$250 plus \$0.08 per square foot of new gross floor area or plus \$0.06 per square foot of new gross floor area if subject to a Master Plan Special Permit</p>
Watertown	<p>Special Permit (Residential): \$150 base fee + \$75/new dwelling unit; Max: \$10,000 Special Permit (Commercial): \$150 base fee + \$150 up to 4,000 sf.; \$250: 4,001-10,000 sf; \$250 each additional 10,000 sf; Maximum \$10,000 per type Affordable Housing Review: \$150 new development; \$100 amendment to existing agreement Public noticing including Newspaper; paid by developer Abutters List: \$15 per list</p>
Newton (CURRENT)	<p>Special Permit and/or Site Plan approval of non-conforming structure (has not been changed for a decade). Residential Districts: \$350; plus \$100 for each new unit to a max of \$2,500; Business/Mixed Use/Manufacturing Districts: \$750; Accessory Apts. \$250; Signs: \$350 Change of Zone Petitions: \$350 Administrative Site Plan Review: \$350</p>

Recommendations

As a result of a review of the staff time, neighboring communities' fee structures, and the direct public noticing expenses for special permits and site plans, Planning recommends that these fees are raised depending on the type and size of project. For many projects, Planning recommends an incremental increase in the fees based on the size of the project. The current fee for special permits and site plans does not even cover the required public noticing for these projects, which averages over \$400 or more per petition according to the City Clerk's office. After analyzing several models and scenarios, Planning recommends a model similar to the Town of Brookline's noted in the table above with a base fee and then an incremental charge of \$50 based on the additional 1,000 sf of GFA. Smaller projects that may not include additional GFA would have commensurately lower fees.

The following recommendations and rationales for permit fee adjustments are provided below:

- **Raise base fee for special permits in residential and commercial districts and consolidate the special permit type for Residential/VCOD/Mixed Use and Manufacturing Districts.** Base fee would be \$1,000; plus \$50 per 1,000 square feet of gross floor area (GFA) in Residential/VCOD/Mixed Use and Manufacturing Districts.
 - Rationale: special permit fees for residential/mixed use and commercial projects need to be raised to better reflect increased staff time and the expenses of public noticing. Adding a tiered level of increased fees based on additional gross floor area will help to capture the additional expenses / review time associated with larger projects. Staff recommends that the special permit fee and incremental charge be the same across the residential/VCOD/business/mixed use and manufacturing zoning districts to streamline processes. There is an exception for minor projects by homeowners noted in the next bullet.
- **(New) Special Permit in Residential districts for extension of non-conformity only or FAR only** (increase by \$150): \$500.
 - Rationale: many homeowners may have smaller projects where their homes on smaller lots (before Newton Zoning was adopted) often result in non-conformities and FAR non-compliance. Having a slightly lower fee for these types of projects helps reduce the burden on individual homeowners. There is often typically less staff time involved because these requests are fairly routine.
- **(New) Site Plan Review fee for Village Center Overlay District:** Base fee is \$1,000 Base fee would be \$1,000; plus \$50 per 1,000 square feet of GFA in VCOD Districts requiring site plan review.
 - Rationale: there is currently no fee proposed for site plan review under VCOD zoning. A fee for site plan review is needed to cover staff time and the expenses of public noticing. Adding a tiered level of increased fees based on additional gross floor area will help to capture the additional expenses/review time associated with larger projects.

- **(New) Parking waiver of 10 or fewer spaces** would be \$500 (as opposed to \$1,000 in the current proposal)
 - Rationale: this allows homeowners or businesses, such as small retailers or restaurants, that may need a small number of parking stall waivers (10 or fewer spaces) to apply for a special permit at a lesser fee to reduce the burden on small business owners and homeowners.
- **Administrative Site Plan Review fee** (increase fee by \$150): \$500
 - Rationale: the fee for administrative site plan review, which are projects such as daycares or schools covered by the Dover waiver, should be raised slightly to cover staff time and potential community meetings.
- **Change of Zone fee** (increase fee by \$650): \$1,000
 - Rationale: the existing fee for a rezoning petition is low and should be raised to cover public noticing requirements, staff time, which includes additional time for GIS support and the updating of city maps and online databases, such as the assessor's database.
- **Sign Special Permit fee** (increase fee by \$150): \$500
 - Rationale: the fee for sign special permits, which are generally free-standing signs or other oversized signs, should be raised slightly to cover public noticing requirements and staff time.
- **Accessory Apartments Special permit fee** (increase by \$250): \$500
 - Rationale: should be raised slightly to cover public noticing requirements and staff time.
- **(New) Project Revision Fee Requiring Re-noticing:** \$500
 - Rationale: during the review process, applicants may change their projects substantially to require new public noticing. This might include new relief for additional FAR, setbacks, retaining walls, or parking that was not previously anticipated. In addition to the staff time required to review changes, it costs at least \$400 at a minimum in direct expenses to re-notice the project as required. Staff suggests a new fee for Project Revisions that require re-noticing.

Fees Examples Based on Project Type

As an example of how projects of different scales might play out under the existing fee structure versus the new proposed fee structure, Planning analyzed scenarios from real projects that been reviewed as well as hypothetical projects as noted in the table below.

Type of Project	Examples	Current Planning Permit Fee	Proposed Planning Permit Fee (Under Proposal)
Change of Zone and Special Permit in Commercial District	Large Development: 34 Crafts St, New Senior Living Facility -214,764 gross floor area -rezoning from Manufacturing to Business Use 4	\$750 (special permit) + 350 (rezoning)= \$1,100	\$11,738.20 (special permit) + \$1,000 (rezoning) = \$12,738.20
Change of Zone and Special Permit in Residential District	Large Development: 11 Florence St, New Senior Living Facility -91,133 gross floor area -rezoning from Multi-Residence 1 to Business Use 4	\$350 (special permit in residential district) + \$350 (rezoning)= \$700	\$5,556.65 (special permit) + \$1,000 (rezoning) = \$6,556.65
Change of Zone and Special Permit in Commercial District	Medium Project: 1314 Washington St, New Residential Development -74,518 gross floor area -rezoning from Business Use 1 to Mixed Use 4	\$750 (special permit in commercial district) + \$350 (rezoning)= \$1,100	\$4,725.90 (special permit) + \$1,000 (rezoning)= \$5,725.90
Special Permit in Residential District	Medium Project: 2202 Commonwealth Ave, New Residential Development -four single-family attached dwellings -7,278 gross floor area -Multi-residence district	\$350 (special permit in residential district)	\$1,363.90 (special permit in residential district)
Parking Waiver (10 Stalls or Less)	Minor Project: 47 Lincoln St, New Small Business -Small yoga studio needed a parking waiver when the site did not have enough parking	\$750 (special permit in commercial district)	\$500 (parking waiver of 10 stalls or less)
Sign Special Permit	Minor Project: 269-286 Grove St, New Sign -new free-standing sign is proposed for an existing business	\$350 (sign special permit)	\$500 (sign special permit)
Special Permit in Commercial District and Rezoning	Very Large Project (1M sf), such as Northland Development	\$750 (special permit) + \$350 (rezoning): \$1,000.00	\$51,000 (special permit) + \$1,000 (rezoning)= \$52,000.00
Special Permit in Residential District	Medium Residential Project (10-50 units; approx. 20,000 sf)	\$350 (special permit)	\$2,000 (special permit)

Type of Project	Examples	Current Planning Permit Fee	Proposed Planning Permit Fee (Under Proposal)
Special Permit for FAR or extension of non-conformity only	Minor Project: FAR or extension of non-conformity only for residential home	\$350 (special permit)	\$500 (special permit)

Next Steps:

- Policy input and recommendations from the Zoning and Planning Committee
- Presentation, review, and decision by the Finance Committee

Attachments:

Attachment A : Chapter 17 with current special permit and zone change fees
Attachment B : Section 17-11 with current administrative site Plan review fee

Chapter 17

FEES FOR LICENSING AND PERMITS; AND CIVIL FINES GENERALLY*

- Art. I. In General, §§ 17-1**
- Art. II. Fees for licenses and permits, 17-2—17-20**
- Art. III. Civil Fines/Non-criminal Disposition, §§ 17-21—17-23**

**ARTICLE I.
IN GENERAL**

Sec. 17-1. Licensing authority.

When in these Revised Ordinances or any other ordinance of the city anything is prohibited from being done without the license or permission of a certain officer or board, such officer or board shall have the power to license or permit such thing to be done. (Rev. Ords. 1973, § 11-1)

**ARTICLE II.
FEES FOR LICENSING AND PERMITS**

Sec. 17-2. Fees for places storing gasoline over one hundred twenty gallons.

Fees for licenses for public garages, gasoline stations, private garages and all gasoline tanks over one hundred twenty (120) gallon capacity, and fees for renewal of licenses or certificates of continuation, are established as follows:

- (1) Public garages with or without gasoline permit\$10.00
- (2) Gasoline stations and gasoline or fuel oil permits, with authority to sell gasoline or fuel oil\$20.00
plus for each hose\$5.00
- (3) Renewal of permit for year, or certificate of continuation of above described permits
..... \$5.00
- (4) Permit for garage for more than three (3) cars or gasoline tank over one hundred twenty (120) gallon
capacity, private use\$2.00
- (5) Renewal of permit for one year, or certificate of continuation of above described permit\$5.00

(Rev. Ords. 1973, § 11-2; Ord. No. 257, 12-19-77)

Cross references—Fire protection and prevention, Ch. 10; hours for gas stations, § 20-55

Sec. 17-3. Fees for certain licenses, permits and fees.

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be paid a fee on an annual basis or unless otherwise noted to the city clerk for each of the following applications, permits, licenses

or charges, the sum set forth as follows:

- (1) Motor vehicle dealer's license first, second and third class \$200.00
- (2) Billiard, pool tables, bowling centers (non-coin operated)..... \$15.00 each
- (3) Dealer in second-hand articles (antique, consignment or pawn broker shops)..... \$50.00
- (4) Reserved
- (5) Blasting bond permits (G.L. c. 148, § 19).....\$10.00
- (6) Junk collector's license\$100.00
- (7) Junk dealer's license (storage yards)\$100.00
 - a) Dealers in secondhand articles\$50.00
- (8) Lodging house licenses\$50.00
- (9) Dormitory license.....\$50.00
- (10) Musical instrument performers and street singers
 - a) Commercial applicants per event\$20.00
 - b) Non-profit applicants per event.....\$5.00
- (11) Public Auto/Van/Limousine permit fee, each vehicle.....\$25.00
- (12) Taxi license, each vehicle.....\$25.00
 - a) Taxi license, each driver.....\$25.00
 - b) Replacement for lost taxi license, each driver.....\$10.00
- (13) Taxi stand, each location.....\$15.00
- (14) Sale of municipal ordinances per copy.....\$75.00
 - a) Sale of zoning ordinances per copy.....\$25.00
 - b) Sale of government and officers booklet, per copy.....\$3.00
- (15) Auction permits:
 - a) Auction house, annual permit.....\$100.00
 - b) Auctioneers, per diem\$20.00

(16) Special permits:

a) Residential district.....	\$350.00
plus \$100.00 for each new unit, not to exceed \$2500 total	
b) Business, mixed use, manufacturing, limited manufacturing.....	\$750.00
c) All other districts.....	\$2.00
d) Accessory apartments,.....	\$250.00
(City Council—§30 6.7.1.E.1)	
e) Signs.....	\$350.00
(17) Zone change petition	\$350.00
(18) Curb-cut petitions (all districts).....	\$100.00
(19) Offers for city-owned land (all districts).....	\$250.00
(20) Public utility petitions:	
a) Petitions for facilities other than wireless communications facilities per location.....	\$35.00
b) A single petition for wireless communications facilities to be attached to a single utility-owned or City-owned pole, streetlight pole or other structure located within a public way.....	\$500.00
c) A single petition covering multiple sites:	
for the first five sites	\$500.00
for each additional site.....	\$100.00
d) Multiple separate petitions filed at the same time, each petition for one or more sites:	
for the first five sites	\$500.00
for each additional site.....	\$100.00
(21)Recording order granting location of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in the number of wires and cables or attachments under the provisions of G.L. c. 166, § 22	\$25.00
(22) Creditor filings:	
a) Filing & indexing assignment for the benefit of creditors.....	\$10.00
b) Bulky property attachment.....	\$10.00
Dissolution.....	\$5.00

(4) Pumping water from basement due to inclement weather:

- a) First visit per calendar year\$0.00
- b) Second visit per calendar year..... \$50.00 per hour

(d) Certificates:

(1) Smoke detectors:

- a) Up to 5 units\$50.00
- b) 6 to 25 units..... \$10.00 per unit
- c) 26 or more units.....\$250.00 plus
- d) \$5.00 per each unit over 26

(2) Review of plans/prints and/or specifications:

- a) Per stamp, under 100,000 square feet.....\$50.00
- b) Per stamp, over 100,000 square feet.....\$100.00

(Ord. No. T-7, 1-17-89; Ord. No. T-168, 9-3-91; V-14, 4-3-95; Ord. No. B-7, 03-19-18)

Sec. 17-11. Fees to be paid to the planning department.

(a) Any person(s) filing an application for administrative site plan review pursuant to section 30-5(a)(2)(a) shall pay a fee of three hundred fifty dollars (\$350.00) at the time of the filing of such application.

(b) Any person(s) filing an application for review of accessory apartment petition ("RAAP") pursuant to section 30-22 shall pay a fee of one hundred dollars (\$100.00) at the time of the filing of such application.

(c) Any person(s) filing an application for wetlands protection shall pay a filing fee of fifty dollars (\$50.00) at the time of the filing of such application. (Ord. No. S-338, 11-7-88; Ord. No. T-168, 9-3-91)

Sec. 17-12. Permit for a temporary street closure for block parties, street festivals and neighborhood functions.

(a) An application for a permit for temporary street closure for a block party, street festival or other neighborhood function shall be made upon a form provided by the police department and shall contain the following information:

- (1) The name, residence and business, and phone number of each person and organization sponsoring a temporary street closure.
- (2) The date, or dates, and beginning and ending hours of such temporary street closure.
- (3) Such other information as the chief of police deems reasonably necessary in order to carry out the provisions of this article.