

CITY OF NEWTON  
IN BOARD OF ALDERMEN

ORDINANCE NO. Z-108

April 17, 2012

WHEREAS, the 22-acre area owned by the Massachusetts Bay Transportation Authority ("MBTA") and including the MBTA Station and lands adjacent to existing highways in the Riverside area of the City of Newton represents an unique opportunity to encourage mixed-use development based upon smart growth principles; and

WHEREAS, the purpose of a mixed-use development within the Riverside area is to allow development appropriate to the area and its surroundings, provide enhancements to infrastructure, integrate with and protect nearby neighborhoods, provide a mix of compatible and complementary commercial and residential uses appropriate for transit-oriented sites, and advance the City's long-term goal of strengthening alternatives to single-occupancy automobile use while remaining consistent with the City's *Comprehensive Plan*; and

WHEREAS, the Zoning Ordinances of the City of Newton do not presently provide the appropriate development controls and incentives to encourage and control the transit-oriented development of the Riverside area; and

WHEREAS, such controls and incentives are in the public interest and further the objectives of the City's *Comprehensive Plan*; and

WHEREAS, this proposal provides a new zoning district for Mixed-Use Development and no land will be placed in this zone until the Board of Aldermen approves a map change;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN  
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby amended as follows:

- I. *By re-designating the current Section 30-13(f) as Section 30-13(h); re-designating the current Section 30-13(g) as Section 30-13(i); and inserting a new Section 30-13(f) and a new Section 30-13(g) as follows:*

(f) Establishment and purpose of the Mixed-Use 3/Transit-Oriented District.

(1) *Purpose.* The purpose of the Mixed-Use 3/Transit-Oriented District is to allow the development of a mixed-use center on a parcel of no less than nine (9) acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's *Comprehensive Plan*, particularly the Mixed-Use Centers and Economic Development Elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.

(2) *Allowed uses.* In the Mixed-Use 3/Transit-Oriented District, land, buildings, and structures may be used or may be designed, arranged, or constructed for one or more of the purposes listed in Section 30-13 Table A, subject to the development controls of Section 30-13(g) for developments of 20,000 square feet of gross floor area or more, the density and dimensional controls of Section 30-15, and the parking requirements of Section 30-19.

TABLE A: PRINCIPAL USES <sup>1</sup>	
Uses similar to or accessory to the following, as determined by the Commissioner of Inspectional Services <sup>2</sup>	
Accessory Parking	BR
<i>Mixed-Use Development</i>	
• Mixed-Use Development if gross floor area exceeds 20,000 square feet, per section 30-13(g)	SP
<i>Category A</i>	
• General office, including but not limited to research and development, professional offices, , business incubator, and similar uses	BR
• On the ground floor	SP
• Medical offices	SP
<i>Category B</i>	
• Retail sales, including but not limited to specialty food store, convenience store, newsstand, bookstore, food coop, retail bakery, and general merchandise	BR
• Up to 5,000 square feet of gross floor area	BR
• More than 5,000 square feet of gross floor area	SP
• Personal services, including but not limited to barbershop, salon, tailor, cobbler, personal trainer or fitness studio, laundry, and dry cleaning drop off	BR
• Up to 5,000 square feet of gross floor area	BR
• More than 5,000 square feet of gross floor area	SP
• Eating and drinking establishments	BR
• up to 5,000 square feet of gross floor area	BR
• More than 5,000 square feet of gross floor area	SP
• Retail banking and financial services	SP
• Automated Teller Machines	BR
• Car-sharing services, car rental, bike rental, electric car-charging stations that reduce reliance on single-occupancy vehicles	BR
• Health club	BR

• On the ground floor	SP
• Place of entertainment and assembly, theater	SP
• Lodging, hotel, motel	SP
<b>Category C</b>	
• Multifamily dwelling (a building containing three or more dwelling units)	BR
• Live/work space or home business	BR
• Single-room occupancy dwelling or single-person occupancy dwelling	SP
• Assisted living or nursing home	SP
<b>Public and Community</b>	
• Community use space	BR
• Day care (adult or child)	BR
• Place of religious assembly	BR
• Government offices or services	BR
• Park or garden	BR
• Nonprofit or public school	BR
• Rail or bus terminal	BR
• Public parking	BR
• Library or museum	BR
<b>Prohibited</b>	
• Drive-in business, manufacturing, sales of motor vehicles, care wash, gas station or motor vehicle service station, fast food establishments as defined in section 30-1	

<sup>1</sup> A use listed in Table A is permitted as of right in the Mixed-Use 3/Transit-Oriented District where denoted by the letter "BR." Uses designated in the Table by the letters "SP" may be allowed only if a special permit is issued by the Board of Aldermen in accordance with the procedures in section 30-24.

<sup>2</sup> Any use determined to be similar to a use listed in Table A shall be subject to the same level of review as the use to which it is similar. An accessory use is only allowed if the use to which it is accessory is allowed, as shown in Table A.

(g) *Development by special permit in the Mixed-Use 3/Transit-Oriented District.*

Land and buildings in the Mixed-Use 3/Transit-Oriented District may be used for any of the purposes authorized in 30-13(f)(2). Notwithstanding section 30-13(i), any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the Development Parcel shall require a special permit for a Mixed-Use Development, which is defined to include a Development Parcel combining a residential use with at least two other principal uses listed in Table A as allowed by right or by special permit, in accordance with the procedures provided in section 30-24. Any proposed Mixed-Use Development shall comply with the following provisions and the provisions of sections 30-15(v) and Table 3, 30-24(c)(7), 30-24(c)(8), 30-24(c)(9), 30-24(i), 30-24(j), and 30-24(f).

- (1) *Establishment of a Development Parcel.* The area developed under a special permit by this section must be organized into a Development Parcel as defined in Section 30-1. The Development Parcel may contain more than one lot and/or a portion of a lot together with any easement areas located on adjacent parcels of land. The provisions of this Zoning Ordinance shall apply to the Development Parcel as it exists on the date that the special permit is granted as if the Development Parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit per Section 30-13(g), the ownership may be further divided (subject to the

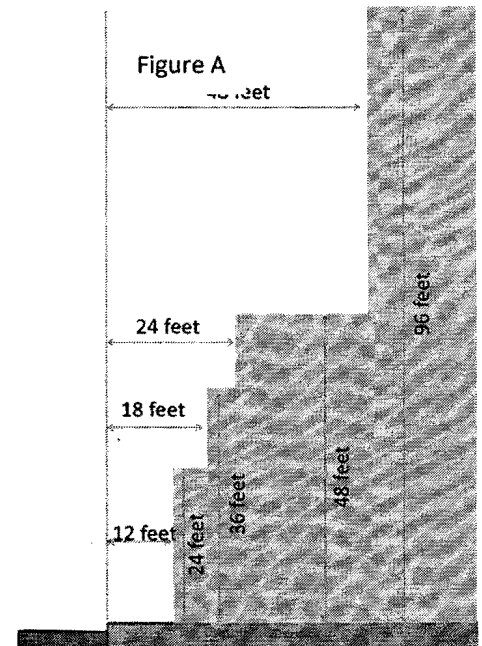
establishment of an organization of owners defined in (3) below) and any interior lot lines shall be disregarded for zoning purposes. The Development Parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting Development Parcel is not less than nine (9) acres in size and does not create or expand any nonconformities.

- (2) *Intensity of development.* The development must have at least one use from each of the three categories (A, B, and C) enumerated in Table A, and a community use space. The square footage in each category shall not exceed the maximums listed below, except, where approved by special permit in accordance with the procedures provided in section 30-24, the maximums may be adjusted by up to 10% in each category, so long as the total gross floor area of all uses, excluding accessory parking, does not exceed 580,000 square feet:
- a) Category A shall not exceed 225,000 square feet (excluding offices incidental to residential, retail and/or community uses), the majority of which must be contained within one structure;
  - b) Category B shall not exceed 20,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the commissioner of inspectional services;
  - c) Category C shall not exceed 335,000 square feet not to exceed 290 dwelling units.
- (3) *Organization of Owners.* Prior to exercise of a special permit granted under this section, an organization of all owners of land within the Development Parcel, except for owners of land subject to easements benefiting the Mixed-Use Development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the city or its representatives regarding compliance with the zoning ordinance. The organization shall serve as the liaison between the city and any owner, lessee, or licensee within the Development Parcel governed by a special permit granted under section 30-13(g). Such organization shall be the primary contact for the city in connection with any dispute regarding violations of the zoning ordinance and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the Development Parcel with the terms of the special permit for a Mixed-Use Development, site plan approval, and other applicable provisions of the zoning ordinance. In addition, any special permit granted under this section shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the Development Parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

II. *By adding a new Section 30-15(v) as follows:*

(v) *Mixed-Use Developments in the Mixed-Use 3/Transit-Oriented District.* Any development permitted by special permit per section 30-13(g) must meet the following requirements and the requirements of Table 3. The Board of Aldermen may grant a special permit per section 30-24, including section 30-24(i), to allow exceptions to the by-right dimensional standards of the Mixed-Use 3/Transit-Oriented District, provided that the requirements of this section are met and no dimension exceeds those allowed in Table 3 for the Mixed-Use Development Special Permit.

(1) *Setbacks.* Any structure or building must be set back a distance equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a state instrumentality, the setback may be zero feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks (as illustrated in Figure A). In accordance with the procedures provided in Section 30-24, the board of aldermen may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.



- (2) *Beneficial Open Space.* At least 50% of the beneficial open space required by section 30-15, Table 3 for a Mixed-Use Development must be freely open to the public.
- (3) *Exclusion of Public Structures from Zoning Requirements.* Any portion of the Development Parcel for the proposed development owned by a state instrumentality and devoted to a governmental function from which the general public is excluded, including, but not limited to a rail yard, maintenance facility, or railroad right of way and any portion of a building or structure dedicated for public use by a state instrumentality, such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority, shall not be included in the calculation of:
- i. The quantity of beneficial open space required;
  - ii. Minimum lot area; or
  - iii. Floor Area Ratio.
- (4) *Impacts of Takings by or Conveyances to a Public Entity:* The provisions of section 30-26(a) shall apply to any taking by or conveyance of land within the

Development Parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

III. By adding the dimensional requirements for the Mixed-Use 3/Transit-Oriented District to Table 1 and Table 3 of Section 30-15 as follows:

**Table 1:**

Zoning District	Minimum Required Lot Area	Lot Area per unit <sup>1</sup>	Frontage	
MU3/TOD	9 acres	1,200	80	SEE TABLE 3 for other dimensional controls

**Table 3:**

Zoning District <sup>11</sup>	Max. # of Stories	Bldg. Ht <sup>12</sup> (ft.)	Total Floor Area Ratio	Gross Floor Area/ Site Plan Approval (SF)	Threshold by Special Permit (Gross Floor Area; SF)	Min Lot Area (SF)	Lot Coverage	Beneficial Open Space	Front (feet)	Side (ft.)	Rear (ft.)
MU3/ TOD											
As of Right	N/A	36	1.0	10,000-19,999	20,000	9 acres	N/A	N/A	15 <sup>9</sup>	10	15
Mixed-Use Development Special Permit, per 30-13(g) <sup>13</sup>	N/A	135	2.4	N/A	N/A	9 acres	N/A	15% <sup>13</sup>	½ bldg. ht. <sup>13</sup>	½ bldg. ht. <sup>13</sup>	½ bldg ht. <sup>13</sup>

And add new footnote:

<sup>13</sup> See sec. 30-15(v) for additional dimensional requirements for developments within the Mixed-Use 3/Transit-Oriented District.

IV. By adding new sections 30-24(c)(7), 30-24(c)(8), 30-24(c)(9), 30-24(i), 30-24(j) as follows (and renumbering all the others):

(c)(7) *Project Phasing.* Any development subject to a special permit under section 30-13(g) may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted, provided that all off-site improvements and enhancements to public roadways are completed prior to issuance of any occupancy permits.

(c)(8) *Adequacy of public facilities.* Transportation, utilities, water, sewer and storm water infrastructure, public safety, schools including capacity, and other public facilities and infrastructure shall serve the Mixed-Use Development appropriately and safely and

without deterioration in service to other locations. To determine the adequacy of public facilities, impact studies of the following must be undertaken by the petitioner as part of the special permit application process under 30-13(g) with the project scope determined by the director of planning and development and the commissioner of public works (peer reviews may be required, hired by the city and paid for by the petitioner):

- a) Adequacy of road and traffic infrastructure, including the traffic analysis required in section 30-24(j)(6)
- b) Adequacy of water, sewer, and storm water infrastructure, including the water, sewer, and storm water analysis required in section 30-24(j)(8)
- c) Net fiscal impacts, including the fiscal impact analysis required in section 30-24(j)(9)

As part of any special permit granted per section 30-13(g), post-construction studies for impacts on road and traffic capacity and water, sewer, and storm water service shall also be required. These studies must be conducted within twelve months of full occupancy of each phase, or earlier if requested by the director of planning and development and commissioner of public works, and continue annually for two years following final build-out. If the actual impacts are consistent with projections, no further study or mitigation shall be required. If the actual impacts exceed projections, further mitigation shall be required. Following completion of such additional mitigation, annual follow-up studies shall be conducted until these studies show for five consecutive years that the impacts from the development comply with the special permit.

The special permit shall also require a bond or other security satisfactory to the director of planning and development and commissioner of public works to secure performance. The bond or other security may be forfeited, at the election of the director of planning and development and commissioner of public works, and proceeds used by the city for mitigation if the petitioner fails to complete any required mitigation or to manage impacts within acceptable levels identified by special permit, subject to reasonable extensions under the circumstances.

*(c)(9) Post-Construction Traffic Study.* A special permit issued under section 30-13(g) shall provide for monitoring to determine consistency between the projected and actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the site and their distribution among points of access to the Mixed-Use Development. The special permit shall require a bond or other security satisfactory to the commissioner of public works and director of planning and development to secure performance as specified below:

- i. Monitoring of vehicle trips for this purpose shall begin within twelve months of full occupancy of each phase, or earlier if requested by the director of planning and development and commissioner of public works, and continue annually for two years following final build-out. Measurements shall be made at all driveway accesses to the Mixed-Use Development and/or intersections studied in the pre-construction Roadway

and Transportation Plan. The commissioner of public works may require traffic monitoring earlier or more frequently if in his or her judgment, there appears to be degradation from the level of service projected by the pre-construction Roadway and Transportation Plan.

- ii. The actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the Mixed-Use Development at all points studied in the pre-construction Roadway and Transportation Plan shall be measured by a traffic engineering firm retained by the city and paid for by the petitioner or successor.
- iii. Mitigations will be required if actual total number of vehicle trips to and from the Mixed-Use Development measured per subsection (ii), above, summed over the points of access exceeds the weekday evening Adjusted Volume projected per section 30-24(i)(5) by more than ten percent (10%) as a result of traffic generated by the Mixed-Use Development. Within six months of notification, the owner of the Mixed-Use Development site shall begin mitigation measures (reflecting applicable roadway design standards at the time and pending receipt of all necessary state and local approvals), as described in the Roadway and Transportation Plan submitted by the petitioner and listed in the Mixed-Use Development special permit in order to reduce the trip generation to 110% or less of the Adjusted Volume. Such reduction is to be achieved within twelve months after mitigation begins. The commissioner of public works and director of planning and development must approve any mitigation efforts prior to implementation.

(i) *Additional special permit criteria for a Mixed-Use Development in the Mixed-Use 3/Transit-Oriented District.* In granting a special permit for a Mixed-Use Development under section 30-13(g), the Board of Aldermen shall not approve the special permit unless it also finds, in its judgment, that the proposal meets all of the following criteria in addition to those listed in section 30-24(d):

- (1) *Not inconsistent with the Comprehensive Plan.* The proposed Mixed-Use Development is not inconsistent with the City's Comprehensive Plan in effect at the time of filing an application for a Mixed-Use Development and applicable general laws relating to zoning and land use.
- (2) *Housing, public transportation, parking, and utility infrastructure improvements.* The proposed Mixed-Use Development offers long-term public benefits to the city and nearby areas including:
  - a) Improved access and enhancements to public transportation;
  - b) Improvements to parking, traffic, and roadways;
  - c) On- and off-site improvements to pedestrian and bicycle facilities, particularly as they facilitate access to the site by foot or bicycle;
  - d) Public safety improvements;
  - e) On-site affordable housing opportunities, except where otherwise allowed in subsection 30-24(f)(5), the inclusionary zoning ordinance; and



- f) Water, sewer, and storm water infrastructure improvements which increase capacity and lower impacts on the surroundings.
- g)
- (3) *Fiscal Impacts.* The proposed Mixed-Use Development has a positive fiscal impact on the city after accounting for all new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
- (4) *Improved access nearby.* Pedestrian and vehicular access routes and driveway widths are appropriately designed between the proposed Mixed-Use Development and abutting parcels and streets, with consideration given to streetscape continuity and an intent to avoid adverse impacts on nearby neighborhoods from such traffic and other activities generated by the Mixed-Use Development as well as to improve traffic and access in nearby neighborhoods.
- (5) *Enhanced open space.* Appropriate setbacks, buffering, and screening are provided from nearby residential properties; the quality and access of beneficial open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the proposed Mixed-Use Development; and meaningful bicycle and pedestrian connections to open spaces, recreational areas, trails, and natural resources, including the banks of the Charles River and adjacent public property, whether or not they are currently available for public use, are provided and take full advantage of the unique opportunities of the site and its nearby natural features for use and enjoyment by the community at large.
- (6) *Excellence in place-making.* The proposed Mixed-Use Development provides high quality architectural design and site planning so as to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the Mixed-Use Development and its surroundings.
- (7) *Comprehensive signage program.* Notwithstanding the requirements of Section 30-20, all signage for the proposed Mixed-Use Development shall be in accordance with a comprehensive signage program developed by the petitioner and approved by the Board of Aldermen, which shall control for all purposes, shall supersede any other sign requirements, and shall be complementary to the architectural quality of the Mixed-Use Development and character of the streetscape.
- (8) *Pedestrian scale.* The proposed Mixed-Use Development provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the Development Parcel.
- (9) *Public space.* The proposed Mixed-Use Development creates public spaces as pedestrian-oriented destinations that accommodate a variety of uses, promote a

vibrant street life, make connections to the surrounding neighborhood, as well as to the commercial and residential components of the Mixed-Use Development, to other commercial activity, and to each other.

- (10) *Sustainable design.* The proposed Mixed-Use Development at least meets the energy and sustainability provisions of subsections 30-24(d)(5), 30-24(g), and 30-23(c)(2)(h).
  - (11) *Adequacy of parking.* Parking for the site is appropriate to the intensity of development, types of uses, hours of operation, availability of alternative modes of travel and encourages the use of alternatives without over-supplying parking.
  - (12) *Pedestrian and Neighborhood Considerations.* If the proposed Mixed-Use Development project proposes any of the measures listed below, and if such measures, singly or in combination, create a negative impact on pedestrians or surrounding neighborhoods, the petitioner has proposed feasible mitigation measures to eliminate such negative impact:
    - a) Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
    - b) Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
    - c) Traffic signal additions, alterations, or roundabouts; and
    - d) Relocation or alterations to public transport access points.
  - (13) *Accessible Design.* Consideration is given to issues of accessibility, adaptability, visitability, and universal design in development of the site plan.
- (j) *Additional Filing Requirements for Special Permit in the Mixed-Use 3/Transit-Oriented District*

In addition to the provisions of sections 30-23 and 30-24, petitioners for a grant of a special permit under section 30-13(g) shall submit:

- (1) *Conceptual Plans.* Prior to submittal of an application for a special permit in the MU3/TOD, which will include items (2) to (12) below, petitioners shall present conceptual plans for review by the Land Use Committee of the Board of Aldermen at a public meeting. The Committee shall provide a forum for a public presentation whereby the Committee and public may ask questions, gain an understanding of the project proposal, and provide feedback that can inform further development of the project. Submittal for conceptual review shall not require engineered plans, but shall include the following:
  - a) Project description, including project purpose or design rationale
  - b) Project statistics, including zoning, current and proposed uses on site, total square footage for each use proposed, area to be covered

- by structures, FAR, number of bedrooms in all dwelling units, percentage of affordable units, percentages of open space with breakdown of beneficial and publicly-accessible open spaces;
- c) Preliminary site plan, including dimensioned property lines and all building setbacks and building footprints, impervious surfaces, location of waterways, top of bank and distance from waterways, proposed demolitions, location and number of parking spaces, landscaping and open spaces, trees to be removed, any access proposed to adjacent public property, whether or not it is currently available for public use, north arrow and scale; and
  - d) Other information as may be requested by city staff to perform a zoning review and preliminary impact analyses.
- (2) Computer model that shows the relationship of the project to its surroundings consistent with section 30-24(b);
  - (3) Narrative analysis describing design features intended to integrate the proposed Mixed-Use Development into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site-specific considerations, as well as an explanation of how the proposed Mixed-Use Development satisfies each criterion in Section 30-24(i);
  - (4) Statement describing how the beneficial open space areas, to the extent open to the public, are intended to be used by the public;
  - (5) Site plans showing any by-right or zoning-exempt alternatives;
  - (6) A Roadway and Transportation Plan reflecting the “EOEEA Guidelines for EIR/EIS Traffic Impact Assessment” with further attention to public transportation and exceptions, subject to review by the commissioner of public works, director of planning and development, and peer review consultants. The Plan should include the following:
    - a) Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single-occupant vehicles.
    - b) Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts.
    - c) Detailed analysis and explanation for the maximum peak hour and

daily motor vehicle trips projected to be generated by the Mixed-Use Development, documenting:

- i) The projected Base Volume of trips to and from the Mixed-Use Development based upon the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers or other sources, such as comparable projects in Newton or nearby communities, acceptable to the commissioner of public works and director of planning and development;
  - ii) The projected Adjusted Volume of trips net of reductions resulting from internally captured trips; access by public transport, ridesharing, walking or biking; and through the TDM program cited above; but without adjustment for “pass-by” trips, and noting how those reductions compare with the Mixed-Use Development guideline of Adjusted Volume being at least ten percent (10%) below the Base Volume on weekday evening peak hours;
  - iii) The means of making mitigations if it is found pursuant to the monitoring under section 30-24(c)(8) and (9) of this section that the trips counted exceed the projected Adjusted Volume by ten percent (10%) or more; and
  - iv) The projected trip reduction adjustment based on “pass-by” trips for use in projecting impacts on street traffic volumes.
- d) Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the Mixed-Use Development may have a negative impact. Results are to be summarized in tabular form to facilitate understanding of change from pre-development no-build conditions to the build-out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues.

Analysis shall include:

- i) The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and
  - ii) Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.
- (7) A shared-parking analysis that demonstrates that the number of parking spaces to be provided is appropriate to the context, taking into consideration the mix of uses; the demand for parking spaces at different times of day, week, and year; availability of alternative modes of transportation; and other site-specific influences on parking supply and demand, such as, but not limited to, Red Sox home games.

- (8) Water, sewer, and storm water impact analysis. The analysis shall be subject to review by the commissioner of public works, director of planning and development, and peer review consultants and shall include the following:
- a) A study of the proposed project's surface water runoff relating to the Charles River and associated deep marsh system that shows how all storm water will be infiltrated on site, and which explores all feasible methods of reducing impervious surfaces, including underground parking and/or more compact site layouts, as well as the possibility of roof water harvesting for irrigation reuse, including:
    - i) A conceptual drainage plan demonstrating the consistency of the drainage infrastructure plan with the Massachusetts Department of Environmental Protection's "Stormwater Management Handbook" and the City of Newton "Requirements for On-Site Drainage (Stormwater Management)";
    - ii) A drainage analysis based on the City's 100-year storm event of seven inches over a 24-hour period, showing how runoff from impervious surfaces will be infiltrated on-site;
    - iii) An on-site soil evaluation identifying seasonal high groundwater elevation and percolation rate and locations of these tests shown on the site plan;
    - iv) If a connection to the city's drainage system is proposed, a closed circuit television (CCTV) inspection, prior to approval of this permit, which shall be witnessed by the engineering division; the petitioner shall provide the city inspector with a video or CD prepared by a CCTV specialist hired by the petitioner. A post-construction video inspection shall also take place and be witnessed as described above; and
    - v) An evaluation of hydraulic capacity of the downstream drainage system submitted to the engineering division to determine any impact to the municipal drainage system.
  - b) A master plan and schedule of the sanitary sewer system improvements, including:
    - i) A plan showing a reduction in infiltration and inflow into the sanitary sewer system to the satisfaction of the Commissioner of Public Works;
    - ii) A calculation of the life cycle cost of the proposed sanitary system;
    - iii) A quantitative analysis of the capacity to dispose, verified by the Massachusetts Water Resource Authority (MWRA); and
    - iv) A study showing how the developer will comply with the

city's cross connection control program relating to sewer and drain pipes.

- c) A 21E Environmental Site Investigation Report that evaluates the site for any contaminants related to underground fuel or oil tanks, creosote, leachate from existing trolley tracks, cleaning and/or washing facilities, or local dry wells.
  - d) A solid waste master plan, including a detailed explanation of how the uses will control solid waste through reduction, reuse, recycling, compaction and removal that demonstrates compliance with Chapter 11 of the City Code and the Massachusetts Department of Environmental Protection Waste Ban. The plan shall provide estimates of the expected solid waste generation by weight and volume for each of the uses proposed for the site with consideration to peak volumes; and
  - e) A quantitative analysis that demonstrates that the water demands of the proposed development will not overburden the water supply of existing infrastructure provided by the city, including fire flow testing for the proposed fire suppression system, as well as domestic demands from the entire development. The petitioner must coordinate this test with both the fire department and utilities division; representatives of each department shall witness the testing and test results shall be submitted in a written report. Hydraulic calculations shall be submitted to the fire department for approval. Hydraulic analysis for both domestic and fire suppression will be required via hydraulic modeling in a format acceptable to the utilities director.
- (9) Fiscal impact analysis that includes new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
  - (10) Proposed phasing schedule, including infrastructure improvements;
  - (11) Shadow study showing shadow impacts on the surrounding properties for four seasons at early morning, noon, and late afternoon; and
  - (12) Submittal in electronic form of all documents required by sections 30-23 and 30-24 (including this section 30-24(i)) and any supplemental reports, memoranda, presentations, or other communications submitted by the petitioner or its representatives to the Board of Aldermen and pertaining to the special permit application, unless the petitioner demonstrates to the satisfaction of the director of planning and development that electronic submission or compliance with that standard is not feasible. Documents

created using Computer Aided Design and Drafting software shall comply with the Mass GIS "Standard for Digital Plan Submittal to Municipalities," or successor standard. Electronic submission must be contemporaneous with submission by any other means. The director of planning and development will arrange to have electronically submitted documents posted on the city website within a reasonable time after receipt.

V. *By adding a new Section 30-19(d)(22) as follows:*

- (22) Notwithstanding the other requirements of 30-19(d), by special permit from the Board of Aldermen in accordance with the procedures provided in section 30-24, the parking requirement for a mixed-use development approved under Section 30-13(g) shall be set through a shared-parking analysis, which demonstrates that the number of stalls provided is sufficient for the combination of uses proposed taking into account the proximity to public transportation and other factors. This analysis shall be subject to review by the director of planning and development and peer reviewer at the petitioner's expense, if requested by the director of planning and development. Following the grant of a special permit under this section, no material change in the combination of uses, permitted either by right under section 30-13(f) or as part of a Mixed-Use Development special permit under section 30-13(g), shall be authorized until the petitioner submits a revised analysis demonstrating to the satisfaction of the director of planning and development that sufficient parking exists to accommodate the new combination of uses or requests and receives a modification of the special permit to authorize a change in the number of stalls provided.

VI. *By deleting the definition of "Development Parcel" as it appears in Section 30-1, Definitions, and substituting the following definition:*

*Development Parcel:* The real property on which a Planned Multi-Use Business Development or a Mixed-Use Development (including any appurtenant easement areas benefiting a Mixed-Use Development) is located in connection with a special permit under Section 30-15(s) or 30-13(g).

*By deleting the definition of "Open Space, Beneficial" as it appears in Section 30-1, Definitions, and substituting the following definition:*

*Open Space, Beneficial:* Areas not covered by buildings or structures that are available for active or passive recreation, which shall include, but are not limited to: landscaped areas, including space located on top of a structure, gardens, playgrounds, walkways, plazas, patios, terraces and other hardscaped areas, and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, (ii) surface parking facilities or associated pedestrian circulation, (iii) areas that are accessory to a single housing unit, or (iv) areas that are

accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public.

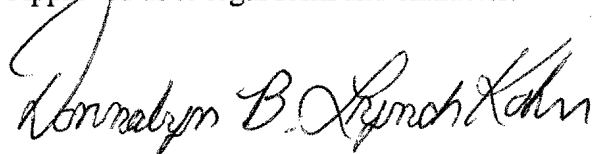
*And by adding the following Definition in Section 30-1 as follows:*

*“Community Use Space: Space that is open to the public and used for, but not limited to, ball courts, gymnasias, play areas, community meeting rooms, community gardens, social services, outdoor play areas, playgrounds, related seating areas, and similar uses.”*

VII. *By inserting a new Section 30-5(a)(4) as follows:*

- (4) Public uses described in Section 30-6(a) through (k); provided that such uses shall be subject only to site plan review as required under Section 30-6 and shall not be subject to dimensional, parking or any otherwise applicable zoning requirement.

Approved as to legal form and character:



DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules

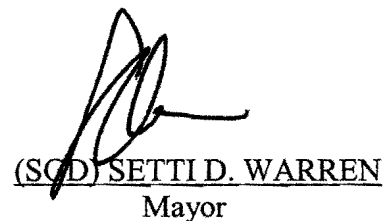
Readings Waived and Adopted

21 yeas 0 nays 1 excused (Alderman Sangiolo) 2 absent (Aldermen Merrill and Fischman)



(SGD) DAVID A. OLSON

*acting* City Clerk



(SGD) SETTI D. WARREN  
Mayor

5/1/12