



# **Zoning & Planning Committee Report**

## **City of Newton** **In City Council**

**Monday, May 8, 2017**

Present: Councilors Hess-Mahan, Leary, Danberg, Sangiolo, Albright, Baker, Yates and Kalis

Also Present: Councilors Lipof, Crossley, Gentile and Rice

Planning & Development Board: Jonathan Yeo, Sonia Parisca, Scott Wolf, Peter Doeringer and Barney Heath

City Staff Present: Barney Heath (Director, Planning Dept.), James Freas (Deputy Director, Planning Dept.), Deborah Youngblood (Commissioner, Health and Human Services), Marie Lawlor (Assistant City Solicitor), Katy Hax Holmes (Historic Preservation Planner), Karyn Dean (Committee Clerk)

### **Referred to Programs & Services and Zoning & Planning Committees**

**#81-17**

#### **Ordinance amendments relative to rDNA technology and research facilities**

THE BIOSAFETY COMMITTEE, COUNCILORS AUCHINCLOSS, HESS-MAHAN, LIPOF, AND SCHWARTZ requesting amendments to Sections 12-21 through 12-30 in order to update guidelines and procedures for the regulation of recombinant DNA technology; and requesting amendments to Section 12-24 and Chapter 30 to remove the requirement that laboratories or research facilities obtain a special permit from the City Council in order to utilize recombinant DNA research or technology.  
[03/27/17 @4:31 PM]

**Action: Zoning & Planning Held 8-0**

**Note:** James Freas, Deputy Director of Planning explained that this would be an introductory discussion on the proposed rDNA ordinance and the zoning ordinance amendments pertaining to labs utilizing rDNA. Deb Youngblood, Commissioner of Health and Human Services, Linda Walsh, Director of Clinical Services and two members of the Biosafety Committee, Carl Cohen and Bill Dietrich were present to ask any questions relative to the science side of this ordinance.

Mr. Freas noted that biotech is one of the strengths of the greater Boston economy and the region consistently ranks as a top location for biotech companies. . The N2Innovation District Study identified biotech and life sciences as a top priority with opportunity for growth. Newton's location along with its highly educated workforce makes it a prime City for growth opportunities in this field.

The proposed ordinance and zoning amendments will modernize Newton's rDNA regulations and remove the special permit requirement for labs utilizing rDNA.

MassBio is a statewide non-profit organization with a mission to support and grow the life sciences industry in Massachusetts – to that end, they have created the BioReady communities program that serves to direct biotech companies to communities that have taken steps to encourage laboratory development. With removal of the special permit requirement, Newton will be able to readily increase its standing from the current Bronze level up to Gold and potentially to Platinum.

### Committee Questions

A Committee member asked Mr. Freas to explain the different levels of silver, gold and platinum communities. Mr. Freas said removing the special permit requirement could move the City from its current standing of Bronze to Silver. To receive Gold, the City has to demonstrate that there are either pre-permitted sites for labs or sites that already have labs within them, which Newton does. To get to Platinum, there is a pre-permitting process of a certain amount of predetermined space. The City's goal is Gold right now which would match the partner in the N2 Innovation District so there can be co-marketing as Gold communities. Then getting a site listed on the Mass Econ Ready 100 list would be beneficial. These are sites that are generally available for economic development purposes and Newton has several that could potentially be eligible.

A special permit application came in for lab use in the Atrium about a year ago. One of the major concerns was that the Atrium did not actually have an applicant; they were just looking to get a pre-permit. It was being advertised for medical uses, but they having trouble getting interest. They had hoped the special permit would garner more interest. While they did receive the special permit, no lab leased the space.

Mr. Freas noted that the Biosafety Committee holds public meetings and take public comment on any lab project that comes into the City, as well as abutter notifications for the meetings. Members of the Committee were extremely impressed with the credentials and expertise of the Biosafety Commission members. The Biosafety Commission members provide the oversight of any lab that might be coming into the community and continue to monitor that what they do is safe and appropriate. An applicant for an rDNA still needs to get a permit from Commissioner of Health and Human Services who can only grant that permit at the direction of the Biosafety Committee. The Committee has an annual review process and onsite inspection process as well.

Mr. Cohen explained that there are two levels of oversight. Any organization wanting to do rDNA research has to go through the Biosafety Committee first and present a detailed application. There are reviews of the facility, training, site plan, safety plan, waste disposal, screening of materials, etc. Secondly, there is an in-house institutional biosafety committee on which sits the Commissioner of HHS or her designee and two other community members who report back to the Biosafety Committee and other scientists as well. No organization can do any work without having it reviewed by that on-site committee. If that committee see that the work has not be already reviewed by the City's Committee, they have to come back and get that reviewed. There are multiple layers of oversight geared to ensuring that work is being done in adherence to the National Institutes of Health guidelines.

Bill Dietrich, member of the Biosafety Committee explained that rDNA is used as part of the processes that are typically employed in biological research. It would be difficult to find a modern biology lab that did not have rDNA as part of its usages. Carl Cohen, also a member of the Biosafety Commission noted that rDNA technology is used in biotech companies but they are ubiquitous in all biological research. RDNA work involves taking the genetic information of a cell and manipulating it in a way so that you are either extracting from, or inserting into it other pieces of DNA. Bacteria are very efficient machines for making things, so that if you can take their DNA and insert something into it to make something of interest, like insulin, bacteria becomes the manufacturing facilities for those interesting things. More basically, rDNA is used to help understand how cells work and function, to understand disease and illness and how they mutate. It can allow mimicking of a disease in a laboratory to study it. It is the single most powerful and basic tool in modern research.

There are many labs in Waltham, Lexington, Cambridge, Boston and other communities. Carl Cohen said Cambridge really sets the gold standard for city-based labs. He has met with the head of the Cambridge Biosafety Committee and the requirements are dictated by the NIH guidelines so there are similar guidelines in the surrounding communities. There are currently three labs in Newton and the Atrium has a special permit to allow. The N2Corridor broadly, and specifically Welles Avenue would be a good location.

Pretty much every hospital and university have rDNA work going on in labs and is considered safe enough to allow close proximity therefore to those populations. There are National Institutes of Health guidelines that need to be adhered to, of course. He noted that BL1-3 labs would be allowed in the City, but BL3 would be allowed only with a special application. BL4 would not be allowed and there are very few in the country.

A Committee member asked Mr. Freas to provide information on which zoning districts labs are allowed in in other communities. He also asked for the Mass BioReady documentation.

Councilor Lipof said he is the Council appointee to the N2 Corridor task force. He is also on Land Use and the one time this issue came up, they were led by the Biosafety Committee. A special permit is not needed for this purpose. They are an outstanding group of experts. On the development side, Newton does not have the infrastructure that Needham has on the N2 corridor. This is another piece in making Newton more viable and a good partner with Needham to be business and lab friendly.

The Committee thanked the members of the Biosafety Committee and approved to hold this item. The item will go to Programs & Services Committee on June 7<sup>th</sup> and a public hearing will be held on the zoning amendment in Zoning & Planning on June 12<sup>th</sup>.

**#360-16(2) Zoning amendment to rezone 160 R Stanton Avenue**

DIRECTOR OF PLANNING AND DEVELOPMENT requesting to rezone land known as Section 43, Block 45, Lot 33 located at 160 R Stanton Avenue from PUBLIC USE to MULTI RESIDENCE 3 in order to prepare the site for multi-family affordable housing development. [03/23/17 @ 11:44 AM]

Planning & Development Board Approved 4-0-1

**Action: Hearing Closed; Zoning & Planning Held 7-0 (Councilor Baker not voting)**

**Note:** Councilor Hess-Mahan opened the public hearing on this item. James Freas, Deputy Director of Planning, explained that the proposal is to rezone the the parcel at 160R Stanton Avenue, which is a 16,900 square foot site on which the defunct water tank now stands, from Public Use to Multi Residence 3 which would match the adjacent large parcel.

There is an easement through land owned by Braeburn Country Club to access the water tower. The City only has access to that easement for the purposes of maintaining a water tower. Once the tower is taken down, the easement is no longer in force and once that is unavailable, the site is landlocked with no access other than through private property. The other parcel abutting the site is owned by the Golda Meir House.

The site was first identified as surplus by the City in 2012. A number of studies were done to be sure it was not necessary for water pressure purposes, primarily for fire –fighting and they showed the system was sufficient without the tower. The water tower is in disrepair and therefore it makes sense to take it down. Water towers are designed to contain water, and when they do not, they are considered unstable.

The site was identified in the Mayor’s Housing Strategy as a top priority site for a 100% affordable housing development. It is anticipated that it was largely serve seniors since it is adjacent to the Golda Meir House and is only accessible through their land. The other alternative is to develop this site as a 40B, but they would like to prepare the site for a development with a special permit. The zoning change is necessary to allow the site to be used for housing as Public Use does not allow it. The Council Order from the Reuse Committee specifies rezoning of the property before issuing a Request for Proposals.

The RFP will solicit a developer to provide an affordable housing project that qualifies for inclusion on the state SHI; engage the neighborhood and neighboring property owners the design of a project that is a positive contribution to the neighborhood and City; and demonstrate and energy efficient design and good storm water management practices.

Public Comment

Kathleen Kouril Greiser, 258 Newtonville Ave., said that Braeburn Country Club and the Golda Meir house seem to be the only interested parties. Open space has benefits but the City needs more supportive senior housing. There are many residents who are opposed to public property being sold so perhaps a long term lease should be considered in order to keep the land in the hands of

the City. The lot should stay zoned Public Use because affordable housing is a public good and a public use. The land is not being used privately. She would not like to see the land sold, but leased and used for affordable housing.

Dan Heck, 1884 Washington Street suggested that the City find the greatest economic value for the land. The City could probably make more money selling it for something other than affordable housing and they should try to make as much money as possible.

The Committee voted to close the public hearing and hold the item. It will come back to Committee for a working session as soon as possible.

**#53-16(3) Zoning Ordinance technical amendment**

DIRECTOR OF PLANNING requesting a technical amendment to the Newton Zoning Ordinance, Chapter 30, Section 7.3.2.E in order to edit incorrectly transcribed language pertaining to the time periods for special permit lapse and extension.  
[04/19/17 @ 1:29 PM]

Planning & Development Board Approved 5-0

**Action: Zoning & Planning Approved 7-0 (Councilor Baker not voting)**

**Note:** Councilor Hess-Mahan opened the public hearing on this item for the Zoning & Planning Committee and Scott Wolf opened the public hearing for the Planning & Development Board.

As noted in the Planning Memo, James Freas, Deputy Director of Planning, explained that in January 2017 Planning Department staff, working with the Inspectional Services Department and the Law Department, completed the first annual technical amendments to the Zoning Ordinance. Intended to correct errors, inconsistencies, and other such changes, this annual review allows the City to address small problems with the ordinance as part of one simple action. This year, one of the corrections made was to update the ordinance to be consistent with one of the amendments made last year at the State level to MGL 40A. The amendment extended the term for which a special permit would be valid to up to three years. This change was misread as a minimum of three years.

Staff suggests the following changes to correct Newton's Zoning Ordinance. The 40A amendments are also provided below. Newton Zoning Ordinance Section 7.3.2.E:

*Any approval of an application for special permit shall lapse not later than ~~13~~ years from the grant of such approval unless a substantial use of such special permit or construction required by such special permit has begun. The Board of Aldermen may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the Board of Aldermen or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for*

*substantial exercise of the special permit for more than ~~32~~ years from the date of the grant of the special permit.*

Please note that the term “Board of Aldermen” is being retained in this amendment. Recodification of the ordinances is being undertaken this year and there will be a global replacement of the term with “City Council”.

MGL 40A Amendment

*SECTION 30. Section 9 of said chapter 40A, as so appearing, is hereby amended by striking out, in line 165, the word “two” and inserting in place thereof the following figure: 3. Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than 3 years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.*

The PowerPoint slides for this item are attached

Councilor Hess-Mahan invited public comment and there was none. The Committee voted to close the public hearing. The Planning & Development Board closed their public hearing as well.

The Planning & Development Board voted to approve the proposed amendments 5-0.

The Zoning & Planning Committee voted to approve the proposed amendments 7-0 with Councilor Baker not voting.

**#104-17      Recommendation to establish a Newton Highlands Historic District**

NEWTON HISTORICAL COMMISSION submitting a recommendation, pursuant to MGL Chapter 40C, Section 3, that Article III, Historical Provisions, and Division 1, Commissions and Districts, of the City of Newton Ordinances, be amended by establishing a local historic district in Newton Highlands. [04/10/17 @ 10:45AM]  
Planning & Development Board Held 5-0

**Action:      Zoning & Planning Held 7-0 (Councilor Albright not voting)**

**Note:** Councilor Hess-Mahan opened the public hearing on this item. Presentations were made and public comment was taken. A report will be forthcoming. The hearing was held open and the Committee voted to hold the item.

**Respectfully Submitted,**

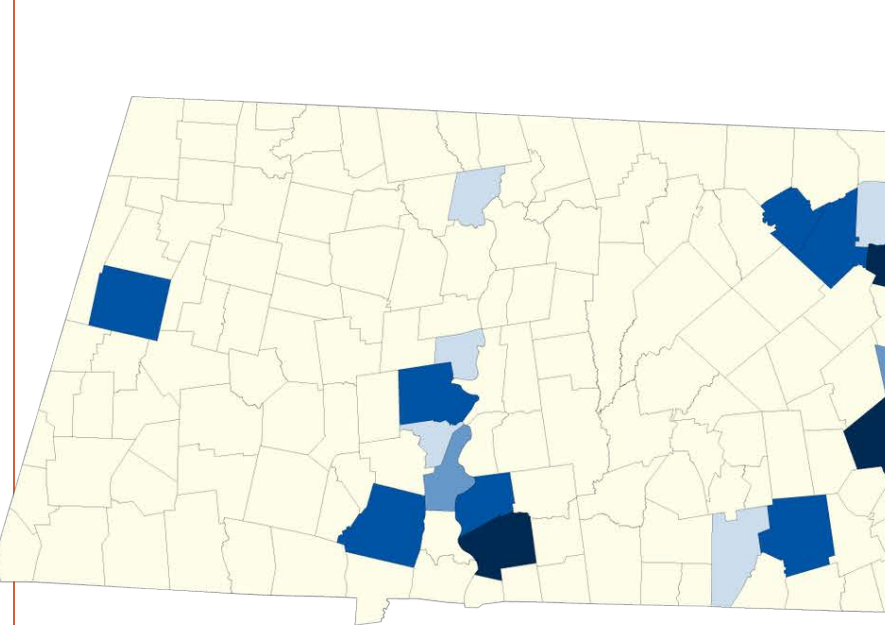
**Ted Hess-Mahan, Chair**

# Zoning and Planning Committee

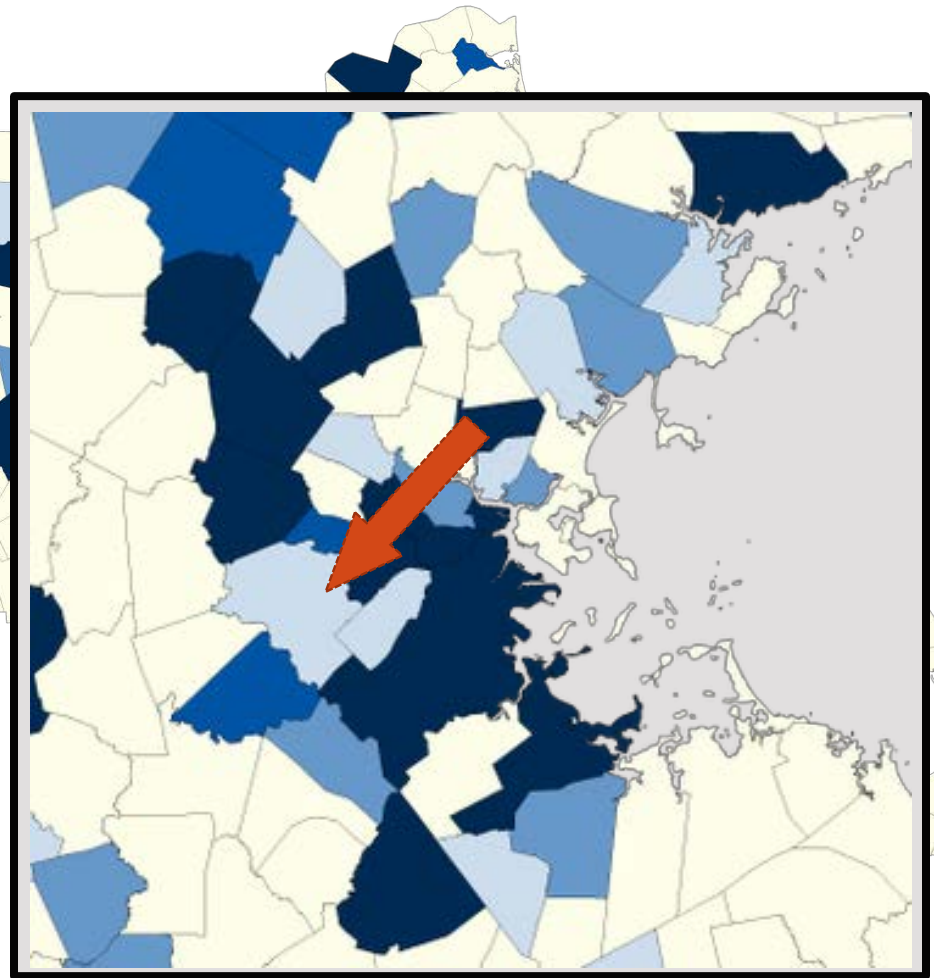
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## **RDNA ORDINANCE AMENDMENTS**

# BioReady Community Program



BioReady Community Rankings



# Zoning and Planning Committee

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## **TECHNICAL AMENDMENT PUBLIC HEARING**

1. The applicant shall also submit a 3D computer-generated model, including such details as necessary to show the relationship of the project to its surroundings. The level of detail included in the model shall be at the discretion of the Director of Planning and Development. The architect of record shall certify that the model is an accurate representation of the proposed design. For any commercial or multi-family development with a gross floor area of 20,000 square feet or more, a model shall be provided as follows:
  - a. For a proposed development containing a gross floor area of 20,000 to 50,000 square feet, the model shall show the proposed development, all abutting properties and abutters to such abutting properties; for a proposed development containing a gross floor area 50,001 to 100,000 square feet, the model shall show the proposed development and all properties within 500 feet from the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater; or
  - b. For a proposed development containing a gross floor area in excess of 100,000 square
- B. Notice of such public hearing shall be provided as required by M.G.L. Chapter 40A, Section 11.
- C. The Board of Aldermen shall act upon any application for special permit not later than 90 days following the the public hearing.
- D. The application for special permit shall be deemed approved if the Board of Aldermen fails to act upon the application not later than 90 days following the public hearing.
- E. Any approval of an application for special permit shall lapse not later than the time the grant of such approval is made. The period of such special permit or construction required by such special permit has begun. The Board of Aldermen may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the Board of Aldermen or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the period of exercise of the special permit beyond the period from the date of the grant of such special permit to the date of the expiration of the period of such special permit.

**Back to 1 Year**

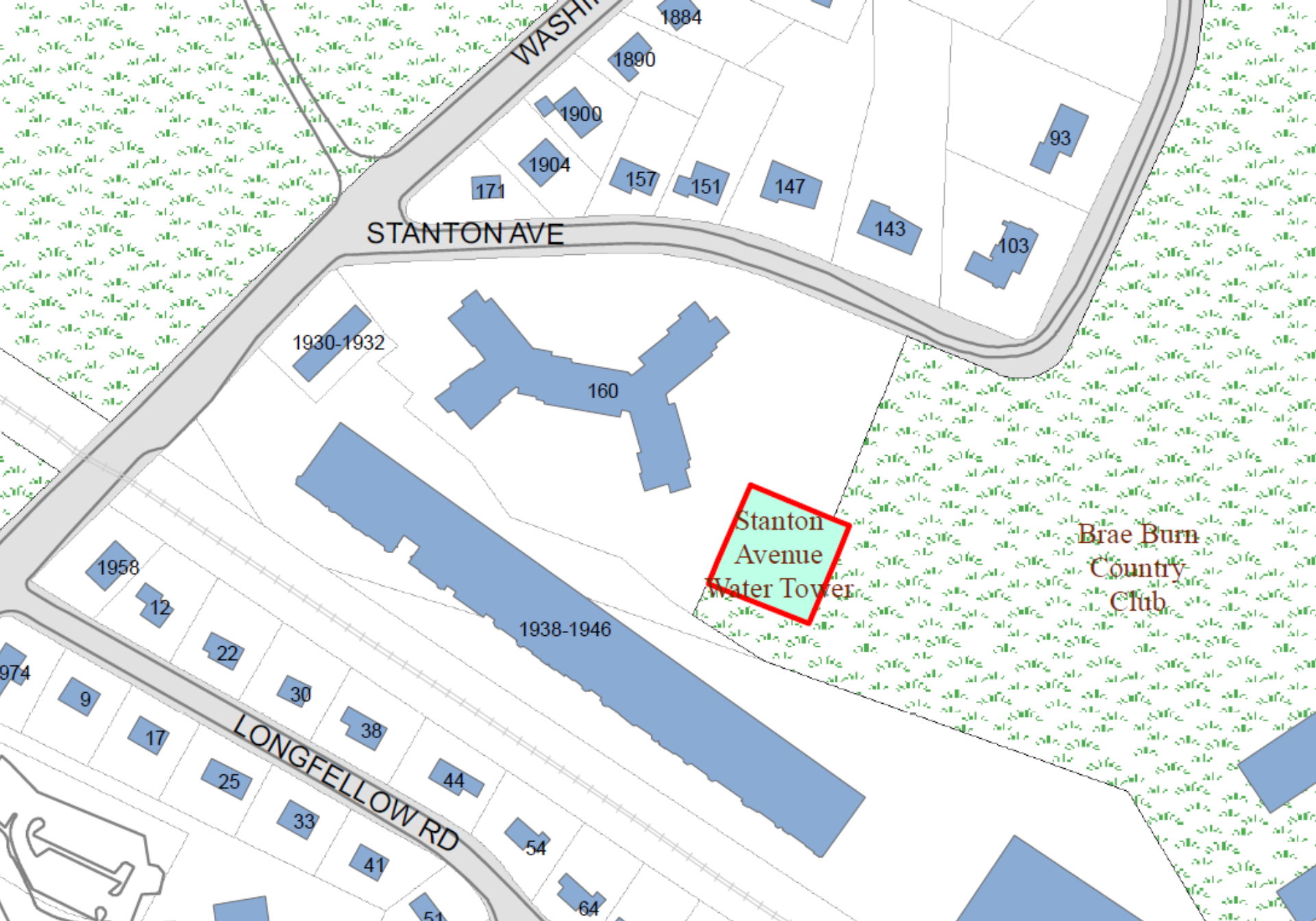
**Increase from  
2 to 3 years**
- F. The Newton Biosafety Committee shall serve as an advisory body to the Board of Aldermen with

- Any approval of an application for special permit shall lapse not later than 1 year from the grant of such approval unless a substantial use of such special permit or construction required by such special permit has begun. The Board of Aldermen may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the Board of Aldermen or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the special permit for more than 3 years from the date of the grant of the special permit.

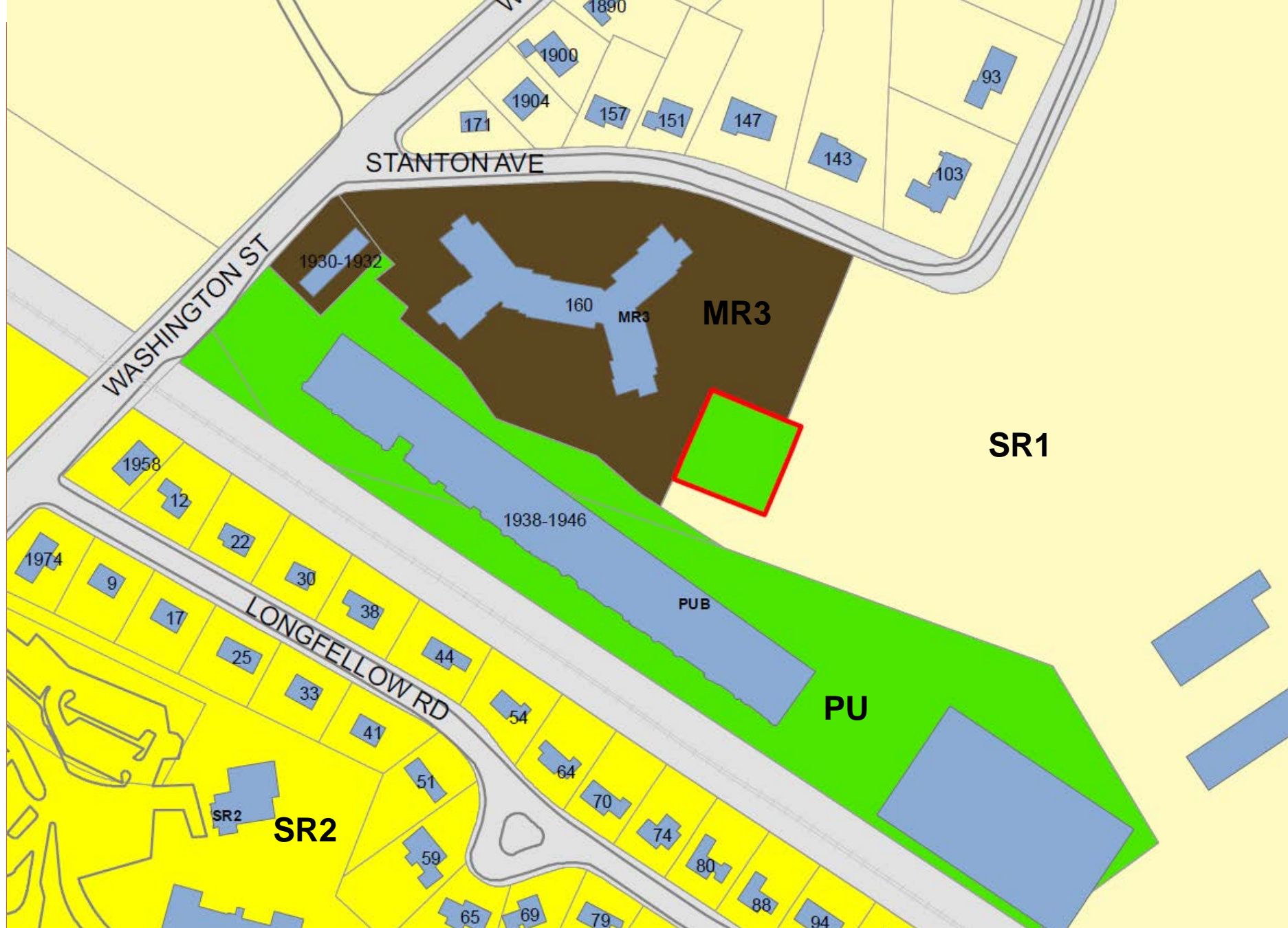
# Zoning and Planning Committee

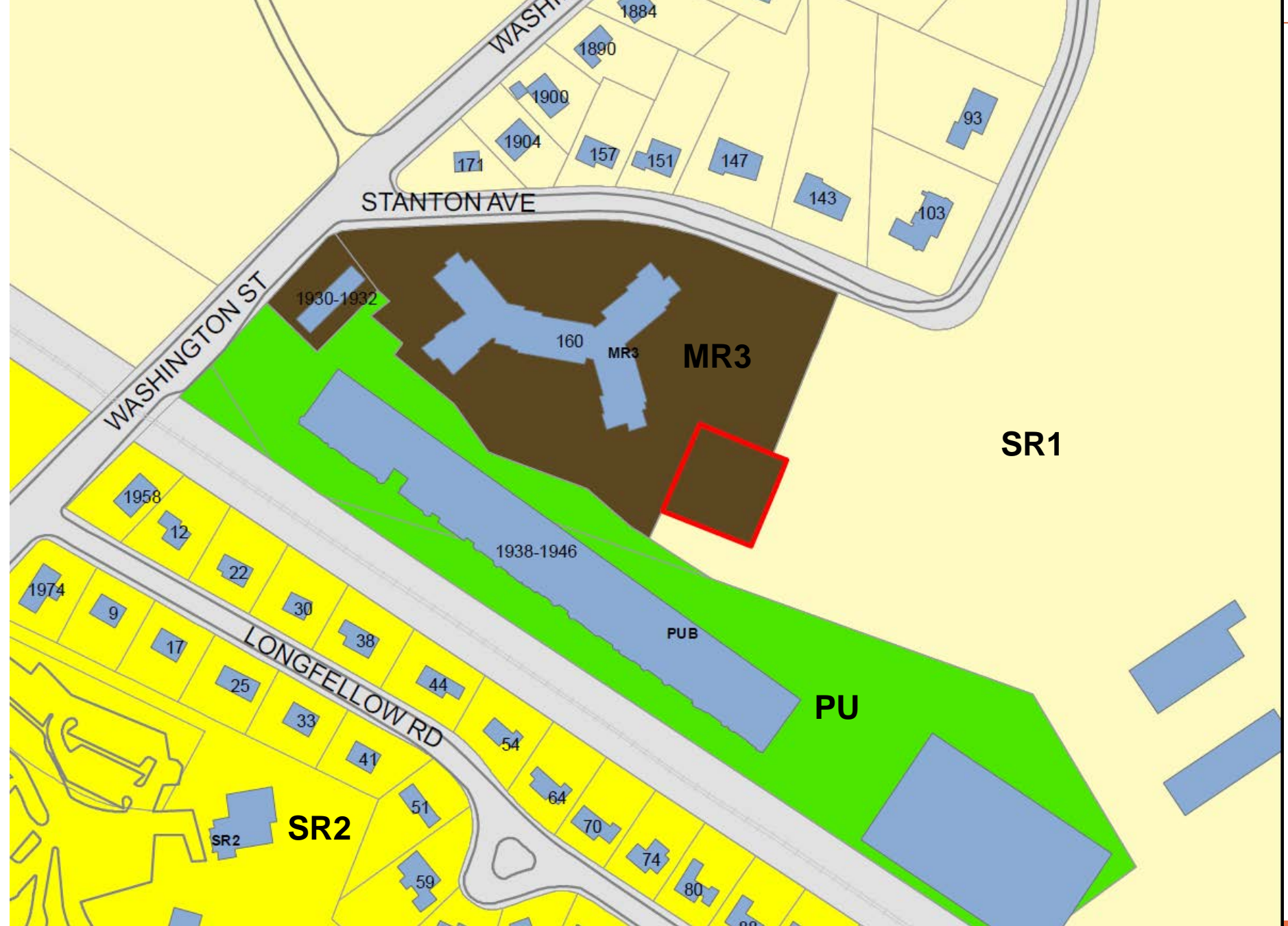
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**STANTON AVE  
WATER TOWER SITE  
REZONING  
PU TO MR3  
PUBLIC HEARING**









# Request for Proposals

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- **RFP will solicit a developer to:**
  - Provide an affordable housing project that qualifies for inclusion on the State SHI.
  - Engage the neighborhood and neighboring property owners in the design of a project that is a positive contribution to the neighborhood and City.
  - Demonstrate energy efficient design and good stormwater management practices.

