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Barney Heath
Director

MEMORANDUM

DATE: May 5, 2017

TO: Councilor Ted Hess-Mahan, Chairman
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director

RE: #53-16(2) - 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..

MEETING DATE: May 8, 2017

CC: City Council
Planning and Development Board
Donnalyn Kahn, City Solicitor

In January 2017 Planning staff, working with ISD 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 ~~12~~ **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.

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.